

**Zoning Board of Adjustment
December 5, 2022 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: November 7, 2022
- III. Unfinished Business:
- IV. Hearings:

ZBA 22-19: Petitioner, Hans Porschitz, requests a Variance for property located at 196 South Lincoln St., Tax Map #587-001-000-000-000 that is in the Medium Density District and owned by Jennifer Whitehead. The Petitioner requests a Variance to permit a structure outside the building setbacks on the side & rear of the property, the side setback from 20' – 0' to 14.2' and the rear setback from 15' to 12' per Chapter 100, Articles 1.3.3.A.3 and 3.5.2 the Zoning Regulations.

ZBA 22-20: Petitioner, Hilary Harris, requests a Variance for property located at 365 Main St., Tax Map #112-038-000-000-000 that is in the Low Density District. The Petitioner requests a Variance to permit a one additional dwelling unit in an existing barn totaling three units on the property, per Chapter 100, Article 3.3.5 of the Zoning Regulations.

ZBA 22-21: Petitioner, Timothy St. Pierre of B.U.R. Construction, LLC of 940 John Stark Hwy, Newport, NH, requests a Variance for property located at 363 Pearl St., Tax Map #593-004-000-000-000 and owned by Adam Wright. The Petitioner requests a Variance to permit the temporary use of a vacant lot for staging of an adjacent construction project per Chapter 100, Article 3.3 of the Zoning Regulations.

- V. New Business:
Rules of Procedure updates
- VI. Communications and Miscellaneous:
- VII. Non Public Session: (if required) permean
- 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, November 7, 2022**

6:30 PM

Council Chambers
City Hall

Members Present:

Joshua Gorman, Chair
Joseph Hoppock, Vice Chair
Richard Clough

Staff Present:

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

Members Not Present:

Jane Taylor
Michael Welsh

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11 **I) Introduction to 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.
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16 **II) Minutes of the Previous Meeting: September 19 and October 3, 2022**
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18 Mr. Hoppock made a motion to approve the meeting minutes of September 19 and October 3,
19 2022. Mr. Clough seconded the motion, which passed by unanimous vote.
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21 **III) Unfinished Business**
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23 **IV) Hearings**
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25 **A) Continued ZBA 22-13: Petitioners, Brian & Amalia Harmon, requests a**
26 **Variance for property located at 27-29 Center St., Tax Map #568-016-000-000- 000**
27 **that is in the Downtown Transition District. The Petitioners requests a Variance to**
28 **permit a multi-family dwelling with three units on a lot with 3,049 sq. ft. where**
29 **18,800 sq. ft. is required, per Chapter 100, Article 4.6.1 of the Zoning Regulations**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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. Harmon stated that the building does not impact the general public.

And

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

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

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.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Chair Gorman read into the record:

*"ABUTTER'S PETITION
TO CITY OF KEENE ZONING BOARD OF ADJUSTMENT*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I reserve my rights.

Respectfully submitted,
Peter S. Espieffs, November 7, 2022"

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

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

Chair Gorman asked for public input.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. Clough stated that he agrees.

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

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

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

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

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:*

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

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

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

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

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

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

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

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

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

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

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

Denied with a vote of 0-3.

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

Denied with a vote of 0-3.

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

Denied with a vote of 0-3.

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

Denied with a vote of 0-3.

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.*

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

Denied with a vote of 0-3.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

and

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

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

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.*

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

Chair Gorman asked if anyone had questions for the applicant.

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

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

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

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

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

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

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

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

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

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

Chair Gorman stated [inaudible].

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

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

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

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

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

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

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

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

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

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

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

Chair Gorman asked the Board to vote on the criteria.

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

Granted 3-0.

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

Granted 3-0.

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

Granted 3-0.

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

Granted 3-0.

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 because:*

Granted 3-0.

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

V) Adjournment

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

Respectfully submitted by,
Britta Reida, Minute Taker

Reviewed and edited by,
Corinne Marcou, Zoning Clerk
John Rogers, Zoning Administrator
Michael Hagan, Staff Liaison

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196 S. LINCOLN ST. ZBA 22-19



Petitioner requests to permit a structure outside the building side & rear setbacks, side setback from 20 ft to 14.2 ft & the rear seatback from 15 ft to 12 ft.



City of Keene

New Hampshire

NOTICE OF HEARING

ZBA 22-19

A meeting of the Zoning Board of Adjustment will be held on **Monday, December 5, 2022, at 6:30 PM** in City Hall Council Chambers, 2nd floor, 3 Washington St, Keene, New Hampshire to consider the following petition.

ZBA 22-19: Petitioner, Hans Porschitz, requests a Variance for property located at 196 South Lincoln St., Tax Map #587-001-000-000-000 that is in the Medium Density District and owned by Jennifer Whitehead. The Petitioner requests a Variance to permit a structure outside the building setbacks on the side & rear of the property, the side setback from 20 feet to 14.2 feet and the rear setback from 15 feet to 12 feet per Chapter 100, Articles 1.3.3.A.3 and 3.5.2 the Zoning Regulations.

You are receiving notice of this hearing as an abutter to or owner of property within 200-ft of the subject parcel.

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

A handwritten signature in blue ink, reading "Corinne Marcou", written over a horizontal line.

Corinne Marcou, Zoning Clerk

Notice issuance date November 23, 2022

City of Keene, NH

Zoning Board of Adjustment Variance Application



For Office Use Only:

Case No. ZBA 22-19
Date Filled 11/18/2022
Rec'd By CJM
Page 1 of 24
Rev'd by _____

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

SECTION 1: CONTACT INFORMATION

I hereby certify that I am the owner, applicant, or the authorized agent of the owner of the property upon which this appeal is sought and that all information provided by me is true under penalty of law. If applicant or authorized agent, a signed notification from the property owner is required.

OWNER / APPLICANT

NAME/COMPANY: Jennifer Whitehead

MAILING ADDRESS: 196 South Lincoln Street

PHONE: (603) 620-3662

EMAIL: jenjwhitehead@gmail.com

SIGNATURE: 

PRINTED NAME: Jennifer Whitehead

APPLICANT (if different than Owner/Applicant)

NAME/COMPANY: Hans Porschitz

MAILING ADDRESS: 196 South Lincoln Street

PHONE: (603) 892-1543

EMAIL: hansporschitz@gmail.com

SIGNATURE: 

PRINTED NAME: Hans Porschitz

AUTHORIZED AGENT (if different than Owner/Applicant)

NAME/COMPANY:

MAILING ADDRESS:

PHONE:

EMAIL:

SIGNATURE:

PRINTED NAME:

SECTION 2: PROPERTY INFORMATION

Property Address: **196 South Lincoln Street, Keene, NH 03431**

Tax Map Parcel Number: **587/ / 001/000 000/000**

Zoning District: **Medium Density**

Lot Dimensions: Front: **58.70'** Rear: **65.00'** Side: **80.30' L** Side: **65.00'**

Lot Area: Acres: **0.1088** Square Feet: **4739**

% of Lot Covered by Structures (buildings, garages, pools, decks, etc): Existing: **27.5%** Proposed: **30.3%**

% of Impervious Coverage (structures plus driveways and/or parking areas, etc): Existing: **42.4%** Proposed: **43.2%**

Present Use: **single family residence**

Proposed Use: **single family residence**

SECTION 3: WRITTEN NARRATIVE

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

The property is 196 South Lincoln street and is located at the corner of South Lincoln street and Water street; Jen Whitehead is the owner of the property and lives in the 1920 Bungalow style home with her family (4 residents total); To accommodate a teenage boy who intends to finish his Highschool degree at the local Highschool she and her partner finished the attic to include an additional bedroom and bathroom; in the remodel process the heating systems was changed from an oil fired steam boiler to an electrical AirSource Heatpump system. To offset the increased energy load for the heating system and the electric car charging station, a solar PV system is planned; Panels on the south facing side (Water street) will cause snow and ice to slide onto the path leading from driveway to the side door as well as the foot path from sidewalk to door which could cause a hazard to residence and visitors; To prevent such hazard, a lower shed awning is being proposed along building to cover the area for dry and safe access from driveway to door; The other footpath from the sidewalk to the door is proposed to be removed. To cover a 6 ft path the width of the propose roof is large enough to add further solar panels for additional production and to allow snow to slide all the way off the roof and not accumulate from sliding off the main roof;

The proposed roof cannot be structurally designed to be only supported by the existing wall and will require 3 posts and a beam to support the rafters. The post and beam structure placement does exceed the set building setbacks stated in the recently adopted new LDC for the property, both to the Water street as well as the eastern neighbor side (see site plan).

The neighbor to the east has expressed full support to the owners plans for the structure, as it is proposed as open structure and does not have any impact on the used of their property.

For the above reasons we ask to receive a variance to the current building setback requirements on the side and rear setback of the property.

Please see attached plot plan, draft design and document for images on the current subject property, its neighborhood context and proposed design.

SECTION 4: APPLICATION CRITERIA

A Variance is requested from Article (s) **1.3.3.A.3** of the Zoning Regulations to permit:
and 3.5.2

structure outside the building setbacks on side & rear of the property (approx. 83sft outside the setback)

side setback from 20'-0" to 14'-2"
rear setback from 15'-0" to 12'-0"

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

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

The added structure is proposed and designed as an open post and beam structure with braces and timberframe joinery and fits within the appearance of the neighborhood. It will not be an enclosed structure and therefore does not impact visibility of foot and vehicle traffic on Water or South Lincoln Street;

The structure's placement would be within the regular side setback limits, were the property not a corner lot.

Due to the removal of the path to the sidewalk and coverage of the path along the building, only minimal, if any, impervious area is added.

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

The additional structure would contribute to the spirit of the neighborhood by making sensible use of it. Its open nature does only minimally add to the 'density' of buildings on the lot itself or neighboring lots. The structure would be within the regular side setbacks if this property was not a corner lot. Minimal, if any impervious area is added.

3. Granting the variance would do substantial justice because:

The structure further adds to the already permitted and made improvements to the property over the past few years. It adds to the already pleasant character of the neighborhood in east Keene. Using the additional roof area for additional solar panels promotes the use of Renewable energy systems in the public, supporting the cities '100% Sustainable Energy Resolution' passed in January 2019. It further promotes the upgrade and use of existing buildings vs demolition and new construction with its potential disruption of fitting appearance.

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

The improvement of the property does enhance its own appearance with out interfering the use or appearance of other buildings or properties in the neighborhood. The detailed design and craftsmanship of its execution fits and further elevates the neighborhood character and value. The detailed design and craftsmanship of this project integrates quality, aesthetics, and sustainability. This project offers an attractive feature, adding value to this home, and ultimately, to the neighborhood. Studies show that curb appeal can increase a home's value by 3-5%, which also benefits the value of the surrounding homes as well. Please see Fig 5-8 for reference

5. Unnecessary Hardship

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

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

The condition of the property to be a corner lot and the applicable side setback restrictions stipulated in the LDC for such property decreases the allowable area for building construction.

In the current configuration, the driveway for the property can only be in the location it is in on the Water street side, due to length of road frontage, city tree placement on the South Lincoln side and distance requirements from a major intersection between both streets.

With this site layout and use, the side entrance has been serving as main entrance to the residence. Access from the driveway to the residence on the property has been along the side of the building as the most direct path to both driveway, garage and back yard of the property. With the nature of PV panels to release snow and ice in bulk during the winter months, the existing small awning over the door is insufficient, both structurally and in size, for safe access the side entrance of the residence.

The potential drifting and sliding snow load for a roof along the side of the building is too great for suspending a roof entirely of the 2x4 wall construction of the 1920 home.

A significant steel structure and design would be required for a cantilevered awning. Such is not in alignment for neighborhood character and not economically viable.

Not being able to place a solar PV system of appropriate size on the property to serve a home's electrical use (incl. Airsource Heatpump, EV charging) with renewable energy results in a significant loss of value and relevance of the property and in the neighborhood real estate.

and

ii. The proposed use is a reasonable one because:

The proposed addition is an attempt to balance historic aesthetic of the property with the requirements of today's and future technology and use.

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

The restrictions, as placed in the ordinance, will not allow the use of renewable energy systems on this property without causing a hazard of sliding snow and ice for part of the year to the residents in their regular use of the home. This reduces the property value in comparison to other buildings and properties in the neighborhood.

11/17/2022

Proposed Project: Porch structure on eave of building along Water Street side

Property Location: 196 South Lincoln street

Property Owner: Jen Whitehead

Subject property images:



Fig 1. Subject property with Dormer addition under construction showing side entrance



Fig 2. Subject property with Dormer addition under construction showing driveway and garage



Fig 3. Subject property showing footpath from driveway to side door



Fig 4. Subject property showing proposed location of porch addition

Appearance and architectural design context in the neighborhood of the subject property and proposed project:



Fig 5. Subject property on left (prior to dormer addition) view from Water street;
Existing open porch structure on neighboring residence



Fig 6. Subject property on right; view from South Lincoln street side;
Existing open porch structure on neighboring residence



Fig 7. **View west on Water Street** shows homes with open porch structures similar to the one proposed for the subject property
(note: property shown on right has recently had a fire, and will likely be demolished.)

3D views of proposed design



Fig 8. Subject property with **Proposed porch structure**

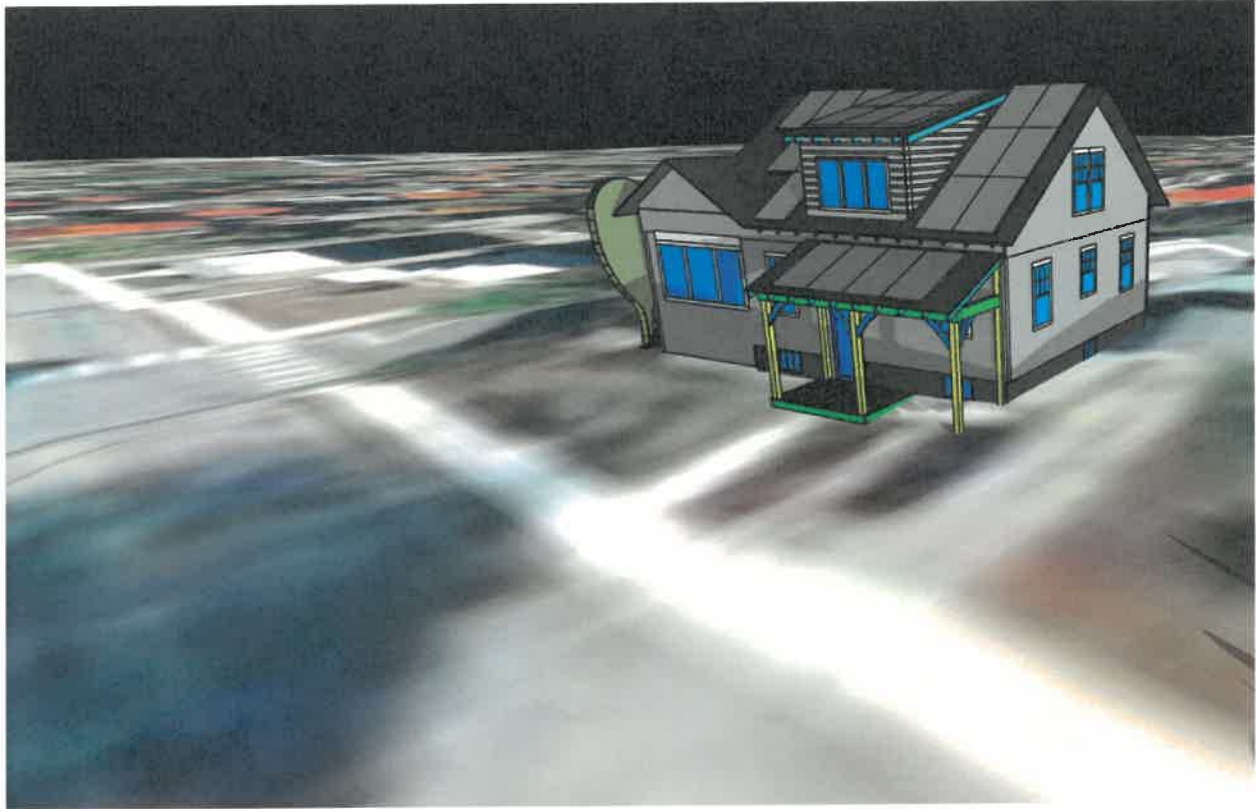


Fig 8. Subject property of **Proposed porch structure**



225 foot Abutters List Report

Keene, NH
November 15, 2022

Subject Property:

Parcel Number: 587-001-000
CAMA Number: 587-001-000-000-000
Property Address: 196 SOUTH LINCOLN ST.

