



## City of Keene Zoning Board of Adjustment

### AGENDA

**Monday, June 5, 2023**

**6:30 p.m.**

**City Hall, 2<sup>nd</sup> Floor Council Chambers**

- I. Introduction of Board Members:
- II. Minutes of the Previous Meeting: May 1, 2023
- III. Unfinished Business:
- IV. Hearings:

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

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

**ZBA 23-16:** Petitioner, 147-151 Main Street, LLC and represented by Jim Phippard, of Brickstone Land Use Consultants, LLC, requests a Special Exception for property located at 147 Main St., Tax Map #584-060-000-000-000 and is in the Downtown Core District. The Petitioner requests to permit a drive-through use in the Downtown Core District at this property, per Chapter 100, Article 8.4.2.C.2 of the Zoning Regulations.

**ZBA 23-17:** Petitioner, Wayne E. Brown Jr. Revocable Trust of 28 Village Rd. Surry, requests a Variance for property located at 661 Main St., Tax Map #120-056-000-000-000 and is in the Low Density District. The Petitioner requests two buildings on a single lot containing two independent dwelling units, which are designed, occupied or intended for occupancy by separate families and a non-conforming use shall not be changed to a different non-conforming use, per Chapter 100, Articles 8.3.1.E.1 and 18.2.4 of the Zoning Regulations.

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

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1 City of Keene  
2 New Hampshire

3  
4  
5 ZONING BOARD OF ADJUSTMENT  
6 MEETING MINUTES  
7

8 **Monday, May 1, 2023**

**6:30 PM**

**Council Chambers,  
City Hall**

**Members Present:**

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

**Staff Present:**

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

**Members Not Present:**

9  
10  
11 **I) Introduction of Board Members**  
12

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

16 **II) Minutes of the Previous Meeting: November 7, 2022 and April 3, 2023**  
17

18 Chair Hoppock stated that he has gone over the November 7 meeting minutes and does not know  
19 how to fill in any blanks. Mr. Welsh and Ms. Taylor stated that they were not present on  
20 November 7. Ms. Taylor stated that they have had this same conversation at many meetings  
21 now, and she wonders if they should just adopt the minutes as is, if they cannot fill in any blanks.  
22 Mr. Gorman replied that he cannot fill in any blanks either, and, would be willing to adopt the  
23 minutes as is. He continued that he is comfortable, in reviewing them, that they are adequate.  
24

25 Mr. Gorman made a motion to approve the meeting minutes of November 7, 2022. Chair  
26 Hoppock seconded the motion, which passed by a vote of 3-0. Ms. Taylor and Mr. Welsh  
27 abstained.  
28

29 Ms. Taylor stated that regarding the April 3 minutes, line 588 says, "Seventy three paid parking  
30 spaces," and she thinks the word "paid" should be removed. She continued that they are not  
31 charging for any parking spaces. Mr. Gorman stated that he will abstain because he was not here  
32 on April 3.  
33

34 Mr. Welsh made a motion to approve the April 3, 2023, meeting minutes as amended. Chair  
35 Hoppock seconded the motion, which passed with a vote of 4-0. Mr. Gorman abstained.

36  
37 **III) Unfinished Business**  
38

39 Chair Hoppock asked Zoning Administrator John Rogers about the issue of the 2-2 vote from the  
40 last meeting. Mr. Rogers replied that staff received an email from the applicant asking for that  
41 application to be withdrawn without prejudice. Chair Hoppock replied that for the record, that is  
42 ZBA 23-09. Mr. Rogers replied yes, for the ADU on Page St. Chair Hoppock replied that that is  
43 on the agenda for tonight, so they will skip ahead and note that it is withdrawn without prejudice.  
44

45 Mr. Rogers stated that there is no other unfinished business.  
46

47 **IV) Hearings**  
48

- 49 **A. Continued ZBA 23-03: Petitioner, Samson Associates, LLC, and represented by Jim**  
50 **Phippard, of Brickstone Land Use Consultants, LLC, requests a Variance for**  
51 **property located at 32 Optical Ave., Tax Map #113-006-000-000-000 and is in the**  
52 **Industrial Park District. The Petitioner requests to permit self-storage units on a lot**  
53 **in the Industrial Park District where self-storage units are not listed as a permitted**  
54 **use per Chapter 100, Article 6.3.5 of the Zoning Regulations.**  
55

56 Chair Hoppock introduced ZBA 23-03 and asked to hear from Mr. Phippard.  
57

58 Jim Phippard stated that he is here on behalf of Samson Associates, LLC, who are requesting, for  
59 the last time, that this application be continued to the June 5 meeting. He continued that he was  
60 contacted through his attorney, Tom Hanna, by the Putnams, requesting that this be delayed to  
61 the June meeting. His client wants to be a good neighbor and agreed to postpone this further,  
62 trying to accommodate the abutter.  
63

64 Chair Hoppock stated that there is an agreement between the applicant and one of the abutters to  
65 put it off to June 5. Mr. Phippard replied that is correct.  
66

67 Mr. Gorman made a motion to continue ZBA 23-03 to June 5, 2023. Ms. Taylor seconded the  
68 motion, which passed by unanimous vote.  
69

- 70 **B. Continued ZBA 23-04: Petitioner, Samson Associates, LLC, and represented by Jim**  
71 **Phippard, of Brickstone Land Use Consultants, LLC, requests a Variance for**  
72 **property located at 32 Optical Ave., Tax Map #113-006-000-000-000 and is in the**  
73 **Industrial Park District. The Petitioner requests to permit a vehicle fueling station**  
74 **on a lot in the Industrial District where vehicle fueling station is not a permitted use**  
75 **per Chapter 100, Article 6.3.5 of the Zoning Regulations.**  
76

77 Chair Hoppock introduced ZBA 23-04 and asked to hear from Mr. Phippard.

78  
79 Mr. Phippard stated that it is the same explanation; they are asking for this to be continued to  
80 June 5, at the request of an abutter his client is trying to accommodate.

81  
82 Mr. Gorman made a motion to continue ZBA 23-04. Ms. Taylor seconded the motion, which  
83 passed by unanimous vote.

84  
85 **C. Withdrawn ZBA 23-09: Petitioners, Jeffrey William Tighe-Conway and Matthew**  
86 **Conway and represented by Jim Phippard, of Brickstone Land Use Consultants,**  
87 **LLC, requests a Variance for property located at 8 Page St., Tax Map #553-018-**  
88 **000-000-000, is in the Medium Density District. The Petitioner requests a building**  
89 **with two dwelling units to have three parking spaces where four parking spaces (2**  
90 **spaces per dwelling unit) are required per Chapter 100, Article 9.2, Table 9-1,**  
91 **Minimum On-site Parking Requirements of the Zoning Regulations.**

92  
93 Chair Hoppock stated that they already addressed this.

94  
95 **D. Continued ZBA 23-11: Petitioner, Keene Meadow Solar Station, LLC, of Boston**  
96 **MA, represented by A. Eli Leino of Bernstein, Shur, Sawyer & Nelson of**  
97 **Manchester NH, requests a Variance for property located at 0 Gilsum Rd., Tax Map**  
98 **#214-001-000-000-000, is in the Rural District and is owned by D-L-C Spofford,**  
99 **LLC of Stuart, FL. The Petitioner requests to permit a 30-acre large Page 1 of 135**  
100 **scale ground mounted solar energy system where 20 acres is allowed per Chapter**  
101 **100, Article 8.3.7.C.2.b of the Zoning Regulations.**

102  
103 Ms. Taylor stated that she needs to recuse herself for this, because she is on the board of the  
104 Monadnock Conservancy, and they are an abutter.

105  
106 Chair Hoppock introduced ZBA 23-11 and asked to hear from staff.

107  
108 Plans Examiner Mike Hagan stated that 0 Gilsum Rd. is located in the Rural District and is 178  
109 acres. There are currently no buildings and no ZBA applications on file. They are asking for 30  
110 acres where a maximum of 20 acres is allowed in this Zone for a solar system.

111  
112 Mr. Welsh stated that the Conservation Commission has reviewed this application and spoken  
113 with this applicant before. He asked Mr. Hagan to explain the purview of the Conservation  
114 Commission's review of this application and, if possible, report any decisions they made.

115  
116 Mr. Rogers replied that he knows there has been some conversation, but he does not know if the  
117 Conservation Commission has come up with an actual deliberation. He is not aware and does  
118 not have that information readily available.

119

120 Chair Hoppock asked to hear from the applicant.

121  
122 Eli Leino from Bernstein and Shur stated that Ari Jackson joins him tonight from the applicant,  
123 Glenvale Solar, and Keene Meadow Solar, a subsidiary. He continued that he had brought Mr.  
124 Jackson tonight to describe this project, the company, and why they chose this location in Keene.  
125 Those might not be part of the five criteria but are relevant for this Board to get a sense of what  
126 is happening.

127  
128 Mr. Leino continued that all solar projects classified as “large scale,” which is up to 20 acres  
129 under the City’s Zoning Ordinance, require a Conditional Use Permit (CUP) through the  
130 Planning Board (PB). As part of that, the Conservation Commission gets to make  
131 recommendations. Since the applicant will have [requirements from the] NH Department of  
132 Environmental Services (NHDES), depending on wetlands and so on and so forth, the  
133 Conservation Commission gets copies of any of those applications to the State. It is not a  
134 jurisdictional role, but they are the local contact for that piece, so the State actions go through the  
135 local Conservation Commission. He and his client had an informational meeting with the  
136 Conservation Commission on March 20 to discuss the project, under no obligation other than the  
137 fact that they understand that this is something that matters deeply in Keene and specifically to  
138 the Conservation Commission. He thinks it is important to have a sense of what is going on here  
139 and of what goes through the Board, why they submitted a site plan where they have asked for  
140 one thing – and the Board members can clearly look at and see that they need a setback  
141 Variance, and so on and so forth – and why they have bifurcated their applications. In large part,  
142 they are before the Board with an area Variance to ask for greater than 20 acres for solar, but  
143 before they have a ruling from the Board, it is financially unfeasible for them to design this  
144 whole project down to the ground scale, knowing where all the vernal pools are and so on and so  
145 forth. They have started with the mapping, have an engineer and a wetlands scientist engaged,  
146 and are working to get their ducks in a row. However, they are at the point where they have an  
147 idea of what they want to do and a sense of the size. They will need to start discussing  
148 interconnections with the utilities, and so on and so forth. At this point in the application, that is  
149 why they are before the Board for this area Variance.

150  
151 Mr. Leino stated that before he gets into the five criteria, he wants to allow Ari Jackson to speak  
152 about the application, how (the company) picks projects generally, how they found this site, and  
153 their desire to work in this municipality.

154  
155 Ari Jackson stated that he is a Senior Director of Development with Glenvale Solar. He  
156 continued that Glenvale Solar is a leading, independent developer of utility-scale solar and  
157 energy storage projects in New England. They are a team of 15, with offices in Portland, ME  
158 and Boston, MA. The founding principle of the company is that generating clean, reliable  
159 energy does not have to come at a premium. They pursue this goal by selecting a small number  
160 of compelling projects that bring benefits to the local community and have the ability to generate  
161 affordable electricity. They currently have in their portfolio six advanced projects, five of which  
162 are in Maine. Two they expect to enter construction later this year and early into next year.

163 Keene Meadow Solar Station would be their first NH project, and as currently designed, includes  
164 50 megawatts of solar generation and 50 megawatts of battery electric storage. In its first year of  
165 operation, it would generate enough energy to power approximately 14,000 NH homes as well as  
166 offset the CO2 equivalent of approximately 88,000 acres of mature forest. It is located at the  
167 intersection of two transmission corridors between Old Gilsum Rd. and Rt. 10, making it a  
168 compelling project. They have an extensive process by which they review sites to select which  
169 to pursue that includes a review of natural resources, soils, the viability of interconnection, and  
170 so on and so forth. This project meets the criteria for this type of development, bringing many  
171 benefits to Keene as well as playing an important role in the state's transition to renewable  
172 energy. Glenvale Solar understands that this needs a Variance, which is why they are here today.  
173

174 Mr. Leino stated that before he gets into the five criteria, he thinks it is important to think about  
175 what the City's Ordinance has. He continued that from their preliminary design meetings with  
176 Mr. Rogers and other staff members, it seemed to him like "20 acres" was a number that was  
177 picked because it seems like a nice, big number but is not too big; it is a good, round number that  
178 would work. On this site, it is a bit too small to be logical to use. If you had a 25-acre lot in the  
179 middle of town and put up a 20-acre solar project, you would have to clear a buffer because these  
180 need clear access to the sun in order to work. Thus, 20 acres sounds big, but if you were to start  
181 putting those downtown, it is rather unfeasible. There are not many parcels like this, and it  
182 makes sense here, because the neighborhood has two transmission lines already, which helps  
183 with infrastructure connections. There are also two reasonably large roadways. He was driving  
184 down the hill from Nelson, looking to see what you can see while driving on Rt. 9 back into the  
185 city, and there is the front row of trees and then an elevation change, but you do not see too  
186 deeply into the site. A large enough parcel gives the opportunity to retain some mature tree  
187 buffer and have additional uses. They know the trees and trails here are important to people. On  
188 a large enough parcel, they can have a highly generating solar facility and also reroute some of  
189 the nature trails that people like. They can figure out ways to make this productive for both the  
190 owners and applicant and make it still viable for the city as a recreational use. That is who they  
191 are and what they are trying to do.  
192

193 Mr. Gorman asked staff in which zones throughout the city these solar facilities are permitted.  
194 He asked if the size criteria are consistent with this one, or if it varies. He continued that it is  
195 fine if Mr. Leino continues his presentation while staff find that information.  
196

197 Chair Hoppock stated that Mr. Leino mentioned the junction of two transmission lines. He asked  
198 who maintains those lines and how they would be used. Mr. Jackson replied that one is owned  
199 by Eversource, and the other is owned by National Grid. He continued that the presence of the  
200 existing electric infrastructure would allow for the energy generated by the projects to be put  
201 onto the grid. Part of the design is a substation for the project, which would interconnect to the  
202 existing transmission lines. Chair Hoppock asked if it is correct that they would do that on site.  
203 Mr. Jackson replied yes, to avoid the construction of transmission lines for the purpose of  
204 interconnection.  
205

206 Mr. Leino replied that that was part of how the applicant chose this site. He continued that it is  
207 unique to see two utility-scale transmission corridors intersect each other at a spot (like this).  
208 Historically on this site there have been considerations of more traditional development. He  
209 does not know that this site works particularly well to perc septic systems. He knows the City  
210 has not desired to extend municipal services out that way. Though zoned rural residential, there  
211 is an opportunity, on paper, to subdivide this and build a road and put many house lots out there,  
212 but it is not hugely feasible. It would be a difficult site for that, which makes it a very valuable  
213 site for this kind of use, which is lower intensity than houses, school buses, septic systems, and  
214 so on and so forth. It creates an interesting buffer use between the conservation lands that  
215 surround it. This site will not have many people activities and will be maintained about twice a  
216 year with brush cutting. Otherwise, it just sits there and passively generates clean electricity.

217  
218 Mr. Rogers stated that to answer Mr. Gorman's question, large-scale solar systems are allowed in  
219 the Rural District, the BGR District, Corporate Park, Industrial, and Industrial Park Districts. He  
220 continued that all except for Industrial would require a CUP through the PB. The Industrial  
221 District is the only zone where it is allowed by right.

222  
223 Mr. Welsh stated that the applicant proposes accessing the site through Old Gilsum Rd. from the  
224 south. He asked if they considered accessing it from the northern part of Old Gilsum Rd. He  
225 sees what looks like a road coming off Rt. 10 and heading up to the substation. He asked if that  
226 is really a road, or if it is a canal, waterway, or something else. Mr. Leino replied that it appears  
227 to be delineated wetlands. He continued that in terms of the access on Old Gilsum Rd., the  
228 Conservation Commission also raised that question, and it is on the applicant's radar. He does  
229 not have a good answer for Mr. Welsh right now, but they are considering it as part of a more  
230 definitive site plan. They are still in the preliminary phases.

