

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

AGENDA

- I. Introduction of Board Members
- II. Minutes of the Previous Meeting October 18 & November 1, 2021
- III. Unfinished Business:
- IV. Hearings:

ZBA 21-23: Petitioner, Alpine Bike Works, of 2326 US Rte. 4, Killington, VT, owned by Tony Accurso, requests a Variance for property located at 15 King Court, owned by Raette F. Trombly Living Trust, Tax Map #112-022-000-000-000 that is in the Low Density District. The Petitioner requests a Variance to permit a bicycle shop on a lot located within the Low Density District where a retail business is not a permitted use per Chapter 100, Article 3.3.5; Permitted Uses in the Low Density of the Zoning Regulations.

- V. New Business:
 - Update to the Rules of Procedure
 - 2022 Calendar
 - Board memberships
- VI. Communications and Miscellaneous:
- VII. Non Public Session: (if required)
- VIII. Adjournment:

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1 City of Keene
2 New Hampshire

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5 ZONING BOARD OF ADJUSTMENT
6 MEETING MINUTES
7

8 **Monday, October 18, 2021**

6:30 PM

Council Chambers

Members Present:

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

Staff Present:

John Rogers, Zoning Administrator
Corinne Marcou, Zoning Clerk

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11 **I) Introduction of Board Members**
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13 Chair Gorman called the meeting to order at 6:30 PM and explained the procedures of the
14 meeting. Roll call was conducted.
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16 **II) Minutes of the Previous Meeting – September 7, 2021**
17

18 Ms. Taylor gave corrections to the meeting minutes of September 7, 2021:
19

20 Line 78: “subdivide” should be “subdivided.”

21 Line 96: the phrase “There might condition some sort of easement” should be “They might
22 condition some sort of easement.”

23 Line 101: the word “are” should be inserted so it reads, “Mr. Welsh asked for clarification as to
24 where the 19-foot and 38-foot frontages are.”

25 Line 120: “He continue” should be “He continued.”

26 Line 888: The vote is reversed. It should say, “not met with a vote of 0-5.”

27 Line 1302: “Thinks that this is true to many of the” should be, “Thinks that this is true of many
28 of the”
29

30 Mr. Hoppock made a motion to approve the meeting minutes as amended. Mr. Gaudio seconded
31 the motion, which passed by unanimous vote.
32

33 **III) Unfinished Business**
34

35 Chair Gorman asked staff if there was any unfinished business. John Rogers, Zoning
36 Administrator, replied no.

37
38 Chair Gorman stated that the Board received a Motion to Rehear ZBA 21-15, from the
39 Petitioner, Amerco Real Estate Company, of Phoenix, AZ. The property is located at 0 Krif Rd.
40 and 472 Winchester St. in Keene, Tax Map # 115-019-000-000-000 and 115-020-000-000-000.
41 The property is in the Commerce Limited District. The Petitioner requested to construct a roof
42 to provide cover to vehicles approaching the building setback per Section 102-791 of the Zoning
43 Ordinance. He continued that this is not a public hearing; this is for the Board to discuss.
44

45 Mr. Gaudio stated that the question the Board raised last time was whether or not the proposed
46 roof location was a self-inflicted choice or whether it was a necessity. The Motion to Rehear
47 suggests, the Board does not know at this point, because it is not presented,— that there is reason
48 to believe that there may be a necessity, contrary to the Board's prior view. He continued that
49 therefore, he thinks that perhaps it might be appropriate to have a rehearing.
50

51 Ms. Taylor stated that she takes a contrary view, in that in response to direct questions from the
52 Chair, Mr. Noonan essentially said, no, this is just the way the business wanted to do it. She
53 continued that if there was suddenly a change of heart from this being something that was just
54 the way the business wanted to do things, she is looking for something in the Motion that
55 addresses that and she does not see anything. Thus, she would not be in favor of a rehearing.
56

57 Mr. Hoppock stated that for reasons stated by Ms. Taylor, he does not think they should consider
58 rehearing. He continued that the statute requires good reason or good cause. He thinks Ms.
59 Taylor is right about the lack of good reason or good cause in the Motion, for reasons she
60 explained, and he would apply that standard to the Motion and agree with her.
61

62 Mr. Welsh stated that this Motion to Rehear was not part of the agenda packet and he assumes it
63 was emailed to the Board at a later time, and it might have gone into his spam folder, because he
64 has not seen it. He continued that speaking off the top of his head, if there is evidence to warrant
65 an argument that it is a necessity; he would be inclined to rehear. He does remember that being
66 the focal point.
67

68 Chair Gorman stated that he will give Mr. Welsh five minutes to review the Motion to Rehear,
69 and if Mr. Welsh thinks that is adequate, they can move forward. Mr. Welsh agreed.
70

71 Ms. Taylor stated that the ZBA handbook states: *"No purpose is served by granting a rehearing*
72 *unless the Petitioner claims a technical error has been made to his detriment or he can produce*
73 *new evidence that was not available to him at the time of the first hearing."* She continued that
74 if Mr. Noonan did not adequately prepare his case the first time, she does not see anything
75 different and is not sure anything has changed to the degree that would support a rehearing.
76

77 Chair Gorman stated that this application for rehearing, from what he gathered, says that the
78 Board's deliberations included things Mr. Noonan was not able to rebuke or rebut. He continued

that specifically, Mr. Noonan says the Board contemplated, in its deliberations, whether this roof location was necessity or a wish list item. If that was the case and the Board did not discuss it in the public hearing, he would see cause for a rehearing; however, the Board did discuss it in the public hearing and actually quite specifically. On lines 717 through 724 of the September 7 Minutes, Chair Gorman asked, *“Is it safe to say that one of the reasons for the choice of location for this overhang is to create a façade for the customer base that has visibility on primary streets?”*, to which Mr. Noonan replied yes, and then he (Chair Gorman) further asked, *“Is it safe to say that they probably could put the overhang somewhere else, as Mr. Gaudio has suggested, but that it would not accommodate the company’s total wish list of having visibility and a customer entrance at that visibility?”*, and Mr. Noonan replied yes, that is correct, and then continued about ADA parking. Thus, the topic was brought up in the public hearing, and he believes that supports the Board’s deliberation of it post-public hearing. Therefore, he does not think there is any cause to think that the Board acted unreasonably.

Mr. Welsh stated that he has concluded reading. He continued that he thinks Chair Gorman’s argument is good, especially looking back at the minutes. He sees detailed discussion of the reasons that other possible sites may not work. At this point, he would still be inclined to rehear, but he thinks there are good arguments on both sides and if that is not the will of the Board, it does not hurt his feelings.

Mr. Hoppock made the following motion, which was seconded by Ms. Taylor.

On a vote of 3-2, the Zoning Board of Adjustment denied the Motion to Rehear ZBA 21-15. Mr. Welsh and Mr. Gaudio were opposed to denying.

IV) Hearings

A) ZBA 21-20: Petitioner, Joshua Gorman of 85 Park Ave., Keene, requests a Variance for property located at 112 Washington St., Tax Map # 554-085-000-000-000 that is in the Downtown Transition District. The Petitioner requests a Variance for eleven guest rooms where no more than nine guest rooms are permitted per Chapter 100, Article 8.3.2.G.2 of the Zoning Regulations

Chair Gorman stated that he needed to recuse himself due to an interest in the subject property.

Vice Chair Hoppock asked to hear from staff. Mr. Rogers stated that this property is in one of the new districts created with the new Land Use Code, the Downtown Transition District (DT-D), which was previously the Office District. He continued that the change to the DT-D happened September 1, 2021. He stated a bed & breakfast is an allowed use in the DT-D. The general-purpose statement in the Land Use Code describes this District as *“intended to accommodate a variety of residential, open space, and other low-intensity uses in a mixed-use environment of attached and detached structures. Development within the Downtown Transition District is intended to complement and transition into existing residential neighborhoods adjacent to downtown Keene.”* This is an allowed use, but the definition of “bed & breakfast”

limits it to nine rooms. The Applicant is before the Board seeking permission for eleven rooms. This is an existing building, and under the parking calculations, if this use were to be approved to have 11 sleeping rooms as well as an owner /manager's apartment, it would require 13 parking spaces, which are currently provided onsite. It has the appropriate parking and an accessible space as required by Building Code.

Ms. Taylor asked if the requirement is one parking space for every guest room. Mr. Rogers replied yes, one parking space per sleeping room, and two for any dwelling the manager's apartment proposed as part of the carriage house. Ms. Taylor replied that maybe this is a question for the Applicant, but her understanding from the application is that there is already a caretaker's apartment in the house. She asked if this would be a second apartment unit in the carriage house. Mr. Rogers replied that that is a question for the Applicant. Ms. Taylor asked how many parking spaces would be required if there were in fact two apartment-style units. Mr. Rogers replied fifteen. Each dwelling unit would be required to have two parking spaces. He continued that his understanding is that there would only be one dwelling unit for the owner/manager, but that is for the Applicant to clarify. Ms. Taylor asked if it is correct that there are 13 parking spaces on site. Mr. Rogers replied yes.

Vice Chair Hoppock asked to hear from the Applicant.

Joshua Gorman of 85 Park Ave. responded to Ms. Taylor's question that there are currently nine rooms in the property. He continued that eight qualify as guest rooms and one is the operator's quarters, which does not have a kitchen in it; it has a little kitchenette. There is an operator's kitchen in the building, down the stairway to the left, so it is not part of that sleeping room. That existing operator's quarters, which is far less adequate than what he will be constructing as a real apartment in the carriage house, will turn into a guest room. That would bring the total in the existing structure to nine, where currently it is eight plus the operator's quarters. There would be nine guest rooms in the main building and then two more guest rooms in the carriage house with a loft apartment above, which brings the new total to eleven plus the dwelling unit, arriving at a parking requirement of 13 spaces, which he meets with zero to spare.