Mailing Address: WHITEHEAD JENNIFER J.
196 SOUTH LINCOLN ST.
KEENE, NH 03431

Abutters:

Parcel Number: 572-002-000
CAMA Number: 572-002-000-000-000
Property Address: 172 SOUTH LINCOLN ST.

Mailing Address: KELLY, JOELLEN 2020 REV TRUST
172 SOUTH LINCOLN ST.
KEENE, NH 03431

Parcel Number: 572-003-000
CAMA Number: 572-003-000-000-000
Property Address: 180 SOUTH LINCOLN ST.

Mailing Address: MACE NICHOLAS JAMES
180 SOUTH LINCOLN ST.
KEENE, NH 03431

Parcel Number: 572-004-000
CAMA Number: 572-004-000-000-000
Property Address: 190 SOUTH LINCOLN ST.

Mailing Address: COOPER AARON F.
190 SOUTH LINCOLN ST.
KEENE, NH 03431

Parcel Number: 572-005-000
CAMA Number: 572-005-000-000-000
Property Address: 350 WATER ST.

Mailing Address: SHALIT ROBERT J. SHALIT TRACY L.J.
350 WATER ST.
KEENE, NH 03431

Parcel Number: 572-006-000
CAMA Number: 572-006-000-000-000
Property Address: 115 WILBER ST.

Mailing Address: DEKEYREL STEVEN M. ESTATE OF &
HEIRS IF ANY
115 WILBER ST.
KEENE, NH 03431

Parcel Number: 572-007-000
CAMA Number: 572-007-000-000-000
Property Address: 107 WILBER ST.

Mailing Address: MERCIER JILLIAN L.
107 WILBER ST.
KEENE, NH 03431

Parcel Number: 573-007-000
CAMA Number: 573-007-000-000-000
Property Address: 185 SOUTH LINCOLN ST.

Mailing Address: DOODY MARY JANE
185 SOUTH LINCOLN ST.
KEENE, NH 03431

Parcel Number: 573-008-000
CAMA Number: 573-008-000-000-000
Property Address: 179 SOUTH LINCOLN ST.

Mailing Address: DEEVER, ALICIA WURSCHMIDT
DEEVER MCKINLEY WILSON JR.
179 SOUTH LINCOLN ST.
KEENE, NH 03431

Parcel Number: 573-009-000
CAMA Number: 573-009-000-000-000
Property Address: 171 SOUTH LINCOLN ST.

Mailing Address: PARODY DAVID S.
171 SOUTH LINCOLN ST.
KEENE, NH 03431

Parcel Number: 586-012-000
CAMA Number: 586-012-000-000-000
Property Address: 294 WATER ST.

Mailing Address: RAMSEY, DAVID W.
294 WATER ST.
KEENE, NH 03431



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11/15/2022

Page 1 of 3



225 foot Abutters List Report

Keene, NH
November 15, 2022

| | |
|---|--|
| Parcel Number: 586-013-000 CAMA Number: 586-013-000-000-000 Property Address: 296-298 WATER ST. | Mailing Address: EASTMAN, FRANCIS W. EASTMAN ANN D. 298 WATER ST. KEENE, NH 03431 |
| Parcel Number: 586-014-000 CAMA Number: 586-014-000-000-000 Property Address: 193 SOUTH LINCOLN ST. | Mailing Address: CHABOTT DANIEL S. SR. CHABOTT JENNIFER L. 198 OLD WENDELL RD. NORTHFIELD, MA 01360-9673 |
| Parcel Number: 586-017-000 CAMA Number: 586-017-000-000-000 Property Address: 17 HANCOCK ST. | Mailing Address: BRECKENRIDGE ROBERT C. BRECKENRIDGE TRICIA E. 17 HANCOCK ST. KEENE, NH 03431 |
| Parcel Number: 586-018-000 CAMA Number: 586-018-000-000-000 Property Address: 11 HANCOCK ST. | Mailing Address: ROBBINS DONNA SAVIDGE REV. TRUST 11 HANCOCK ST. KEENE, NH 03431-4226 |
| Parcel Number: 586-019-000 CAMA Number: 586-019-000-000-000 Property Address: 297-299 WATER ST. | Mailing Address: GNADE DOREEN L. ESTATE OF AND HEIRS IF ANY 299 WATER ST. KEENE, NH 03431 |
| Parcel Number: 586-020-000 CAMA Number: 586-020-000-000-000 Property Address: 4 FAIRFIELD CT. | Mailing Address: CARMEL GRETCHEN G. 4 FAIRFIELD CT. KEENE, NH 03431 |
| Parcel Number: 586-021-000 CAMA Number: 586-021-000-000-000 Property Address: 10 FAIRFIELD CT. | Mailing Address: SIZOO, JENNIFER MAPES 10 FAIRFIELD CT. KEENE, NH 03431 |
| Parcel Number: 587-002-000 CAMA Number: 587-002-000-000-000 Property Address: 324 WATER ST. | Mailing Address: BARTLETT LINDSAY R. BARTLETT DAN S. 324 WATER ST. KEENE, NH 03431 |
| Parcel Number: 587-003-000 CAMA Number: 587-003-000-000-000 Property Address: 330-334 WATER ST. | Mailing Address: EDMUNDS STANLEY R. 480 SPOFFORD RD. WESTMORELAND, NH 03467-4310 |
| Parcel Number: 587-006-000 CAMA Number: 587-006-000-000-000 Property Address: 333 WATER ST. | Mailing Address: WEBB LUCY S. 333 WATER ST. KEENE, NH 03431 |
| Parcel Number: 587-051-000 CAMA Number: 587-051-000-000-000 Property Address: 15 EASTERN AVE. | Mailing Address: HARRIS, DOUGLAS E. HALL MIRANDA K. 15 EASTERN AVE. KEENE, NH 03431 |
| Parcel Number: 587-052-000 CAMA Number: 587-052-000-000-000 Property Address: 9 EASTERN AVE. | Mailing Address: OUELLETTE, ANDRE VAN SANT C. ANN JESSIE 9 EASTERN AVE. KEENE, NH 03431 |



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11/15/2022

Page 2 of 3



225 foot Abutters List Report

Keene, NH
November 15, 2022

Parcel Number: 587-053-000
CAMA Number: 587-053-000-000-000
Property Address: 327 WATER ST.

Mailing Address: SCHMIDL-GAGNE MARK SCHMIDL-
GAGNE KIMBERLY A.
327 WATER ST.
KEENE, NH 03431

Parcel Number: 587-054-000
CAMA Number: 587-054-000-000-000
Property Address: 319 WATER ST.

Mailing Address: WITTEN, ELIOT WITTEN BETHANY
319 WATER ST.
KEENE, NH 03431

Parcel Number: 587-055-000
CAMA Number: 587-055-000-000-000
Property Address: 0 WATER ST.

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

Parcel Number: 587-056-000
CAMA Number: 587-056-000-000-000
Property Address: 309 WATER ST.

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

Parcel Number: 587-057-000
CAMA Number: 587-057-000-000-000
Property Address: 16 HANCOCK ST.

Mailing Address: RAINA, DOVE
16 HANCOCK ST.
KEENE, NH 03431

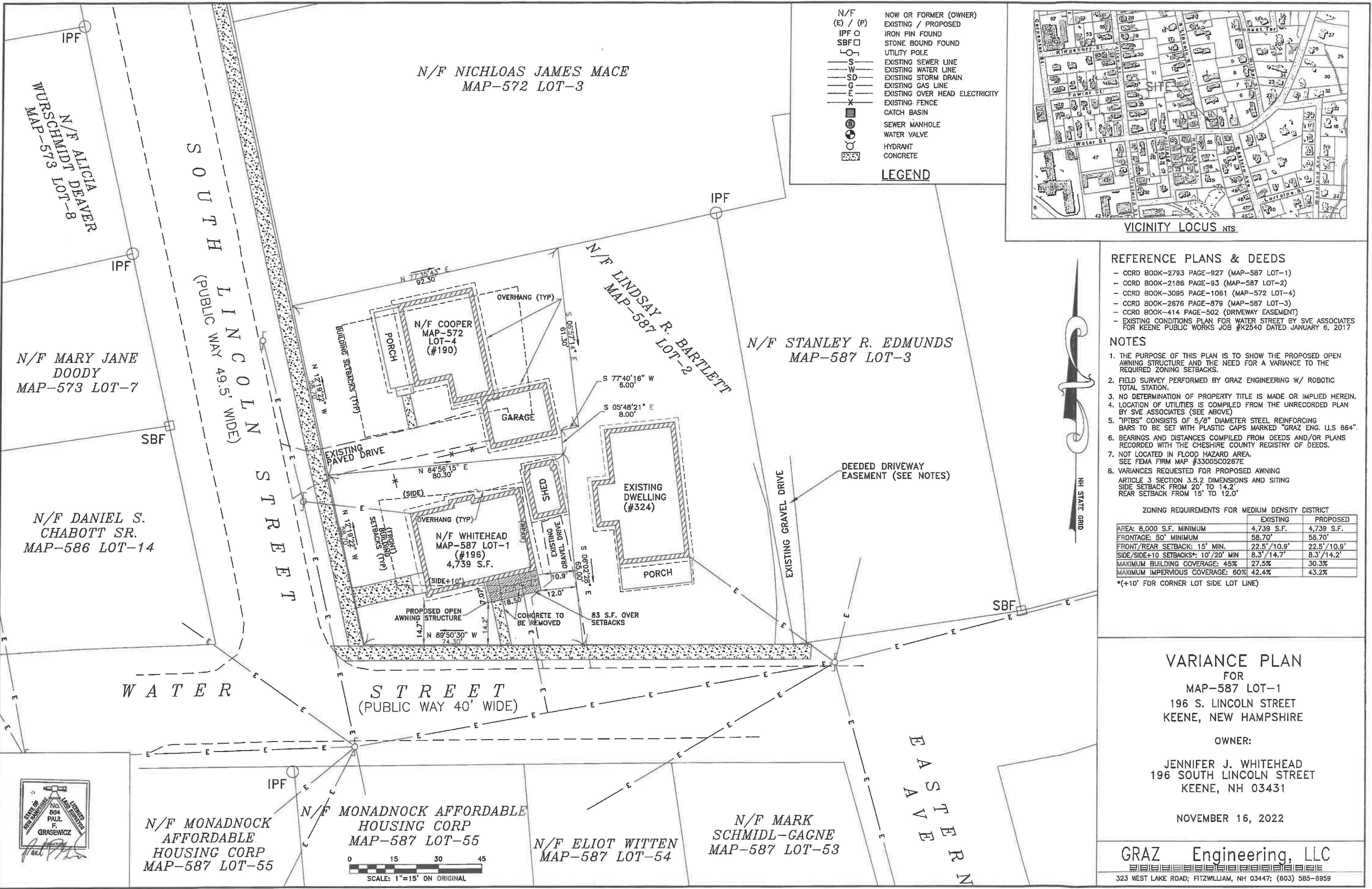
Parcel Number: 587-058-000
CAMA Number: 587-058-000-000-000
Property Address: 24 HANCOCK ST.

Mailing Address: FLANDERS JAMES W. FLANDERS VICKI
E.
24 HANCOCK ST.
KEENE, NH 03431

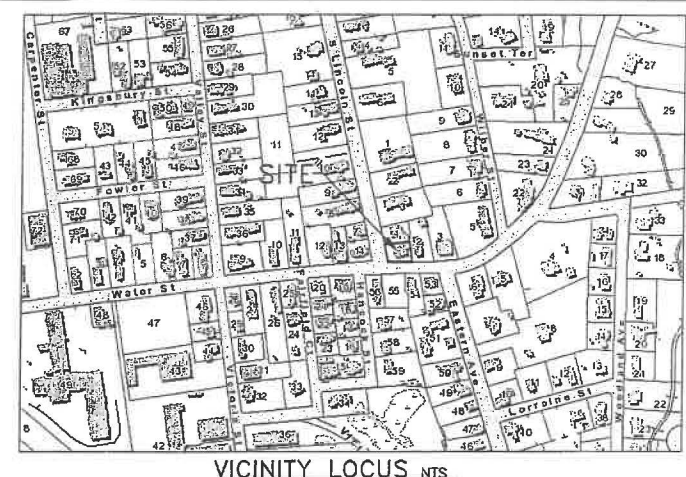


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(E) / (P)
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SBF □
○
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— W —
— SD —
— G —
— E —
— X —
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●
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- NOW OR FORMER (OWNER)
EXISTING / PROPOSED
IRON PIN FOUND
STONE BOUND FOUND
UTILITY POLE
EXISTING SEWER LINE
EXISTING WATER LINE
EXISTING STORM DRAIN
EXISTING GAS LINE
EXISTING OVER HEAD ELECTRICITY
EXISTING FENCE
CATCH BASIN
SEWER MANHOLE
WATER VALVE
HYDRANT
CONCRETE
- LEGEND



- REFERENCE PLANS & DEEDS
- CCRD BOOK-2793 PAGE-927 (MAP-587 LOT-1)
 - CCRD BOOK-2186 PAGE-93 (MAP-587 LOT-2)
 - CCRD BOOK-3095 PAGE-1061 (MAP-572 LOT-4)
 - CCRD BOOK-2676 PAGE-879 (MAP-587 LOT-3)
 - CCRD BOOK-414 PAGE-502 (DRIVEWAY EASEMENT)
 - EXISTING CONDITIONS PLAN FOR WATER STREET BY SVE ASSOCIATES FOR KEENE PUBLIC WORKS JOB #K2540 DATED JANUARY 6, 2017
- NOTES
1. THE PURPOSE OF THIS PLAN IS TO SHOW THE PROPOSED OPEN AWNING STRUCTURE AND THE NEED FOR A VARIANCE TO THE REQUIRED ZONING SETBACKS.
 2. FIELD SURVEY PERFORMED BY GRAZ ENGINEERING W/ ROBOTIC TOTAL STATION.
 3. NO DETERMINATION OF PROPERTY TITLE IS MADE OR IMPLIED HEREIN.
 4. LOCATION OF UTILITIES IS COMPILED FROM THE UNRECORDED PLAN BY SVE ASSOCIATES (SEE ABOVE)
 5. "IPTBS" CONSISTS OF 5/8" DIAMETER STEEL REINFORCING BARS TO BE SET WITH PLASTIC CAPS MARKED "GRAZ ENG. ILS 864"
 6. BEARINGS AND DISTANCES COMPILED FROM DEEDS AND/OR PLANS RECORDED WITH THE CHESHIRE COUNTY REGISTRY OF DEEDS.
 7. NOT LOCATED IN FLOOD HAZARD AREA. SEE FEMA FIRM MAP #33005C0267E
 8. VARIANCES REQUESTED FOR PROPOSED AWNING ARTICLE 3 SECTION 3.5.2 DIMENSIONS AND SITING SIDE SETBACK FROM 20' TO 14.2' REAR SETBACK FROM 15' TO 12.0'
- ZONING REQUIREMENTS FOR MEDIUM DENSITY DISTRICT
- | | EXISTING | PROPOSED |
|---------------------------------------|---------------|---------------|
| AREA: 8,000 S.F. MINIMUM | 4,739 S.F. | 4,739 S.F. |
| FRONTAGE: 50' MINIMUM | 58.70' | 58.70' |
| FRONT/REAR SETBACK: 15' MIN. | 22.5' / 10.9' | 22.5' / 10.9' |
| SIDE/SIDE+10 SETBACKS*: 10' / 20' MIN | 8.3' / 14.7' | 8.3' / 14.2' |
| MAXIMUM BUILDING COVERAGE: 45% | 27.5% | 30.3% |
| MAXIMUM IMPERVIOUS COVERAGE: 60% | 42.4% | 43.2% |
- *(+10' FOR CORNER LOT SIDE LOT LINE)