231  
232 Mr. Leino went through the five criteria.

233  
234 1. *Granting the Variance would not be contrary to the public interest because:*

235  
236 Mr. Leino stated that over two Mayoral regimes the City made a decision, which has been  
237 accepted throughout the city, that green energy is a good thing for the public interest and that it is  
238 an opportunity to reduce reliance on fossil fuels, which is a nice move into the future for Keene,  
239 Cheshire County, and NH at large. A goal of the Sustainable Energy Plan is to go entirely to  
240 renewable energy by 2030, and if the City is going to meet those lofty goals it requires  
241 permitting uses like this. It would be a hard argument to say that providing green energy is not  
242 in the public interest. He and his client certainly believe that it is. As such, they believe this  
243 project meets that criterion.

244  
245 2. *If the Variance were granted, the spirit of the Ordinance would be observed because:*

246  
247 Mr. Leino stated that taken in conjunction with criterion 1, the Ordinance appears to be  
248 promoting clean energy in appropriate locations. He continued that that is why that 20-acre

249 amount seems to have been picked; it seemed like a reasonable choice to not be too small.  
250 Everyone (in this meeting) is currently in a building that has solar panels on the roof. Those  
251 certainly have a benefit for the building and provide a good feeling when you see them, but they  
252 do not make a huge dent toward that 2030 goal of reducing fossil fuel energy. That requires  
253 permitting large projects like this. The Ordinance clearly has considered that they need green  
254 energy options, and they need to be in reasonable places. A CUP is included in this project, so  
255 this will be thoroughly vetted by the PB. His clients expect to be back in front of the ZBA once  
256 they have a more definitive site plan. Certainly, they can see, as already mentioned, a couple of  
257 places they are going to need relief. The City, through conservation, through the State, through  
258 this Board, and through the PB, will have many opportunities to look at this project to make sure  
259 it conforms to the goals of the Ordinance and the various Resolutions that have been passed in  
260 the Clean Energy Plan. He and his clients believe it is in the spirit of the Ordinance to be able to  
261 permit some of these larger projects in the city.

262

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

264

265 Mr. Leino stated that this is the balancing test of private rights and public benefits. He continued  
266 that with some projects you have to figure out if it is going to hurt the public, and if so, if it  
267 would hurt the public less than it would help the private applicant. Here, the public benefits are  
268 great, in that it provides clean energy to the region and will be a tax generator with very few, if  
269 any, public services required. They will not be educating kids here, will not be adding municipal  
270 services, will not be plowing, and so on and so forth. There is no cost to the City other than the  
271 fact that this will produce tax revenue, and during creation and installation, it creates a large  
272 number of construction jobs. The private benefits to the owners and applicant are evident. The  
273 owners of this lot have leased the property to Glenvale Solar, who does a good job with this,  
274 picks reasonable projects, and works hard to make sure they are as good as possible for  
275 generations, for the municipality, and so on and so forth. In terms of balancing the goods, it is  
276 good on both sides of the ledger. It achieves substantial justice through that balancing  
277 framework.

278

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

281

282 Mr. Leino stated that this is an interesting location, by two of the major thoroughfares into the  
283 city. He continued that they have proposed a project with 30 acres of solar on one lot and 135  
284 acres on the other, and with clearing, roadways, and so on and so forth, it ends up being about  
285 240 acres of disturbed land on 480 acres of the two parcels combined. Thus, they are using  
286 about half the space, meaning that there are woodland buffers, and they are being careful to do  
287 proper wetlands delineations and being mindful of those issues. They have the opportunity to  
288 make sure they do not put this in a spot where it is visible to neighbors. It is also a very sparse  
289 part of the city. Beyond the recreation uses, there are not hugely active uses, so no one will have  
290 to look at this from their window, the way they would if you were building 20 acres downtown.  
291 They understand that people appreciate the trail networks, but this is privately owned land, so it

292 is understandable that the owners, and now through the applicant, would like a viable use for  
293 this. The neighboring lots are generally in conservation, and the Goose Pond area is an  
294 important recreational area for the city. This is a nice buffer option from Rt. 10 and Rt. 9, to  
295 know they have something that is not going to add a lot of people or aggressive construction over  
296 the course of years, [which they would have] if one were to build a subdivision with a proper  
297 roadway through there. It will be low impact, and beneficial for the neighbors as well.

298

299 5. *Unnecessary Hardship*

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

302

303 Mr. Leino stated that this is a unique property in Keene. He continued that he grew up here, so  
304 he is familiar with the area, and he was trying to figure out which other parcels in the city feel  
305 like this one. The people at Glenvale look for parcels that make sense to redevelop as solar. If  
306 you think about where there are wide, open parcels that do not have a more active use, you run  
307 into things like farms and uses they would rather not redevelop as solar, because those already do  
308 have a viable use. This spot is very difficult to develop as a single-family home or any of the  
309 other allowed residential uses in this zone. Glenvale tries to find a place where they are not  
310 taking land that could be put to better use, and to put in something that benefits the public and  
311 the community through green energy installation. Out of curiosity, he was looking for parcels  
312 around these sizes, a combined 480 acres. He continued that the Keene Country Club is only  
313 148 acres. This is a big, unique parcel where really nothing is developed, situated on Old Gilsum  
314 Rd., a class VI road, unmaintained by the City. There are not many great options for something  
315 that could be developed here. It is a unique site, a difficult lot, and lacks value for almost all the  
316 other uses. This is something where they can provide a good and reasonable use.

317

318 Mr. Leino continued that in terms of the unnecessary hardship, putting 20 acres of solar panels  
319 onto the amount of acres they have seems like a waste of the entire parcel, in that it would be  
320 burdened by the transmission lines and by a small solar panel, and not really usable for anything  
321 else. It feels unreasonable to use such a small percentage of the parcel for solar. He guesses  
322 there would be an opportunity to build a subdivision road, subdivide many 20- to 25-acre  
323 parcels, and do this. They have that alternative, which is not required under the Malachy Glen  
324 standard, the Simplex standard, or any of the cases that lead to their hardship definitions, but that  
325 is an unreasonable use of capital. Breaking this down so that you can build something  
326 reasonable with relief here [would mean taking] all those extra steps that do not do any good for  
327 the community. A roadway certainly is not generating green energy, if they had to put one in to  
328 try to make this a usable parcel. The 20 acres would not be a reasonable use based on the unique  
329 circumstances of this being near a couple highways, near two transmission lines, and in a perfect  
330 spot where no one is going to see it and it will not emit noise. It is a great spot for solar.

331

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

335 and

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

337

338 Mr. Leino stated that the proposed use is reasonable in that in the Malachy Glen case they  
339 discussed the fact that an allowed use is inherently reasonable. Solar, large-scale, is an allowed  
340 use. The City knows and has codified it into the Ordinance that they want to promote green  
341 energy and solar uses. Based on both the Ordinance and the case law, it is an inherently  
342 reasonable use.

343

344 Mr. Welsh stated that he is glad Mr. Leino brought up the hypothetical of subdividing and going  
345 about it that way and staying within 20 acres, because he wondered about that himself. He asked  
346 if Mr. Leino could further describe that process. He asked if the process would be to have a road  
347 built, then get PB approval for the application for subdivision in 20+/- acre parcels, and then  
348 purchase those parcels and build solar panels on them.

349

350 Mr. Leino replied that the case law has held that just because there is an alternate method does  
351 not mean that there is not a hardship. He continued that he looked at this briefly, because he is a  
352 land use attorney, is interested in this, and likes considering what you can do on these parcels.  
353 There would be a couple difficulties in doing so. For starters, Old Gilsum Rd. is class VI and  
354 seems to mostly be a borderline cart path. They staked it to figure out what the right-of-way  
355 looked like. To build off a class VI road, a subdivision-approved road, they would have to build  
356 to City standards. Certainly, there are waiver options for all of this, and they can continue rolling  
357 the dominoes, but they get into more and more things that take them farther and farther from  
358 “reasonable,” when with this relief, they could just build what makes sense, rather than having  
359 multiple parcels without the setbacks. Mr. Jackson could speak to this better, but the more you  
360 spread these out, even if you were to build the exact same amount of solar panels around town,  
361 you lose efficiency.

362

363 Mr. Jackson stated that this goes back to the founding principle of generating clean, reliable  
364 energy that is also affordable. He continued that part of that involves achieving economies of  
365 scale. Pursuing a larger project, they can get more energy generation out of a smaller footprint,  
366 and have fewer interconnections, which contributes to reducing the cost of electricity.

367 Generating the same amount of energy that this project would generate from [a project with  
368 multiple] 20-acre parcels, would require a far larger footprint. Part of that is related to the  
369 buffers that would need to be around the project to allow the sun to hit the panels. Thus, more  
370 projects would have a greater perimeter. There would also be more of a need to interconnect into  
371 the existing electric grid. That is one of the single largest costs of a project, significantly driving  
372 up the cost of energy sold to customers. The company’s thinking, in pursuing these types of  
373 projects, is specifically to drive down the costs of clean energy. Mr. Leino added, drive down  
374 the costs of clean energy to the end users, which would be residents of NH.

375

376 Mr. Gorman asked if it is safe to say that the whole subdivision route, which would be  
377 acceptable from a Zoning perspective, is not only not equitable but would probably have more

378 impact on the biodiversity that exists in these areas. Mr. Leino replied that he thinks it is fair to  
379 say that. He continued that they have an environmental scientist and engineers on this, so  
380 lawyers are probably not the best equipped for this, but he can say that this has been designed in  
381 such a way that they can try to avoid as much of the wetlands as they can, being mindful of  
382 NHDES regulations and the Conservation Commission's concerns. They will comply with the  
383 regulations and make sure the site works. In contrast, if they were to divide this into 20-, 25-,  
384 and 30-acre parcels, it is unclear where those boundaries would be. If you build a center road,  
385 the way you do with subdivision plans...[unfinished sentence]. Mr. Gorman replied that at the  
386 end of the day, they would have more roads, more infrastructure, and more impact on the natural  
387 surroundings. Mr. Leino replied that he thinks that is a strong probability.  
388

389 Chair Hoppock asked what Mr. Leino would say is the general public purpose of the Ordinance  
390 that his clients want to vary. Mr. Leino replied that he thinks the public purpose of Keene's  
391 Solar Ordinance is to have properly sized solar arrays in correct locations in the city, and he  
392 thinks that works in conjunction with the CUP. He continued that it gives the City another  
393 chance to make sure these are sited correctly and are not just anywhere they can fit 20 acres of  
394 solar panels. He thinks that the Variance is required because the 20 acres makes sense on a 30-  
395 acre or 40-acre parcel, but this is a unique parcel that is so much larger than what was considered  
396 in the Ordinance, that the Ordinance stops being reasonable.  
397

398 Chair Hoppock stated that regarding the application form, under "Section 2. Property  
399 Information," he is confused about why the permeable lot coverage is at 0%, when solar panels  
400 are going to cover several hundred acres. Mr. Leino replied that he would argue that he does not  
401 have it as 0%, he has it as not answered, in part because they do not have the final determination  
402 or final site plans. Chair Hoppock replied that he stands corrected; Mr. Leino has 0% for  
403 existing and does not have anything answered (beyond that).  
404

405 Mr. Rogers stated that solar is unique, in terms of trying to figure out what the impervious  
406 coverage would be, because the panels are not actually preventing water from migrating into the  
407 ground. He continued that under the City's Ordinances, instead of looking at impervious  
408 surfaces, for the solar footprint they look at the percentage that it is covering just in general, not  
409 calling it impervious. There is a limitation - 70% of the site would be able to be covered by the  
410 panels, with the understanding that the actual impervious coverage percentage would be a very  
411 low number, since the panels are not preventing the water from making it into the ground.  
412

413 Chair Hoppock asked if that is because the panels are not covering the ground, as demonstrated  
414 by the picture. Mr. Rogers replied that is correct; what they will see in most cases are ground-  
415 mounted panels, with a pole mounted with some foundation structure, but it is not like the whole  
416 panel is covering the ground itself. He continued that the applicant could speak more about this.  
417

418 Chair Hoppock asked if that 70% would be exceeded if the Board grants this Variance. Mr.  
419 Rogers replied no, as the applicant spoke to before, the total between the two lots was closer to

420 about 50%. He continued that that is still without an actual design in front of them, but he  
421 believes the application mentioned 50%.  
422 Chair Hoppock asked if there were any further questions from the Board. Hearing none, he  
423 asked if the applicant had anything further to add. Mr. Leino stated that he thanks the Board and  
424 hopes they will consider that this Variance is just a first step, and there is a lot of vetting still to  
425 be done. He continued that this Variance would give them the opportunity to design a great  
426 project here so that it could be built. Mr. Jackson stated that he echoes that and thanks the  
427 Board. He continued that his company believes this project to be very compelling in its use and  
428 he appreciates the Board's consideration.

429  
430 Chair Hoppock asked for public comment, beginning with people opposed to the project.

431  
432 Bob King of 42 Hurricane Rd. stated that he has been in the renewable energy field for his entire  
433 professional life. He continued that he is a professional engineer, and one of his companies owns  
434 the solar project at Keene's Wastewater Treatment Plant, which he is told is the largest solar  
435 project in the county at 1,360 kilowatts DC. He spoke to the Earth Day rally last weekend and  
436 challenged people to break his company's record for having the largest solar plant in the county.  
437 He followed that up by saying, "As long as you site it in the right location," not in the middle of  
438 a forest. He commends Mr. Jackson for his vision and for suggesting large-scale solar, but he  
439 thinks putting it in the middle of a forest – which happens to be in a prime conservation focal  
440 area – is not the right site. It leads to forest fragmentation. Mr. Gorman mentioned biodiversity,  
441 and together with the climate crisis is the biodiversity crisis. Protecting our forests and wild  
442 places is key to the future for non-human species as well as humans.

443  
444 Mr. King continued that as an engineer, he will point out a few other things. Mr. Leino implied  
445 that this is the most efficient way to do solar, but he does not think that is true. He thinks it is  
446 more efficient, from a technical standpoint, to have solar on individual household rooftops. It is  
447 more *profitable* to have it in one large conglomeration. He has nothing against the profit motive,  
448 as he is a capitalist himself, but they should be clear that it is more efficient to generate  
449 electricity where it is being used, if their goal is to help Keene Community Power and power the  
450 homes and businesses in Keene. Thus, his final comment is that the place for this kind of solar is  
451 on all the rooftops, particularly those of big box stores and smaller homes, and in parking lots, on  
452 canopies, at the landfill in Keene, at any brownfields the city has, and so on and so forth. He did  
453 some research, and in MA, where Glenvale Solar is headquartered, Mass Audubon, Mass DOER  
454 (Division of Energy Resources), and USEPA all discourage this kind of solar development in  
455 favor of what he just listed - parking lots, rooftops, abandoned gravel pits, landfills, and so on  
456 and so forth. He hopes the Board considers this as they consider this Variance.

457  
458 Ryan Owens read the following statement:

459  
460 *"Thank you for the opportunity to provide comments in opposition to these requested variances.*  
461 *My name is Ryan Owens, and I speak on behalf of the Monadnock Conservancy, of which I am*  
462 *the Executive Director. The Monadnock Conservancy is a non-profit land conservation trust*

463 *based in Keene, with an office at 15 Eagle Ct., and serving the greater Monadnock region. To*  
464 *date, we have conserved more than 23,000 acres of forests, farms, and wetlands across the*  
465 *region in order to perpetuate the public benefits these properties provide in their primarily*  
466 *undeveloped state. This includes more than 500 acres of permanently conserved forest*  
467 *immediately north of this proposed development.*

468  
469 *The Conservancy applauds the City's goal of sourcing all electricity from 100% renewable*  
470 *sources by 2030, and there are likely many locations around the city where we would support the*  
471 *development of solar on the scale of this proposal and even larger. The location chosen for*  
472 *Keene Meadow Solar Station, however, being remote, intact forest and surrounded by*  
473 *conservation land, is not one of them. We oppose granting the requested variances for the*  
474 *following reasons, which correspond to the criteria that must be met for the variances to be*  
475 *granted:*

476  
477 **Criterion 1:**

478 *In claiming that granting the variance would not be contrary to the public interest, the applicant*  
479 *correctly states that their project would help meet the City's clean energy goals, thereby serving*  
480 *a public interest. Nevertheless, there are several ways in which granting the variance would be*  
481 *contrary to the public interest."*

482  
483 Mr. Ryan asked if it is correct that the Board members were provided with maps he submitted in  
484 advance. Chair Hoppock asked if it is correct that he submitted them today. Mr. Ryan replied  
485 yes.