Ms. Taylor asked Mr. Gorman to show the parking on the map. Mr. Gorman did so, noting there are six in one location and six in another, plus an accessible spot for the accessible room.

Mr. Gaudio asked if it is nine for the whole property or nine for the building, or if there is an interpretation issue with that regard, so that one interpretation might be nine in the main building and two in the other building and they still have to have parking for all of that on the premises. Mr. Rogers replied that as the Zoning Administrator, he would interpret that bed & breakfast is the primary use for this property, regardless of whether it is in one, two, three, or four buildings. Thus, the restriction of nine rooms would apply to the number on the whole piece of property, regardless of how many are in each structure.

Mr. Gaudio asked what the occupancy rate is and how often are all of the units occupied. Mr. Gorman replied that he has limited experience; they just opened the bed & breakfast in June. He

continued that he waited until the Governor lifted the mandates to operate. He does not have a lengthy history, but having said that, despite the bed & breakfast being poorly marketed, on the Internet in its first year, they maintained 100% occupancy every weekend from July to the present. There has been very limited occupancy during the week. Based on what statistics he has been able to find, he anticipates approximately 60% occupancy. It has been booked every weekend. He plays basketball at the Rec Center at 6:30 AM Saturday mornings, and sees that there are never as many cars at the bed & breakfast as there are people, because usually it is folks carpooling to the same wedding or event. Thus far, even when it is full, it is tame when he goes by in the morning. It does not appear overtaxed.

Ms. Taylor stated that under the old Code, you needed a square footage requirement for a dwelling unit, and she assumes this loft apartment qualifies. She asked Mr. Rogers for clarification under the new Code. Mr. Rogers replied that the requirement for a dwelling unit has always been two parking spaces. Ms. Taylor asked about the required square footage for a dwelling unit. Mr. Rogers replied that within the Zoning Code there is no square footage associated with a dwelling unit. He continued that the Building Code requires a dwelling unit to have one room that can be occupied; he thinks it is 110 square feet.

Ms. Taylor stated that Mr. Gorman's application says there are not any conforming uses for the existing carriage house. She asked if that is one of those items where staff is still trying to figure it out that this is considered an accessory structure and asked how the new Code addresses that. Mr. Rogers replied that as it sits now, it could be an accessory structure; he just does not know what a bed & breakfast would really need for an accessory structure, as opposed to normal houses/dwelling units that could have many accessory structures, such as for parking vehicles or lawn mowers. He does not know if that is the case with a bed & breakfast.

Vice Chair Hoppock asked if there were any more questions. Hearing none, he turned the floor over to Mr. Gorman to go through the criteria.

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

Mr. Gorman stated that the property and its existing carriage house has adequate off-street parking, separate City water and sewer lines, and separate 200-amp electrical service, and traffic will not be materially impacted by this proposal. He continued that therefore, there is no foreseeable threat to the general health, safety, or welfare of the general public. Furthermore, this proposal will not alter the essential character of the neighborhood. The existing structure will not be physically altered from its current exterior appearance, and in traveling up and down Washington St. one can see that many of the existing, historic carriage houses have been converted to various uses in order to support their preservation and viability. Regarding Ms. Taylor's question about the size of the unit and accessory use for carriage house, this is literally a full foundation, three story house. It is difficult to find a good use for it in combination with what already exists on the property. This proposal will likely support and benefit the public interest by providing the repurpose, and subsequent rehabilitation and maintenance of this once dilapidated, vacant carriage house, which is a local historical landmark. The use will also

support downtown vitality by bringing guests to everything Keene has to offer. Both of these end results are in line with the objectives set forth in the City's Comprehensive Master Plan.

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

Mr. Gorman stated that per the current Land Development Code, the spirit of the Ordinance is to accommodate a variety of residential, open space, and other low-intensity uses in a mixed-use environment of attached and detached structures. He continued that development within the DT-D is intended to complement and transition into existing residential neighborhoods adjacent to downtown Keene. A bed & breakfast is an allowed use in this district, but it caps out at nine guest rooms. This affirms that a bed & breakfast use is within the spirit of the Ordinance, given that it is already allowed. The addition of the carriage house guest rooms and operator's quarters certainly supports the use of detached and attached structures, as well as complementing and transitioning into existing residential neighborhoods adjacent to downtown. Other permitted uses in this district are as follows: offices, multi- and single-family dwelling units, duplexes, a funeral home, and a telecommunications facility. Upon examining all of these uses, it is clear to the applicant that the use which is being proposed has the least likelihood of impact and is more aligned with the spirit of the Ordinance, as it simply adds to the same purposeful and allowed use that already exists on the property.

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

Mr. Gorman stated that the general question here is whether the proposed use enables the just and reasonable use of the property without causing unjust or undue strain on the abutters and the entire community. In other words, does denial of the application create a loss to the individual greater than the gain to the general public? He believes this proposal supports the needs and reasonable use of the property and its existing structures. When applying the current Land Development Code there are not any conforming uses for the existing carriage house, as all of the uses listed previously would require some form of a Variance. The applicant believes the denial of the proposal has no foreseeable gain to the public. To the contrary, the small expansion of this allowed use supports the intent of both the Land Development Code and the Comprehensive Master Plan. As stated previously, guests will likely benefit the public by supporting downtown merchants while discovering this wonderful community, while having no evident adverse impact on the community or surrounding properties.

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

Mr. Gorman stated that granting this Variance would not diminish surrounding property values. He continued that the carriage house on this property is one of a kind. A few years ago the entire property was vacant and in disrepair. The carriage house was on the brink of being demolished, as the previous potential buyers had contemplated tearing it down. The purposeful reuse of this historic property has allowed for extensive renovation and restoration and the use of the carriage house will ensure its remaining renovations and future maintenance are sustainable. This

255 preservation and use will likely add value to abutters and ultimately the entire downtown
256 community.

257
258 5. *Unnecessary Hardship*

259
260 A. *Owing to special conditions of the property that distinguish it from other properties in the*
261 *area, denial of the variance would result in unnecessary hardship because:*

262 i. *No fair and substantial relationship exists between the general public purposes of the*
263 *ordinance provision and the specific application of that provision to the property because:*
264

265 Mr. Gorman stated that the conditions and structures of this property are unique in that they have
266 existed for 170+ years and therefore were not constructed with today's ordinances in mind. The
267 property has a main building circa 1853, consisting of about 3,800 square feet; the circa 1853
268 two-story carriage house, consisting of about 1,400 square feet; and a full basement. Denial of
269 this Variance would effectively disallow reasonable use of the carriage house, thus creating a
270 hardship. The Ordinance provision allows for the use but only up to nine guest rooms. The main
271 building currently has nine sleeping rooms (eight guest rooms and an operator's quarters), and an
272 operator's kitchen and a common parlor. That is the same number of rooms the main building
273 had prior to the extensive renovations and it is likely the number of rooms the building had in its
274 original form. He interprets the nine-guest room limit set forth in the Code as a means of
275 preventing overcrowding within a building. This is not applicable to this specific property, given
276 the existing size and layout of the structures, along with the adequate onsite parking.

277
278 *and*

279 ii. *The proposed use is a reasonable one because:*
280

281 Mr. Gorman stated that the proposed use is a reasonable expansion of an already existing and
282 allowed use, in which said expansion is comfortably supported by the property and its existing
283 infrastructure. The use is also supported by the intent of the Land Development Code as well as
284 the Comprehensive Master Plan.
285

286 B. *Explain how, if the criteria in subparagraph (A) are not established, an unnecessary*
287 *hardship will be deemed to exist if, and only if, owing to special conditions of the*
288 *property that distinguish it from other properties in the area, the property cannot be*
289 *reasonably used in strict conformance with the ordinance, and a variance is therefore*
290 *necessary to enable a reasonable use of it.*
291

292 Mr. Gorman stated that if this Variance is not granted, the carriage house could not be reasonably
293 used for any purpose, which creates an unfair and unnecessary hardship. He continued that the
294 uses permitted in the zone are as follows: office, which would not meet parking requirements,
295 based on the square footage; multi- and single-family dwelling units, which he could not do with
296 the existing bed & breakfast; duplex, [which would not work]; funeral home, which would not be
297 good at all; and telecommunications facility, which he does not think would fit very well. All of
298 those permitted uses would not only interfere with the current use of the property but would also

require a Variance for issues such as parking, lot size, and so on and so forth. Given that there is no single use that would be allowed for the existing structure within this zone the applicant seeks a use which seemingly has the least impact on the property, its abutters, and the community.

Vice Chair Hoppock asked if anyone from the public had questions for the applicant. He continued that he sees no members of the public present, but the Board did receive a letter that speaks in favor of the applicant and he would like to read it into the record. It is from Christina Devine, dated October 15, 2021, regarding ZBA 21-20.

"I am writing you this letter to give my support for Joshua Gorman's variance for the property located at 112 Washington Street Keene, NH. I am in favor of this application increasing the guest rooms to eleven. Since Mr. Gorman has owned the property, he improved it to become one of the nicest properties on Washington Street. He has been a real asset to this community and has been a great neighbor."

Mr. Welsh stated that he was thinking about the fact that they are dealing with two buildings here. He continued that sometimes with two buildings, there are two parcels of land. If, somehow, in some alternative scenario, there were a property line between these two buildings, they would not be here about the number of units in a bed & breakfast. There would be two compliant bed & breakfast facilities under proposal. Maybe setbacks, maybe parking, or something like that would need to be addressed. That is his way of thinking about the intent of the new Ordinance as written, whether it is about the full property or buildings. Thus, he does not really have a question, but is thinking that this is perhaps an unfortunate situation of it being one piece of property with two buildings, as opposed to two separate parcels.