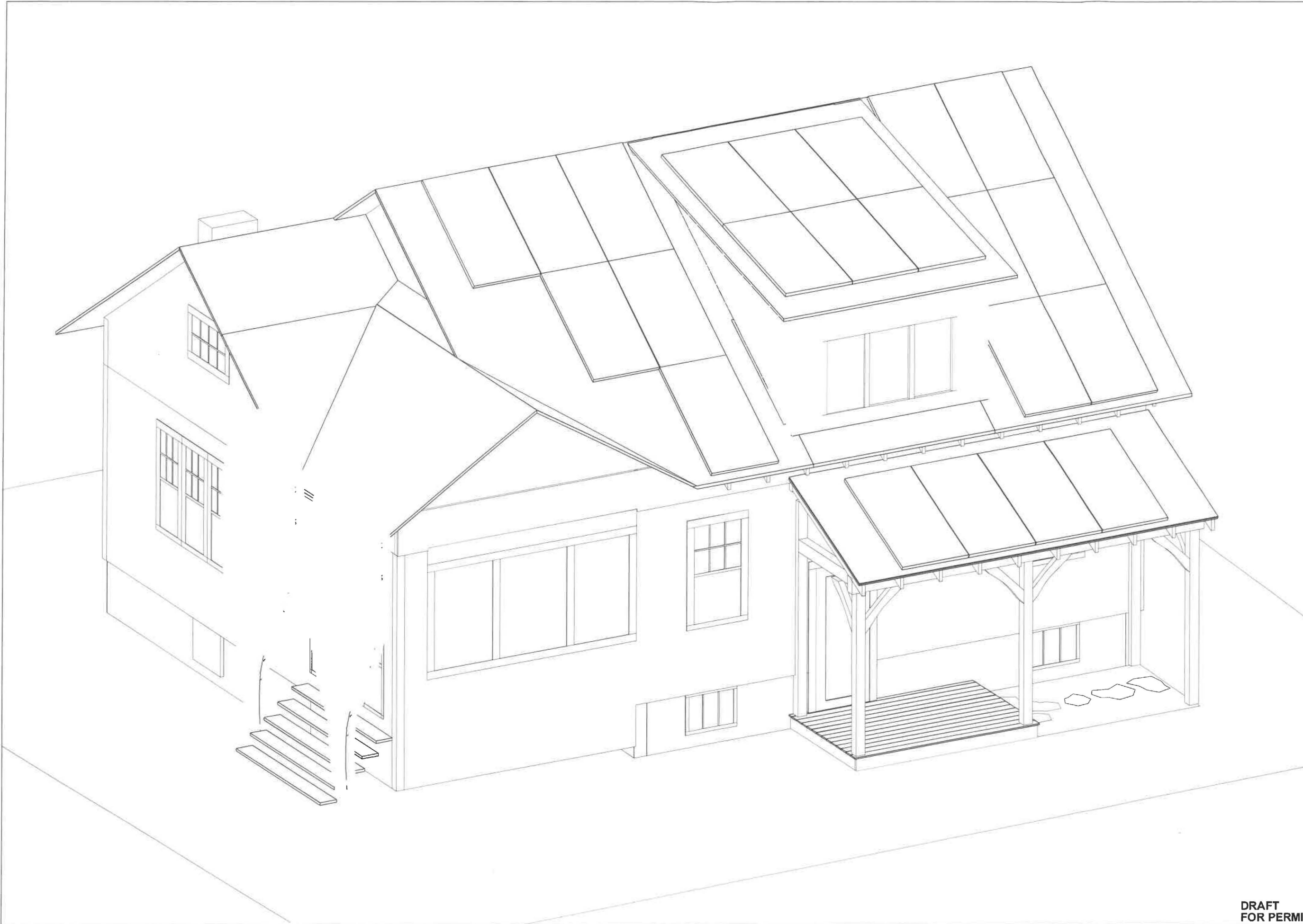
VARIANCE PLAN
FOR
MAP-587 LOT-1
196 S. LINCOLN STREET
KEENE, NEW HAMPSHIRE

OWNER:

JENNIFER J. WHITEHEAD
196 SOUTH LINCOLN STREET
KEENE, NH 03431

NOVEMBER 16, 2022

GRAZ Engineering, LLC
323 WEST LAKE ROAD; FITZWILLIAM, NH 03447; (603) 585-6959



PROPOSED AWNING and SOLAR
FOR
HANS PORSCHITZ & JEN WHITEHEAD
KEENE, NH

REVISIONS

| DATE | BY | REMARKS |
|------|----|---------|
| | | |
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|------------------------|--------|
| PROJECT INFO: | |
| LIVING AREA | 0 S.F. |
| FIRST FLOOR | 0 S.F. |
| SECOND FLOOR | 0 S.F. |
| TOTAL LIVING | 0 S.F. |
| NON LIVING AREA | |
| GARAGE | 0 S.F. |
| SCREEN PORCH | 0 S.F. |
| TOTAL NON LIVING | 0 S.F. |

DRAWING TITLE:

COVER

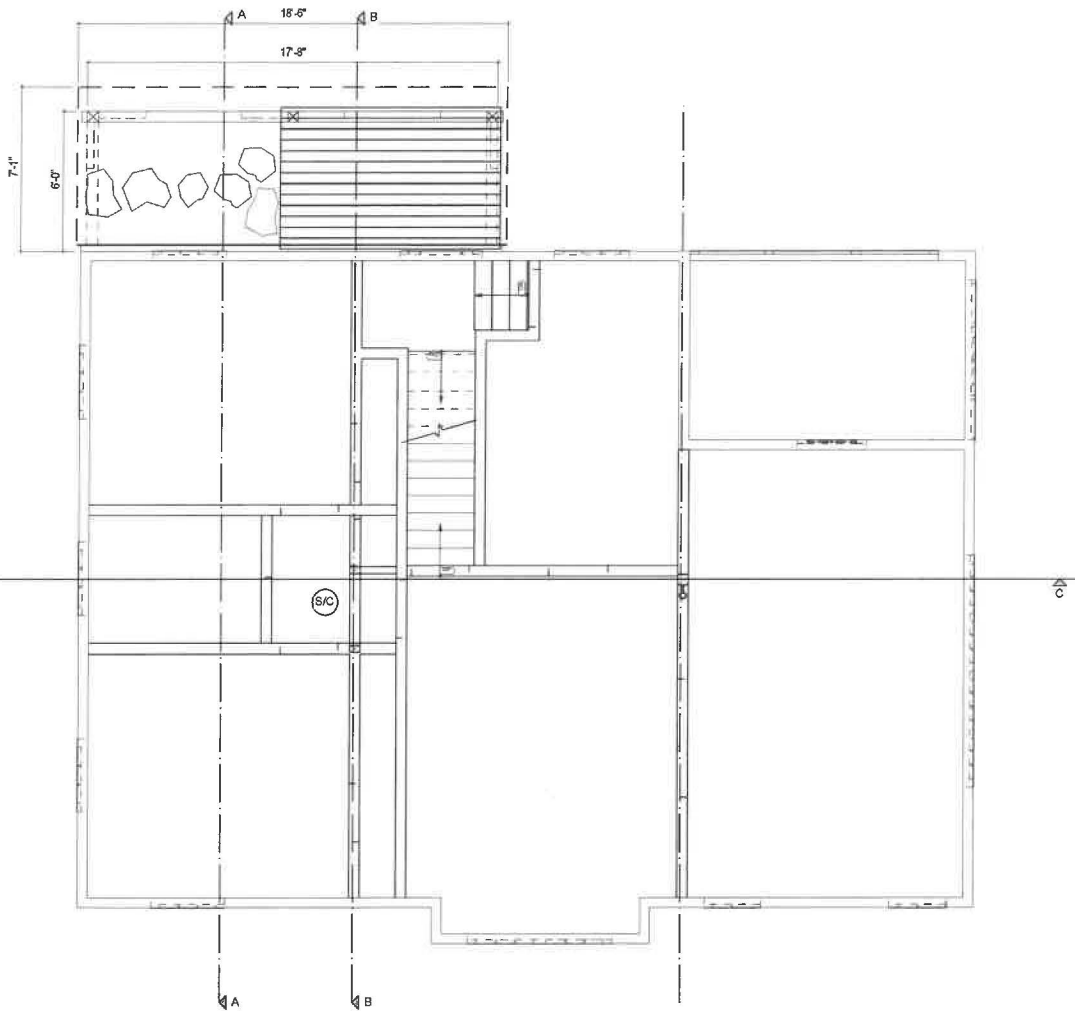
SCALE: 1/4" = 1'-0"

DRAWN BY: HANS PORSCHITZ

SHEET NUMBER:

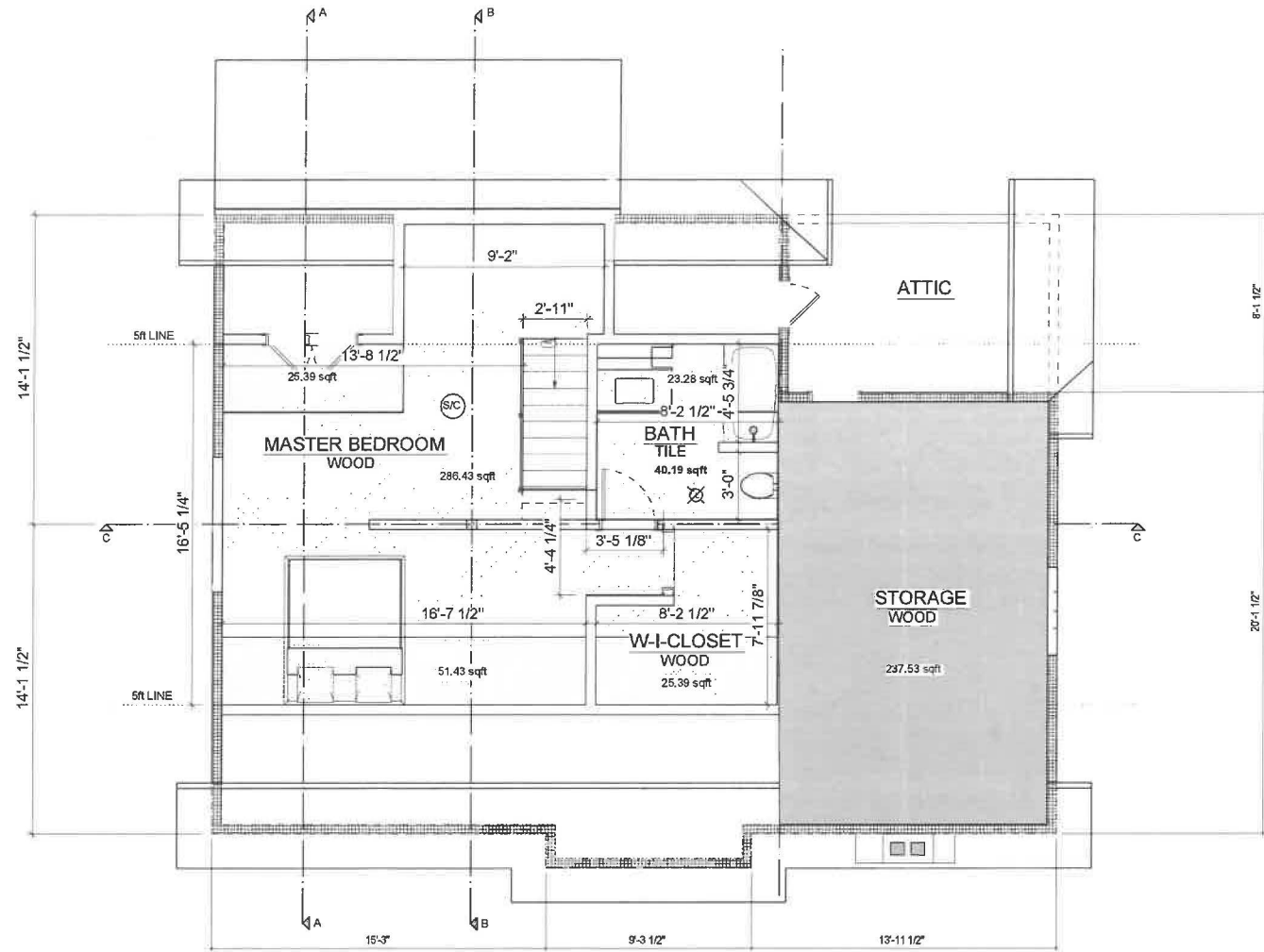
A-0.0

**DRAFT
FOR PERMIT**



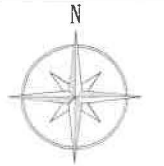
1st FLOOR

SCALE: 1/4" = 1'-0"



SECOND FLOOR

SCALE: 1/4" = 1'-0"



PROPOSED AWNING and SOLAR
FOR
HANS PORSCITZ & JEN WHITEHEAD
KEENE, NH

REVISIONS

REMARKS

DATE BY

| | |
|------------------|--------|
| PROJECT INFO: | |
| LIVING AREA | |
| FIRST FLOOR | 0 S.F. |
| SECOND FLOOR | 0 S.F. |
| TOTAL LIVING | 0 S.F. |
| NON LIVING AREA | |
| GARAGE | 0 S.F. |
| SCREEN PORCH | 0 S.F. |
| TOTAL NON LIVING | 0 S.F. |

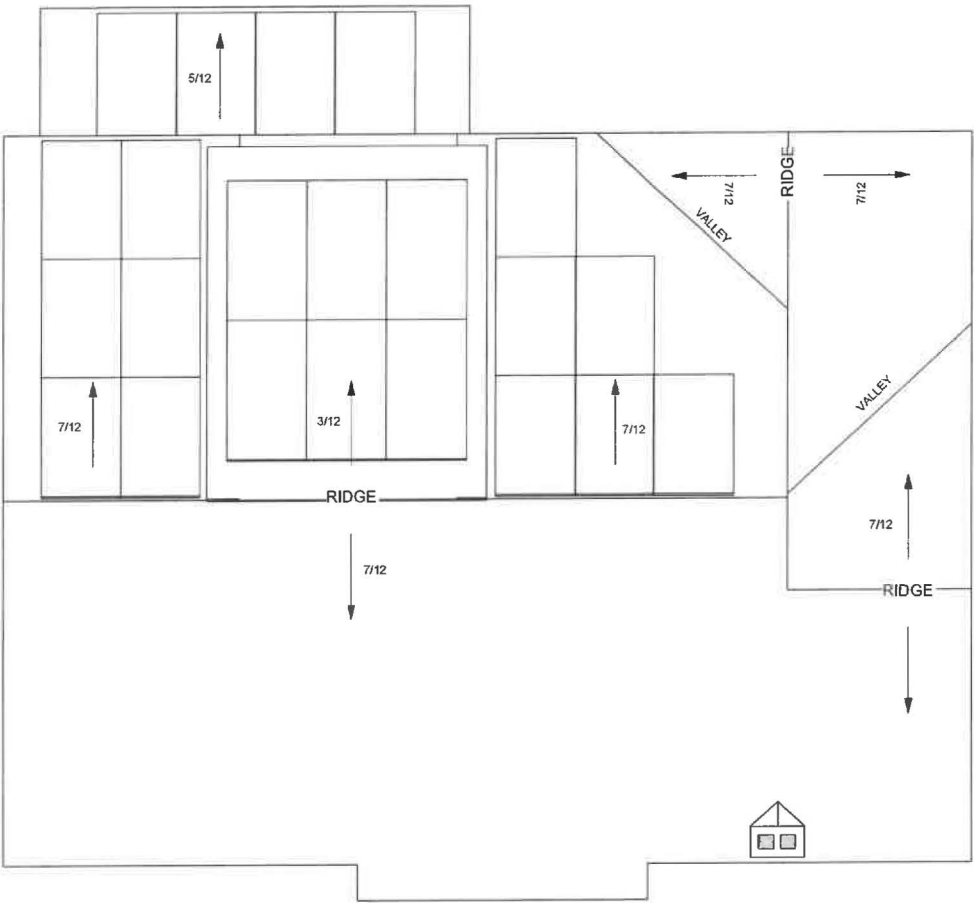
DRAWING TITLE:

PROPOSED
PLANS

SCALE: 1/4" = 1'-0"
DRAWN BY: HANS PORSCITZ
SHEET NUMBER:

A-2.0

DRAFT
FOR PERMIT



PROPOSED AWNING and SOLAR
FOR
HANS PORSCHITZ & JEN WHITEHEAD
KEENE, NH

| REVISIONS | | | |
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| DATE | BY | REMARKS | |
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| PROJECT INFO: | |
|------------------|--------|
| LIVING AREA | |
| FIRST FLOOR | 0 S.F. |
| SECOND FLOOR | 0 S.F. |
| TOTAL LIVING | 0 S.F. |
| NON LIVING AREA | |
| GARAGE | 0 S.F. |
| SCREEN PORCH | 0 S.F. |
| TOTAL NON LIVING | 0 S.F. |

DRAWING TITLE:

PROPOSED
PLANS

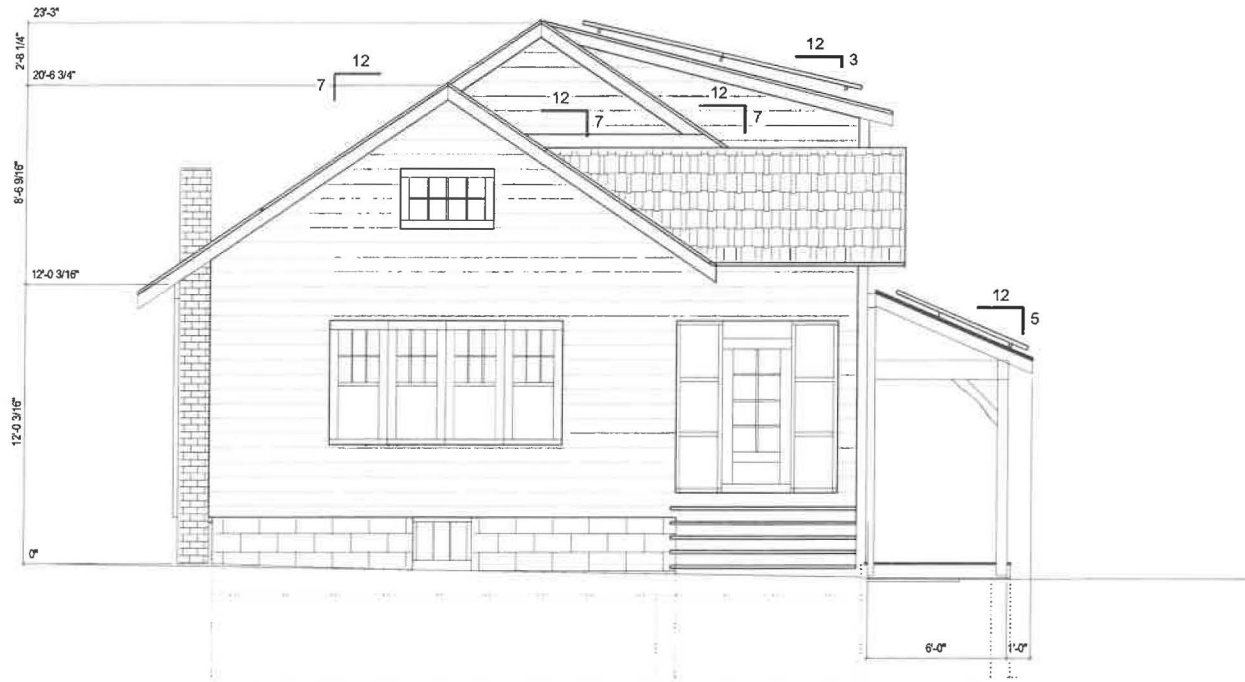
SCALE: 1/4" = 1'-0"

DRAWN BY: HANS PORSCHITZ

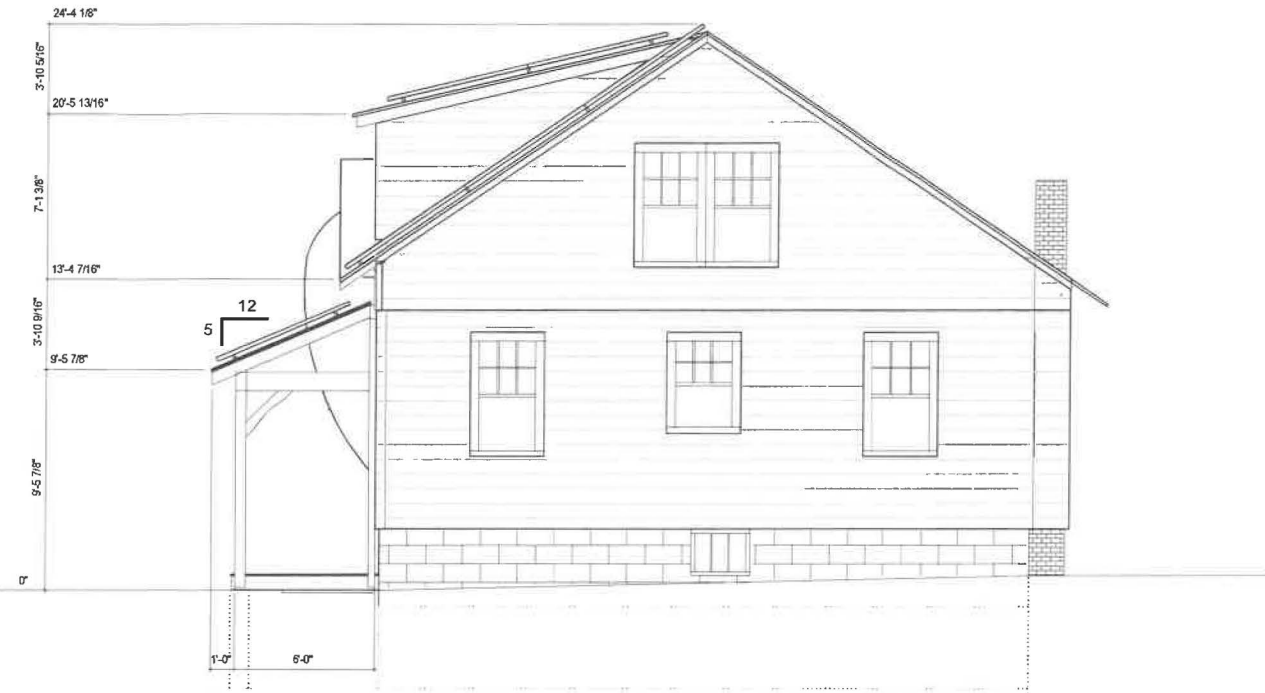
SHEET NUMBER:

DRAFT
FOR PERMIT

A-2.1



WEST ELEVATION
SCALE: 1/4" = 1'-0"



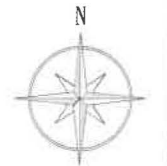
EAST ELEVATION
SCALE: 1/4" = 1'-0"



NORTH ELEVATION
SCALE: 1/4" = 1'-0"



SOUTH ELEVATION
SCALE: 1/4" = 1'-0"



PROPOSED AWNING and SOLAR
FOR
HANS PORSCHITZ & JEN WHITEHEAD
KEENE, NH

REVISIONS

REMARKS

DATE BY

| | |
|------------------|--------|
| PROJECT INFO: | |
| LIVING AREA | |
| FIRST FLOOR | 0 S.F. |
| SECOND FLOOR | 0 S.F. |
| TOTAL LIVING | 0 S.F. |
| NON LIVING AREA | |
| GARAGE | 0 S.F. |
| SCREEN PORCH | 0 S.F. |
| TOTAL NON LIVING | 0 S.F. |

DRAWING TITLE:

ELEVATIONS

SCALE: 1/4" = 1'-0"
DRAWN BY: HANS PORSCHITZ
SHEET NUMBER:

A-3.0

DRAFT
FOR PERMIT

365 MAIN ST. ZBA 22-20



Petitioner requests a one additional dwelling unit in an existing barn totaling three units on the property per Chapter 100, Article 3.3.5 of the Zoning Regulations



City of Keene

New Hampshire

NOTICE OF HEARING

ZBA 22-20

A meeting of the Zoning Board of Adjustment will be held on **Monday, December 5, 2022, at 6:30 PM** in City Hall Council Chambers, 2nd floor, 3 Washington St, Keene, New Hampshire to consider the following petition.

ZBA 22-20: Petitioner, Hilary Harris, requests a Variance for property located at 365 Main St., Tax Map #112-038-000-000-000 that is in the Low Density District. The Petitioner requests a Variance to permit a one additional dwelling unit in an existing barn totaling three units on the property, per Chapter 100, Article 3.3.5 of the Zoning Regulations.

You are receiving notice of this hearing as an abutter to or owner of property within 200-ft of the subject parcel.

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

Corinne Marcou, Zoning Clerk
Notice issuance date November 23, 2022

Zoning Board of Adjustment Variance Application



For Office Use Only:

Case No. ZBA22-20
Date Filled 11/18/2022
Rec'd By CM
Page 1 of 20
Rev'd by _____

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

SECTION 1: CONTACT INFORMATION

I hereby certify that I am the owner, applicant, or the authorized agent of the owner of the property upon which this appeal is sought and that all information provided by me is true under penalty of law. If applicant or authorized agent, a signed notification from the property owner is required.

OWNER / APPLICANT

NAME/COMPANY: **Hilary Harris, AIA**

MAILING ADDRESS: **365 Main Street, Lower Unit, Keene, NH 03431**

PHONE: **(303) 845-0469**

EMAIL: **hilyharris@gmail.com**

SIGNATURE: **Hilary Harris**

Digitally signed by Hilary Harris
Date: 2022.11.18 09:15:06 -05'00'

PRINTED NAME: **Hilary Harris**

APPLICANT (if different than Owner/Applicant)

NAME/COMPANY:

MAILING ADDRESS:

PHONE:

EMAIL:

SIGNATURE:

PRINTED NAME:

AUTHORIZED AGENT (if different than Owner/Applicant)

NAME/COMPANY:

MAILING ADDRESS:

PHONE:

EMAIL:

SIGNATURE:

PRINTED NAME:

SECTION 2: PROPERTY INFORMATION

Property Address: **365 Main Street, Keene, NH 03431**

Tax Map Parcel Number: **112-038-000-000-000**

Zoning District: **Low Density**

Lot Dimensions: Front: **116.22'** Rear: **274'** Side: **235.1'** Side: **322.9'**

Lot Area: Acres: **1.0** Square Feet: **43,560**

% of Lot Covered by Structures (buildings, garages, pools, decks, etc): Existing: **8%** Proposed: **8%**

% of Impervious Coverage (structures plus driveways and/or parking areas, etc): Existing: **17%** Proposed: **17%**

Present Use: **Multi-Family Duplex**

Proposed Use: **Multi-Family Three Units (Additional unit in detached barn)**

SECTION 3: WRITTEN NARRATIVE

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

SEE ATTACHED

SECTION 4: APPLICATION CRITERIA

A Variance is requested from Article (s) **3.3.5** of the Zoning Regulations to permit:

SEE ATTACHED

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

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

SEE ATTACHED

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

SEE ATTACHED

3. Granting the variance would do substantial justice because:

SEE ATTACHED

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

SEE ATTACHED

5. Unnecessary Hardship

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

SEE ATTACHED

and

ii. The proposed use is a reasonable one because:

SEE ATTACHED

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

SEE ATTACHED

Zoning Board of Adjustment Certified Notice List



For Office Use Only:

Case No. _____
Date Filled _____
Rec'd By _____
Page _____ of _____
Rev'd by _____

If you have questions on how to complete an application, please call: (603) 352-5440 or
email: communitydevelopment@keenenh.gov

25.2.4 PUBLIC NOTICE

The submittal requirements for Public Notices are outlined further in **Article 25.2** of the [Land Development Code](#)

Article 25.2.4.A.1: When a mailed notice is required, the applicant shall submit 2 sets of mailing labels for each abutter or person entitled to such notice in accordance with state law or the City code of Ordinances, and a mailing fee equal to the cost of the current United States Postal Service Certified Mail rate, at the time of application submission, unless otherwise specified in the Land Development Code.

Article 25.2.4.A.2: The appropriate review authority, or their designee, shall be responsible for issuing the mailed notice.

Article 25.2.4.A.3: The mailed notice shall include, at a minimum, the date, time, place and purpose of such public hearing; the names of the applicant and property owner; and the address of the subject property. **Such information shall be current to within 10 days of application submittal.**

Article 25.2.4.A.4: The mailed notice shall be sent to the address used for mailing local property tax bills, which may be obtained from the City of Keene Assessing Department.

Article 25.2.4.A.5: The required timeframe for issuing mailed notice is specified in Table 25-2. This timeframe shall not include the day such notice is postmarked or the day of the public hearing or public meeting at which the application is first considered.

NOTICE LIST & MAILING LABELS

A notice list and two sets of mailing labels identifying any parties that require notice as part of the application process, will be submitted. **Such information shall be current to within 10 days of application submittal.** Per [NH RSA 676:7\(1\)\(a\)](#), and **Article 25** of the [Land Development Code](#), the following parties must be noticed by verified mail no less than five days prior to the scheduled meeting:

- Property owner
- Applicant and, if appropriate, authorized agent
- All owners of property located within 200 feet of the subject parcel as well all owners of property that directly abuts and/or is directly across the street or stream from the subject parcel
- Holders of conservation, preservation, or agricultural preservation restrictions

The Notice List shall include the following:

- Property owner's name
- Property owner's mailing address
- Street address, if different from mailing address
- Property tax map parcel (TMP) number

The mailing labels shall include the following:

- Property owner's name
- Property owner's mailing address
- Property tax map parcel (TMP) number

The City of Keene's [GIS Database](#) (axisgis.com/keenenh/) can be used to generate a Notice List and mailing labels. Instructions for creating these can be found following this link [Notice List Instructions](#) or on the [Zoning Board of Adjustment](#) page on the City website, under *ZBA Applications*.

CERTIFY ACCURACY

By signing below, you are certifying that the submitted notice list is accurate and true to the best of your ability and that per **Article 25.2.4.A.3**, the notice list is current to within 10 days of the application submittal.