486  
487 Mr. Ryan continued:

488  
489 *"As shown in Map 1, directly to the west and south of the proposed development is the City of*  
490 *Keene's 1,044-acre Greater Goose Pond Forest, and directly to the north is the Monadnock*  
491 *Conservancy's 518- acre Maynard Forest. The establishment, expansion, and management of*  
492 *these forests represents a significant, sustained public and charitable investment in the public*  
493 *interest served by these properties and this area of Keene, in particular the public benefit of*  
494 *forests and the ecosystem services they provide, including clean water, wildlife habitat, a*  
495 *sustainable supply of forest products, and recreation.*

496  
497 *The City's conservation intentions for the Goose Pond Forest, as expressed through master*  
498 *plans, have been clear ever since Goose Pond was retired as a public drinking water source in*  
499 *the early 1980s. What followed was a period of rapid expansion of the Forest through the*  
500 *proactive acquisition of adjoining properties, and, in 2019, the City made its intentions*  
501 *irrevocable by granting a permanent conservation easement on the entire property to the Society*  
502 *for the Protection of NH Forests.*

503

504 *By clearing and developing a swath of forest on the scale proposed immediately adjacent to and*  
505 *between the Goose Pond and Maynard Forests, the Keene Meadow Solar project would harm*  
506 *the ecological integrity and function of these and other surrounding forests.*

507  
508 *The wildlife habitat values of the lots that are the subject of these applications and the greater*  
509 *area are particularly significant. As shown in Map 2, the entire area proposed to be impacted by*  
510 *this development is ranked in the top three tiers of wildlife habitat quality in the NH Wildlife*  
511 *Action Plan, a publication of the NH Department of Fish & Game, and more than half the area*  
512 *is in the top two tiers. These, in turn, are part of a larger block of priority habitat to the north*  
513 *and west; only two other areas of Keene host high-quality habitat on this scale. The entire block*  
514 *functions as an ecological unit, so, when one part is compromised by development, the function*  
515 *and value of the entire block is diminished.*

516  
517 *The protection of wildlife habitat is a matter of public interest, and the 20-acre solar limit in the*  
518 *ordinance helps to serve that interest in locations of high habitat value. As such, granting the*  
519 *variances would be contrary to the public interest.*

520  
521 *As shown in Map 3, the subject area is part of a network of priority wildlife habitat blocks linked*  
522 *by wildlife corridors. At a larger scale, both the proposed project site and the adjacent*  
523 *conserved forests anchor the southern end on an important north-south corridor, which is itself*  
524 *part of a larger network of corridors extending from the northern edge of downtown Keene to*  
525 *conserved land in Surry, Gilsum, Sullivan, Stoddard, and beyond. Such corridors are critical not*  
526 *only for seasonal wildlife movement, but also for long-term needs for habitats to shift north in*  
527 *response to climate change. Granting the requested variances disrupts the continuity and*  
528 *function of these corridors, and, therefore, harms the public interest served by them.*

529  
530 **Criterion 2:**

531 *In claiming that the spirit of the ordinance would be observed if the variances were granted, the*  
532 *applicant states that the goal of the ordinance “appears to be promoting green energy projects*  
533 *in appropriate locations.” While this is likely true, it is equally likely that the 20-acre solar*  
534 *footprint cap was also an expression of the goal, or spirit, of the ordinance. That is, while the*  
535 *ordinance seeks to promote solar energy, it also seeks to limit its impact on the landscape. As*  
536 *such, to exceed this limit to such a large degree clearly runs counter to the spirit of the*  
537 *ordinance.*

538  
539 **Criteria 3-4:**

540 *In addressing Criteria 3 and 4, the applicant claims that neighboring properties will not be*  
541 *harmed because the solar installations will be screened from view and are far from the nearest*  
542 *residential development. As the owner of a neighboring property, we disagree.*

543  
544 *Though the solar project, if built at the proposed scale, may not diminish the monetary value of*  
545 *surrounding properties, for the reasons explained previously, it will unquestionably diminish*  
546 *their ecological value.*

547 **Criterion 5:**

548 *In claiming unnecessary hardship, the applicant describes the properties as unique due to the*  
549 *presence of wetlands and the lack of access to roads, public water, and public sewer. However,*  
550 *Criterion 5 challenges the applicant to distinguish their property from other properties in the*  
551 *area, and these same limitations of wetlands, access, and utilities apply to nearly every property*  
552 *in that part of Keene.*

553  
554 *The applicant also argues that the application of the 20-acre limit in the ordinance to their*  
555 *property fails to advance the purpose and intent of the ordinance and that their proposed use is*  
556 *reasonable. Again, they seem to be asserting that the only purpose and intention of the ordinance*  
557 *is to advance solar development, failing to acknowledge that the included 20-acre limit is just as*  
558 *significant an expression of purpose and intent. Had the ordinance not intended to limit the*  
559 *footprint of solar development, it would not have included such a limit.”*

560  
561 Mr. Ryan stated that he urges the Board to decline to grant these Variances.

562  
563 Anne Faulkner of 42 Hurricane Rd. stated that the Board has heard some technical ideas from  
564 Mr. King, and some scientific thoughts from Mr. Ryan, and she agrees with all of them. She  
565 continued that she has a couple things to add, one aesthetic and one emotional. Regarding  
566 looking at solar panels, the applicants have talked about how hiding it in the woods is great  
567 because no one has to see it. She feels like people should be able to see where their energy  
568 comes from and they should be proud to see solar panels on their roofs, alongside their  
569 highways, at the landfill, and so on and so forth. They should not have to hide these things. Part  
570 of embracing their clean energy future is to see where their energy comes from. Her emotional  
571 reaction to the applicants saying there is “no other viable alternative for this land” is that growing  
572 trees, sequestering carbon, supporting wildlife, and recreation are viable uses. They might not  
573 have the financial return of a solar farm, but they are of public value.

574  
575 Ms. Faulkner stated that she has been wondering if the Community Development Department, or  
576 someone else, has done an inventory of prospective sites in Keene where someone could have a  
577 20-acre or 10-acre (solar project), or just rooftops, and whether the City has looked at the landfill  
578 (as a potential site). It is great that the City has these goals for renewable energy, and she  
579 wonders if they have done any mapping of what the options are in Keene.

580  
581 Mr. Rogers replied that staff has not done an overall inventory, but with the Land Development  
582 Code (LDC), they took into consideration allowing for and trying to expand the ability for  
583 rooftop solar to occur, making it more of an accessory-type use that would be allowed on  
584 basically any piece of property as long as it is accessory to the uses on that property. Doing an  
585 overall inventory of available lots or locations (for solar) is not something they had expanded  
586 into.

587  
588 Chair Hoppock asked if there were any other comments in opposition. Corinne Marcou, Zoning  
589 Clerk, replied that the Board received a letter in opposition from Eloise Clark.

590 Chair Hoppock read the letter into the record:

591

592 *“I would like to comment on the proposed Zoning changes to the Rural District at 0 Gilsum Rd.*  
593 *in Keene to accommodate the development of Keene Meadow Solar Station. Lynn M. Thomas*  
594 *and Cynthia Brown Richards are the landowners requesting the changes. This is an enormous,*  
595 *industrial-scale development in the Rural District. According to the packet we received at the*  
596 *Keene Conservation Commission meeting, the development will encompass 240 acres. This*  
597 *includes 75 acres of solar panel modules alone, plus batteries and inverters, a substation, roads,*  
598 *storage areas, cleared areas, and buffers between and around the modules. Allowing a*  
599 *development of this scale will set the precedent for other areas of the Rural District to be*  
600 *developed, perhaps with less desirable industries. Once the precedent is set, the door will be*  
601 *open to other development. Storm water management will be a challenge with the creation of*  
602 *such a large area of impermeable surface. Excessive runoff of precipitation to the east would*  
603 *impact the Beaver Brook watershed. To the west, it will impact the greater Goose Pond forest.*  
604 *Flooding can be an issue for the valley floor of Keene. The best protection from increased*  
605 *flooding in Keene is to keep the steep hillsides and upland areas forested.*

606

607 *Site preparation:*

608 *Converting land from forest to meadow involves removing the tree stumps over many acres.*  
609 *Bulldozing removes and disturbs productive forest soils. Loss of both forest cover and soils*  
610 *eliminates the existing, intact, healthy ecosystem. For example, salamanders spend most of the*  
611 *year in these upland soils that would be eliminated. Much of their population would be unable*  
612 *to return to the existing vernal pools. Old Gilsum Rd. would need to be upgraded to*  
613 *accommodate heavy machinery during construction. It would also need to be maintained so*  
614 *truck traffic can access the site for maintenance. The road is used by many pedestrians and*  
615 *bicyclists, creating a conflict in use. The greater Goose Pond forest and surrounding area is*  
616 *heavily used for recreational purposes by large numbers of people. An industrial facility is not*  
617 *compatible.*

618

619 *Power generation:*

620 *Because of the nature of the electrical grid, power generated at the site would flow into the*  
621 *larger electrical stream. It would not necessarily go directly to Keene.*

622

623 *My recommendations:*

624

625 *1. Keep the healthy forest intact. Young trees will continue to sequester or absorb carbon from*  
626 *the atmosphere at an accelerated rate for the first 60 years of their growth. Mature trees will*  
627 *store carbon for centuries beyond the 40-year lifespan of this installation.*

628 *2. Encourage solar development in waste areas such as the former Kingsbury site. The Keene*  
629 *Transfer and Recycling Station has sunny areas perfect for an installation. Many commercial*  
630 *parking lots sit half full of vehicles. Light industry is often surrounded by large acreage. For*  
631 *example, the area proposed for storage units on Optical Ave. Why not solar installations there?*  
632 *Please use these areas first.*

633 3. *Building rooftops. There are many acres of commercial, manufacturing, and residential*  
634 *rooftops that could house solar panels. With proper battery storage, these sites could spawn a*  
635 *movement toward decentralized electric grid. This type of energy generation would be less*  
636 *subject to the recent outages that have affected so many in recent months.*

637  
638 *Thank you for your attention to this letter. I recognize you have a difficult choice to make.*

639  
640 *Sincerely,*  
641 *Eloise Clark*  
642 *1185 Roxbury Rd., Keene, NH”*  
643

644 Chair Hoppock asked for further comments in opposition. Hearing none, he asked for comments  
645 in support. Hearing none, he invited the applicant to give rebuttal.  
646

647 Mr. Leino stated that wildlife movement corridors were brought up, and that is an important part  
648 of any development project, including this one. A couple things have been considered here; as  
649 mentioned, they have a wildlife scientist on staff for this project. He can tell them definitively  
650 that the fencing around this will be a type that any animal smaller than deer can get through, so  
651 that migration corridors and that central wetlands area, and so on and so forth, will all be kept  
652 intact with proper buffers and that is something that the applicant has considered. There was a  
653 question about the unique nature of these parcels, because there is a bunch of forested, less  
654 developed parcels in the area. This is the only location in the area that has two transmission lines  
655 intersecting. In terms of visuals, he does not disagree, and in terms of what Ms. Clark said about  
656 putting (solar) in town, they are at City Hall here and he thinks it is great to have them on top of  
657 garages. It is a good job for everyone to do their part, and they are certainly not trying to hide  
658 these (solar panels) because they do not think it is a good idea to promote green energy. As  
659 mentioned previously, there are trails, and the public has been welcome to this site and will  
660 remain so. If they want to walk, he is sure they can make trails so people can see the glory that is  
661 a large solar facility, if that is something they want to do, but the solar facility will not be visible  
662 from the road.  
663

664 Mr. Leino continued that regarding Ms. Clark’s letter, the Board knows this, but for the benefit  
665 of the public, the Board is a non-precedential body. Just because Keene Meadow Solar gets  
666 something does not mean their neighbor gets it, too. Just because you can build a deck with a  
667 Variance to allow a foot into the setback, it does not change the Zoning in the city. He feels for  
668 what the abutters have said, and they do recognize the benefit of conversation forests. This  
669 forest has been extensively logged. It is an active use. They are talking about conservation  
670 restrictions on neighboring lots, which are a wonderful, beneficial thing for the city and the state,  
671 but this is private property. Certain uses are allowed by right on this property, including single-  
672 family residential development. With the acreage they discussed, the owners could figure out a  
673 way, if they wanted, to put that in there. It would be a lot of site work and expense and would be  
674 very disruptive, whereas solar allows the water to run under (the solar panels), allows the  
675 wildlife corridors to exist, and is trimmed twice a year, but it is a shrub wetland that would

676 remain for all those areas, making it a good use. He understands that the abutters would prefer  
677 this be a forest in perpetuity and be used for conservation land, but it is private property, so  
678 unless the City wants to take it, that is really not what is in front of the Board tonight.

679

680 Chair Hoppock asked if there were any other comments in support. Hearing none, he offered  
681 time for Mr. Jackson for rebuttal.

682

683 Mr. Jackson stated that he will try to respond to the individual points, but from a broad level, he  
684 outlined the founding principle of the company, which is to generate clean, reliable energy at an  
685 affordable cost. Many of the views expressed are ones the company also scrutinizes its projects  
686 with, in looking at how to build projects in New England, which is a difficult region to build  
687 projects in, as well as how to preserve as many of the same values that they have that have been  
688 expressed. This site, in the company's view, is still a compelling site that has the viability for  
689 construction, based on both its interconnection as well as the economies of scale that would  
690 allow it to sell electricity affordably as well as be financed and actually be built.

691

692 Chair Hoppock asked if there was any further public comment. Hearing none, he closed the  
693 public hearing and asked the Board to deliberate.

694

695 Mr. Leino stated that Keene Meadow Solar has two similar applications tonight. He asked if the  
696 Board wants to discuss the second application, too, and vote on them in tandem. Chair Hoppock  
697 replied that they will vote on them separately, but if Mr. Leino wants to discuss the second one  
698 prior to the Board deliberating on the first, that is fine. Mr. Gorman suggested Mr. Leino  
699 highlight any differences in the second application, and the Board can assume that what Mr.  
700 Leino and Mr. Jackson said regarding ZBA 23-11 also applies to ZBA 23-12. Mr. Leino agreed.

701

702 Chair Hoppock re-opened the public hearing and introduced ZBA 23-12.

703

704 Mr. Hagan stated that this is 135 acres, and there are no buildings, and no ZBA applications on  
705 file. Mr. Gorman asked what the allowed uses are for this property. Mr. Hagan replied that he  
706 will get that information while the applicants speak.

707

708 Mr. Leino stated that for the sake of completeness of the record, he would like his and Mr.  
709 Jackson's testimony on the previous hearing to be brought into this. He continued that the sites  
710 are abutting. The parcel has been preliminarily designed as one total use of the 480 acres. This  
711 would be 130 acres of solar on a 302-acre parcel, and there are transmission corridors, and so on  
712 and so forth. He does not think he needs to belabor the point if the Board feels that the testimony  
713 from the previous hearing was enough to allow them to adequately discuss the five criteria.

714

715 Mr. Welsh stated that part of the Variance that is sought is a relief for access by a Class VI  
716 highway so that they can apply for street access permit. He asked if that is something the Board  
717 would grant. Chair Hoppock replied that he thought it was for subdivisions in residential areas.  
718 There is a statute on that.

719 Mr. Rogers stated that access to this would need to be granted through the City Council. He  
720 continued that the applicant is aware of that, and it would be a process further down. The statute  
721 Chair Hoppock is referring to would allow the development of a Class VI road but it does require  
722 the approval of the City Council.