Vice Chair Hoppock stated that regarding the hardship criteria, he has no problem finding that there are unique characteristics of this lot. He continued that for starters, the size is .27 acres, which is very small. It has a historic carriage house located on it, and you have to manage that space and the use of that space within this lot. As Mr. Gorman said, the size and layout of these structures show no substantial relationship to the nine-room limit as applied to this property, because of those layouts and the carriage house building there, and the obvious interest in preserving a historic building is important. He therefore has no trouble finding the unique characteristics of the lot, together with no substantial relationship being found.

Ms. Taylor asked if they are in the discussion part or if the public hearing is still open. Vice Chair Hoppock replied that he is being as flexible as possible about this, since there are no members of the public present. He continued that those are his observations. Yes, they are still in a public hearing, but since there is no one here to speak for or against, he can close it. He asked if Mr. Gorman had anything to add first. Mr. Gorman replied not unless there are further questions. Hearing none, Vice Chair closed the public hearing and asked the Board to deliberate.

Ms. Taylor stated that what she has to say seems to address nearly all of the criteria. She continued that what strikes her about this is they call it "adaptive reuse." It has been restored and now needs a use, and she cannot think of another use that would be in the public interest the way

343 this is by preserving the historic property. She believes it is on the edge of the Historic District,
344 although she may be wrong, and she believes this property is on the national register.
345

346 Mr. Gorman asked for permission to speak. Vice Chair Hoppock agreed. Mr. Gorman stated
347 that it is immediately abutting the Historic District but he put the property on the state register
348 for future preservation, shortly after purchasing it. Both structures are thus on the New
349 Hampshire State Register of Historic Places.
350

351 Ms. Taylor stated that she thinks it is definitely in the public interest to try and preserve a historic
352 property. She continued that as Vice Chair Hoppock said earlier, it certainly is not contrary to
353 the spirit of the Ordinance, because there are no additions or physical changes to the property.
354 Moreover, certainly, the carriage house is about as big as her own house, so if overcrowding is
355 the underlying reason for the limitation of nine rooms, it would not necessarily be true with this
356 structure and property. She does not think there is any detriment to the public with this change.
357 The value has already been tremendously enhanced and would be more so with it being fully
358 restored. She agrees with what Vice Chair Hoppock said earlier about this property not being
359 conducive to any other particular use and that there is no substantial relationship for the
360 particular Zoning provision as applied to this property. She thinks this is definitely a reasonable
361 use.
362

363 Vice Chair Hoppock stated that he agrees with all of Ms. Taylor's comments. He asked if
364 anyone wanted to add anything else. He noted that Mr. Welsh was nodding his head in
365 agreement as well. He asked if there was any further deliberation or if anyone had a motion.
366

367 Ms. Taylor made a motion for the Zoning Board of Adjustment to approve ZBA 21-20 for a
368 Variance to allow eleven guest rooms where nine are permitted per Chapter 100, Article
369 8.3.2.G.2 of the Zoning Regulations. Mr. Gaudio seconded the motion.
370

371 *1. Granting the Variance would not be contrary to the public interest.*
372

373 Mr. Welsh stated that they have heard good discussion indicating that it would not be contrary to
374 the public interest and he agrees with all of that. He continued that also, they have heard
375 approval from a member of the public. All of the evidence the ZBA has seen is that it is not
376 contrary to the public interest.
377

378 *2. If the Variance were granted, the spirit of the Ordinance would be observed.*
379

380 Mr. Gaudio stated that, as they already spoke about, the intent of limiting it to nine rooms is, in
381 his opinion, to prevent overcrowding in the building, rather than there just being an arbitrary
382 number, and that is actually complied with, so the Board does not have to worry about that
383 violation of the spirit of the Ordinance. Also, the spirit of the Ordinance is really to have a
384 transition zone and historic preservation in that transition zone, and he thinks this accomplishes
385 that. It is in keeping with the spirit of the Ordinance.
386

387 Vice Chair Hoppock stated that he agrees.

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

Vice Chair stated that here, in his view, the gain to the public of approving this is significant. He continued that the balance is skewed because there is no loss to the public; there is a significant gain if the Board approves this, and the loss to the individual would be significant as well if it were denied. As Ms. Taylor said before, this is a well-restored property looking for a use, and he does not know what other use could be made of it, other than what it is being proposed as. Thus, he thinks this criterion is satisfied.

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

Mr. Welsh stated that they have heard no discussion and entertained no scenarios in which the values of surrounding properties would be diminished by granting this Variance, and once again, they have heard from a member of the public who said that it is good for the neighborhood and presumably increases property values from their perspective.

Vice Chair Hoppock stated that he agrees and he interprets that letter as indicating that it would enhance the property values of the area.

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:*

Vice Chair Hoppock stated that he will not repeat everything he has already said, but he thinks there are special conditions of the property, indicated by the size and layout of the structures and the historic carriage house that needs to be incorporated into whatever use the property is put to; if you want to preserve the historic nature of the building. He continued that he does not think a fair and substantial relationship exists between the limitation of nine and the application of that limitation to this property. There is no density issue because of the layout; it is spread out enough. There is enough parking.

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

Met with a vote of 4-0.

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

Met with a vote of 4-0.

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

Met with a vote of 4-0.

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

Met with a vote of 4-0.

5. *Unnecessary Hardship*

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

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

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

Met with a vote of 4-0.

The motion to approve ZBA 21-20 passed with a vote of 4-0.

V) New Business: Land Development Code Review

VI) Communications and Miscellaneous

VII) Non-public Session (if required)

VIII) Adjournment

There being no further business, Chair Gorman adjourned the meeting at 7:25 PM.

Respectfully submitted by,

Britta Reida, Minute Taker

Reviewed and edited by,

Corinne Marcou, Zoning Clerk

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1 City of Keene
2 New Hampshire

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5 **ZONING BOARD OF ADJUSTMENT**
6 **MEETING MINUTES**
7

8 **Monday, November 1, 2021**

6:30 PM

Council Chambers
City Hall

Members Present:

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

Staff Present:

John Rogers, Zoning Administrator
Corinne Marcou, Zoning Clerk

Members Not Present:

Jane Taylor

9
10
11 **I) Introduction of 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**
17

18 Chair Gorman stated that there are no meeting minutes to review tonight.
19

20 **III) Unfinished Business**
21

22 Zoning Administrator John Rogers stated that Corinne Marcou, Zoning Clerk, provided the
23 members with copies of the new Land Use Code. He continued that there is no other unfinished
24 business.
25

26 **IV) Hearings**
27

28 **A) ZBA 21-21:** Petitioner, PSNH, d/b/a/ Eversource, of 13 Legends Dr., Hooksett,
29 requests a Variance for property located at 115 Park Ave., Tax Map # 233-022-000-000-
30 000 that is in the Conservation District. The Petitioner requests a Variance to permit a
31 maximum impervious coverage not to exceed 23% where 20% is permitted in the
32 Conservation District per Chapter 100, Article 7.3.3. of the Zoning Regulations
33

34 **B) ZBA 21-22:** Petitioner, PSNH, d/b/a/ Eversource, of 13 Legends Dr., Hooksett,
35 requests a Variance for property located at 115 Park Ave., Tax Map # 233-022-000-000-
36 000 that is in the Conservation District. The Petitioner requests a Variance to permit a 40
37 foot tall electric enclosure where 35 feet is permitted in the Conservation District per
38 Chapter 100, Article 7.3.4 of the Zoning Regulations
39

40 Chair Gorman asked to hear from City staff.
41

42 Mr. Rogers stated that this property is in the Conservation District. He continued that in 2014 it
43 received two Variances. One was for the use, since this is not an allowed use in the
44 Conservation District. The lot that was created from a subdivision off City property had no
45 frontage, hence the need for the second Variance. The Petitioner is before the Board is seeking
46 two new Variances they would need for what they are proposing.
47

48 Chair Gorman asked to hear from the Petitioner.
49

50 Jeremy Belanger stated that he is a Senior Project Engineer and a License Engineer with TF
51 Moran, 48 Constitution Dr., Bedford. He continued that Connor Jennings of Eversource, 19
52 Production Ave., Keene, joins him tonight. A few more team members are participating
53 virtually. Jennifer Codispoti from Community Relations will introduce the project.
54

55 Chair Gorman stated that he wants to give the Petitioner the option to run through both Variance
56 requests cumulatively, if that would work better for their presentation. He continued that if they
57 consider the two Variance requests to be extremely separate, the Board could hear separate
58 dialogue for each one. Mr. Belanger replied that they would present both together.
59

60 Chair Gorman stated that for the record, there is only a four-member Board tonight. He wants to
61 make sure the Petitioner is aware of the fact that one Board member is absent, and to confirm
62 that the Petitioner still wants to proceed with the hearing this evening. Mr. Belanger replied that
63 they would like to proceed.
64

65 Chair Gorman stated that the Petitioner can present both Variance requests together, but the
66 Board will have to deliberate on each one individually and vote on each separately.
67

68 Jennifer Codispoti from Eversource, 13 Legends Dr., Hooksett, introduced another colleague,
69 Kurt Nelson, Senior Specialist from the Licensing and Permitting Team. She stated that they
70 will provide a brief overview of what Eversource proposes for the project at the substation, and
71 then Mr. Belanger will go through more of the specific information on the Variance requests.
72

73 Ms. Codispoti stated that to provide some background as to why Eversource proposes these two
74 Variances, they are looking to build an electric enclosure, to enclose additional equipment that
75 they are looking to install at the substation. Specifically, they will be upgrading their control
76 house and installing a synchronous condenser at the substation, which is a power-regulating

77 device. The reason they need this project, specifically, is that the Independent System Operators
78 of New England (ISO-NE) identified various reliability needs on the electric system in NH
79 broken down into different geographical regions, and in the western region, ISO-NE identified
80 some voltage concerns. The identified solution, installing the synchronous condenser, will
81 provide more voltage control, which will reduce the likelihood of outages and improve system
82 reliability. The project schedule is on the permitting and engineering stage, which they plan to
83 continue through the fall. Construction at the substation is not anticipated until approximately
84 the third quarter of 2022. The work would take approximately a year to complete.