Hilary Harris

Print Name

Hilary Harris

Signature

Digitally signed by Hilary Harris
Date: 2022.11.18 09:16:01 -05'00'

Date

11/18/22

NOTICE LIST

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

[illegible]

SUBMITTAL REQUIREMENTS

A complete application must include the following items and submitted by one of the options below:

- **Email:** communitydevelopment@keeneh.gov, with **"ZBA APPLICATION"** in the subject line
- **Mail / Hand Deliver:** Community Development (4th Floor), Keene City Hall, 3 Washington St, Keene, NH 03431

The submittal requirements for a Variance application are outlined further in
Article 25.5 of the [Land Development Code](#).

| | |
|--|---|
| <input type="checkbox"/> SECTION THREE - WRITTEN NARRATIVE: <i>Briefly describe the property location, and explain the purpose and effect of, and justification for, the proposed variance.</i> | <input type="checkbox"/> SECTION FOUR - APPLICATION CRITERIA: <i>Briefly respond to each criteria to provide a clear description of the proposed project.</i> |
| <input type="checkbox"/> CERTIFIED ABUTTERS LIST: <i>A complete list of abutters within 200 feet of the subject parcel. See the attached Notice List Instruction Sheets for details.</i> | <input type="checkbox"/> SITE PLAN: <i>The plan should show the locations and dimensions of all structures and open spaces on the lot in question and on the adjacent lots. Plans do not need to be professionally drawn.</i> |
| <input type="checkbox"/> APPLICABLE FEES: <i>(checks made payable to City of Keene, credit cards accepted via phone or in person)</i> <div style="text-align: right; font-family: cursive; font-size: 1.2em;">\$ 218.83</div> <div style="display: flex; justify-content: space-between;"> <div> Application Fee: \$100.00 Legal Ad Fee: \$ 62.00 Certified Mail Fee: 19 # of abutters x 4.51 </div> <div> certified mail rate = 86.83 </div> </div> <i>(the Certified Mail Fee will be calculated by the Zoning Clerk upon submittal)</i> | |



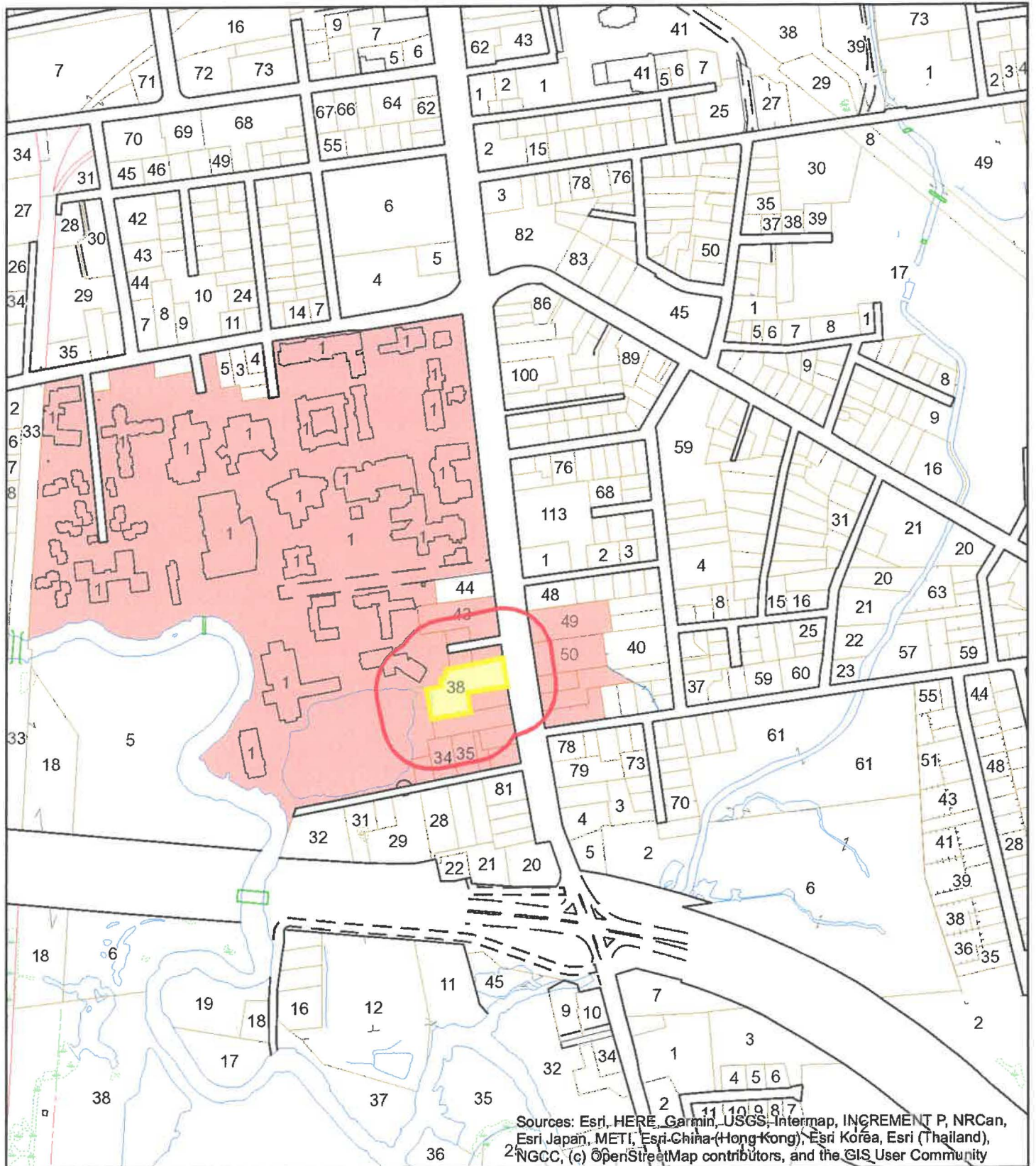
Keene, NH



1 inch = 551 Feet

November 18, 2022

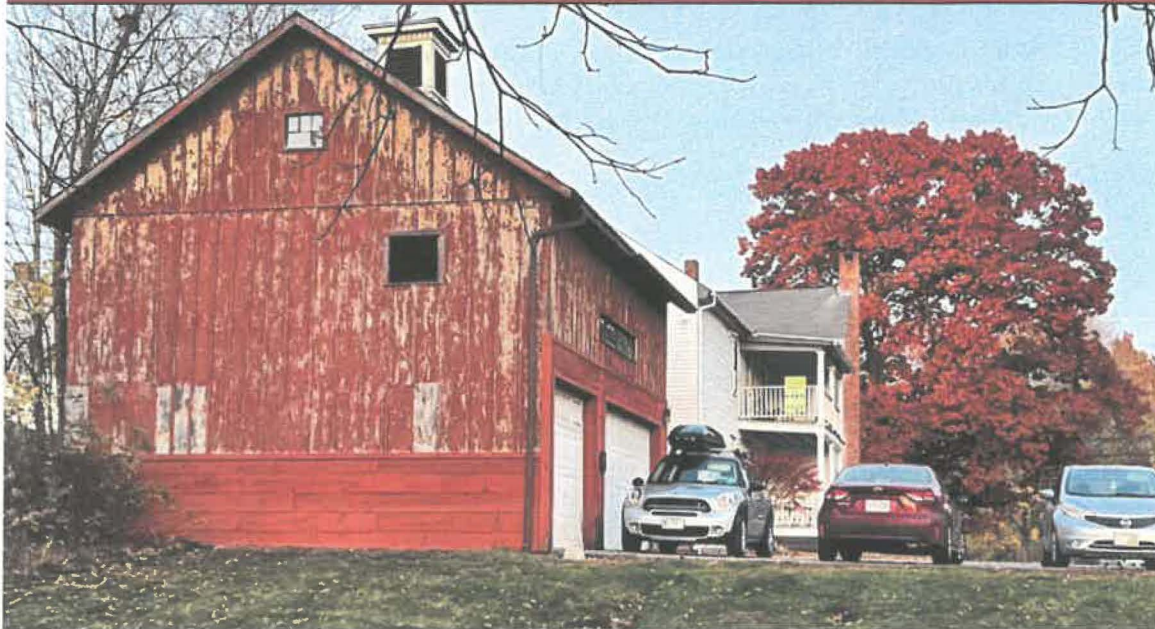
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Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community

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ZONING VARIANCE APPLICATION



PREPARED FOR:

City of Keene Zoning Board of Adjustment
3 Washington Street
Keene, NH 03431

PREPARED BY:

Hilary Harris, AIA
365 Main Street
Keene NH 03431

SECTION 3 PROJECT NARRATIVE

Article 25.4.5.A: Describe the property location, owner of the subject property, and explain the purpose and effect of, and justification for, the proposed variance.

Location & Ownership

The property is located at 365 Main Street in Keene, NH. It sits on the west side of the southern end of Main Street. The property is one full acre with nearly 50% of the lot line abutting the Keene State Campus and 12% of it on Main Street. Directly across the street is another nonconforming property (The Carriage Barn Bed and Breakfast). The remainder of the property abuts two single family residences. It was purchased by Hilary Harris, a local architect and developer, in May of 2022.

Property Description

The property has two existing buildings. The two story, two unit house was built in 1880 and has 3,396 square feet of living space. The second building is a timber frame barn that was built in 1910. It has been moved three times since its original construction and currently sits on the west side of the property adjacent to and facing the Keene State Campus.

The property is a multi-family building which is a nonconforming use in the Low Density district. Historically it has experienced high intensity use as student housing with eight unrelated people living in it. The barn was being used as a bar and party hangout. Reports from the community indicate there were upwards of fourteen cars parked in the driveway at times.

At the time of purchase, the property had been managed to accommodate this high intensity use with minimal investments in property upkeep. Since the change in ownership, the primary house has seen multiple improvements, including bathroom, electrical and lighting upgrades, exterior repairs, wildlife removal and mitigation as well as interior improvements. The house is currently fully rented as workforce housing with a family of three living in the upstairs unit and the primary owner sharing the downstairs unit with working roommates.

Purpose, Effect & Justification

While only one unit, this project will provide an additional unit of housing with a focus on Net-Zero performance that is centrally located and walkable, with minimal impacts to the community and the environment.

The **PURPOSE** of this request is multifaceted.

1. This will provide an additional high performance housing unit
2. Reusing an existing building rather than disrupting a greenfield or wooded site is the most effective way to reduce carbon emissions in the built environment.
3. The project falls in lockstep with SMART Growth principles including:
 - a. Reinvesting in existing infrastructure
 - b. Rehabilitating existing buildings
 - c. Adds vitality to the neighborhood
 - d. Supports a walkable community that is adjacent to bicycle trails, the Keene State campus and downtown amenities
 - e. Preserves New Hampshire's open spaces, farmlands, wetlands and forests

THE EFFECT of this request is that the neighborhood will have an additional well-designed unit of much needed housing added to an area near the downtown that will have a lasting impact on the sustainable development of Keene.

THE JUSTIFICATION for adding an additional unit in the Low Density area is that:

- It will improve a neglected building that has no use other than unconditioned storage.
- It will encourage ownership stewardship of the property
- It will be done with sustainable principles of construction and operation
- It abuts a High Density Zone as well as high intensity & nonconforming uses in the Low Density Zone. Buildings in the Low Density Zone that abut 365 Main St that are non-conforming include:
 - Pondsides Dormitory - housing 154 students
 - 361 Main Street - housing 13 students
 - The Carriage Barn Bed and Breakfast (Commercial Use)
 - The Bruder House (Commercial Use)
 - Wyman Tavern Museum (Commercial Use)

SECTION 4 APPLICATION CRITERIA

Article 3.3.5: A variance is requested from Article 3.3.5 Permitted Uses

Article 3.3.5 Low Density (LD) District Permitted Uses

Dwelling, Single Family

Units Proposed: 1 additional unit in an existing barn totalling 3 units on the property

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

An old underutilized barn is contrary to the public interest. In its current state there is little incentive to keep the building in good condition and it has the potential to become a liability in the long run. It is a sound timber frame structure that, if maintained for living space, would contribute to an improved property on Main Street and the gateway to Keene.

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

- The proposed unit is a single dwelling unit that is residential in nature.
- There will be no additional buildings added and the large green space on the lot will be preserved.
- The property is more than four times the required size for a single family dwelling
- The building coverage is 27% less than the maximum building coverage allowed
- Total impervious surface is 28% less than the maximum allowed
- The percentage of green space on the property is 83%, which is 28% more than the minimum required in the ordinance
- There is ample enough parking space

3. Granting the variance would do substantial justice because:

The built outcome would:

- Provide an additional housing unit in Keene
 - Improve the property and the surrounding area
 - Encourage better stewardship of the property
 - Preserve a historic timber structure
-

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

This project revitalizes an existing building with an upgraded use in an environmentally sensitive manner. There will be an eye for quality, aesthetics and sustainability integrated into this project. It will improve the property and subsequently improve the values of the properties surrounding it. This upgrade will be an improvement to the surrounding neighborhood and to the City of Keene as a whole.

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:

1. The property is significantly larger than the majority of properties in the surrounding area and directly abuts the Keene State campus. Out of 24 properties with street frontage on Main Street in this Low Density zone, 365 Main Street is one of two properties with a full acre lot. The remaining 22 lots are smaller, most of which are less than half the size.
2. While it sits in the Low Density Zone, the majority of the area abutting it is a high intensity use. It is located on Main Street with two lanes on each side including on-street parking.
3. The barn in its present state is usable only for cold storage. It is essentially an overbuilt garage that cannot be used to its full potential.

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:

While the property is in the Low Density District it is surrounded by high intensity use. Adding a third unit to the property will have little to no effect to the intensity of the surrounding area.

ii. The proposed use is a reasonable one because:

- It is in line with the spirit of the surrounding area
- Reusing and revitalizing an existing building
- It encourages stewardship of the property
- It will not increase the intensity of occupancy (formerly eight unrelated people)
- There is enough parking to accommodate the use
- The impact on the property will be minimal (green space will remain as is)

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 variance would allow the revitalization of an existing neglected building. Without it, the barn will remain as is and the embodied energy built into the existing structure will not be leveraged at a time when sustainable housing solutions are needed.



200 foot Abutters List Report

Keene, NH
November 18, 2022

Subject Property:

Parcel Number: 112-038-000
CAMA Number: 112-033-000-000-000
Property Address: 365 MAIN ST.

Mailing Address: HARRIS HILARY B.
~~8033 COUNTRYSIDE PARK, UNIT 206~~
~~NIWOT, CO 80503~~
305 MAIN ST, LWR UNIT
KEENE, NH 03431

Abutters:

Parcel Number: 112-033-000
CAMA Number: 112-033-000-000-000
Property Address: 27 APPLETON ST.

Mailing Address: UNIVERSITY SYSTEM OF NH KEENE
STATE COLLEGE
5 CHENELL DR. SUITE 301
CONCORD, NH 03301

Parcel Number: 112-034-000
CAMA Number: 112-034-000-000-000
Property Address: 23 APPLETON ST.

Mailing Address: UNIVERSITY SYSTEM OF NH KEENE
STATE COLLEGE
5 CHENELL DR. SUITE 301
CONCORD, NH 03301

Parcel Number: 112-035-000
CAMA Number: 112-035-000-000-000
Property Address: 21 APPLETON ST.

Mailing Address: UNIVERSITY SYSTEM OF NH KEENE
STATE COLLEGE
5 CHENELL DR. SUITE 301
CONCORD, NH 03301

Parcel Number: 112-036-000
CAMA Number: 112-036-000-000-000
Property Address: 15 APPLETON ST.

Mailing Address: KALICH, KARRIE A.
420 MAIN ST.
KEENE, NH 03431

Parcel Number: 112-037-000
CAMA Number: 112-037-000-000-000
Property Address: 375 MAIN ST.

Mailing Address: HOF PHILIP & PAMELA REV. TRUST
375 MAIN ST.
KEENE, NH 03431

Parcel Number: 112-039-000
CAMA Number: 112-039-000-000-000
Property Address: 361 MAIN ST.