723

724 Chair Hoppock asked if that is part of the CUP. Mr. Leino replied that it is its own piece. He  
725 continued that the preliminary application references that, and then as they know, he re-noticed  
726 the 0 Gilsum Rd. because he had a scrivener's error and had referred to them both as "Old  
727 Gilsum Rd.," so he took out that piece. He was curious to see if it would come up. He was not  
728 very familiar with the City's comprehensive Land Use Code, as opposed to it being a Zoning  
729 Ordinance, so he saw a provision in there and thought, "I need relief from that; therefore, I will  
730 apply for a Variance." Mr. Rogers correctly told him, and they had some spirited discussion  
731 about how that is in the comprehensive code but is under the City Council's jurisdiction. Thus,  
732 he does not need relief from that. They also had a lively discussion of road frontage versus  
733 frontage, which are different in the City's Ordinance, and they reached the point where it is  
734 determined that they do not need that tonight.

735

736 Chair Hoppock asked if Mr. Leino wanted to add anything else regarding ZBA 23-12. Mr. Leino  
737 replied no, he believes that citing the testimony previously given is sufficient. There is not much  
738 more he can add unless the Board has questions. Chair Hoppock asked if the Board had  
739 questions. Hearing none, he (opened the public hearing) and asked for comments in opposition,  
740 as long as they are not repetitive.

741

742 Mr. Hagan stated that he has an answer to Mr. Gorman's question: permitted uses in the Rural  
743 Zone, under Section 3.1.5, are "*Residential uses: dwelling, manufactured housing; dwelling,*  
744 *single family; manufactured housing park.*" He continued that commercial uses are "*animal*  
745 *care facility; bed and breakfast with a Special Exception; greenhouse/nursery; kennel.*"  
746 Congregate living uses are "*[group home], small, with a CUP.*" Open space uses are  
747 "*cemetery; community garden; conservation area; farming; golf course, gravel pit with a*  
748 *Special Exception.*" Infrastructure uses are small solar, medium solar, and large solar, and  
749 telecommunications facility.

750

751 Chair Hoppock asked for non-repetitive public comment in opposition.

752

753 Bob King of 42 Hurricane Rd. stated that he opposes this Variance for the same reasons.

754

755 Ryan Owens of the Monadnock Conservancy at 15 Eagle Ct. stated that he would like his  
756 comments to apply to both applications.

757

758 Anne Faulkner of 42 Hurricane Rd. stated that she has the same comments.

759

760 Chair Hoppock invited the applicants to give rebuttal.

761

762 Mr. Leino stated that they have the same rebuttal.

763

764 Chair Hoppock asked for any public comment in favor. Hearing none, he closed the public  
765 hearing and asked the Board to deliberate on both applications, taking them separately.

766

767 Chair Hoppock stated that overall, without focusing on any of the criteria, he is persuaded that  
768 there is a public interest involved in this application and it is supportive of that interest. He  
769 continued that there is a Master Plan in the City with the idea towards green energy and this plan  
770 does promote that. He is comfortable with the applicant's responses regarding wildlife and  
771 forest management, and he knows it will get a further look down the road. He thinks the  
772 balancing test strikes in a remarkably unusual way, in that the public and private benefits are  
773 both impacted, and they are not negatively impacted, in his view.

774

775 Chair Hoppock continued that the hardship piece is the most interesting, with the size of the lots,  
776 and the fact that these transmission lines are there. They have not seen a description of a  
777 property similar to that. He is considering all those things in this application. Regarding the  
778 fourth criteria, he does not see much diminution of surrounding property values from this  
779 application; he does not see any evidence of that happening.

780

781 Mr. Gorman asked to address each criterion individually, for the record, especially in light of the  
782 recent legislation regarding that.

783

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

785

786 Mr. Gorman stated that this is a tough one. He continued that he appreciates the efforts of the  
787 Monadnock Conservancy, and he appreciates hiking in these woods himself. He also appreciates  
788 the balancing act they find themselves in, with the consumption of fossil fuels and life the way  
789 we know it, realizing they have a well-established realization that our impact is negative and  
790 there are viable solutions, solar power being one of them. He thinks that where land is currently  
791 not being used for any practical purpose, albeit good conservation land, it is pointed out and  
792 noted that it is private land and not subject to the opinions of conservationists beyond what the  
793 laws state. It is great that there is so much land conserved around this land. It is great that  
794 efforts will be made to preserve what can be preserved and still provide the community with the  
795 energy it needs in a more sustainable fashion. For those reasons, he thinks this does support the  
796 public interest.

797

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

799

800 Mr. Gorman stated that he cannot help but note that all three size solar structures are allowed in  
801 this zone, so he thinks the spirit of the Ordinance is certainly to propagate or promote solar  
802 activity in this zone. He continued that regarding the size exception, he thinks the lay of the land  
803 speaks, and the abundance of land, in correlation with the 20-acre amount that is allowed, is

804 cause for exception. This is a nearly 300-acre plot and will have 30 acres of solar power, so, he  
805 can get his head around the second criterion.

806  
807 3. *Granting the Variance would do substantial justice.*

808  
809 Mr. Gorman stated that he does not know how else they could use this land in a way that would  
810 not have an adverse impact on the environment. He continued that that is why he requested to  
811 understand what other uses are allowed, and as they made their way through the list, he found  
812 that all of them would impact the natural habitat. Justice, allowing use of the property, would be  
813 served reasonably here with the solar farm.

814  
815 4. *If the Variance were granted, the values of the surrounding properties would not be*  
816 *diminished.*

817  
818 Mr. Gorman stated that the values would not be diminutized, in his estimation. He continued  
819 that the Board did not really hear any argument or basis that would indicate so.

820  
821 5. *Unnecessary Hardship*

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

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

827 and

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

829  
830 Mr. Gorman stated that he thinks the unique nature of the property does provide hardship. The  
831 location of the other electrical power stations makes it a very viable and reasonable use, and he  
832 thinks the other allowed uses are not as reasonable. He thinks this land does create some  
833 hardship and this use alleviates the hardship.

834  
835 Mr. Welsh stated that what stuck in his mind as he was reading this application was the scale of  
836 the difference between what the Code permits and what they are asking for. He continued that at  
837 points in the narrative and the applicant's presentation, he heard some definition of what the  
838 public interest is in this situation. More than anything else, the LDC defines that public interest  
839 for the purpose of the Board, and it says, "20 acres." He was listening to the presentation and  
840 trying to figure out why 20 acres (was chosen) instead of an endless amount of acres, or 50 acres,  
841 or something that would decrease the margin of the scale between what is being asked and what  
842 is permitted, and he did not hear why 20 is the number. He is also hearing that adherence to 20  
843 is potentially feasible but very expensive, and if actually pursued, probably more harmful to  
844 some of the conservation values that he thinks the 20-acre limit aims to protect, than permitting a  
845 larger scale. Thus, he is persuaded that granting the Variance would not be contrary to the public  
846 interest.

847 Mr. Welsh continued that the spirit of the Ordinance is the resolution versus the LDC. There is  
848 an argument here that “If one, then two” in the application, that if the first criterion is satisfied  
849 then the second criterion is as well. He is not sure he buys that, but it is interesting. Regarding  
850 the diminishment of value to surrounding landowners, he finds it compelling that there is value  
851 in conservation value of the surrounding properties, and he is not sure that is not measured or  
852 argued for here, but he is not sure where that argument ends in other areas where people are  
853 making applications, too. He is not sure where his head is on diminishment of value. The  
854 others, he is eager to hear, and is still thinking.

855

856 Chair Hoppock stated that regarding the fourth criteria and the issue of value, unfortunately, the  
857 law is clear about “value” meaning “monetary.” He continued that it does not really address  
858 intangible value like conservation land, enjoyment of natural beauty, and so on and so forth. He  
859 feels confined by that definition, in terms of how he is assessing it.

860

861 Chair Hoppock continued that the special conditions of the property seem to be the size and the  
862 coincidental location of the intersection of the power lines. The 20-acre limitation seems to him  
863 to have been arrived at when they look at the average size of a Rural District lot. It would have  
864 been better if it had been proportional, but it is not, so they cannot address that. To him, there is  
865 no fair and substantial relationship between the limit of 20 acres and the size of the land. In fact,  
866 it creates unnecessary hardship, because there is a lot of room on this land to do what the  
867 applicants want to do. Overall, it will have very little impact, in terms of the imperviousness of  
868 the ground and the way they will manage other features of the land, like wildlife migration and  
869 the water flows. He does not agree with Ms. Clark’s comments about water flow and flooding.  
870 In any event, he finds the unnecessary hardship criterion satisfied here.

871

872 Mr. Gorman stated that he agrees with Chair Hoppock and Mr. Welsh that there is, undoubtedly,  
873 an impact to the conservation land by developing this. He continued that he just does not think it  
874 is financial, as Chair Hoppock suggested. The fourth criterion asks, specifically, about the  
875 financial value of surrounding properties. Chair Hoppock replied that if you put a landfill in a  
876 residential neighborhood, it would hurt property values, yes.

877

878 Mr. Welsh replied that it is helpful for him to know that there is case law establishing “financial  
879 value” as the criteria. He continued that if someone places a permanent object in a particular lot,  
880 like a house or other development, and it is not pleasant to look at but does not do anything to the  
881 property values, one could make an argument that it diminishes the use or enjoyment of one’s  
882 property. However, if financial value is the basis, that is different.

883

884 Chair Hoppock replied that he thinks they mean financial value when this is discussed in the  
885 cases. Mr. Gorman replied that he would say that maybe, if you were going to have some sort of  
886 other, non-financial impact – such as rightful, peaceful enjoyment - you could probably place  
887 that under the first criterion regarding public interest. Mr. Welsh stated that what people enjoy  
888 about all this land is the ability to walk on it, exercise, and see nature, and it does not sound like  
889 the applicant intends to limit that. He continued that it sounds like there is some room for

890 movement, as the application moves forward, to consider those kinds of uses. Chair Hoppock  
891 replied that from that perspective, there will certainly be other opportunities for people who care  
892 about those issues to speak their mind. He continued that the Board's focus is quite narrow.

893

894 Chair Hoppock asked if anyone had anything further to add to the deliberations. Hearing none,  
895 he called for a vote on the criteria.

896

897 Mr. Gorman made a motion to approve ZBA 23-11. Chair Hoppock seconded the motion.

898

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

900

901 Met with a vote of 4-0.

902

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

904

905 Met with a vote of 4-0.

906

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

908

909 Met with a vote of 4-0.

910

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

913

914 Met with a vote of 3-1. Mr. Clough was opposed.

915

916 5. *Unnecessary Hardship*

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

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

922 *and*

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

924

925 Met with a vote of 4-0.

926

927 The motion to approve ZBA 23-11 passed with a vote of 3-1. Mr. Clough was opposed.

928

929 **E. Continued ZBA 23-12: Petitioner, Keene Meadow Solar Station, LLC, of Boston**  
930 **MA, represented by A. Eli Leino of Bernstein, Shur, Sawyer & Nelson of**  
931 **Manchester NH, requests a Variance for property located at 0 Old Gilsum Rd., Tax**  
932 **Map #213-006-000-000-000, is in the Rural District and is owned by Platts Lot, LLC**

933 **of West Swanzey, NH. The Petitioner requests to permit a 135 acre large scale**  
934 **ground mounted solar energy system where 20 acres is allowed per Chapter 100,**  
935 **Article 8.3.7.C.2.b of the Zoning Regulations.**  
936

937 Mr. Gorman stated that the record should reflect the Board's comments on the five criteria for  
938 ZBA 23-11 as applying to ZBA 23-12 as well. Chair Hoppock agreed.  
939

940 Mr. Gorman made a motion to approve ZBA 23-12. Chair Hoppock seconded the motion.  
941

942 1. *Granting the Variance would not be contrary to the public interest.*  
943

944 Met with a vote of 4-0.  
945

946 2. *If the Variance were granted, the spirit of the Ordinance would be observed.*  
947

948 Met with a vote of 4-0.  
949

950 3. *Granting the Variance would do substantial justice.*  
951

952 Met with a vote of 4-0.  
953

954 4. *If the Variance were granted, the values of the surrounding properties would not be*  
955 *diminished.*  
956

957 Met with a vote of 3-1. Mr. Clough was opposed.  
958

959 5. *Unnecessary Hardship*

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

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

965 *and*

966 ii. *The proposed use is a reasonable one.*  
967

968 Met with a vote of 4-0.  
969

970 The motion to approve ZBA 23-12 passed with a vote of 3-1. Mr. Clough was opposed.  
971

972 The ZBA recessed at 8:05 PM and returned to order at 8:10 PM.  
973

974 **F. ZBA 23-14: Petitioner, Monadnock Affordable Housing Corp. of 831 Court St.,**  
975 **Keene, represented by Stephen Bragdon of 82 Court St., requests a Variance for**

976 **property located at 438 Washington St., Tax Map #531-054-000-000-000, is in the**  
977 **Low Density District and is owned by the Community College System of New**  
978 **Hampshire of 28 College Dr., Concord, NH. The Petitioner requests a Variance to**  
979 **allow buildings which cover more than 35% of the lot, impervious surfaces of more**  
980 **than 45% coverage, and less than 55% green/open space per Chapter 100, Article**  
981 **3.3.3 of the Zoning Regulations.**

982  
983 Chair Hoppock introduced ZBA 23-14 and asked to hear from staff.

984  
985 Mr. Hagan stated that 438 Washington St. is located in the Low Density District. He continued  
986 that the existing building was built in 1926. The square footage is 19,417. Three Variances were  
987 granted in March, ZBA 23-06 for multi-family use, ZBA 23-07 for area coverage, as well ZBA  
988 23-08 for a Special Exception for parking.

989  
990 Chair Hoppock stated for the record that Ms. Taylor is back.

991  
992 Chair Hoppock asked to hear from the applicant.

993  
994 Stephen Bragdon of 51 Railroad St. stated that he is representing Monadnock Affordable  
995 Housing Corporation, which is a subsidiary of Keene Housing. He continued that he and Josh  
996 Meehan are here because they made a mistake at the earlier meeting, in that the plan did not  
997 include a common area for all of the residents. He will let Mr. Meehan talk about the necessity  
998 for that.

999  
1000 Mr. Meehan stated that technically, they had a common area (in the plan), but it was not big  
1001 enough, so they had to increase the size of the community room. He continued that all of  
1002 (Monadnock Affordable Housing Corporation's) properties that were built recently, and any that  
1003 rely on the low income housing tax credit program for investment for capital to build the  
1004 properties, are required to have a community space. They had a community space, but long story  
1005 short, they want to make it a little bigger and have a bathroom attached to it, and an office. Thus,  
1006 they are coming back to the Board to increase, with a less than 2% increase from what they came  
1007 to the Board with last time. They do not need the 2% they are asking for; they need slightly less  
1008 than that. However, asking for 2% means that if they need to push the room out a couple more  
1009 feet for some reason not yet known, they will be covered. They would not have to come back to  
1010 the Board again to ask for another .2% or whatever it is.

1011  
1012 Mr. Bragdon stated that they can show the Board the area in question, on the plan. He continued  
1013 that it is on the right side of the bottom part of the plan. One of the plans they submitted does  
1014 show the plan from before, and the new one shows the area that they are increasing. He thinks it  
1015 is the one on the left, but he is having trouble seeing it from where he is sitting. The bottom line  
1016 is they are increasing the building by 1.3%. They are requesting a 2% waiver on all the areas  
1017 that they asked for before - the impervious surface coverage, the building coverage, and the  
1018 green area. The Board has granted them permission to go to 28% on the building coverage, with

1019 impervious coverage of 64%, and green space coverage of 36%. They are asking for all of those  
1020 to be increased by 2%. Again, they do not want to come back to the Board again if they make a  
1021 small mistake. The actual change is a 1.3% increase. They are asking for 30% building  
1022 coverage, impervious surface coverage of 66%, and open space/green area of 35% coverage. He  
1023 asks that the Board members who were here for the previous hearing take into consideration  
1024 what was said before. They are prepared to answer any questions at this point, or if the Board  
1025 prefers, they can go quickly through the criteria.