86 Mr. Belanger stated that the legal address of the site is 115 Park Ave. He showed the location on
87 the map and its surroundings. He continued that as part of the proposed project, Eversource is
88 looking to place the electrical enclosure within the existing gravel substation yard and then
89 reconstruct what was formally a temporary gravel driveway that was installed as part of this
90 original substation construction. A portion of that has been reconstructed as part of the ongoing
91 D-108 line. The NH Department of Transportation (NHDOT) granted a temporary driveway
92 permit, and there is gravel in a portion, which is part of the ongoing line work.

94 Mr. Belanger stated that the first Variance that they are asking relief from is Article 7.3.3.,
95 Maximum Impervious Lot Cover. He went through the Variance criteria.

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

99 Mr. Belanger stated that to be contrary to the public interest, a Variance must unduly, and in a
100 marked degree, conflict with the Zoning Ordinance such that it violates the Ordinance's basic
101 Zoning objectives. He continued that the requested Variance to allow minimal additional lot
102 coverage to provide safe, secure access to the substation and adjacent utility transmission
103 corridor, will not threaten the public health, safety, or welfare, but will enhance it by allowing for
104 timelier access to both locations for emergency maintenance. Granting the Variance for the
105 additional minimal lot coverage associated with improvements for safe, secure site access would
106 not alter the essential character of the locality nor be contrary to the public interest, as it
107 facilitates the adequate provision of electricity, an essential public requirement.

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

109 Mr. Belanger stated that the general purpose of the maximum lot coverage provision is to prevent
110 adverse built conditions, such as buildings taking up too much space given the lot size and
111 context of its surroundings, and to minimize storm water runoff from impervious surfaces, such
112 as pavement or concrete, which can have adverse impacts on water quality. He continued that
113 given the minimal increase in lot coverage to provide appropriate access improvements meeting
114 safety and design standards set forth by the NHDOT and the American Association of State
115 Highway and Transportation officials, as well as the appropriate provisions for storm water
116 management, granting relief would not frustrate the purpose of the Ordinance and there would no
117 hazard to public health, safety, or welfare. The lot coverage presented is consistent with the
118 spirit of the Ordinance, as there would be no negative cumulative impact on granting similar

Variances to others in the neighborhood who also share the same conditions as the subject property.

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

Mr. Belanger stated that the guiding factor for substantial justice is any loss to the individual that is not outweighed by a gain to the public is an injustice. He continued that under the specific design of the proposed site, the gain to the public would not outweigh the harm to the applicant, as the public is protected equally in either case. The proposed infrastructure improvements and associated lot coverage will allow Eversource the ability to continue to use the property for providing a safe, secure substation built in accordance with the national electrical safety code standards.

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

Mr. Belanger stated that specific to the Variance requested, Eversource has continuously operated the site as an electrical substation dating back to 2014. As the industrial character of the site has already been established, the value of the surrounding properties already reflects the intended use and no diminution in value would be expected from the authorization of the requested Variance.

5. *Unnecessary Hardship*

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

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

Mr. Belanger stated that the overall purpose of the Ordinance is to promote the health, safety, and general welfare of the public. Relief from the maximum impervious lot coverage criteria as specified by the Ordinance can be provided without frustrating the purpose of the Ordinance, in that the overriding factor of safety of the public is observed. The existing storm water management system has been enhanced to provide adequate attenuation and treatment of storm water runoff associated with the proposed impervious surfaces. Special conditions pertaining to this property that distinguish it from other properties include the existing use of the site as an electrical substation, which requires an expansive gravel yard; its proximity to the existing transmission lines that need to be regulated; and the need for it to be located within the area it is intended to serve. Denial of the Variance would result in an unnecessary hardship for the owner and would not promote a public interest.

and

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

Mr. Belanger stated that the location and existing use of the property as an electrical substation makes the continued use of the property, to support an essential public utility, an appropriate

selection. From a design standpoint, the proposed equipment to regulate and balance the voltage on the electric power transmission grid must be located at a transmission substation, and be sited in the area it is intended to serve. This site accomplishes both objectives. Re-siting the substation elsewhere in the town would create an economic hardship for the applicant and present substantial electrical design challenges that could compromise the intent of the project.

Mr. Welsh stated that he has questions to gain clarity around what is impervious and what is not, on this site. He continued that the building is clearly impervious, and part of the 20-something percent that is there now and questioned if the rest is gravel. He asked Mr. Belanger to trace with his finger to show the existing impervious surface and the proposal for the new impervious surface.

Mr. Belanger replied that he has a handout to distribute, which is supplemental to what is in the agenda packet. He continued that the last photo in section 2 of the packet is aerial imagery that shows the property boundary in blue and the existing fencing in red. Google has not flown this since the construction of the substation yard, but the supplemental aerial image shows the existing substation yard in light blue, which is gravel. The red is the extent of the gravel that is currently in place associated with the line work, and the green is what Eversource proposes in post-construction. Where the gravel is and whether it has void space is a good question, which Eversource reviewed with Mr. Rogers ahead of time. Because the substation yard is designed for heavy vehicles and loads, it is compacted, and on a conservative standpoint, Eversource considers it all to be impervious.

Mr. Gaudio stated that he noticed that the map suggests there might be something that would help to ameliorate the potential runoff. He asked what Eversource is doing to ameliorate any excess runoff there might be as a result of adding the impermeable matter.

Mr. Belanger replied that in addition to the Variance request that is before the Board tonight, the project will also be going before the Planning Board for site plan review. The site has to conform to the City's regulations. An Alteration of Terrain (AoT) permit was granted during the original construction, so there will be an AoT permit associated with this component of construction. Currently there is an existing storm water management area. He showed the location on the image, and continued that there are two swales, and a culvert under the existing driveway. He indicated the area the runoff goes into, and the location of the storm water management area, and continued that Eversource will reconfigure it to pick up a portion of the driveway. As they progress forward, they tested it this week to determine their infiltrative rates and their seasonal high groundwater. They will have a second storm water management area. He showed its location. He continued that they would pitch the driveway away from the wetlands and toward the interior of the site where there will be a swale. The storm water management areas will collect and treat storm water to the standards of the New Hampshire Department of Environmental Services (NHDES).

Mr. Gaudio asked if it would be fair to say that the runoff pond and swales would be sufficient to take care of rain, such as the amount of rain that Keene had this past July and August, which might have been in the range of “once every 100 years.”

Mr. Belanger replied that the systems have to be designed for AoT standards up to the 50-year storm event. He continued that Eversource always likes to do their due diligence and run their 100-year storm event to determine what will happen. There is nice, sandy material. They can create infiltration basins that will attenuate and treat the water runoff.

Mr. Gaudio asked, in regards to criterion 5A, if there are currently other substations or other sites that could be made into substations that would not have the kinds of problems, whether legal – such as the need for a Variance, or other legal issues – or physical. He questioned if this site is unique.

Mr. Belanger replied that this site is unique in the sense that it is the existing substation. He continued that only about half of the substation has equipment. The portion that Eversource would be putting this electrical enclosure in was always intended, down the line, to be able to accommodate additional infrastructure as the region grows and the demands grow. As for whether there could be other sites, he is not sure. He asked Ms. Codispoti to speak to that.

Ms. Codispoti replied that she would have to get back to the Board on that, because her understanding is that this site was chosen because of the region that they are looking at and the existing infrastructure. She continued that she could get some additional information to clarify that.

Mr. Gaudio replied that he was asking about other sites within the region; he was not thinking about a site across the state or anything like that.

Mr. Belanger stated that ISO-NE had identified specific substations that were the best options that were available; thus, Eversource is currently working on three of these in different regions of the state that they have previously constructed. TF Moran has worked with Eversource to do two of them. One is in Concord and one is in Saco Valley. They can find more information if the Board would like it.

Chair Gorman replied that he does not think the Board needs that, unless it is vital to Mr. Gaudio, who replied in the negative. Chair Gorman stated that the Board would rely on what they have this evening. If they hit any major hurdles during their deliberations and need more information, they could opt to continue this until they could ascertain said information.

Chair Gorman asked about the height of the structure. He continued that they have paid a lot of attention to the runoff, and it seems like efforts are being made to mitigate that. Judging by all the trees and knowing the area fairly well, he guesses that these are 70-foot trees and people will not even see the structure. He asked if that is accurate.

244 Mr. Belanger replied that where the substation is currently located, if you were standing on the
245 sidelines along one of the baseball fields and looking down into the substation yard, you would
246 be able to see it. He continued that if you drive east along Rt. 12, pass the utility corridor, and
247 turn back, he could not say you would not see it.

248
249 Chair Gorman stated that he would word his question better: is it accurate that the structure will
250 be shielded substantially by the trees and that the structure will not be standing out there in the
251 open? Mr. Belanger replied that is correct. He continued that this project does not involve any
252 proposed tree clearing.

253
254 Mr. Hoppock stated that the application notes that the existing impervious coverage is 22% and
255 they propose to not exceed 23%. He continued that the new Ordinance says it should not exceed
256 20%. He asked how they got up to 22%, if they are not supposed to exceed 20%, or if he is
257 misreading it.

258
259 Mr. Belanger replied that Mr. Hoppock is correct. He continued that when the site was
260 constructed the yard was right at 20%, shown in light blue in the photo. They wanted to make
261 sure they accurately captured the current conditions, so when they went out to do the existing
262 conditions survey, the red line shown on the photo is gravel, part of the D-108 line. That would
263 be coming out. Thus, they would need the approval of the Variance for the 23% in order to leave
264 this in the condition, but at the time of the existing condition survey, there was gravel out there
265 and they wanted to make sure everything was out in the open.