Mailing Address: UNIVERSITY SYSTEM OF NH KEENE
STATE COLLEGE
5 CHENELL DR. SUITE 301
CONCORD, NH 03301

Parcel Number: 112-040-000
CAMA Number: 112-040-000-000-000
Property Address: 18 BRUDER ST.

Mailing Address: UNIVERSITY SYSTEM OF NH KEENE
STATE COLLEGE
5 CHENELL DR. SUITE 301
CONCORD, NH 03301

Parcel Number: 112-041-000
CAMA Number: 112-041-000-000-000
Property Address: 17 BRUDER ST.

Mailing Address: UNIVERSITY SYSTEM OF NH KEENE
STATE COLLEGE
5 CHENELL DR. SUITE 301
CONCORD, NH 03301

Parcel Number: 112-043-000
CAMA Number: 112-043-000-000-000
Property Address: 339-349 MAIN ST.

Mailing Address: HISTORICAL SOCIETY OF CHESHIRE
COUNTY
339 MAIN ST.
KEENE, NH 03431

Parcel Number: 591-001-000
CAMA Number: 591-001-000-000-000
Property Address: 283 MAIN ST.

Mailing Address: UNIVERSITY SYSTEM OF NH KEENE
STATE COLLEGE
5 CHENELL DR. SUITE 301
CONCORD, NH 03301



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Abutters List Report - Keene, NH



200 foot Abutters List Report

Keene, NH
November 18, 2022

| | |
|---|---|
| Parcel Number: 591-001-000 CAMA Number: 591-001-000-001-000 Property Address: 97 APPLETON ST. | Mailing Address: UNIVERSITY SYSTEM OF NH KEENE STATE COLLEGE 5 CHENELL DR. SUITE 301 CONCORD, NH 03301 |
| Parcel Number: 591-001-000 CAMA Number: 591-001-000-002-000 Property Address: 90 WYMAN WAY | Mailing Address: UNIVERSITY SYSTEM OF NH KEENE STATE COLLEGE 5 CHENELL DR. SUITE 301 CONCORD, NH 03301 |
| Parcel Number: 591-001-000 CAMA Number: 591-001-000-003-000 Property Address: 78 BRUDER ST. | Mailing Address: UNIVERSITY SYSTEM OF NH KEENE STATE COLLEGE 5 CHENELL DR. SUITE 301 CONCORD, NH 03301 |
| Parcel Number: 591-001-000 CAMA Number: 591-001-000-004-000 Property Address: 42 BRUDER ST. | Mailing Address: UNIVERSITY SYSTEM OF NH KEENE STATE COLLEGE 5 CHENELL DR. SUITE 301 CONCORD, NH 03301 |
| Parcel Number: 591-001-000 CAMA Number: 591-001-000-007-000 Property Address: 52 WYMAN WAY | Mailing Address: UNIVERSITY SYSTEM OF NH KEENE STATE COLLEGE 5 CHENELL DR. SUITE 301 CONCORD, NH 03301 |
| Parcel Number: 591-001-000 CAMA Number: 591-001-000-008-000 Property Address: 36 WYMAN WAY | Mailing Address: UNIVERSITY SYSTEM OF NH KEENE STATE COLLEGE 5 CHENELL DR. SUITE 301 CONCORD, NH 03301 |
| Parcel Number: 591-001-000 CAMA Number: 591-001-000-009-000 Property Address: 71 WYMAN WAY | Mailing Address: UNIVERSITY SYSTEM OF NH KEENE STATE COLLEGE 5 CHENELL DR. SUITE 301 CONCORD, NH 03301 |
| Parcel Number: 591-001-000 CAMA Number: 591-001-000-010-000 Property Address: 311 MAIN ST. | Mailing Address: UNIVERSITY SYSTEM OF NH KEENE STATE COLLEGE 5 CHENELL DR. SUITE 301 CONCORD, NH 03301 |
| Parcel Number: 591-001-000 CAMA Number: 591-001-000-011-000 Property Address: 305 MAIN ST. | Mailing Address: UNIVERSITY SYSTEM OF NH KEENE STATE COLLEGE 5 CHENELL DR. SUITE 301 CONCORD, NH 03301 |
| Parcel Number: 591-001-000 CAMA Number: 591-001-000-012-000 Property Address: 281 MAIN ST. | Mailing Address: UNIVERSITY SYSTEM OF NH KEENE STATE COLLEGE 5 CHENELL DR. SUITE 301 CONCORD, NH 03301 |
| Parcel Number: 591-001-000 CAMA Number: 591-001-000-013-000 Property Address: 36 APPIAN WAY | Mailing Address: UNIVERSITY SYSTEM OF NH KEENE STATE COLLEGE 5 CHENELL DR. SUITE 301 CONCORD, NH 03301 |
| Parcel Number: 591-001-000 CAMA Number: 591-001-000-014-000 Property Address: 39 WYMAN WAY | Mailing Address: UNIVERSITY SYSTEM OF NH KEENE STATE COLLEGE 5 CHENELL DR. SUITE 301 CONCORD, NH 03301 |



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11/18/2022

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Abutters List Report - Keene, NH



200 foot Abutters List Report

Keene, NH
November 18, 2022

| | |
|---|---|
| Parcel Number: 591-001-000 CAMA Number: 591-001-000-015-000 Property Address: 74 APPIAN WAY | Mailing Address: UNIVERSITY SYSTEM OF NH KEENE STATE COLLEGE 5 CHENELL DR. SUITE 301 CONCORD, NH 03301 |
| Parcel Number: 591-001-000 CAMA Number: 591-001-000-016-000 Property Address: 65 APPIAN WAY | Mailing Address: UNIVERSITY SYSTEM OF NH KEENE STATE COLLEGE 5 CHENELL DR. SUITE 301 CONCORD, NH 03301 |
| Parcel Number: 591-001-000 CAMA Number: 591-001-000-017-000 Property Address: 45 APPIAN WAY | Mailing Address: UNIVERSITY SYSTEM OF NH KEENE STATE COLLEGE 5 CHENELL DR. SUITE 301 CONCORD, NH 03301 |
| Parcel Number: 591-001-000 CAMA Number: 591-001-000-018-000 Property Address: 19 APPIAN WAY | Mailing Address: UNIVERSITY SYSTEM OF NH KEENE STATE COLLEGE 5 CHENELL DR. SUITE 301 CONCORD, NH 03301 |
| Parcel Number: 591-001-000 CAMA Number: 591-001-000-019-000 Property Address: 251 MAIN ST. | Mailing Address: UNIVERSITY SYSTEM OF NH KEENE STATE COLLEGE 5 CHENELL DR. SUITE 301 CONCORD, NH 03301 |
| Parcel Number: 591-001-000 CAMA Number: 591-001-000-020-000 Property Address: 239 MAIN ST. | Mailing Address: UNIVERSITY SYSTEM OF NH KEENE STATE COLLEGE 5 CHENELL DR. SUITE 301 CONCORD, NH 03301 |
| Parcel Number: 591-001-000 CAMA Number: 591-001-000-021-000 Property Address: 229 MAIN ST. | Mailing Address: UNIVERSITY SYSTEM OF NH KEENE STATE COLLEGE 5 CHENELL DR. SUITE 301 CONCORD, NH 03301 |
| Parcel Number: 591-001-000 CAMA Number: 591-001-000-022-001 Property Address: 28 WINCHESTER ST. | Mailing Address: UNIVERSITY SYSTEM OF NH KEENE STATE COLLEGE 5 CHENELL DR. SUITE 301 CONCORD, NH 03301 |
| Parcel Number: 591-001-000 CAMA Number: 591-001-000-022-002 Property Address: 28 WINCHESTER ST. | Mailing Address: UNIVERSITY SYSTEM OF NH KEENE STATE COLLEGE 5 CHENELL DR. SUITE 301 CONCORD, NH 03301 |
| Parcel Number: 591-001-000 CAMA Number: 591-001-000-023-000 Property Address: 58 WINCHESTER ST. | Mailing Address: UNIVERSITY SYSTEM OF NH KEENE STATE COLLEGE 5 CHENELL DR. SUITE 301 CONCORD, NH 03301 |
| Parcel Number: 591-001-000 CAMA Number: 591-001-000-025-000 Property Address: 00FF BUTLER CT. | Mailing Address: UNIVERSITY SYSTEM OF NH KEENE STATE COLLEGE 5 CHENELL DR. SUITE 301 CONCORD, NH 03301 |
| Parcel Number: 591-001-000 CAMA Number: 591-001-000-026-000 Property Address: 102 APPIAN WAY | Mailing Address: UNIVERSITY SYSTEM OF NH KEENE STATE COLLEGE 5 CHENELL DR. SUITE 301 CONCORD, NH 03301 |



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Abutters List Report - Keene, NH



200 foot Abutters List Report

Keene, NH
November 18, 2022

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| Parcel Number: 591-001-000 CAMA Number: 591-001-000-027-000 Property Address: 39 MADISON ST. | Mailing Address: UNIVERSITY SYSTEM OF NH KEENE STATE COLLEGE 5 CHENELL DR. SUITE 301 CONCORD, NH 03301 |
| Parcel Number: 591-001-000 CAMA Number: 591-001-000-028-000 Property Address: 144 WINCHESTER ST. | Mailing Address: UNIVERSITY SYSTEM OF NH KEENE STATE COLLEGE 5 CHENELL DR. SUITE 301 CONCORD, NH 03301 |
| Parcel Number: 591-001-000 CAMA Number: 591-001-000-029-000 Property Address: 24 BUTLER CT. | Mailing Address: UNIVERSITY SYSTEM OF NH KEENE STATE COLLEGE 5 CHENELL DR. SUITE 301 CONCORD, NH 03301 |
| Parcel Number: 591-001-000 CAMA Number: 591-001-000-030-000 Property Address: 48 BUTLER CT. | Mailing Address: UNIVERSITY SYSTEM OF NH KEENE STATE COLLEGE 5 CHENELL DR. SUITE 301 CONCORD, NH 03301 |
| Parcel Number: 591-001-000 CAMA Number: 591-001-000-031-000 Property Address: 62 BUTLER CT. | Mailing Address: UNIVERSITY SYSTEM OF NH KEENE STATE COLLEGE 5 CHENELL DR. SUITE 301 CONCORD, NH 03301 |
| Parcel Number: 591-001-000 CAMA Number: 591-001-000-032-000 Property Address: 64 BUTLER CT. | Mailing Address: UNIVERSITY SYSTEM OF NH KEENE STATE COLLEGE 5 CHENELL DR. SUITE 301 CONCORD, NH 03301 |
| Parcel Number: 591-001-000 CAMA Number: 591-001-000-033-000 Property Address: 80 BUTLER CT. | Mailing Address: UNIVERSITY SYSTEM OF NH KEENE STATE COLLEGE 5 CHENELL DR. SUITE 301 CONCORD, NH 03301 |
| Parcel Number: 591-001-000 CAMA Number: 591-001-000-034-000 Property Address: 100 WYMAN WAY | Mailing Address: UNIVERSITY SYSTEM OF NH KEENE STATE COLLEGE 5 CHENELL DR. SUITE 301 CONCORD, NH 03301 |
| Parcel Number: 591-001-000 CAMA Number: 591-001-000-035-000 Property Address: 83 BUTLER CT. | Mailing Address: UNIVERSITY SYSTEM OF NH KEENE STATE COLLEGE 5 CHENELL DR. SUITE 301 CONCORD, NH 03301 |
| Parcel Number: 591-001-000 CAMA Number: 591-001-000-036-000 Property Address: 79 BUTLER CT. | Mailing Address: UNIVERSITY SYSTEM OF NH KEENE STATE COLLEGE 5 CHENELL DR. SUITE 301 CONCORD, NH 03301 |
| Parcel Number: 591-001-000 CAMA Number: 591-001-000-037-000 Property Address: 73 BUTLER CT. | Mailing Address: UNIVERSITY SYSTEM OF NH KEENE STATE COLLEGE 5 CHENELL DR. SUITE 301 CONCORD, NH 03301 |
| Parcel Number: 591-001-000 CAMA Number: 591-001-000-038-000 Property Address: 59 BUTLER CT. | Mailing Address: UNIVERSITY SYSTEM OF NH KEENE STATE COLLEGE 5 CHENELL DR. SUITE 301 CONCORD, NH 03301 |



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Abutters List Report - Keene, NH



200 foot Abutters List Report

Keene, NH
November 18, 2022

| | |
|---|---|
| Parcel Number: 591-001-000 CAMA Number: 591-001-000-039-000 Property Address: 57 BUTLER CT. | Mailing Address: UNIVERSITY SYSTEM OF NH KEENE STATE COLLEGE 5 CHENELL DR. SUITE 301 CONCORD, NH 03301 |
| Parcel Number: 591-001-000 CAMA Number: 591-001-000-040-000 Property Address: 41 BUTLER CT. | Mailing Address: UNIVERSITY SYSTEM OF NH KEENE STATE COLLEGE 5 CHENELL DR. SUITE 301 CONCORD, NH 03301 |
| Parcel Number: 591-001-000 CAMA Number: 591-001-000-041-000 Property Address: 43 BUTLER CT. | Mailing Address: UNIVERSITY SYSTEM OF NH KEENE STATE COLLEGE 5 CHENELL DR. SUITE 301 CONCORD, NH 03301 |
| Parcel Number: 591-001-000 CAMA Number: 591-001-000-042-000 Property Address: 1 BUTLER CT. | Mailing Address: UNIVERSITY SYSTEM OF NH KEENE STATE COLLEGE 5 CHENELL DR. SUITE 301 CONCORD, NH 03301 |
| Parcel Number: 591-001-000 CAMA Number: 591-001-000-044-000 Property Address: 61 BUTLER CT. | Mailing Address: UNIVERSITY SYSTEM OF NH KEENE STATE COLLEGE 5 CHENELL DR. SUITE 301 CONCORD, NH 03301 |
| Parcel Number: 594-049-000 CAMA Number: 594-049-000-000-000 Property Address: 346 MAIN ST. | Mailing Address: HOUSTON, KATHERINE KRAUTMANN HOUSTON JOHN C. J. 346 MAIN ST. KEENE, NH 03431-4146 |
| Parcel Number: 594-050-000 CAMA Number: 594-050-000-000-000 Property Address: 358 MAIN ST. | Mailing Address: CARRIAGE BARN INN LLC 55 MAIN STREET KEENE, NH 03431 |
| Parcel Number: 594-051-000 CAMA Number: 594-051-000-000-000 Property Address: 370 MAIN ST. | Mailing Address: SAKAL, ROBERT 370 MAIN ST. KEENE, NH 03431 |
| Parcel Number: 594-052-000 CAMA Number: 594-052-000-000-000 Property Address: 380 MAIN ST. | Mailing Address: ALBERT FAMILY TRUST 380 MAIN ST. KEENE, NH 03431 |
| Parcel Number: 594-053-000 CAMA Number: 594-053-000-000-000 Property Address: 390 MAIN ST. | Mailing Address: ORAM ANDREW T. ORAM LEATRICE A. 390 MAIN ST. KEENE, NH 03431 |
| Parcel Number: 594-082-000 CAMA Number: 594-082-000-000-000 Property Address: 399 MAIN ST. | Mailing Address: JOHNSON SAMUEL M. JOHNSON KAREN O. 399 MAIN ST. KEENE, NH 03431 |
| Parcel Number: 594-083-000 CAMA Number: 594-083-000-000-000 Property Address: 389 MAIN ST. | Mailing Address: ROARK NATHAN B. 389 MAIN ST. KEENE, NH 03431-4178 |



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Abutters List Report - Keene, NH



200 foot Abutters List Report

Keene, NH
November 18, 2022

Parcel Number: 594-084-000
CAMA Number: 594-084-000-000-000
Property Address: 383 MAIN ST.