1026

1027 Chair Hoppock asked Mr. Bragdon to go through the criteria for the record.

1028

1029 1. *Granting the Variance would not be contrary to the public interest.*

1030

1031 Mr. Bragdon stated that as was said at the previous meeting, this is the old Roosevelt School. He  
1032 continued that it is unused in its current condition and is off the tax rolls. This allows some  
1033 development of the property as the community has a significant need for housing. Allowing this  
1034 development serves the public interest; it serves lower-income people. For that reason, it is not  
1035 contrary to the public interest.

1036

1037 2. *If the Variance were granted, the spirit of the Ordinance would be observed.*

1038

1039 Mr. Bragdon stated that this is in the spirit of the Ordinance because the Master Plan talks about  
1040 adoption of and the need for more housing. In addition, the housing density incentive in the  
1041 Conservation Residential Development of the CRD points to support for this type of  
1042 development and the support for reducing the area requirements if it does in fact serve the need  
1043 of housing.

1044

1045 3. *Granting the Variance would do substantial justice.*

1046

1047 Mr. Bragdon stated that any loss to an individual that is not outweighed by a gain to the general  
1048 public is an injustice. He continued that in this particular case, it is clear that the damage to an  
1049 individual does not outweigh the general public's interest in this project.

1050

1051 4. *If the Variance were granted, the values of the surrounding properties would not be  
1052 diminished.*

1053

1054 Mr. Bragdon stated that at the present time, it is a dilapidated, unused building that serves no  
1055 purpose. He continued that the new building would be much more beneficial to the  
1056 neighborhood in its appearance and use.

1057

1058 5. *Unnecessary Hardship*

1059

1060 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:*

1061                   i.       *No fair and substantial relationship exists between the general public*  
1062                   *purposes of the ordinance provision and the specific application of that provision to the*  
1063                   *property because:*  
1064

1065 Mr. Bragdon stated that it would allow the use of this existing structure, which otherwise is  
1066 virtually useless. He continued that the only use that could be made of this would be for some  
1067 entity not subject to the Zoning Ordinance to buy it and turn it back into a school. Other than  
1068 that, there is no other feasible way to make use of the premises that does not increase the  
1069 impervious surface.  
1070

1071 Mr. Welsh stated that he has a question/slight concern. He continued that Mr. Bragdon described  
1072 the reason for changing the percentages in the application, and therefore the reason for being  
1073 here, as the addition of a larger-sized common room. He noticed the application has a survey  
1074 that recalculated the overall acreage of the site.  
1075

1076 Mr. Bragdon replied that that is true. He continued that he specifically asked this, and regarding  
1077 the decrease in the area of the lot that was determined after it was surveyed, from he thinks 3.7 to  
1078 3.13, these calculations were not based on that 3.7 value. They were based on the actual acreage  
1079 that they found existed there when they did the survey. He saw that in there, too, and it was  
1080 confusing.  
1081

1082 Mr. Welsh asked if they are sure that the 2%, they are asking for will be enough margin. Mr.  
1083 Bragdon replied that they certainly hope so.  
1084

1085 Mr. Gorman asked if the federal mandates for these common spaces include a size mandate. Mr.  
1086 Meehan replied yes, for the low income tax credit program that is administered by the NH  
1087 Housing Finance Authority (NHFA), they determine what they like to see in an application. The  
1088 NHFA lays out dimensions for community space with this is one larger than the minimum  
1089 requirement. Again, they want to have a bathroom right there, and it is also important to have an  
1090 office there so that when resident services are being delivered, which require a degree of privacy,  
1091 a resident and the service coordinator have a private place to be.  
1092

1093 Mr. Gorman stated that he has a second part to the same question. He continued that 1.3% is  
1094 ambiguous to him because he cannot see any of these measurements. He asked how much  
1095 square footage they are talking about. Mr. Meehan replied that he wishes he had the answer to  
1096 that off the top of his head. Mr. Bragdon replied that he is not sure if it is on the plan. He  
1097 continued that he would look.  
1098

1099 Mr. Hagan stated that the total square footage of the lot is about 103,595, according to the plan.  
1100 He continued that 1.3% is about 1,300 square feet of additional space. Those are not exact  
1101 calculations. Mr. Gorman stated that 2% would be about 2,500 square feet, plus or minus. Mr.  
1102 Hagan replied yes, a touch over 2,000 square feet.  
1103

1104 Mr. Bragdon stated that they do not anticipate it being 2%. He continued that with what  
1105 happened last time, they wish they had asked for a little more then.

1106  
1107 Mr. Gorman asked how big, roughly, the initial room was, asking if they are doubling it,  
1108 quadrupling it, or what. Mr. Meehan replied no, they are not doubling it. He continued that he  
1109 does not have these numbers in his head, but (he thinks) a third. He takes responsibility for this;  
1110 he asked the architects to change the plan.

1111  
1112 Ms. Taylor stated that she has a couple of questions, to help her understand. She continued that  
1113 the original plan had a community room. She cannot read these plans, either and asked if it is  
1114 correct that what they are asking for is an increase in size for their convenience.

1115  
1116 Mr. Meehan replied that he would say for the convenience of the residents who will be living  
1117 there. Ms. Taylor replied that they cannot judge for the residents. Mr. Meehan replied that they  
1118 are trying to accommodate the folks who will be living there, so that they have enough space for  
1119 games, events, and activities that they typically see on the property. Ms. Taylor replied that her  
1120 concern rises considering what the Board has to look at, and the criteria they have to meet, is that  
1121 – and her comment would be the same whether (the increase) was 1% or 100% - they already  
1122 have the Variance that allows them to do this community room, but they want an additional  
1123 Variance so they can have a larger community room.

1124  
1125 Mr. Bragdon stated that his answer to that is that this is a de minimis request, that it is a very  
1126 small request. If they wanted to completely change this, he thinks that would be a valid  
1127 argument, but it is something that was forgotten and was not included, and if it had been  
1128 included, he believes it would have been granted. They are here just trying to make sure they  
1129 comply with all the rules. Yes, this increases the size slightly, but it is de minimis.

1130  
1131 Chair Hoppock asked if it is fair to say, in summary, that the same criteria/same rationale they  
1132 used to obtain their earlier Variance is applicable here, and they would have asked for this  
1133 amount previously, had they realized the mistake. Mr. Bragdon and Mr. Meehan replied yes.  
1134 Chair Hoppock replied that in that case, nothing has changed, in terms of the reasons for the  
1135 Variance. Mr. Bragdon replied it is the same, which is why he asked that they recognize that the  
1136 same arguments from when the request was made originally apply here as well.

1137  
1138 Chair Hoppock asked if there were any further questions. Hearing none, he continued that he  
1139 does not see any members of the public present to give comment.

1140  
1141 Ms. Taylor asked if the expanded community room that they want to construct will be in the  
1142 same location as on the original plans the Board saw, or if this will change any configuration of  
1143 the buildings. Mr. Meehan replied that he seems to remember that they had to move one of the  
1144 apartments around a little bit to make it work, and that is part of the need for the change. Ms.  
1145 Taylor asked which building. Mr. Meehan replied to the school building. Mr. Bragdon stated  
1146 that he will pass around copies of the plan and circle the area in question.

1147 Mr. Gorman stated that at the end of the day, it is not impacting the number of units, number of  
1148 bedrooms, or anything like that. He continued that it has no material impact from a Zoning  
1149 perspective, but maybe from someone else's viewpoint. Chair Hoppock asked if it is correct that  
1150 they are not changing parking or square footage of rooms other than the common room. Mr.  
1151 Gorman replied that the common room will be bigger and one of the apartments will be altered,  
1152 but the number of sleeping rooms is unchanged. Mr. Meehan replied that nothing is changing  
1153 other than having to reorient one of the apartments; that is exactly right.

1154

1155 Mr. Rogers indicated the plan on the screen and showed the area of the increase.

1156

1157 Chair Hoppock asked if anyone else had anything to add. Hearing none, he continued that there  
1158 are no members of the public present, so he will close the public hearing and ask the Board to  
1159 deliberate.

1160

1161 Mr. Gorman stated that he agrees with Mr. Bragdon that had the Board heard this presented this  
1162 way, speaking for himself, the outcome would not have been any different. He continued that it  
1163 would have been unbeknownst to him that this was even occurring. He would have just  
1164 approved of the Variance, for all the same reasons that he did, regardless of the size of the  
1165 community space that he did not really even know existed. He was more concerned with the  
1166 number of units, parking, benefit to the public, and so on and so forth, all the issues they touched  
1167 upon. Without belaboring all those points again, he would say for the record that his responses  
1168 to all five criteria would be identical to his responses to them in ZBA 23-06 [ZBA 23-07] at the  
1169 March meeting. He echoes all his sentiment from that, if that is appropriate.

1170

1171 Mr. Welsh stated that he had that question. He continued that it strikes him that everything they  
1172 are hearing about tonight is, while he is glad the applicants are here, fairly de minimis. He does  
1173 not recall any of this being the subject of the original deliberations that resulted in the Variance,  
1174 and he does not see this really changing the Variance. He wonders if it is possible to bring their  
1175 discussion and rationales forward from the March meeting and apply them to the reasons for  
1176 approval here.

1177

1178 Chair Hoppock stated that he recalls that the public interest argument made, in terms of the  
1179 public housing need, was strong and there was a lot of public support for that. Mr. Gorman  
1180 replied that there was also talk about and support of the fact that this property is not viable for  
1181 any other real purposeful use, and that a vacant property has a substantial amount of negative  
1182 impact on the neighborhood.

1183

1184 Chair Hoppock stated that he recalls one abutter opposed - the neighbor who would look down  
1185 on it. Mr. Gorman replied that the Board put in the screening contingency.

1186

1187 Ms. Taylor stated that she probably agrees with what has been said, but she thinks they need to  
1188 create a record on this that is a little more specific. She continued that thus, she will briefly go  
1189 through the criteria. Clearly, the ability to move forward with the public housing option on this

1190 property is in the public interest, because of what they have said about the need for housing and  
1191 the need for this particular type of housing. The spirit of the Ordinance will be observed. She  
1192 thinks their reasoning was in part because this was kind of an orphaned piece of property on the  
1193 City's records. It was an educational use and then sort of fell into a black hole. It would be  
1194 redevelopment within the concept residential use. This is a transitional area with some multi-  
1195 family housing nearby. She thinks it meets that (second criterion). Regarding substantial justice,  
1196 she thinks it goes back to the public interest. She is not sure what the private benefit would be of  
1197 staring at a rundown, empty building on a vacant lot. Regarding values, if this development will  
1198 do anything, she thinks it may bring up the values of surrounding properties. She does not have  
1199 anything other than personal knowledge to base that on; the Board has not necessarily had any  
1200 kind of detailed information; however, property value will improve if you are not next to a  
1201 vacant, derelict lot.

1202

1203 Ms. Taylor stated that the one question she had, which she thinks has been answered, goes to the  
1204 unnecessary hardship. That is why she was asking questions regarding whether this was just  
1205 convenient or whether it was a requirement. She thinks that was answered, because when you  
1206 look at the configuration of the lot and look at where the increase in dimensions is going to be,  
1207 she thinks it makes sense. It is definitely reasonable. The hardship would simply be that there  
1208 would be no other place to put it without it having a negative impact on the development. Thus,  
1209 she sees the hardship being a little bit different from what they had in ZBA 23-06 [ZBA 23-07],  
1210 but she still thinks (this criterion) has been met.

1211

1212 Chair Hoppock stated that he agrees with all those remarks. He continued that he goes back to  
1213 his prior comment – but for the mistake, it would be the same application.

1214

1215 Mr. Rogers stated that for clarification, ZBA 23-07 was the one that specifically dealt with lot  
1216 coverages. He continued that there were multiple Variances.

1217

1218 Mr. Gorman made a motion to approve ZBA 23-14. Chair Hoppock seconded the motion.

1219

1220 1. *Granting the Variance would not be contrary to the public interest.*

1221

1222 Met with a vote of 5-0.

1223

1224 2. *If the Variance were granted, the spirit of the Ordinance would be observed.*

1225

1226 Met with a vote of 5-0.

1227

1228 3. *Granting the Variance would do substantial justice.*

1229

1230 Met with a vote of 5-0.

1231

1232 4. *If the Variance were granted, the values of the surrounding properties would not be*  
1233 *diminished.*

1234

1235 Met with a vote of 5-0.

1236

1237 5. *Unnecessary Hardship*

1238 A. *Owing to special conditions of the property that distinguish it from other*  
1239 *properties in the area, denial of the variance would result in unnecessary hardship because*

1240 i. *No fair and substantial relationship exists between the general public*  
1241 *purposes of the ordinance provision and the specific application of that provision to the*  
1242 *property*

1243

1244 Met with a vote of 5-0.

1245

1246 The motion to approve ZBA 23-14 passed unanimously.

1247

1248 Ms. Taylor stated that for the record, regarding the unnecessary hardship, the use is reasonable.  
1249 Chair Hoppock agreed and asked for others' opinions. He continued that he sees everyone's  
1250 heads nodding.

1251

1252 V) **New Business**

1253

1254 Chair Hoppock asked staff if there is new business.

1255

1256 Mr. Rogers stated that there is a request for the Board to have a special meeting on May 16 from  
1257 an applicant who wishes to apply under Section 18.3.4. This is for a property that was non-  
1258 conforming in many ways as it was a two-family home on a substandard lot as far as square  
1259 footage. It did not even have enough square footage to be a single-family home, but it had a  
1260 two-family home on it. It is on a corner lot, so it also had non-conforming setbacks, though he is  
1261 not sure how many. This section of the Zoning Ordinance has an allowance for when there has  
1262 been a disaster of some sort outside of the control of the owner, giving them the ability to  
1263 rebuild, as long as a building permit has been issued within one year. May 24, 2022 was when  
1264 the fire occurred at this structure. The structure has since been removed due to its being beyond  
1265 repair, per the insurance company's determination. This section of Code says: "*In the event that*  
1266 *any non-conforming structure is damaged or destroyed without any contributing fault by the*  
1267 *property owner or tenant, it may be repaired or rebuilt to the same size and dimension as*  
1268 *previously existed, provided that a building permit is obtained within one year following the*  
1269 *damage or destruction, unless an additional one year extension is granted by the Zoning Board*  
1270 *of Adjustment.*"

1271

1272 Mr. Rogers continued that a new buyer is potentially interested in this lot. He is not sure if the  
1273 property owner was aware of that time limit or not, but when they reached out to the City, staff

1274 made them aware. They were not able to get onto the Board's monthly agenda in time. As such,  
1275 there is a request for a special meeting if the Board is able to do so.

1276  
1277 Chair Hoppock asked if what they want is an extension of that provision for another year, and if  
1278 it is correct that they do not have a building permit yet. Mr. Rogers replied that is correct, that  
1279 would be the application in front of the Board, if they were able to hold the special meeting on  
1280 the 16<sup>th</sup>. The Zoning Code is silent on what criteria would need to be met for that extension to be  
1281 granted, so it would be a Board decision.

1282  
1283 Ms. Taylor asked if that means building in the same footprint and building the same type (of  
1284 structure). Mr. Rogers replied that it does not necessarily need to be right in that exact same  
1285 footprint. He continued that if they wanted to move it away from the corner a bit, they could.  
1286 They can make it more conforming if they want but cannot make it any less conforming. For  
1287 example, they could not move it closer to the street. Because it was previously non-conforming  
1288 due to the use as a two-family, they would be allowed to rebuild a two-family home. They could  
1289 put it right back in the same footprint or move it back to try to be less non-conforming with the  
1290 setbacks.

1291  
1292 Chair Hoppock asked if it is correct that the only issue for the Board would be whether to grant  
1293 the one-year extension to get the building permit. Mr. Rogers replied that that is correct. He  
1294 continued that staff has taken the stance that if the Board is so inclined to hold a special meeting,  
1295 they would require the applicant to notice for that meeting any abutters, so the Board would be  
1296 able to hear from abutters, since it is such a non-compliant lot in many ways. Staff felt  
1297 uncomfortable not noticing this extension; they will be noticing abutters as they would with most  
1298 other applications.