266
267 Chair Gorman asked if Mr. Rogers could help clarify that. Mr. Rogers replied that the previous
268 Zoning Code said 20% as well, so there has not been a change to the 20%. He continued that in
269 looking at the approved site plan for this project after it received the original Variances, he saw
270 no indication there that they would be over the impervious surface at that point in time. His
271 understanding is that what Mr. Belanger is trying to say is that they incorporated part of the
272 temporary drive that has been installed, both for the initial construction and now because of the
273 work being done on the transmission lines and quite a bit of gravel was added for the vehicles to
274 go back and forth. Obviously, at this point in time, if the Variance were denied, that impervious
275 surface would have to be removed and taken back to 20% or less.

276
277 Mr. Rogers stated that Ms. Marcou was able to pull up the GIS mapping the City did in 2020,
278 which shows the structures and the area. The current figuration of the site, without the
279 temporary drive, is shown on the monitor.

280
281 Mr. Gaudio asked, in regards to the aerial imagery, if the spider-like structures that extend up are
282 in excess of 40 feet. Mr. Belanger replied yes. Mr. Gaudio asked if it is correct that the roof of
283 the building is lower than those taller structures. Mr. Belanger replied that is correct. He
284 continued that he does not have the exact number in front of him, but he believes the
285 transmission lines are between 60 and 70 feet tall.

Mr. Welsh asked if it is correct that the light blue area shown is the prior impervious surface, that is 20% of the site, and there is additional gravel heading out to the road, which is what puts it up to 22% or 23%. Mr. Rogers replied that would be his assumption, but he would let the applicant speak to that. He continued that his understanding is that the current substation area in lighter blue would be the 20% or less, because that is quite a distance from that substation area out to the highway.

Mr. Belanger replied that is correct. He continued that the original construction was at the 20%. This would be the third time that a construction driveway has been placed in and then removed. If the Board was willing to grant this Variance, they then do not have to remove that driveway any time construction needs to be done. They try to minimize the number of entry points that they have off NHDOT's ways, so this is a good, central location. As you can see on the aerial imagery, between Rt.12 and Rt. 9 they can be used to access both the substation and the utility corridor

Chair Gorman asked if it would be safe to say that doing this road once and doing it right would create fewer runoff issues because it would be better engineered than a temporary road. Mr. Belanger replied yes. He continued that what is there now is a temporary driveway permit, and per the regulations, it is essentially anywhere from a 1.5" to 2.5" angular diameter and the main purpose of that is to collect material from construction vehicles so that it does not end up in the roadway. There is typically filter fabric underneath it to catch any fine sediment that may get down to the ground surface. What Eversource is proposing, and the full design will be part of the site plan package, is to build to NHDOT standards of six inches of gravel on top of 12 inches of gravel, compacted, super elevated, and with storm water directed to these new storm water management areas.

Mr. Rogers suggested that Chair Gorman have the applicant go through the criteria for ZBA 21-22 as well. Chair Gorman agreed.

Mr. Belanger stated that the second request is from Article 7.3.4, to allow a maximum building height not to exceed 40 feet where 35 feet is allowable within the Conservation District. He went through the criteria.

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

Mr. Belanger stated that to be contrary to the public interest, a Variance must unduly, and in a marked degree, conflict with the Zoning Ordinance such that it violates the Ordinance's basic Zoning objectives. Undue and marked conflict exist if granting the Variance would alter the essential character of the neighborhood or threaten public health, safety, or welfare. The height of the proposed electrical enclosure will not create hazards to the public health, safety, or welfare. While the structure is greater in height than a standard, single-story building, the required dimension is dictated by the required clear-distance between the electrical equipment and the structure that houses the units. The space above the equipment is not occupied and the

building consists of only one story. As such, the additional height does not create a need for emergency responders to reach upper elevations of the structure for life safety.

He continued that the requested Variance would allow for electrical upgrades for a safe, secure transmission substation, for providing essential service to the public. Granting the Variance would not alter the essential character of the locality, as the site has been utilized for an essential public utility since construction in 2014. The site consists of existing utility structures in excess of the requested 40 feet in height. The site is abutted by City-owned property on three sides and NH Rt. 12 to the north. As such, the requested Variance will not negatively impact visual sight lines of residential abutting properties.

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

Mr. Belanger stated that it is assumed that the general intent of any height restriction is to secure public safety and provide for appropriate emergency response, provide adequate circulation of light and air, and protect the character of districts in the interests of the public in important views. As previously stated, life safety issues are mitigated by the structure having no occupied space above a single story, and the fact that the use of the site as an essential public utility electric substation has already been established. The proposed enclosure will have no negative impact on the character of the surrounding area. The Variance request fits within the spirit of the Zoning Ordinance in that the request will not create hazards to the public health, safety, or welfare, nor be detrimental to the use of or out of character with the adjacent neighborhood. Granting the Variance will not be contrary to the public interest, as it will facilitate the adequate transmission of electricity, an essential public requirement.

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

Mr. Belanger stated that the guiding factor for substantial justice is that any loss to the individual that is not outweighed by a gain to the public is an injustice. He continued that under the specific design of the proposed electrical enclosure, the gain to the public would not outweigh the harm to the applicant, as the public is protected equally in either case. The proposed infrastructure improvements will allow Eversource the ability to continue to use the property for the purposes of providing a safe, secure substation, built in accordance with National Electrical Safety Code (NESC) standards.

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

Mr. Belanger stated that specific to the Variance requested, Eversource has continuously operated the site as an electrical substation dating back to 2014. He continued that as the public utility character of the site has already been established, the value of the surrounding properties already reflects the intended use. As previously stated, the subject parcel does not have

residential abutters and no diminution of value would be expected from the authorization of the requested Variance.

5. *Unnecessary Hardship*

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

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

Mr. Belanger stated that the general purpose of the height limitation is to secure safety, to provide adequate circulation of light and air, and to protect the character of districts and the interests of the public in important views. He continued that since the height of the structure is a function of providing appropriate clearance distance from the proposed electrical equipment within the structure to the roof of the structure, its construction requires the height specified to accommodate the proposed electrical improvements. Relief from the maximum structure height criteria as specified by the Ordinance can be provided without frustrating the purpose of the Ordinance in that the overriding factor of the safety of the public is observed.

He continued that special conditions pertaining to this property that distinguish it from other properties include the existing use of the site as an electrical substation within the Conservation District, its proximity to the existing transmission lines that need to be regulated, and the need for it to be located within the area it is intended to serve. Denial of the Variance would result in an unnecessary hardship for the owner and would not promote a public interest.

and

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

Mr. Belanger stated that the location and the existing use of the property as an electrical substation makes the continued use of this property, to support an essential public utility, an appropriate selection. He continued that from a design standpoint, the proposed equipment to regulate and balance the voltage on the electric power transmission grid must be located at a transmission substation, and be sited in the area it is intended to serve. This site accomplishes both objectives. Re-siting the substation elsewhere in the city would not only create an economic hardship for the applicant, but also present substantial electrical design challenges that could compromise the intent of the project.

Mr. Belanger stated that something that is not included in this justification is that since the time Eversource submitted this, they were able to review the project with the Keene Fire Department (KFD) and the KFD did not have any objections to the request for the height above 35 feet. The KFD will do a full review as part of the site plan application.

Mr. Hoppock asked if it is correct that this structure will house the piece of equipment, Mr. Belanger described earlier, the synchronous condenser. Mr. Belanger replied that is correct. Mr.

Hoppock asked what the rough dimensions are for that piece of equipment. Mr. Belanger replied that he does not have that information in front of him. He continued that the electrical design is ongoing. He could get the Board the dimensions. Mr. Hoppock replied that it is probably not that important, but he questioned, given Mr. Belanger's mention of talking with the Keene Fire Department (KFD) what kind of fire suppression equipment will be installed in a building like this for that piece of equipment. He further questioned if it is typical sprinklers, or something else like powder. Mr. Belanger replied that he does not believe it is sprinklers, because Eversource is not proposing water be brought onto the site. He continued that he cannot speak to this directly, beyond that, but he could find out the information for the Board.

Ms. Codispoti stated that she could look into that as well and report back.

Chair Gorman asked Mr. Rogers if it is correct that fire suppression will be taken care of through a permitting process with the KFD and the Community Development Department. Mr. Rogers replied that is correct; those items would be addressed with the building permit application. He continued that also, as Mr. Belanger has mentioned, a lot of this is dictated by the electrical code and clearances to equipment. Some of this equipment probably has to have a lot of clearance between it and other equipment as well as personnel. That will all be dictated by the building code and electrical code.

Mr. Welsh stated that he is thinking about what will happen down the line. He asked if it is correct that there will be a site plan review, and that the enclosure itself, elevations, and so on and so forth, will go before the Planning Board. Mr. Rogers replied that it would either go before the Planning Board or the Minor Site Plan Review Committee (MSPR) that was created as a result of the new Land Development Code. It depends on whether this project meets the size criteria. The MSPR Committee also involves the KFD, City Engineer, and other expertise.

Chair Gorman asked if there were any further questions. Hearing none, he closed the public hearing and asked the Board to deliberate on ZBA 21-21.

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

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

Mr. Hoppock stated that he did not hear anything that would give him pause for concern about public health, safety, or welfare. He continued that he did hear, and tried to pay attention to, the explanation on the water management system, and he thinks it is probably satisfactory as to what their goals are. He is sure that whatever fine-tuning needs to be done can be done at the site plan review. He thinks the first two criteria are satisfied, based on that explanation.

Mr. Gaudio stated in agreement, adding that the value and importance of having continuous, uninterrupted electrical service goes a long way in that matter. Chair Gorman agreed.