Mailing Address: LYLE COLIN R. LYLE KAREN J.
383 MAIN ST.
KEENE, NH 03431



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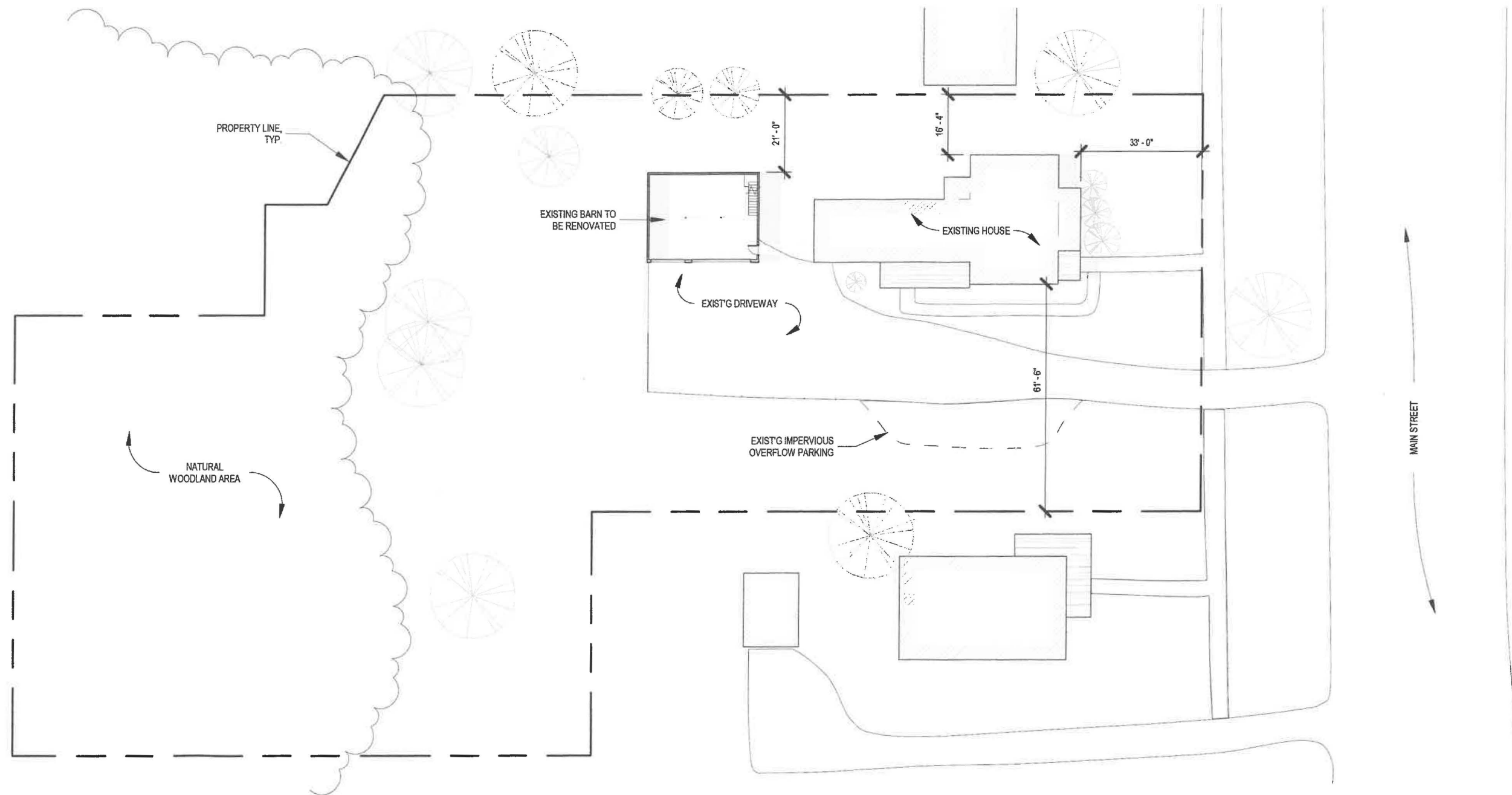
11/18/2022

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Abutters List Report - Keene, NH

| NOTES: | |
|-------------------------------|-----|
| EXISTING BLDG COVERAGE: | 8% |
| PROPOSED BLDG COVERAGE: | 8% |
| EXISTING IMPERVIOUS COVERAGE: | 17% |
| PROPOSED IMPERVIOUS COVERAGE: | 17% |
| EXISTING GREEN/OPEN SPACE: | 83% |
| PROPOSED GREEN/OPEN SPACE: | 83% |



1 EXISTING SITE PLAN
1" = 30'-0"

365 MAIN STREET

365 MAIN STREET
KEENE, NH 03431

SCHEMATIC DESIGN 1

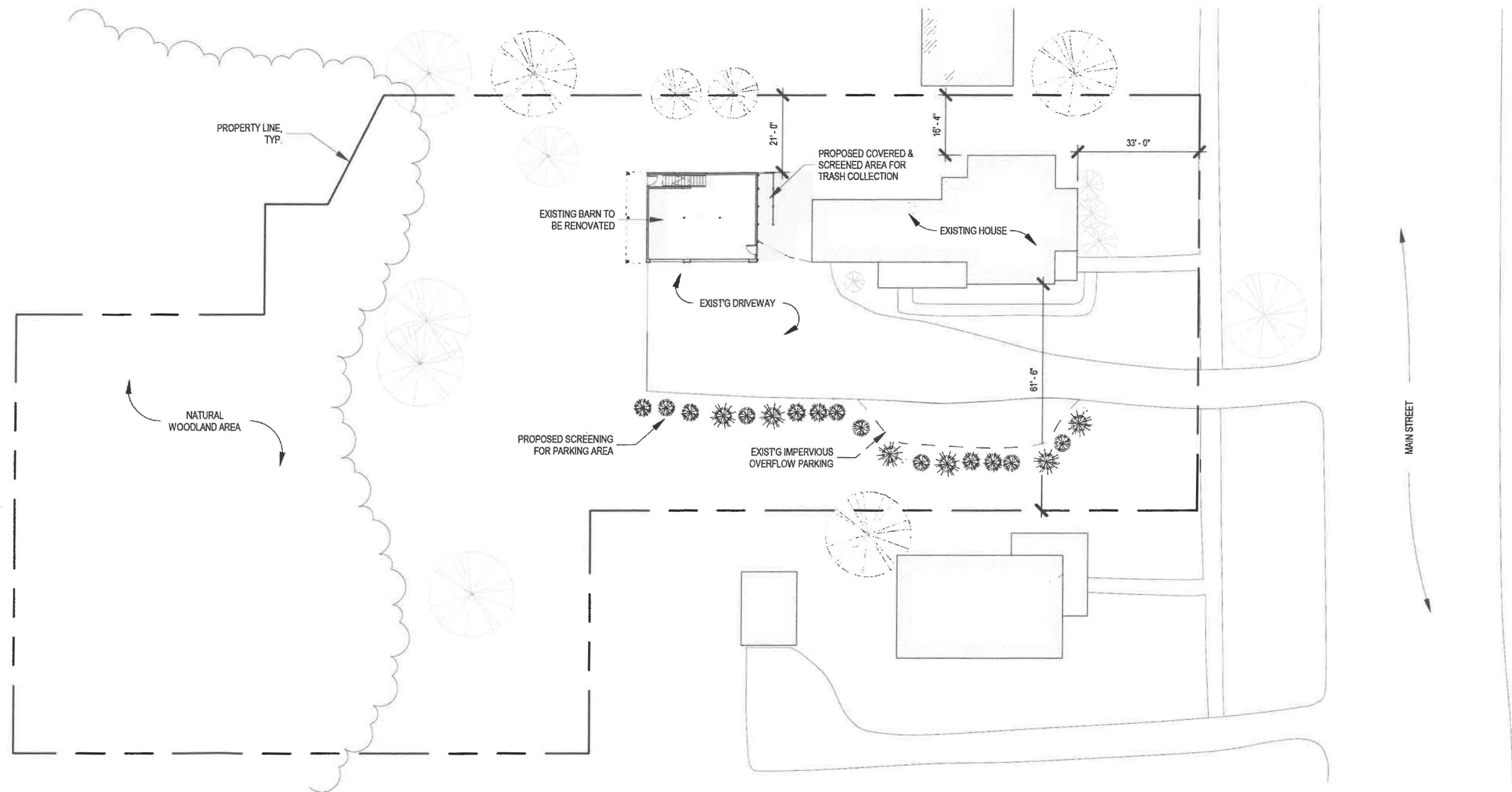
14 NOVEMBER 2022

MICHAEL PETROVICK
ARCHITECTS, PLLC

310 Marlboro Street Suite 266
Keene, New Hampshire 03431
(603) 636-7056

5 Market Street, Suite 202
Amesbury, Massachusetts 01913
(978) 378-2012

| NOTES: | |
|-------------------------------|-----|
| EXISTING BLDG COVERAGE: | 8% |
| PROPOSED BLDG COVERAGE: | 8% |
| EXISTING IMPERVIOUS COVERAGE: | 17% |
| PROPOSED IMPERVIOUS COVERAGE: | 17% |
| EXISTING GREEN/OPEN SPACE: | 83% |
| PROPOSED GREEN/OPEN SPACE: | 83% |



1 PROPOSED SITE PLAN
1" = 30'-0"

365 MAIN STREET

365 MAIN STREET
KEENE, NH 03431

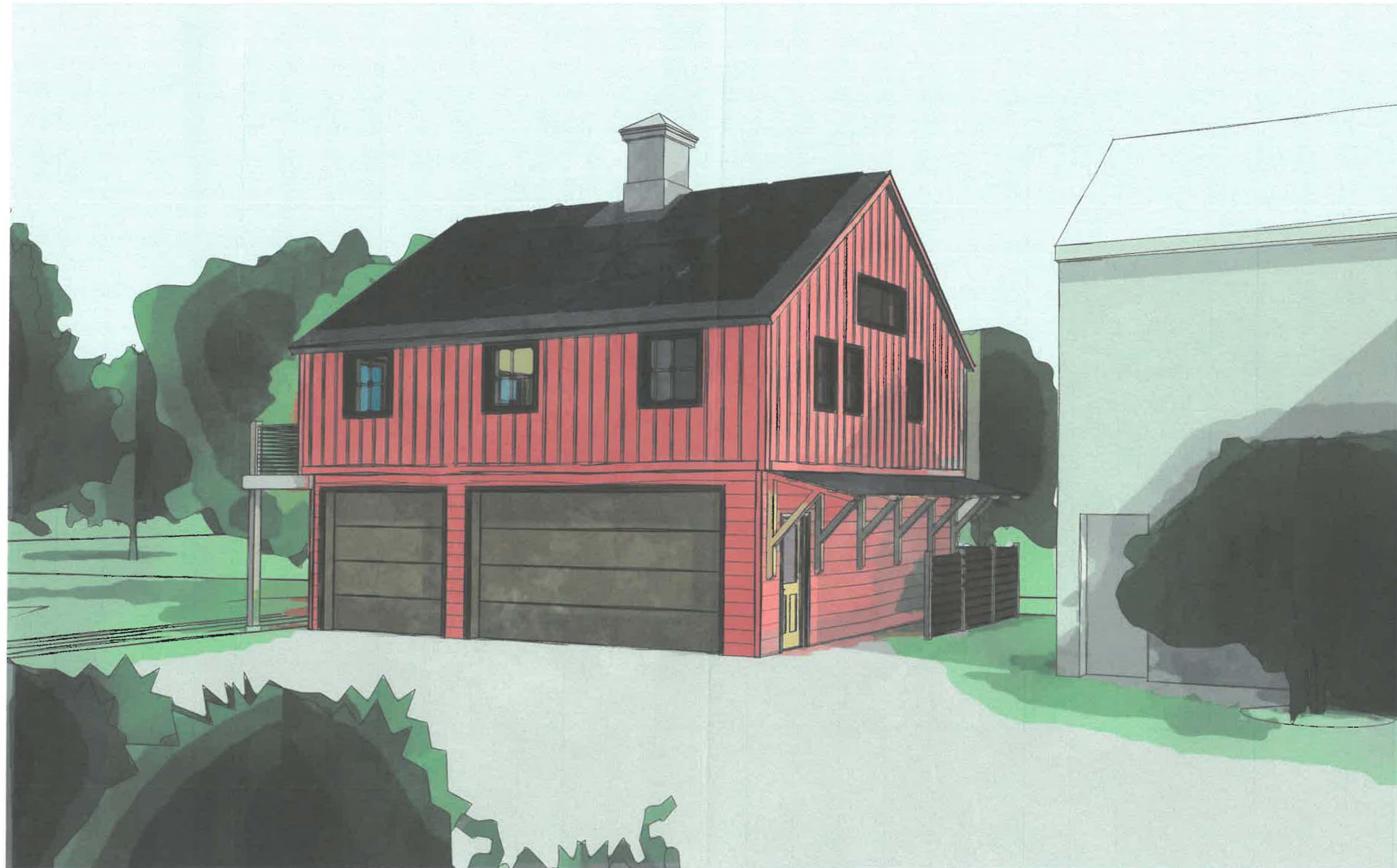
SCHEMATIC DESIGN 1

14 NOVEMBER 2022

M MICHAEL PETROVICK
ARCHITECTS, PLLC

310 Marlboro Street Suite 266
Keene, New Hampshire 03431
(603) 636-7056

5 Market Street, Suite 202
Amesbury, Massachusetts 01913
(978) 378-2012



365 MAIN STREET

365 MAIN STREET
KEENE, NH 03431

SCHEMATIC DESIGN 1

14 NOVEMBER 2022



310 Marlboro Street Suite 266
Keene, New Hampshire 03431
(603) 636-7056

5 Market Street, Suite 202
Amesbury, Massachusetts 01913
(978) 378-2012

363 PEARL ST. ZBA 22-21



Petitioner requests the temporary use of a vacant lot for staging of an adjacent construction project per Chapter 100, Article 3.3 of the Zoning Regulations



City of Keene
New Hampshire

NOTICE OF HEARING

ZBA 22-21

A meeting of the Zoning Board of Adjustment will be held on **Monday, December 5, 2022, at 6:30 PM** in City Hall Council Chambers, 2nd floor, 3 Washington St, Keene, New Hampshire to consider the following petition.

ZBA 22-21: Petitioner, Timothy St. Pierre of B.U.R. Construction, LLC of 940 John Stark Hwy, Newport, NH, requests a Variance for property located at 363 Pearl St., Tax Map #593-004-000-000-000 and owned by Adam Wright. The Petitioner requests a Variance to permit the temporary use of a vacant lot for staging of an adjacent construction project per Chapter 100, Article 3.3 of the Zoning Regulations.

You are receiving notice of this hearing as an abutter to or owner of property within 200-ft of the subject parcel.

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

Corinne Marcou, Zoning Clerk

Notice issuance date November 23, 2022

City of Keene, NH

Zoning Board of Adjustment Variance Application



For Office Use Only:

Case No. ZBA 22-21

Date Filled 11/18/2022

Rec'd By MF

Page 1 of 16

Rev'd by _____

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

SECTION 1: CONTACT INFORMATION

I hereby certify that I am the owner, applicant, or the authorized agent of the owner of the property upon which this appeal is sought and that all information provided by me is true under penalty of law. If applicant or authorized agent, a signed notification from the property owner is required.