1299  
1300 Chair Hoppock asked if, given that the only question is whether to extend the deadline for the  
1301 building permit, the Code Enforcement staff are the ones who enforce what can go in there once  
1302 the building permit is issued. He asked if it is correct that the Board does not decide what can be  
1303 built. Mr. Rogers replied that that is correct and that staff would look at it and look at their  
1304 records. They knew there was a two-family home there. They would have to do a little research  
1305 on setbacks, but obviously, if the applicant told them they were going to move it back and over,  
1306 that would make it a very simple application from staff's side.

1307  
1308 Mr. Gorman asked if it is correct that if the Board did not hold this special meeting, the applicant  
1309 would have to come in for a Variance for whatever they want to build there. Mr. Rogers replied  
1310 that that is correct, that once May 24 passes, if the Board has not heard or granted any extension,  
1311 at that point, a Variance would be required to do anything on that. It is a corner lot, and thus  
1312 there are additional setback requirements that might be problematic. Even building a single-  
1313 family home on that lot would require a Variance, if May 24 comes without an extension to the  
1314 rebuild time period.

1315

1316 Mr. Gorman asked if May 24 is (one year) from the fire, or from the demolition of the remains.  
1317 Mr. Rogers replied that it is one year from the fire, is the interpretation of the way it reads. Mr.  
1318 Gorman replied that that determination makes sense to him, because otherwise, someone could  
1319 just never demolish it and buy themselves a bunch of time. He continued that the only reason he  
1320 asks is because if it was from the time of demolition, he would say the onus would be on the  
1321 property owner for not having done anything yet, but if it is from the time of the event (fire), he  
1322 can see how that would take a year. Mr. Rogers replied that the wording is “*a building permit is*  
1323 *obtained within one year following the damage or destruction.*”

1324  
1325 Chair Hoppock asked if they needed to vote to have a special meeting. Mr. Rogers replied that  
1326 they do not need to vote but could decide by consensus if a quorum is available May 16. They  
1327 need to make sure a room would be available, which limits them, timewise. May 16 was the date  
1328 that gave staff enough time to get a meeting room available and do the noticing properly.

1329  
1330 Mr. Welsh stated that he will not be here on May 16, and that he gathers that the primary purpose  
1331 of the meeting is to allow for this to be noticed and for the public to have an opportunity to  
1332 respond to the Board’s decision, which seems important. It seems like a decision the Board  
1333 could make quickly. If there were no need for notice, he would be willing to put in his two cents  
1334 right now and say yes, go for another year. Ms. Taylor replied that they cannot do that. Mr.  
1335 Rogers replied that they cannot make a decision tonight, since it was not properly noticed and  
1336 agendized. He continued that the applicant is aware that they might only be able to have a three-  
1337 member Board (on the 16<sup>th</sup>) and want to move forward in any way they can.

1338  
1339 Chair Hoppock stated that he will be available on May 16. Mr. Gorman stated that off the top of  
1340 his head, he believes he is available as well. He continued that he could chime in via phone or  
1341 Zoom if he had to. He assumes this will not even need a presentation; the meeting would be held  
1342 mainly to see if the public shows any interest in the matter. Chair Hoppock added, or with  
1343 compelling reason not to extend the deadline. Ms. Taylor stated that she can make it on the 16<sup>th</sup>.  
1344 Mr. Clough stated that he is not available on Tuesdays.

1345  
1346 Mr. Rogers stated that it looks like they will be able to offer a three-member Board. He  
1347 continued that Mr. Gorman can let staff know as soon as possible. He will reach out to the  
1348 applicant and get the process started. Mr. Gorman replied that he can let Ms. Marcou know  
1349 definitively in the morning. He continued that if he cannot attend in person, he can attend  
1350 remotely. Ms. Taylor asked if remote participation is still allowed/possible. Mr. Rogers replied  
1351 that staff would take the lead from how the City Council has been doing it and follow their same  
1352 process for a member of the Board to be able to participate, especially if it is a matter of them  
1353 being able to get a quorum with short notice/time crunch.

1354  
1355 Chair Hoppock asked when staff will find out about room availability. Ms. Marcou replied that  
1356 they already have a room reserved – Room 22 on the 2<sup>nd</sup> floor of the Parks & Recreation Center.

1357  
1358 **VI) Communications and Miscellaneous**

1359 Chair Hoppock asked if there were any communications or miscellaneous items. Mr. Rogers  
1360 replied no.

1361

1362 **VII) Non-public Session (if required)**

1363

1364 **VIII) Adjournment**

1365

1366 There being no further business, Chair Hoppock adjourned the meeting at 8:50 PM.

1367

1368 Respectfully submitted by,

1369 Britta Reida, Minute Taker

1370

1371 Reviewed and edited by,

1372 Corinne Marcou, Clerk

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1 City of Keene  
2 New Hampshire

3  
4  
5 ZONING BOARD OF ADJUSTMENT  
6 SPECIAL MEETING MINUTES  
7

8 **Monday, May 16, 2023**

**6:30 PM**

**Rm 22, Recreation Center**

**Members Present:**

Joseph Hoppock, Vice Chair  
Jane Taylor, Vice Chair  
Joshua Gorman

**Staff Present:**

John Rogers, Zoning Administrator  
Corinne Marcou, Zoning Clerk

**Members Not Present:**

Michael Welsh  
Richard Clough

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

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

15  
16 **II) Minutes of the Previous Meeting**

17  
18 Chair Hoppock stated that they are not approving any minutes tonight.

19  
20 **III) Unfinished Business**

21  
22 Chair Hoppock stated that there is no unfinished business.

23 **IV) Hearings**

24  
25 **A) ZBA 23-15: Petitioner, Jeremy Chartier of Resolve Ventures, LLC of 52  
26 Nashua, St., Milford, NH, requests an extension for property located at 193 South  
27 Lincoln St., Tax Map #586-014-000-000-000, is in the Medium Density District. This  
28 property is owned by Daniel S. Chabott Sr. and Jennifer L. Chabott of 198 Old  
29 Wendell Rd., Northfield, MA that was damaged on May 24, 2022, by no means  
30 within the control of the owner. The Petitioner requests an extension to rebuild the  
31 nonconforming use per Chapter 100, Article 18.2.7 and 18.3.4 of the Zoning  
32 Regulations.**

33 Chair Hoppock asked Zoning Administrator John Rogers to explain why the Board is here  
34 tonight.

35  
36 Mr. Rogers stated that this property at 193 South Lincoln St. is in the Medium Density District  
37 (MD). He continued that this was a two-family home on a non-conforming lot. Two-family  
38 homes are allowed in the MD, but it is based off the density factor. Eight thousand square feet  
39 are required for the first single-family dwelling unit, and another 5,600 square feet are required  
40 for the second. This property was non-conforming both for the lot size and [most likely the  
41 setbacks]. Staff would have to do more research if this extension were granted, or even moving  
42 forward if this lot were to be redeveloped. It is a corner lot and thus has a larger side setback.  
43 They believe the previous structure was probably encroaching upon the side setback, and most  
44 likely the front setback as well. Based on those nonconformities, under Article 18, there is the  
45 ability to rebuild when there has been damage to the structure at no fault of the owner. For  
46 example, if it was not a situation where the owner decided to tear it down and rebuild a non-  
47 conformity. In that case, they would have to conform to the Zoning Code. There is exception  
48 here, in two areas. One is for Non-Conforming Uses under Article 18. This was an allowed  
49 use in the district, but non-conforming because it did not have enough square footage. There is  
50 also [an exception] for structures that are non-conforming due to dimensional requirements.  
51 That states: *“In the event that any non-conforming structure is damaged or destroyed without  
52 any contributing fault by the property owner or tenant, it may be repaired or rebuilt to the  
53 same size and dimension as previously existed, provided that a building permit is obtained  
54 within one year following the damage or destruction unless a one-year extension is granted by  
55 the Zoning Board of Adjustment.”*

56  
57 Mr. Rogers continued that that is why the applicant is before the Board tonight. This building  
58 had a fire on May 24, 2022, and May 24 is coming right up. The applicant is asking for an  
59 extension to that time period, as is stated in the Land Development Code (LDC). A problem in  
60 the LDC, which they will probably have a discussion about at some point as “New Business,”  
61 is there is no application process or criteria for the Board to look at. Right now, this is a  
62 determination by the Board, regarding whether the Board believes there is some reason for the  
63 Board to grant that one year extension. It is up to the Board to decide that. With that, there is  
64 no real procedure regarding notification. If someone walked in today with a building permit  
65 application to build a two-family home on that lot, and it was a complete application that the  
66 Plans Reviewer could review and issue the permit for before the 24<sup>th</sup>, that is what would  
67 happen and there would be no public notification. The fact that there was no procedure laid out  
68 in the LDC led staff to take a more stringent reading of it and they applied the higher standard  
69 to the notification for this application. The applicant filled out an application and abutters were  
70 noticed. Again, the Board is here tonight to decide whether to grant an extension, and it is not  
71 about whether, for example, it should be a two-family home on a substandard lot. The question  
72 is only whether an extension is warranted, in the Board’s opinion.

73  
74 Chair Hoppock stated that the Ordinance says the Board may grant a “one year extension of  
75 this period,” and that is it. Mr. Rogers replied that is correct. Chair Hoppock stated that in his

76 opinion, the standard would be whether there is good cause to extend for a year. Even though it  
77 is not in (the LDC), it seems to make sense it is going to be equitable.

78  
79 Ms. Taylor replied that that was part of her question, and she is wondering whether it was  
80 damaged or destroyed without the cause of the owner. Mr. Rogers replied that his  
81 understanding is that the insurance company determined that the fire was [unfinished sentence].  
82 Ms. Taylor replied that she meant that is part of the standard, to determine that. Mr. Rogers  
83 replied that is correct. Ms. Taylor asked if they are going under the “non-conforming  
84 structure.” Mr. Rogers replied that he is not sure, and they both say the same thing. He  
85 continued that he feels there is a bit of a non-conforming use, but it is based on dimensions. A  
86 two-family home is an allowed use in the district, but it is non-conforming because the lot is  
87 substandard for a two-family home in the MD. In addition, there are some other dimensional  
88 provisions that this structure most likely violated. Staff would have to research that more and  
89 deal with that prior to issuance of a building permit. As he mentioned, he thinks the setbacks  
90 were also non-conforming.

91  
92 Ms. Taylor replied that she was a little confused, because Article 18.2.7 says, “*The non-*  
93 *conforming use may be reestablished providing no new non-conformities are created.*” She  
94 continued that then it says that if it is not extended, then they would have to conform to all the  
95 regulations. Mr. Rogers replied that is correct. Ms. Taylor stated that the language is the same  
96 in both. Mr. Rogers replied that is correct. He continued that if the extension were not granted,  
97 then any use of this lot would require a Variance from this Board, because this lot is  
98 substandard even for a single-family home, based on the square footage. Eight thousand square  
99 feet are required and this lot has 5,227 square feet.

100  
101 Mr. Rogers stated that the applicant would be able to speak to this more, but a demolition  
102 permit was issued for this property in December 2022. He continued that staff’s final  
103 inspection happened in February 2023. The structure was demolished in the middle of winter.  
104 He would let the applicant speak to the time period from May to December, but he assumes  
105 there were insurance company delays.

106  
107 Chair Hoppock asked what happens at a final inspection. Mr. Rogers replied that in a situation  
108 like this, staff would be looking to make sure the foundation is filled in and there will not be  
109 any leftover hazards for people walking by, such as potentially falling into a foundation hole  
110 that never got filled in.

111  
112 Chair Hoppock read the notice for ZBA 23-15. He asked to hear from the applicants. He asked  
113 if they are okay with a three-member Board, given that they have a right to five-member Board.  
114 The applicants replied yes, they would like to proceed.

115  
116 Jeremy Chartier stated that he is the owner/founder of Resolve Ventures, LLC, a small real  
117 estate investment firm out of Milford. He continued that with him is Zach Jalbert, Acquisitions  
118 Specialist. They contacted the sellers, the Chabotts, in reference to the property. The Chabotts

119 were interested in selling, because they had attempted for sale by owner. They had signs up,  
120 which were not effective in marketing the property. Time crept up, which is why they came  
121 under contract with Resolve Ventures for the property. At this point, Resolve Ventures does  
122 not have firm plans for what to build on the property. They are requesting this extension to at  
123 least keep their options open, as to providing two housing units in the city versus just one.

124  
125 Chair Hoppock asked what the cause of the fire was. Mr. Chartier replied that he does not  
126 know. He continued that his recollection is that they did not get a clear answer, because the fire  
127 damage skewed the whole situation. He continued that they could not find exact reasoning.  
128 The tenants were responsible, long-term tenants, and (the owners) never had a problem with  
129 them. This (fire) was something out of the blue. It might have been old wiring. It was an old  
130 building to begin with.

131  
132 Chair Hoppock stated that his concern here is that the Ordinance says the cause of the damage  
133 cannot be by any means within the control of the owner. He continued that it is important to  
134 know that. He asked the applicants to speak to why they want an extension for a year.

135  
136 Mr. Chartier stated that in order to get firm pricing on the construction costs, understanding  
137 what they are able to build on the property would be important, as is understanding what the  
138 footprint of the old property was. He continued that they spoke with Mr. Rogers several times  
139 about what that would have to look like in order to not further violate the setbacks. Right now,  
140 they do not have firm plans on what to build, or whether it would be a single-family or multi-  
141 family. Obviously, that determination is dependent upon this meeting.

142  
143 Ms. Taylor stated that she knows it is difficult for them to speak on behalf of the Chabotts,  
144 since they are not here, but she would like to know why they did not have any plans. She asked  
145 if they started out not wanting to rebuild it.

146  
147 Mr. Jalbert replied that when he spoke with the Chabotts, they were very upset that they lost the  
148 building. He continued that he believes it was one of the first buildings they owned and lived  
149 in, having grown up in the area and having lived here for a long time. When they lost it, they  
150 grieved, and did not realize that there was a one-year [deadline]. He does not think they ever  
151 knew there was a possibility of an extension, and never explored options, just because it was  
152 going to cost X amount of dollars during the situation they had lived through. Costs were quite  
153 inflated, in terms of constructing the building, and he thinks that was the main deterrent on top  
154 of simply having no idea of what they were going to do. They could not think of any good  
155 options, from what he was gathering from them. It was more exhausting than they had thought  
156 it would be, as far as finding a builder, having plans drawn up, and so on and so forth, and the  
157 cost of building was very restrictive at the time.

158  
159 Ms. Taylor asked when they purchased the property. Mr. Chartier replied that they have not  
160 purchased the property yet; they are under agreement with the Chabotts to purchase it.

161

162 Mr. Gorman stated that he is interested in hearing from the public. He continued that beyond  
163 that, he thinks this is rather straightforward.

164  
165 Chair Hoppock asked if the applicants had anything else to add. Mr. Chartier replied that they  
166 are looking to make this lot more appealing to look at than just an empty corner. He continued  
167 that they value the city's motif and how it looks, and hope to figure out a solution that keeps the  
168 lot looking like it fits in the area and will not be an eyesore with a big dirt lot. Resolve  
169 Ventures is here to help the Chabotts, because they did not have any ideas. Resolve Ventures is  
170 a solution to their problem that they could not think of how to build on.

171  
172 Ms. Taylor asked what happens if Mr. Chartier and Mr. Jalbert cannot figure out, based on  
173 whatever research they need to do, how to build a two-family home there. Would they build a  
174 one-family home? Mr. Rogers replied that they should not get into this too much, because  
175 tonight the Board just has a straight up yes or no vote (on the one-year extension). He  
176 continued that they cannot put conditions on it. His opinion as the Zoning Administrator is that  
177 if an extension is granted for this, and they decide on their own to build a single-family home -  
178 because at this time, the Board cannot condition it - he would approve that, because it would  
179 mean taking a nonconformity and making it more conforming than it was (before the fire). He  
180 continued that if the Board does not find that there is enough reason to grant an extension, that  
181 is when a Variance would need to be obtained, because the extension for the non-conformities  
182 would go away on May 24.