Mr. Welsh stated that he would add that strict adherence to the 20% would involve tearing up the gravel and putting something new in, at some point in the future, at which point they may be getting into the kinds of measures that are contrary to the public interest.

Chair Gorman stated that he agrees, and he thinks forcing the re-creation of a temporary road is in spite of the intent. It wastes resources and energy.

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

Mr. Hoppock stated that he thinks the gain to the public is perhaps greater than what the applicant has emphasized. He continued that everyone has experienced a loss of power, and it takes hours and hours of work to get it back on. In his view, anything within reason that Eversource can do to improve the service would be a tremendous gain to the public. The other side of that coin is that when you devote a rather remote section of town to electrical substation service, as this area is,— and as the applicant said, there are no residential properties abutting this property, although there are Wheelock Park and the highways,— there is no one nearby to complain about noise. The Board did not hear anything about noise; he does not think there will be much noise associated with this. With a property so devoted to one specific use, the Board could not expect a request for any other use to come before them. Eversource will want to expand the use as the area grows, and it is natural to assume that the area is going to grow. The amount of impervious space may increase down the road; it is increasing a little bit tonight. What they do with that later on, maybe tonight is an indication of that, but 23% versus 20% is not a big concern to him. He thinks the harm to the applicant is great, and the harm to the public perhaps greater, if the Board does not approve this.

Chair Gorman stated that he agrees with Mr. Hoppock. He continued that the situation at this site already exists, so for the greater good of the public as well as the applicant, why not make it as good as can be. It is a substation and always will be, until Eversource decides it is not. If this is what needs to be done, he is inclined to support it.

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

Chair Gorman stated that they touched on the fact that there really are not the traditional type of surrounding properties. He continued that if there were residences all around, he would have a hard time with this one, but there are not.

Mr. Hoppock stated that one of the points the applicant made deserves repeating: this property has been used in this fashion as a substation since 2014, so with that use for that period of 6 or 7 years, the property values would already reflect that use. He continued that that makes sense to him. He does not find any diminution of property values here.

Mr. Welsh stated that he used to be an abutter to this property when it was being developed, because “abutter” was defined differently. He continued that in the time since 2014 when the substation has been built and went into use, his property value has gone up. The substation has not diminished the value at all.

5. *Unnecessary Hardship*

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

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

Mr. Hoppock stated that he thinks the applicant did a good job identifying the special conditions of the property. He continued that those are the existing electrical substation, with an expansive gravel yard; its proximity to the transmission lines that it is hooked up to; and the need for these particular pieces of equipment to be at that site, which is what is intended for. Those are the definition of unique features to this site, thus, he is not troubled at all by those representations. It seems that the overall purpose of the impervious percentage requirement is not applicable to this site, or there is no significant relationship to it in this site, given its use, because the difference between 20% and 23% is so small, and the way Eversouce is going to manage the runoff cures that problem. He thinks not granting the Variance would cause a hardship, for those reasons. He finds criterion 5 is met.

Chair Gorman asked if anyone had further comment. Hearing none, he asked for a motion.

Mr. Hoppock made a motion for the Zoning Board of Adjustment to approve ZBA 21-21. Mr. Gaudio seconded the motion.

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

Met with a vote of 4-0.

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

Met with a vote of 4-0.

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

Met with a vote of 4-0.

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

Met with a vote of 4-0.

5. *Unnecessary Hardship*

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

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.*

Met with a vote of 4-0.

The motion to approve ZBA 21-21 passed with a unanimous vote of 4-0.

Chair Gorman asked the Board to deliberate on ZBA 21-22.

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

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

Mr. Gaudio stated that his comments are the same as they were regarding ZBA 21-21. He continued that better assuring the delivery of electrical power without interruption is very valuable and beneficial to the public interest, thus, this would not be contrary to the public.

Mr. Hoppock stated that improving electrical service to the public without creating a risk of hazard to the public health, safety, or welfare and without altering the character of the area, which is what Eversource is proposing, is a plus. He continued that he finds the first two criteria are met.

Mr. Welsh stated that they have also discussed visuals as one potential detriment to the public interest, and dismissed that concern by some consideration of the trees surrounding and the height of the existing equipment.

Chair Gorman asked if the Board finds any merit in stipulating that the natural buffer must be preserved. Mr. Gaudio asked if it is within Eversource's ability to preserve it, questioning if the trees are on Eversource's land. Chair Gorman replied that is a good question. He continued that personally, he would contemplate putting something in the motion, just to ensure the buffer, but like Mr. Gaudio says, if you look at the boundary line, Eversource seems to have minimal control over it. He asked for others' thoughts.

Mr. Hoppock stated that he would not be opposed to reopening the public hearing to ask the applicant that one question. Chair Gorman agreed, opened the public hearing, and asked the applicant to speak to whether Eversource has ownership control over the trees, and whether a stipulation maintaining said trees would impede Eversource in any way.

Mr. Belanger stated that as shown on the layout plan, Eversource located its proposed drive within the existing utility corridor that is already clear of trees. He continued that Eversource has a standing vegetative maintenance with the required clear distances to the overhead transmission lines. Thus, vegetative maintenance will occur in these corridors from time to time. However, as for their construction, they will not be touching the existing tree line. There is no topography on the imagery tonight, but because this is the wetlands and Tenant Swamp, which are about 10 feet lower than the berm, which is then 10 feet higher than the substation yard, it would bring Eversource no benefit to do any sort of tree clearing. As part of the original construction, Eversource planted a number of screening trees. He showed the location on the image and stated that many of the evergreens are less than 10 years old, and Eversource would prefer not to cut those down.

Chair Gorman thanked Mr. Belanger and closed the public hearing again.

Chair Gorman stated that he is fairly convinced that the natural buffer is being well managed and will continue to be so.

Mr. Hoppock stated that the gain to the public, as Mr. Gaudio mentioned, is significant, and the harm to the applicant if Eversource is not permitted to upgrade the substation in a way that makes sense could be significant. He thinks the third criterion is met, by virtue of the gain to the public. Chair Gorman agreed.

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

Chair Gorman stated that his comments are the same as for the fourth criterion in ZBA 21-21. Mr. Hoppock agreed.

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.

Mr. Hoppock stated that the applicants did a fine job identifying the unique conditions of the property, given its unique use, and he thinks that with the height restriction there is a fire safety issue, and the light and air problem, but there is no one out in this location. There are no residential people abutting. There is traffic, but he does not think any of these height regulations have much application out there, when they are trying to consider constructing a building large enough house this equipment. He thinks an unnecessary hardship can be avoided by granting the Variance.

Mr. Welsh stated that he was on the Planning Board when this came through in 2014. He continued that regarding Mr. Gaudio's question about whether other sites were considered, he does not know the specifics, but he knows that a thorough assessment of alternative sites was undertaken, including of the existing downtown site and others. None were as good as the current site. This was well thought out, and alternatives were considered and dismissed. It would be a hardship to find a different location.

Chair Gorman asked if there were any further comments. Hearing none, he asked for a motion.

Mr. Hoppock made a motion for the Zoning Board of Adjustment to approve ZBA 21-22. Mr. Welsh seconded the motion.

Mr. Hoppock stated that his motion is not subject to any conditions, because he is satisfied with what the Board has heard. Mr. Rogers replied that to clarify, the one condition that would be there would be the 40-foot building height restriction. Mr. Hoppock replied yes, that is what the motion is to approve. He meant he would not be adding a condition about the trees.

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

Met with a vote of 4-0.

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

Met with a vote of 4-0.

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

Met with a vote of 4-0.

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

Met with a vote of 4-0.

5. *Unnecessary Hardship*

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

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.*

Met with a vote of 4-0.

The motion to approve ZBA 21-22 passed with a unanimous vote of 4-0.

V) New Business: New Land Development Code review

Mr. Rogers asked that the Board members to review the new Land Development Code and, at the next meeting, he and Ms. Marcou will have a summary of changes and can answer Board members' questions. Chair Gorman agreed.

VI) Communications and Miscellaneous

VII) Non-public Session (if required)

VIII) Adjournment

There being no further business, Chair Gorman adjourned the meeting at 7:35 PM.

Respectfully submitted by,
Britta Reida, Minute Taker

Reviewed and edited by,
Corinne Marcou, Zoning Clerk

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15 KING CT. ZBA 21-23



Petitioner requests a Variance to permit a retail business in the Low Density District per Chapter 100, Article 3.3.5 of the Zoning Regulations.



City of Keene
New Hampshire

NOTICE OF HEARING

ZBA 21-23

A meeting of the Zoning Board of Adjustment will be held on Monday, December 6, 2021 at 6:30 PM in City Hall Council Chambers, 2nd floor, 3 Washington St, Keene, New Hampshire to consider the following petition. Petitioner, Alpine Bike Works, of 2326 US Rte. 4, Killington, VT, owned by Tony Accurso, requests a Variance for property located at 15 King Court, owned by Raette F. Trombly Living Trust, Tax Map #112-022-000-000-000 that is in the Low Density District. The Petitioner requests a Variance to permit a bicycle shop on a lot located within the Low Density District where a retail business is not a permitted use per Chapter 100, Article 3.3.5; Permitted Uses in the Low Density of the Zoning Regulations.

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

Corinne Marcou, Zoning Clerk
Notice issuance date November 24, 2021

APPLICATION FOR APPEAL

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

For Office Use Only:

Case No. ZBA 21-23
Date Filed 11/21/2021
Received By MF
Page 1 of 9
Reviewed By _____

The undersigned hereby applies to the City of Keene Zoning Board of Adjustment for an Appeal in accordance with provisions of the New Hampshire Revised Statutes Annotated 674:33.