OWNER / APPLICANT

NAME/COMPANY:

MAILING ADDRESS:

PHONE:

EMAIL:

SIGNATURE:

PRINTED NAME:

APPLICANT (if different than Owner/Applicant)

NAME/COMPANY: **B.U.R. Construction, LLC**

MAILING ADDRESS: **940 John Stark Hwy Newport NH 03773**

PHONE: (603) 410-7434

EMAIL: **admin@burconstruction.net**

SIGNATURE:

PRINTED NAME: Timothy M St Pierre

AUTHORIZED AGENT (if different than Owner/Applicant)

NAME/COMPANY:

MAILING ADDRESS:

PHONE:

EMAIL:

SIGNATURE:

PRINTED NAME:

City of Keene, NH

Zoning Board of Adjustment Variance Application



For Office Use Only:

Case No. _____
Date Filled _____
Rec'd By _____
Page _____ of _____
Rev'd by _____

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SECTION 1: CONTACT INFORMATION

I hereby certify that I am the owner, applicant, or the authorized agent of the owner of the property upon which this appeal is sought and that all information provided by me is true under penalty of law. If applicant or authorized agent, a signed notification from the property owner is required.

OWNER / APPLICANT

NAME/COMPANY: Adam Wright

MAILING ADDRESS: 4 Forbes Lane, Andover MA 01870

PHONE: 617-785-0478

EMAIL: adamw1919@gmail.com

SIGNATURE: 

PRINTED NAME: Adam Wright

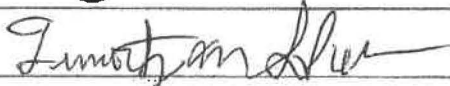
APPLICANT (if different than Owner/Applicant)

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PHONE: (603) 410-7434

EMAIL: admin@burconstruction.net

SIGNATURE: 

PRINTED NAME: Timothy M St Pierre

AUTHORIZED AGENT (if different than Owner/Applicant)

NAME/COMPANY:

MAILING ADDRESS:

PHONE:

EMAIL:

SIGNATURE:

PRINTED NAME:

SECTION 2: PROPERTY INFORMATION

Property Address: **363 Pearl Street**

Tax Map Parcel Number: **Map/Lot #593/ / 004/000 000/000**

Zoning District: **Low Density**



Lot Dimensions: Front: **147.5** Rear: **147.5** Side: **180.79** Side: **173.42**

Lot Area: Acres: **.6** Square Feet: **26,123**

% of Lot Covered by Structures (buildings, garages, pools, decks, etc): Existing: **0** Proposed: **0**

% of Impervious Coverage (structures plus driveways and/or parking areas, etc): Existing: **0** Proposed: **0**

Present Use: **Vacant**

Proposed Use: **Temporary Construction Staging Area**

SECTION 3: WRITTEN NARRATIVE

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

The property is a .6 acre vacant lot. Its adjacent to an intensive road reconstruction project which involves Pearl Street, Island Street & Winchester Street.

BUR has an agreement with the property owner Adam Wright, to utilize the vacant lot for temporary staging, specifically related to the Winchester Street Reconstruction Project.

The property will be returned to its original condition upon conclusion of this project in 2023.

SECTION 4: APPLICATION CRITERIA

A Variance is requested from Article (s) 3.3 of the Zoning Regulations to permit:

The temporary use of vacant lot for staging of adjacent construction project.

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

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

1. It prevents construction "sprawl" and allows a tight construction footprint.
2. Its a tempoary use; and allows for improved traffic movement, and decreased noise dust and other environmental impacts, related to the construction project.
3. The property is adjacent to a commercial zone and adjacent to active construction being serviced by the lot.
4. The short term impact of the use, is a benefit to the public and the long term impact is non-existent, as the property is returned to its original condition.

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

The variance wouldnt alter the the essential character of the locality. Temporary staging will occur on Pearl Street regardless of the variance determination. The only change would be; temporary staging would occur in the traffic lane, thus negatively impact the traveling public, with authorized daily lane closures on Pearl Street until the projects conclusion at the end of 2023.

The property is returned to its original condition upon conclusion of 2023; so there is no altering of the character of the locality long term.

The variance would not threaten public health, safety or welfare. In fact it dramatically improves all three, by safely and neatly organizing essential materials need for the construction project in one adjacent location. Thus improving traffic flow, and reducing environmental impacts associated with the completion of the construction project.

3. Granting the variance would do substantial justice because:

1. It doesn alter the spirit of the ordinance.
2. The area is impacted by construction, regardless of the variance.
3. No long term impacts to the locality, as the lot is returned to its original condition.
4. Its a benefit to public safety, health & wellness, especially as it related to traffic movements.
5. The lot is adjacent to the construction project, and is perfectly situated to allow this necessary use, while mitigating traffic and the environmental impacts of an existing, intense construction project.

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

1. The property is being returned to its original condition at the end of 2023.
2. Short term impacts associated with the construction project exist with or without the use. the latter just relocates short term staging, in the travel lane of Pearl Street as permitted by the project.

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:**

A The property is vacant and of sufficient size, to allow for staging of needed construction materials. The property is adjacent to the active construction project. Due to its size and proximity, and in conjunction with the short term need and the return to original condition in 2023, its use is reasonable without altering the spirit of the ordinance.

i. The use is temporary, and the impacts of the use exist, regardless of the variance. Thus it does not alter any public purpose of the ordinance.

The variance would not injure the public or private right to others.

and

ii. The proposed use is a reasonable one because:

1. A zoning restriction as applied, interferes with a reasonable use of the property.
2. The vacancy, size and proximtey of the property in relation to an active construction project.
3. No long term impacts, as the property is returned to its original condition in 2023.
4. Improved traffic, safety, and welness to the public.
5. The varaince would not injure the public or private rights of others.

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

Its the only vacant, adjacent property of sufficient size to adequately provide for the intended use. Utilizing a temporary staging area not adjacent to the project, or outside the city limits, will only add to traffic congestion, and environmental impacts associated with intensive construction projects. Denial does not change the outcome, as we would add an additional staging area of conformance but still utilize Pearl Street by instituting daily lane closures to stage short term equipment and materials.

Island Street will be closed for 35 weeks and active construction will envelop Key Rd, Island Street, Winchester Street, and Pearl Street. Daily lane closures will dramatically impact traffic congestion, in an already impacted commerical area, with a high traffic count.

Zoning Board of Adjustment Certified Notice List



For Office Use Only:

Case No. _____
Date Filled _____
Rec'd By _____
Page _____ of _____
Rev'd by _____

If you have questions on how to complete an application, please call: (603) 352-5440 or
email: communitydevelopment@keenenh.gov

25.2.4 PUBLIC NOTICE

The submittal requirements for Public Notices are outlined further in **Article 25.2** of the [Land Development Code](#)

Article 25.2.4.A.1: When a mailed notice is required, the applicant shall submit 2 sets of mailing labels for each abutter or person entitled to such notice in accordance with state law or the City code of Ordinances, and a mailing fee equal to the cost of the current United States Postal Service Certified Mail rate, at the time of application submission, unless otherwise specified in the Land Development Code.

Article 25.2.4.A.2: The appropriate review authority, or their designee, shall be responsible for issuing the mailed notice.

Article 25.2.4.A.3: The mailed notice shall include, at a minimum, the date, time, place and purpose of such public hearing; the names of the applicant and property owner; and the address of the subject property. **Such information shall be current to within 10 days of application submittal.**

Article 25.2.4.A.4: The mailed notice shall be sent to the address used for mailing local property tax bills, which may be obtained from the City of Keene Assessing Department.

Article 25.2.4.A.5: The required timeframe for issuing mailed notice is specified in Table 25-2. This timeframe shall not include the day such notice is postmarked or the day of the public hearing or public meeting at which the application is first considered.

NOTICE LIST & MAILING LABELS

A notice list and two sets of mailing labels identifying any parties that require notice as part of the application process, will be submitted. **Such information shall be current to within 10 days of application submittal.** Per [NH RSA 676:7\(I\)\(a\)](#), and **Article 25** of the [Land Development Code](#), the following parties must be noticed by verified mail no less than five days prior to the scheduled meeting:

- Property owner
- Applicant and, if appropriate, authorized agent
- All owners of property located within 200 feet of the subject parcel as well all owners of property that directly abuts and/or is directly across the street or stream from the subject parcel
- Holders of conservation, preservation, or agricultural preservation restrictions

The Notice List shall include the following:

- Property owner's name
- Property owner's mailing address
- Street address, if different from mailing address
- Property tax map parcel (TMP) number

The mailing labels shall include the following:

- Property owner's name
- Property owner's mailing address
- Property tax map parcel (TMP) number

The City of Keene's [GIS Database](http://axisgis.com/keenenh/) (axisgis.com/keenenh/) can be used to generate a Notice List and mailing labels. Instructions for creating these can be found following this link [Notice List Instructions](#) or on the [Zoning Board of Adjustment](#) page on the City website, under *ZBA Applications*.

CERTIFY ACCURACY

By signing below, you are certifying that the submitted notice list is accurate and true to the best of your ability and that per **Article 25.2.4.A.3**, the notice list is current to within 10 days of the application submittal.

Timothy M St Pierre

Print Name

11/18/2022

Date

Signature



Keene, NH



November 18, 2022

1 inch = 34 Feet

www.cai-tech.com



Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community



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



200 foot Abutters List Report

Keene, NH
November 10, 2022

Subject Property:

Parcel Number: 593-004-000
CAMA Number: 593-004-000-000-000
Property Address: 363 PEARL ST.

Mailing Address: WRIGHT ADAM E.
19 CHASE PL.
KEENE, NH 03431

Abutters:

Parcel Number: 111-001-000
CAMA Number: 111-001-000-000-000
Property Address: 332 WINCHESTER ST.

Mailing Address: UNIVERSITY SYSTEM OF NH KEENE
STATE COLLEGE
5 CHENELL DR. SUITE 301
CONCORD, NH 03301

Parcel Number: 592-019-000
CAMA Number: 592-019-000-000-000
Property Address: 0 WINCHESTER ST.

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

Parcel Number: 592-020-000
CAMA Number: 592-020-000-000-000
Property Address: 291 WINCHESTER ST.

Mailing Address: SAUNDERS LAURENCE R.
139 NELSON RD.
HARRISVILLE, NH 03450-5405

Parcel Number: 592-021-000
CAMA Number: 592-021-000-000-000
Property Address: 371 PEARL ST.

Mailing Address: SAUNDERS LAURENCE R.
139 NELSON RD.
HARRISVILLE, NH 03450-5405

Parcel Number: 592-022-000
CAMA Number: 592-022-000-000-000
Property Address: 199 ISLAND ST.

Mailing Address: CARBONE TIMOTHY J. REV. TRUST
2629 ROYAL RIDGE DR.
SPRING HILL, FL 34606

Parcel Number: 592-023-000
CAMA Number: 592-023-000-000-000
Property Address: 185-193 ISLAND ST.

Mailing Address: CARBONE TIMOTHY J. REV. TRUST
2629 ROYAL RIDGE DR.
SPRING HILL, FL 34606

Parcel Number: 593-001-000
CAMA Number: 593-001-000-000-000
Property Address: 311 WINCHESTER ST.

Mailing Address: MCDONALDS CORP (28/9)
PO BOX 6300
AMHERST, NH 03031-6300

Parcel Number: 593-003-000
CAMA Number: 593-003-000-000-000
Property Address: 305 WINCHESTER ST.

Mailing Address: ALLEN STEPHEN J.
305 WINCHESTER ST.
KEENE, NH 03431

Parcel Number: 593-005-000
CAMA Number: 593-005-000-000-000
Property Address: 347 PEARL ST.

Mailing Address: WRIGHT ADAM E.
19 CHASE PL.
KEENE, NH 03431

Parcel Number: 593-006-000
CAMA Number: 593-006-000-000-000
Property Address: 339 PEARL ST.

Mailing Address: BEMIS ALLAN C.
14 WOODSIDE AVE.
KEENE, NH 03431



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11/10/2022

Page 1 of 2



200 foot Abutters List Report

Keene, NH
November 10, 2022

Parcel Number: 593-007-000
CAMA Number: 593-007-000-000-000
Property Address: 331 PEARL ST.

Mailing Address: WRIGHT MICHAEL C.
19 CHASE PL.
KEENE, NH 03431

Parcel Number: 593-053-000
CAMA Number: 593-053-000-000-000
Property Address: 328 PEARL ST.

Mailing Address: BEGIN JOSEPH R. REVOCABLE TRUST
100 ARLINGTON AVE.
KEENE, NH 03431

Parcel Number: 593-058-000
CAMA Number: 593-058-000-000-000
Property Address: 11 WAGNER ST.

Mailing Address: PERRY MICHAEL PERRY JACKIE
59 BOW CENTER RD.
BOW, NH 03304

Parcel Number: 593-059-000
CAMA Number: 593-059-000-000-000
Property Address: 344 PEARL ST.

Mailing Address: WRIGHT JAMES W. JR. WRIGHT
PATRICIA A.
344 PEARL ST.
KEENE, NH 03431

Parcel Number: 593-060-000
CAMA Number: 593-060-000-000-000
Property Address: 352 PEARL ST.

Mailing Address: WHIPPIE, DAVID RICHARD WHIPPIE
LAUREL R.
352 PEARL ST.
KEENE, NH 03431

Parcel Number: 593-061-000
CAMA Number: 593-061-000-000-000
Property Address: 364 PEARL ST.

Mailing Address: LAMBERT SCOTT C.
333 MONADNOCK HWY.
SWANZEY, NH 03446



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11/10/2022

Page 2 of 2

- b. A public hearing shall be held within ~~forty-five (45)~~ ninety (90) days of the receipt of an application, *provided that the applicant may waive this requirement and consent to such extension as may be mutually agreeable. If a zoning board of adjustment determines that it lacks sufficient information to make a final decision on an application and the applicant does not consent to an extension, the board may, in its discretion, deny the application without prejudice, in which case the applicant may submit a new application for the same or substantially similar request for relief.* ~~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 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).

- o. The Board may continue a public hearing to a place, date and time certain announced by the Chair without further public notice.
- B. **Voting:** Except as determined by the Board, the Board shall decide all cases immediately after the public hearing. Prior to voting the action, the Board shall render, as appropriate, findings of fact by majority vote. The Board will approve, approve with conditions, deny the appeal, or defer its decision.
- C. **Decisions:** Notice of the Decision will be made available for public inspection within five (5) business days as required by RSA 676:3, *I* and will be sent to the applicant by regular mail. *The decision shall include specific written findings of fact that support the decision.* If the appeal is denied, the notice shall include the reasons therefore. The notice shall also be given to the Planning Board, the Community Development Department, Assessor, and other City officials as determined by the Board. Decisions shall be based upon (1) all relevant facts and evidence introduced at the public hearing, (2) the application, (3) the Zoning Ordinance, and (4) applicable law.
- D. **Rehearing by the Board:** The Board may reconsider a decision to grant or deny an application, or any other decision or order of the Board, provided a Motion for Rehearing is submitted to the Board no later than thirty (30) calendar days commencing with the date following the date of the action of the Board for which the rehearing is requested. Motions for rehearing can only be received in the office of the Board during normal business hours of Monday thru Friday, 8:00 a.m.to 4:30 p.m., City Hall, 4th floor, Community Development Department.
- E. **Motions for Rehearing:** The Board shall deliberate the Motion for Rehearing within thirty (30) days of the date of the filing of the Motion. The deliberation by the Board shall not require a public hearing, and shall be conducted solely by the Board and based upon the contents of the Motion. If the Board grants a motion for rehearing, the new public hearing shall be held within thirty (30) of the decision to grant the rehearing provided all notice fees are paid and an updated abutters list is submitted by the party requesting the rehearing. Notification of the rehearing shall follow the procedures set forth in RSA 676:7.
- F. **Appeal:** Any further appeal of a final decision or order of the Board shall be in accordance with RSA 677:4, *et seq.*
- G. **Records:** The records of the Board shall be kept by the Clerk and made available for public inspection from the Clerk at City Hall, 4th floor, Community Development Department, in accordance with RSA 673:17.
 - a. Final written decisions will be placed on file and available for public inspection within five (5) business days after the decision is made. RSA 676:3.