183  
184 Ms. Taylor replied that what she is asking is (what would happen) if an extension is granted,  
185 and they decide to build a single-family home on the same footprint, as opposed to a two-  
186 family. Mr. Rogers replied that he would issue a building permit for that, because it would be  
187 more conforming than the previous one was.

188  
189 Chair Hoppock asked to hear from the public, beginning with people who are opposed to the  
190 request. He continued that afterwards, Mr. Chartier and Mr. Jalbert would have a chance to  
191 respond.

192  
193 Mary Jane Doody of 185 South Lincoln St. stated that she abuts one of the abutters of this  
194 property. She continued that she has lived there 30 years and saw the property when it was  
195 changed over when Dan bought it for apartment use. Her concern is that she has a fence there,  
196 and even had to go to a lawyer once, to get Dan to fix the fence. It is a driveway to a driveway,  
197 and she put a fence in between and there is no room. If you think of four cars there, since there  
198 are two apartments, they could barely park, never mind get trash removal. The trash removal  
199 was on South Lincoln St., because there was no room on the side. She could understand  
200 perhaps one family living there, but there is no room for (more), no front yard, no side yards,  
201 no back yard. The biggest concern is that it is driveway to driveway. Small cars would be  
202 needed to go two by two. Otherwise, they drive in on South Lincoln St. and go out on Water  
203 St. That is when they go into the easements territory.

204

205 Chair Hoppock asked if Ms. Doody knows or heard what the cause of the fire was. Ms. Doody  
206 replied that she asked the firefighters, because one week it was Pearl St., the next week it was  
207 Elm St., and the week after that was South Lincoln St. She continued that all of them started on  
208 the porch, and she does not know what the final determination was, but they said it was a grill  
209 on the porch. Chair Hoppock asked if that would have likely been a tenant's grill. Ms. Doody  
210 replied that she is not sure.

211  
212 Chair Hoppock asked if Ms. Doody had anything else to add. Ms. Doody replied that she has  
213 concerns about this, and has photos to show the Board if they want to see. Chair Hoppock  
214 replied that the Board's focus tonight is just whether to grant an extension, not (about what will  
215 be built), and they do not have any plans to look at.

216  
217 Mr. Gorman asked how many years the property was used as a (two-family home). Ms. Doody  
218 replied at least as long as she has been there, and she has been there for about 30 years.

219  
220 Mr. Rogers stated that he tried to look it up more on the Assessing database to get more  
221 information for the Board, but since the house was torn down, the Assessing database had been  
222 cleaned out a bit. He did not have time to go dig through the actual paper files.

223  
224 John Eastman of 298 Water St. stated that there has always been a lot of traffic flow, because  
225 (the property in question) has right-of-way to his driveway. He continued that he knows the  
226 focus tonight is not the building's size, but he wanted to point out that the driveway needs to  
227 remain open and that there are issues with parking behind the previous structure.

228  
229 Mr. Rogers stated that he thinks he came across this and forgot to make note of it. He asked if  
230 Mr. Eastman's property has an easement across 193 South Lincoln St. for parking. Mr.  
231 Eastman replied that is correct. Mr. Rogers replied that the back part of the lot is encumbered  
232 with an easement of some sort, but he is not sure exactly how much.

233  
234 Chair Hoppock asked Mr. Eastman if he heard from the firefighters, or anyone else, about the  
235 cause of the fire. Mr. Eastman replied no, but he called it in when the couch on the porch had  
236 ignited. Chair Hoppock asked if he is saying he saw it start. Mr. Eastman replied that he did  
237 not see it start, but saw and smelled smoke.

238  
239 Jennifer Sizoo of Fairfield Court stated that she just arrived and missed what was said so far.  
240 She continued that she saw the smoke (when 193 South Lincoln St. was on fire). The house  
241 was torn down, and there was a footprint. She asked if it is correct that the person who  
242 purchases or owns the property has one year to put up a structure on that footprint the same as  
243 it was, two-family. Mr. Rogers replied that with non-conformities such as that, they are  
244 allowed one year to obtain a building permit. He continued that they can build in the same  
245 footprint, but do not have to. (Whatever is built) just cannot further violate the setbacks. It  
246 would be difficult for this one, given its location. It most likely would have to go close to the  
247 same footprint. If the extension were granted, if they had enough room to move it back and not

248 violate the back setback or move it to the right and not violate the side setback, they could.  
249 Given the pictures he has looked at, he thinks it would be difficult to do anything other than the  
250 same footprint as before. If the extension is not granted and the owners were to get a Variance  
251 to build a single-family home, or if the extension is granted and they decided to build a single-  
252 family home with a smaller footprint, that would be allowed.

253  
254 Ms. Sizoo asked if something that gets built there can be any style the owner wants. She  
255 continued that the neighborhood is old. She asked if it has to be in the same style. Mr. Rogers  
256 replied that in some parts of the city, like towards downtown, they do have new form-based  
257 codes that apply and would dictate that a bit. However, not out into the residential zones,  
258 unless they are building a multi-family unit, which would have to go to the Planning Board. A  
259 one- or two-family dwelling would not (have its style) dictated by the City, as long as the  
260 Building Codes and Fire Codes are met.

261  
262 Ms. Sizoo asked if there is a height restriction. She continued that the previous building had an  
263 attic. Mr. Rogers replied that there are standards and limitations on the number of stories and  
264 heights, and having a habitable attic is allowed as long as they have means of egress. He  
265 continued that the building that was there is probably about the maximum that could be built,  
266 staying within the heights. Ms. Sizoo asked if it is correct that it could not be three stories plus  
267 an attic. Mr. Rogers replied that is correct.

268  
269 Chair Hoppock asked if Ms. Sizoo wanted to speak to the application at all. Ms. Sizoo replied  
270 that she does not oppose it. She thanked Mr. Rogers for answering her questions.

271  
272 Chair Hoppock asked if anyone else wanted to speak in opposition. Hearing none, he asked if  
273 anyone wanted to speak in support. Hearing none, he asked if Mr. Chartier or Mr. Jalbert  
274 wanted to respond to the public input they heard. Mr. Chartier and Mr. Jalbert replied no.

275  
276 Chair Hoppock closed the public hearing and asked the Board to discuss.

277  
278 Mr. Gorman stated that his opinion is that granting the extension is reasonable. He continued  
279 that he does not think a year is an easy play when you are dealing with insurance companies,  
280 demolition, and now resale. He thinks the reason granting an extension is so loose is because it  
281 is just. He does not think there are many criteria hanging over it because it is something that is  
282 reasonable. He looks at the lot sizes surrounding this property, and sees .14, .09, .13, .11,  
283 where this one is .12. It is of like size to its immediate abutters. If the Board does not grant  
284 this extension, the applicants will come here for a Variance. They need to be able to use the  
285 property for something. He thinks at the end of the day, not granting the (extension) provides a  
286 more difficult path to the same outcome, where they are going to building something there. He  
287 hopes they will build something there, for the neighbors' sake and for the city's sake. His view  
288 is to grant the extension. He does not view a two-family as substantially different from a one-  
289 family. A four-bedroom, one-family home could have four or five cars, as could a two-family  
290 home. They will probably end up with the same number of sleeping rooms either way.

291 Ms. Taylor stated that one of the open questions, which they do not have a good answer to, is  
292 whether there was any cause of damage or destruction by the owners. She continued that  
293 however, since they also do not have any indication that it was not an accident or negligence,  
294 they can probably jump over that and say it was not an intentional fire. Mr. Gorman replied  
295 that if it was arson, they probably would know about it. Ms. Taylor replied yes, that is what  
296 she means.

297  
298 Mr. Rogers stated that when the LDC changes occurred, that was one of the clarities they added  
299 to this Code. He continued that it was meant more for the (people who would say), "I'm just  
300 going to tear down this non-conforming structure use and just rebuild it right where it is at."  
301 The intent was to make clear that if you are going to *intentionally* tear something down, it  
302 should be put back to meet the Zoning Code. He does not think anyone intentionally set this  
303 fire and displaced anyone.

304  
305 Ms. Taylor stated that she tends to agree with Mr. Gorman that if it is not an intentional  
306 destruction, it is probably reasonable, considering the circumstances of the owners not being  
307 local anymore and having to deal with the property and insurance issues. She thinks it is  
308 reasonable to grant a one-year extension. A remaining question she has for Mr. Rogers is what  
309 happens if they do not come in and apply for a building permit within that one year, and  
310 whether it is limited to just one extension. Mr. Rogers replied yes, that is how he would take  
311 this to read. You get one shot at it, and the building permit has to be actually issued. They  
312 could not apply for a building permit on the 364<sup>th</sup> day. They have to give staff plans, and staff  
313 has to have time to review it to make sure it is not more non-conforming than the previous  
314 structure. Lead time is needed with the LDC specifically says, "*granted a building permit.*"

315  
316 Chair Hoppock replied that it says, "*If a building permit is not obtained within the year*  
317 *period.*" Mr. Rogers replied that the way it reads, he interprets it as a one year, one shot deal.  
318 Ms. Taylor replied that that was her understanding, too, but she wanted to make sure.

319  
320 Chair Hoppock stated that he agrees with the other Board members. He continued that the loss  
321 was on May 24, 2022, and the demolition was not completed until December 2022, and the  
322 City's final inspection was just a few months ago in February. He asked if it is correct that that  
323 is when the City cleared the property for whatever was going to happen next. Mr. Rogers  
324 replied that the final inspection was just to make sure there were no hazards left by the  
325 demolition, that all the materials were taken off, holes filled in, and so on and so forth. Chair  
326 Hoppock asked if the owners could have started rebuilding prior to that final inspection. Mr.  
327 Rogers replied no, they would not have been able to rebuild, but they possibly could have  
328 applied for a building permit and staff could have reviewed and possibly issued it. However,  
329 again, part of the applicant's reasoning is the current property owner just was not sure what to  
330 do, and until the applicants came before the Board tonight there had been no real direction for  
331 this property.

332

333 Chair Hoppock replied that at the same time, the insurance company poking around in there all  
334 that time, the price of construction material, and the availability of professional contractors, all  
335 lead to the conclusion that a year is probably not enough time to have this all done and  
336 conforming. He continued that his test, even though the Ordinance does not provide one, is:  
337 what is fair, under the circumstances? That is an elastic test, but given the circumstances the  
338 Board members just articulated, he agrees that it should be extended. It is fundamentally fair.  
339 What happens within the year is something that is too soon to tell.

340  
341 Mr. Gorman made a motion to approve ZBA 23-15 for a one-year extension from May 24,  
342 2023, for the non-conforming use. Chair Hoppock seconded the motion, which passed with a  
343 unanimous vote of 3-0.

344  
345 Mr. Rogers stated that he appreciates everyone coming out, and he appreciates the applicants  
346 going through this. He continued that as he stated at the beginning, they were not sure, but held  
347 this to a little higher standard, hence the abutter notification. He also thinks it is a good  
348 opportunity at this point in time, if Mr. Chartier and Mr. Zalbert buy and develop the property,  
349 for the neighbors have a face to the people developing it. Hopefully that will start a good  
350 relationship moving forward.

351  
352 **V) New Business**

353  
354 Chair Hoppock asked if there was any new business. Mr. Rogers replied no.

355 **VI) Communications and Miscellaneous**

356  
357 **VII) Non-Public Session (if required)**

358  
359 **VIII) Adjournment**

360  
361 There being no further business, Chair Hoppock adjourned the meeting at 7:08 PM.

362  
363 Respectfully submitted by,  
364 Britta Reida, Minute Taker

365  
366 Reviewed and edited by,  
367 Corinne Marcou, Zoning Clerk

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32 OPTICAL AVE.  
ZBA 23-03



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



**NOTICE OF HEARING**

**ZBA 23-03**

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

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

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

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

City of Keene, NH

# Zoning Board of Adjustment Variance Application



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

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

## SECTION 1: CONTACT INFORMATION

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

*(Faint text, possibly a watermark or reference to a previous page)*

NAME/COMPANY: **Samson Associates LLC**

MAILING ADDRESS: **32 Optical Ave Keene NH 03431**

PHONE: **413-221-4806**

EMAIL: **scott@samson-mfg.com**

SIGNATURE: *Scott Samson*

PRINTED NAME: **Scott Samson**

*(Faint text, possibly a watermark or reference to a previous page)*

NAME/COMPANY:

MAILING ADDRESS:

PHONE:

EMAIL:

SIGNATURE:

PRINTED NAME:

*(Faint text, possibly a watermark or reference to a previous page)*

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

MAILING ADDRESS: **185 Winchester Street Keene NH 03431**

PHONE: **(603) 357-0116**

EMAIL: **jphippard@ne.rr.com**

SIGNATURE: *James P Phippard*

PRINTED NAME: **James P Phippard**



**SECTION 4: APPLICATION CRITERIA**

*A Variance is requested from Article (s)*

*of the Zoning Regulations to permit:*

See Attached

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

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

**PROPERTY ADDRESS 32 Optical Avenue**

**APPLICATION FOR A VARIANCE**

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

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

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

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

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

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

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

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

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

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

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

5. **Unnecessary Hardship**

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

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

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

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

**And**

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

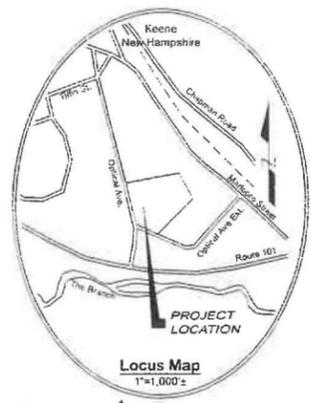
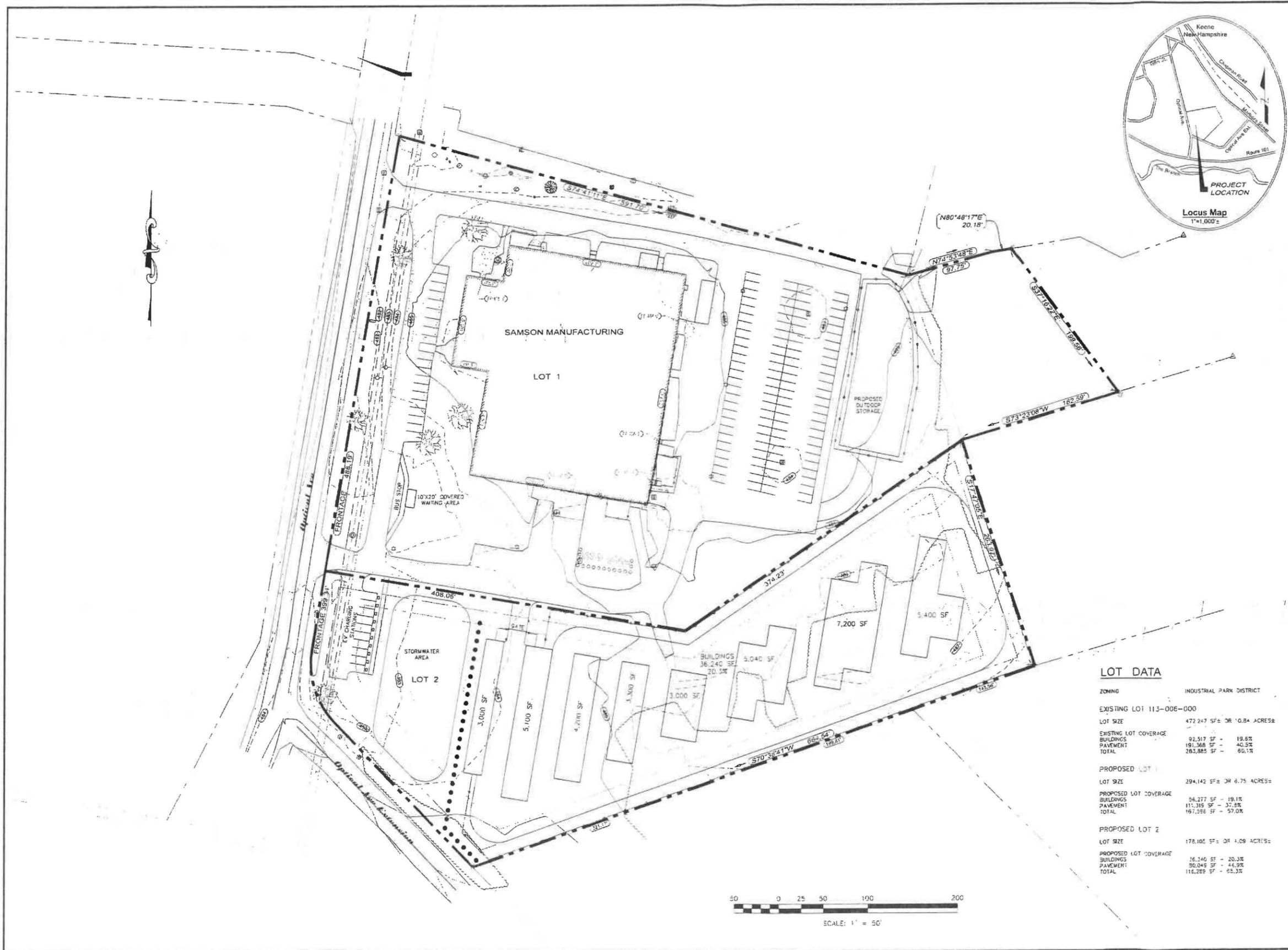
This is a low intensity industrial use in the middle of the industrial park area. It is close to the state highway and is not near a residential neighborhood. There is a need for additional storage units in Keene. This is a reasonable use of this property.