TYPE OF APPEAL - MARK AS MANY AS NECESSARY

- ☐ APPEAL OF AN ADMINISTRATIVE DECISION
☐ APPLICATION FOR CHANGE OF A NONCONFORMING USE
☐ APPLICATION FOR ENLARGEMENT OF A NONCONFORMING USE
☐ APPLICATION FOR A SPECIAL EXCEPTION
☒ APPLICATION FOR A VARIANCE
☐ APPLICATION FOR AN EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS

SECTION I - GENERAL INFORMATION

Name(s) of Applicant(s) Tony Accurso Phone: _____
Address Alpine Bike Works 2326 US Rte. 4 Killington VT 05751
Name(s) of Owner(s) Raette F Trombly Living Trust
Address PO Box 1117 Keene NH 03431
Location of Property 15 King Court

SECTION II - LOT CHARACTERISTICS

Tax Map Parcel Number 112-022-000 Zoning District LD
Lot Dimensions: Front 124.13 Rear 106.55 Side 218.00 Side 218.00
Lot Area: Acres 0.28 Square Feet 12,268
% of Lot Covered by Structures (buildings, garages, pools, decks, etc.): Existing 20.1% Proposed 20.1%
% of Impervious Coverage (structures plus driveways and/or parking areas, etc.): Existing 59% Proposed 59%
Present Use Fitness Center Now Vacant Building
Proposed Use Bicycle Shop

SECTION III - AFFIDAVIT

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

Raette F. Trombly Date 11-4-21
(Signature of Owner or Authorized Agent)

Please Print Name RAETTE F. TROMBLY

PROPERTY ADDRESS 15 Kit Court

APPLICATION FOR A VARIANCE

- A Variance is requested from Section (s) 3.3.5 of the Zoning Ordinance to permit:

See Attached

DESCRIBE BRIEFLY YOUR RESPONSE TO EACH VARIANCE CRITERIA.

1. Granting the variance would not be contrary to the public interest because:
2. If the variance were granted, the spirit of the ordinance would be observed because:
3. Granting the variance would do substantial justice because:
4. If the variance were granted, the values of the surrounding properties would not be diminished because

5. Unnecessary Hardship

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

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

and

ii. The proposed use is a reasonable one because:

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

PROPERTY ADDRESS 15 King Court

APPLICATION FOR A VARIANCE

- A variance is requested from Section (s) **3.3.5, Permitted Uses in the Low Density** district of the Zoning Ordinance to permit: a bicycle shop on a lot located within the LD district where a retail business is not a permitted use.

Background: The applicant has an agreement to purchase 15 King Court subject to getting the necessary permits to operate a bicycle shop in the existing building at the site. The bicycle shop will include retail sales, repairs and maintenance of bicycles, and bicycle rentals. The existing property is nonconforming due to building setbacks, pavement setbacks and the existing nonconforming use. The existing building was last used as a fitness center, and prior to that was the home of Indian King Framery, a retail framing shop. Access to the site is via King Court. There are 23 existing parking spaces, and the site is serviced by city water and city sewer. Keene State College is located to the north and west of the site. There are residential properties located to the north and east of the site. There are two office buildings located to the east of the site along King Court. To the south is NH Rt. 101.

The hours of operation for the proposed bicycle shop will vary by season:

Jan - Feb	Wed - Sun	9AM – 5PM
Mar	Wed – Mon	9AM – 5PM
Apr - Oct	Sun – Thurs	9AM – 5PM
	Fri - Sat	9AM – 6PM
Oct - Dec	Wed - Sun	9AM – 5PM

The number of employees will vary by season as well with from 4 to 6 full time employees. Customer traffic will vary by season with an average of 3 to 20 customers per day.

The existing building has approximately 5197 sf of gross floor area. Zoning requires 21 parking spaces for a light retail use. 23 spaces are provided.

DESCRIBE BRIEFLY YOUR RESPONSE TO EACH CONDITION:

1. **Granting the Variance would not be contrary to the public interest because:**
The existing building was last occupied by a fitness center which was allowed as a nonconforming use in 2018. The business is now closed, and the building is vacant. It is not in the public interest to have a vacant commercial building visible from Rt. 101 at the gateway to Keene. Granting the variance will allow the property to be redeveloped with another commercial use appropriate for this site. The proposed bicycle shop is a low intensity business use which will not be disruptive to the neighborhood. It will improve the appearance of the property, increase the property value, and increase property tax revenue for the City of Keene. It is in the public interest to have a property with a vacant building redeveloped with a use that will add jobs and expand the local tax base.

2. **If the variance were granted, the spirit of the ordinance would be observed because:** The spirit of the ordinance in this case is to protect the public health, safety and welfare by allowing low intensity uses (primarily residential). The previous uses on the property were commercial uses, a retail business and a fitness center, which were low intensity. The proposed bicycle shop is another low intensity use which will not result in excess traffic or excess noise and will not have a negative effect on the neighborhood. Granting the variance will allow the existing commercial building to be re-purposed to another low intensity commercial use. It will improve the property's value and will help to protect property values in the neighborhood.
3. **Granting the variance would do substantial justice because:** It will allow the new property owner to improve the existing building and the property without negative impacts to the public health, safety, and welfare. The proposed bicycle shop will re-furbish the existing vacant building and utilize the existing parking spaces. As such, it will not reduce property values. The values of this property will be significantly improved, and it will increase the City of Keene's tax base. There is no benefit to the public if the variance is denied in this case.
4. **If the variance were granted, the values of the surrounding properties would not be diminished because:** This proposal will re-furbish the existing vacant commercial building and utilize the existing commercial parking lot. This is a low intensity use which will not generate excess traffic, will not create excess noise, and will not be operating at night. This proposal will enhance the appearance of the property and help to maintain property values in this area. Approving the variance will not result in a threat to public safety or be a nuisance to vehicles and pedestrians. It will allow a project which will enhance the value of this property and the neighborhood.
5. **Unnecessary Hardship**
 - A. **Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:**
 - i. **No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:**

This is an existing nonconforming property which has been in commercial use for decades. The existing building was constructed in 1920 and has never been used as a residential structure. There are 23 existing parking spaces on the lot which is not consistent with a single family use. The location of this property, adjacent to Rt. 101 is not conducive to using this building as a single family residence. These are all special conditions which result in the need for a variance to allow a reasonable use on this property.

A variance is necessary to allow the continued use of the site for a commercial use. It would be unfair and unreasonable to deny the variance for this proposal when a commercial use has existed at this site for decades.

And

ii. The proposed use is a reasonable one because: The proposed use as a bicycle shop will improve the value of the property without significant negative impacts to the neighborhood. It will not result in excess traffic, and it will not diminish surrounding property values.

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

This is an existing nonconforming property which has been in commercial use for decades. The existing building was constructed in 1920 and has never been used as a residential structure. There are 23 existing parking spaces on the lot which is not consistent with a single family use. The location of this property, adjacent to Rt. 101 is not conducive to using this building as a single family residence. These are all special conditions which result in the need for a variance to allow a reasonable use on this property.

A variance is necessary to allow the continued use of the site for a low impact commercial use. It would be unfair and unreasonable to deny the variance for this proposal when a commercial use has existed at this site for decades.

112-022-000
RAETTE F TROMBLY LIVING TRUST
PO BOX 1117
KEENE NH 03431

112-023-000
SEMELA XANTHOPOULOS LIVING
TRUST
297 MARLBORO STREET
KEENE NH 03431

112-026-000
TRAVIS A DRAPEAU
20 Appleton ST
KEENE NH 03431

594-081-000
DAVID MCQUAID HINDERAKER
ANNA CARMELA HINDERAKER
3804 RUSKIN ST
HOUSTON TX 77005

112-011-000
JOHN E CLARK II
PATRICIA L CLARK
59 DICKINSON RD
KEENE NH 03431

112-020-000
WHITE HOUSE GROUP
441 MAIN STREET
KEENE NH 03431

112-024-000
STEPHEN L ROGERS
LYNDA L ROGERS
425 MAIN STREET
KEENE NH 03431

112-027-000
EDWARD H LETOURNEAU JR
22 APPLETON ST
KEENE NH 03431

Anthony Accurso
Alpine Bike Works
3326 US Rte. 4
KILLINGTON VT 05751

112-012-000
GEORGE P ACHILLE JR REV TRUST
PO BOX 87
PETERBOROUGH NH 03458


112-021-000
BAKKE REALTY & MANAGEMENT CO
6 PROSPECT HILL ROAD
SPOFFORD NH 03462

112-025-000
JANICE R D'ALESSIO LIVING TRUST
PO BOX 1806
KEENE NH 03431

112-028-000, 112-029-000
UNIVERSITY SYSTEM OF NH
Keene State College
229 Main St.
Keene NH 03431

BRICKSTONE LAND USE
CONSULTANTS LLC
185 WINCHESTER STREET
KEENE NH 03431

Subscribed and sworn to me by
James P Phippard this 12th day of November 2021

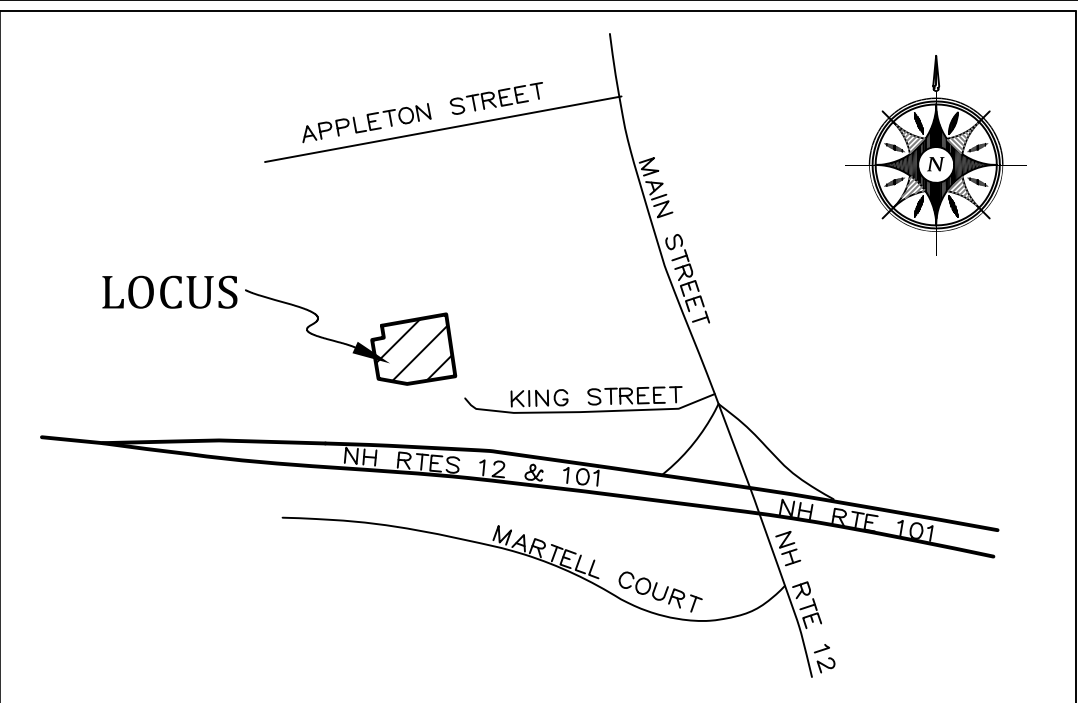

James P Phippard



Ann E Quirk, Notary Public
My Commission Expires 03/07/2023

REFERENCE PLANS

- 1) "BUILDING & LAND OFF KING COURT, OWNED BY HARRY E. KENNEY, UNDER PURCHASE AGREEMENT TO WILLIAM A. STRETCH, JR. DBA INDIAN KING FRAMERY/NEW ENGLAND FRAME CRAFTERS"; DATED 6-22-81; SCALE 1"=20'; ON FILE AT THE CITY OF KEENE DEPARTMENT OF PUBLIC WORKS.
- 2) "STATE OF NEW HAMPSHIRE, DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS, PLAN OF PROPOSED FEDERAL AID URBAN PROJECT, U 013-1(14), N.H. PROJECT NO. P-3435-A, CITY OF KEENE, COUNTY OF CHESHIRE"; SHEET NUMBER 19; DATED 12/13/60; ON FILE AT NH DEPARTMENT OF TRANSPORTATION.



NOTES

- 1) THE PURPOSE OF THIS PLAN IS TO DEFINE THE BOUNDARY OF LOT 112-022-000.
- 2) OWNER OF RECORD:
WILLIAM A. STRETCH JR
485 COLUMBUS ROAD
WEST RR #1
OSHAWA, ON L1H7K-4
VOLUME 2082 PAGE 1
- 3) AREA OF LOT 112-022-000: 12,268 SF OR 0.28 ACRES
- 4) LOT NUMBERS REFER TO THE CITY OF KEENE PROPERTY MAPS.
- 5) CURRENT ZONING: LOW DENSITY
- MIN. LOT AREA - 10,000 SF
MIN. FRONTAGE - 60 FEET
MIN. WIDTH AT BUILDING LINE - 70 FEET
- SETBACKS:
FRONT - 15 FEET
SIDE - 10 FEET
REAR - 20 FEET
- 6) KING COURT IS WITHIN THE BY-PASS RIGHT OF WAY. SEE REFERENCE PLAN 2.
- 7) LOT 112-022-000 IS WITHIN THE 100 YEAR FLOOD PLAIN.
- 8) EASEMENTS
- A. LOT 112-022-000 BENEFITS FROM A 16' WIDE RIGHT OF WAY RUNNING NORTHERLY FROM THE NORTHERLY BOUND OF KING COURT. SEE VOLUME 2082 PAGE 1.
- B. LOT 112-022-000 BENEFITS FROM A 20' WIDE RIGHT OF WAY RUNNING WESTERLY FROM AN EXTENSION OF THE 16' RIGHT OF WAY. SEE VOLUME 2082 PAGE 1.
- C. LOT 112-022-000 BENEFITS FROM EASEMENTS FOR WATER, SEWER AND UTILITY LINES. SEE VOLUME 620 PAGE 281, VOLUME 620 PAGE 286 AND VOLUME 620 PAGE 309.
- THE PARCEL MAY BE SUBJECT TO OTHER EASEMENTS AS THEY EXIST OF RECORD OR IN FACT. CARDINAL SURVEYING AND LAND PLANNING DOES NOT INTEND OR REPRESENT THAT ALL RIGHTS AND EASEMENTS AFFECTING THE SUBJECT PROPERTY ARE SHOWN. A SPECIFIC TITLE EXAMINATION IS SUGGESTED TO DETERMINE THE NATURE AND EXTENT OF RIGHTS AND EASEMENTS AFFECTING THE SUBJECT PROPERTY.
- 9) THE LOCATION OF ANY UTILITY INFORMATION SHOWN ON THIS PLAN IS APPROXIMATE. CARDINAL SURVEYING & LAND PLANNING MAKES NO CLAIMS TO THE ACCURACY OR COMPLETENESS OF THE UTILITIES SHOWN. FIELD VERIFICATION IS REQUIRED PRIOR TO ANY EXCAVATION ON THE SITE.

SURVEYOR'S CERTIFICATION

THIS SURVEY IS THE RESULT OF A RANDOM TRAVERSE USING AN ELECTRONIC TOTAL STATION AND MEETS THE MINIMUM REQUIREMENTS OF AN URBAN SURVEY AS SPECIFIED IN NH LAN 500.1.

PURSUANT TO RSA 676:18

I CERTIFY THAT THIS SURVEY PLAT IS NOT A SUBDIVISION PURSUANT TO THIS TITLE AND THAT THE LINES OF STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED AND THAT NO NEW WAYS ARE SHOWN.

NO.	DATE	REVISION	BY
-----	------	----------	----

BOUNDARY PLAN

LOT 112-022-000
15 KING COURT
KEENE, NH 03431

DATE: AUGUST 20, 2018

SCALE: 1"=20'

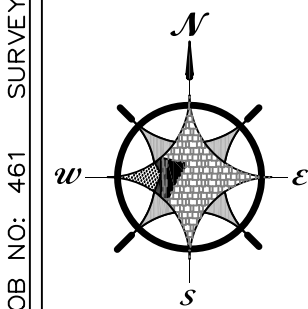
PREPARED FOR:

WILLIAM A. STRETCH JR
485 COLUMBUS ROAD
WEST RR#1
OSHAWA, ON L1H7K-4

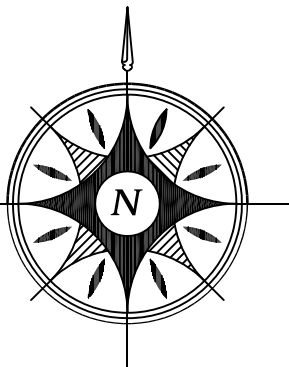
CARDINAL SURVEYING & LAND PLANNING

Keene, New Hampshire 03431
Tel. (603) 499-6151

SHT 1/1



JOB NO: 461 SURVEY DATE: 7/25/18 FB: 7/1



MAGNETIC 2018

1" IRON PIPE IN
2" IRON PIPE
0.5' UP

3/4" IRON PIPE
0.2' DOWN

112-028-000

UNIVERSITY SYSTEM OF NH
KEENE STATE COLLEGE
C/O JAY KAHN
229 MAIN STREET
KEENE, NH 03431
VOL 1762 PG 289

112-027-000

EDWARD H. LETOURNEAU JR
22 APPLETON STREET
KEENE, NH 03431
VOL 3032 PG 424

122-022-000

BAKKE REALTY & MANAGEMENT CO
6 PROSPECT HILL ROAD
SPOFFORD, NH 03462
VOL 1726 PG 762

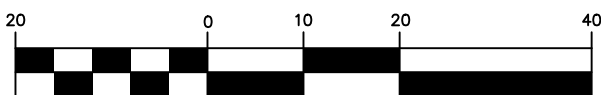
NH ROUTES 12 & 101

KING COURT

LEGEND

- - PIN FOUND
- - REBAR SET (RBS) / SPIKE SET (SS)
- _{311/3-2} - UTILITY POLE
- * - LIGHT POLE
- * - SPOT LIGHT
- - CATCH BASIN
- MH - MANHOLE
- ⊗ - SEWER CLEAN OUT
- ~~~~~ - TREE LINE
- - - - - EASEMENT LINE
- - - - - APPROXIMATE ABUTTER LINE
- (N 85°15'39" W 16.00') - EASEMENT DIMENSION

GRAPHIC SCALE



(IN FEET)
1 inch = 20 ft.

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



ZONING BOARD OF ADJUSTMENT 2022 SCHEDULE

Deadline

December 17, 2021

January 21, 2022

February 18, 2022

March 18, 2022

April 15, 2022

May 20, 2022

June 17, 2022

July 15, 2022

August 19, 2022

September 16, 2022

October 21, 2022

November 18, 2022

December 16, 2022

Meeting**

January 3, 2022

February 7, 2022

March 7, 2022

April 4, 2022

May 2, 2022

June 6, 2022

July 5, 2022*

August 1, 2022

September 6, 2022*

October 3, 2022

November 7, 2022

December 5, 2022

January 3, 2023*

* July and September 2022 meetings and January 2023 meeting are scheduled for Tuesday due to the holiday

**All meetings begin at 6:30 PM and are held on the first Monday of each month in the Council Chambers, 2nd fl, City Hall unless stated otherwise

K: ZBA/Public_Schedule/2022 11/22/2021