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

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

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





REVISIONS:

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

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

32 OPTICAL AVENUE  
 KEENE, NH

# CONCEPT PLAN

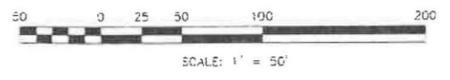
SCALE: 1"=50'

DATE: FEBRUARY 14, 2023

SHEET 1

### LOT DATA

ZONING	INDUSTRIAL PARK DISTRICT
EXISTING LOT 113-006-000	
LOT SIZE	472,247 SF ± OR 10.84 ACRES ±
EXISTING LOT COVERAGE	-
BUILDINGS	92,917 SF - 19.6%
PAVEMENT	191,368 SF - 40.5%
TOTAL	284,285 SF - 60.1%
PROPOSED LOT 1	
LOT SIZE	294,142 SF ± OR 6.75 ACRES ±
PROPOSED LOT COVERAGE	58,277 SF - 19.8%
BUILDINGS	111,315 SF - 37.8%
PAVEMENT	167,598 SF - 57.0%
TOTAL	
PROPOSED LOT 2	
LOT SIZE	178,105 SF ± OR 4.09 ACRES ±
PROPOSED LOT COVERAGE	16,240 SF - 20.3%
BUILDINGS	90,045 SF - 44.9%
PAVEMENT	112,289 SF - 65.3%
TOTAL	



**MEMORANDUM**

**To:** Thomas R. Hanna, BCM Environmental & Land Law, PLLC  
**From:** Tara Kessler, Planner Paralegal  
**Re:** Petitions for Variances (ZBA 23-03 & ZBA 23-04) for 32 Optical Ave in Keene  
**Date:** March 3, 2023

**Subject Parcel Information:**

Address: 32 Optical Ave  
Owner/Petitioner: Samson Associates LLC  
TMP: 113-006-000  
Zoning District: Industrial Park Zone  
Parcel Size: 10.84 acres  
Book/Page: 2953/0242

**ZBA 23-03: The Petitioner requests a variance to permit self-storage units on a lot in the Industrial Park District where self-storage units are not listed as a permitted use per Chapter 100, Article 6.3.5 of the Zoning Regulations.**

The Petitioner is seeking to build an exterior self-storage facility on a proposed 4.09-acre lot in the Industrial Park District.

The Petitioner claims that the existing Industrial Park (IP) District is very restrictive and greatly limits the businesses that can locate there. A review of the IP District shows that it is not “very restrictive”. The IP District permits outright the following uses: Research and Development, Data Center, Day Care Center, Light Industrial, Conservation Area, Solar Energy System (Small Scale), Telecommunications Facilities. Office uses are permitted by special exception and Solar Energy Systems (Medium and Large) are permitted by Conditional Use Permit. The dimensional controls in the IP District are similar to those in other Keene zoning districts, and allow up to 70% impervious lot coverage.

The Petitioner states that there is currently little demand for sites that accommodate a large workforce. However, since the mid-20<sup>th</sup> century, Optical Avenue has been and continues to be one of the Region’s major employment centers. In a relatively small land area, the IP District is home to 3 of Cheshire County’s 10 largest employers (Timken Super Precision, Imaje Corporation and C&S Wholesale Grocer), as well as 3 other large employers (Samson Manufacturing, PC Connection, and The Mountain). Samson Manufacturing purchased its property on Optical Avenue in 2016.

Unlike the Industrial District, the IP District is intended for low intensity uses that are employee intensive and promote an attractive environment. This Zoning District was established to provide a park-like environment for manufacturing or wholesale businesses with many employees. The purpose of the IP District as stated in Section 6.3.1 of the Land Development Code is:

*“To provide for relatively low-intensity manufacturing and research and development firms that are employee intensive, clean in nature, and promote an attractive industrial park environment. Service operations and sales activities are excluded from this district, except for minor sales that may be accessory to the primary use. All uses in this district shall have city water and sewer service.”*

The IP District was revisited with the most recent code adoption and was updated to provide for more modern uses that are aligned with its underlying purpose. Self-Storage and Vehicle Fueling Stations were not identified as uses appropriate for this District.

During this same code update, the City accounted for the recent demand for Self-Storage by expanding the areas where this use is permitted and by distinguishing between interior and exterior self-storage facilities. Prior to the adoption of the 2021 Land Development Code, Self-Storage was only permitted outright in the Commerce Limited District and by special exception in the Industrial District. Today, Exterior Self Storage is permitted outright in the Commerce, Commerce Limited and Industrial Districts. Interior Self-Storage is permitted outright in the Commerce, Commerce Limited, Industrial, and Downtown Edge Districts and by special exception in the Downtown Growth District.

In Keene, there are at least 5 self-storage facilities, 2 of which are located on nearby Marlboro Street. There is ample opportunity for this use to occur outside of the IP District.

The Petitioner asserts that the proposed storage use is a low-intensity industrial use. It is not. Self-Storage is identified as a Commercial Use in the Zoning Regulations (See Section 8.3.2). Section 8.3.5 of the Land Development Code identifies uses that are categorized as Industrial, and Self-Storage is not one of these uses. Low intensity industrial uses fall under “Industrial Light”, which is a permitted use in the IP District. A variance would not be required for this use if it were a low intensity industrial use.

The proposed use is not aligned with the purpose of the IP District and does not observe the spirit of the ordinance. Self-Storage is not an employee intensive use, nor is it aesthetically appealing. The proposal is to install 8,640 sq. ft. of storage units with surrounding pavement, and a 6’ chain link fence. In addition, there will be parking lot style lighting that will be on 24/7. This use will detract from the park-like environment that has been established along the Optical Avenue Corridor.

The Petitioner states that the proposed use is not near a residential neighborhood. However, the subject parcel is adjacent to the Low-Density Zoning District and is in close proximity of several residences along Marlboro Street. We question whether the proposed lighting will have an adverse impact on the adjacent residential neighborhood and Low-Density residential zoning district.

**ZBA 23-04: The Petitioner requests a variance to permit a vehicle fueling station on a lot in the Industrial District where vehicle fueling station is not a permitted use per Chapter 100, Article 6.3.5 of the Zoning Regulations.**

The Petitioner is seeking a use variance to build a Vehicle Fueling Station for 10 vehicles on the same lot as the proposed self-storage facility.

The Petitioner asserts that the proposed use is not recognized in the Zoning Ordinance. However, the proposed use is a Vehicle Fueling Station in accordance with Section 8.3.2.AI of the Land Development Code, which defines Vehicle Fueling Station as:

*“A commercial establishment primarily engaged in the retail sales of vehicle fuels, traditional and alternative fuel types (e.g. electric-charging stations, ethanol, natural gas, propane, solar, etc.) lubricants, parts and accessories. This use may include retail establishments (e.g. convenience stores). This use does not include stand-alone, alternative-fuel charging units for vehicles, which are permitted as an accessory use in all districts.”*

The use type, Vehicle Fueling Station, was examined in the most recent code update, and the City updated its definition for this use to include electric-charging stations. Although an expansion of electric charging stations is aligned with the City’s sustainability and climate change goals, it is not aligned with the intent of the Industrial Park District. The Zoning Regulations do not differentiate between Vehicle Fueling Stations that electrically charge vehicles and those that fuel vehicles with gasoline. The land use impacts (e.g. traffic, aesthetics) are the same for both types of fueling stations. This use type is permitted in the Commerce, Commerce and Commerce Limited Districts, which provide more intense commercial or industrial uses.

Vehicle Fueling Stations are not compatible with the intent of the Industrial Park District, as they are not employee intensive and will not promote an attractive industrial park environment.

The Land Use Code does provide opportunity for electric charging stations to be an accessory use in all zoning districts. If the businesses along Optical Avenue would like to offer this fueling option for its employees, it would be permitted.

The Petitioner states that a new bus stop will be added to pick up and drop off employees of the businesses in the IP District and to bring customers of the proposed electric vehicle charging station to the downtown area while their vehicles are charging. We contend that a bus stop along this corridor would not be needed if this District were, as the Petitioner argues, no longer serving its purpose of providing employee intensive uses.

**For Reference**

**List of Existing Storage Facilities in Keene:**

- Keene Mini Storage – 690 Marlboro Street
- All Purpose Storage – 250 Marlboro Street
- Self-Storage at Uhaul – 199 Marlboro Street
- Store-It Keene – 96 Dunbar Street
- All Purpose Storage – 12 Bradco Street

**The IP District Intent Statement and Permitted Uses Prior to 2021 Land Development Code:**

“Sec. 102-661. - Intent. The intent of the industrial park (IP) district is to provide for those manufacturing and assembling activities which add value to a product. The character of this district will, by its nature, be one of a relatively low-intensity use of the land, providing for concerns which create the greatest employment opportunities, especially labor intensive rather than land intensive uses, and excluding service operations and sales activities except those minor sales which may be accessory to the primary use. Aesthetically, this is to be the industrial area over which are exerted the greater site controls. (Code 1970, § 2305.14)”

“Sec. 102-662. - Permitted uses. Permitted uses in the industrial park (IP) district are as follows:

Permitted Use	Subject to the Following:
Assembling	

Bulk storage and distribution of goods, including flammable materials, accessory to main manufacturing use	
Child care facilities for employees only	
Home offices of insurance companies, publishing companies, and manufacturing firms, including accessory warehousing, and/or accessory wholesaling	
Institutional use	Special exception. Subject to conditions and limitations as specified in division 12 of article V of this chapter pertaining to institutional uses.
Manufacturing	
Offices for corporate	Special exception.
Research and development	Special exception.

(Code 1970, § 2305.14; Ord. No. O-2000-33, § 2305.15, 5-3-2001)

## Conclusion

It is clear that the City Council took a fresh look at the Industrial Park District when it adopted the new Land Development Code. The City's intent for the IP District is set forth in Section 6.3.1 of the code. See page 1 of this Memorandum. In addition to studying the IP District, the planners and City Council took a fresh look at self-storage uses and all types of fueling stations and thought carefully about where such uses belong in the City. These uses, as proposed by the Petitioner, were deemed incompatible with the IP District and inconsistent with the intent (and spirit) of the underlying purpose of the IP District. The uses do not satisfy any of the standards for a variance. There is no 'special condition' of the Petitioner's land that qualifies it for relief. Indeed, the Petitioner's land is suitable for the uses listed as permitted in the IP District.



Peter F. Durning  
[pdurning@burnslev.com](mailto:pdurning@burnslev.com)  
617.345.3269

May 18, 2023

**VIA HAND DELIVERY**

Corinne Marcou, Clerk  
City of Keene  
Zoning Board of Adjustment  
3 Washington Street  
Keene, NH 034341  
[communitydevelopment@keenenh.gov](mailto:communitydevelopment@keenenh.gov)

Re: Samson Associates, LLC, 32 Optical Ave., Keene, NH, ZBA 23-03 & 23-04

Dear Clerk Marcou,

Together with my partner, Laura L. Carroll (NH Bar No. 17444), I and our law firm, Burns & Levinson LLP is counsel to Samson Associates, LLC (“Samson” or “Petitioner”), the Petitioner for applications seeking variances (a) to permit self-storage units (“Storage Facility”) on a lot in the Industrial Park District (23-03); and (b) to permit a vehicle fueling station (the “EV Charging Station”) in the Industrial Park District (23-04) (the “Variances”) at 32 Optical Ave., Keene, NH (the “Property”).

In addition to original application materials submitted on February 15, 2023, by Jim Phippard of Brickstone Land Use Consultants, LLC, we are submitting additional comments in support of the two applications. This letter is to inform the Zoning Board of Adjustment (the “Board”) about the virtues of the renewable energy attributes of the project, explain how the Variances are interrelated, and describe the substantial benefits to the Industrial Park District and the City of Keene. Lastly, the letter also addresses some of the concerns identified in the March 3, 2023, memo submitted by Attorney Thomas P. Hanna.

Although the two applications were submitted separately, because they require different relief from the Land Development Code of the Keene Zoning Ordinance (the “LDC”), the two proposed developments are part of a single symbiotic project. Samson conceived of the storage unit layout adjacent to the proposed alternative fuel EV Charging Station, because the ultimate build-out of the two facilities would include the installation of a Solar Energy System consisting of solar panels on the roofs of the Storage Facility, which will, in turn, provide locally generated clean solar energy to power the EV Charging Station.

Since the solar panel portion of the project does not require zoning relief, the initial applications did not emphasize this aspect, but through this submission, Samson is providing additional information for the Board’s consideration in connection with the Variances.

The installation of roof-mounted Solar Energy System does not require any review or approval by the Board. Article 8.4.1.F.2. of the LDC states that “[r]oof-mounted solar energy systems are permitted as an accessory use in all zoning districts when attached to lawfully permitted principal and/or accessory structures.” Thus, as long as the Variance for the Storage Facility is approved, the building may have Solar Energy System installed on the roof as an accessory use.

The Solar Energy System does not present any dimensional concerns under the LDC. The roof-mounted Solar Energy System on the Storage Facility will be on a flat roof and will not exceed 10 feet above the surface of the Storage Facility roof. In addition, the one-story structures are well below the 60 ft. maximum building height.

### **Supplement to Applications for Variances**

The Petitioner relies on the information provided in the applications, but in the following section, we provide supplemental information on the variance criteria which supports the Board granting both Variances:

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

As noted in the applications, the Variances serve the public interest because there is a need for self-storage capacity in Keene and because promoting the use of electric vehicles, which will reduce the use of fossil fuels and reduce air pollution, is in the public interest.

Incorporating a roof-mounted Solar Energy System on top of the Storage Facility to provide clean renewable energy to the EV Charging Station will provide a tremendous benefit to the public interest in Keene. The City of Keene has made the use and product of renewable energy a cornerstone of its commitment to addressing climate change.

Through Resolution R-2018-36, Relating to Sustainable Energy Goals, the City Council set a “goal for the City of Keene that all electricity consumed in the City will be from renewable energy sources by the year 2030 and that 100% of all thermal energy and energy used for transportation come from renewable energy sources by the year 2050.”

In addition to this ambitious City Council Resolution, the City’s Energy and Climate Committee has been advancing the communities’ understanding of and commitment to meaningful

action to address climate change. The Energy and Climate Committee’s Sustainable Energy Plan calls out the need to “accelerate the shift to EVs and other alternative fuel vehicles,” and the critical importance of more EV charging stations to meet this goal.

An EV Charging Station that draws its power from a localized Solar Energy System is a compelling approach to advancing and achieving the City’s climate change goals. As opposed to an EV charging station that simply draws power from the grid, where the energy might be derived from non-renewable sources, the combination of the Storage Facility with solar panels and the EV Charging Station presents an elegant solution to the City’s climate goals for the transportation sector.

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

The Samson proposal of combining a roof-mounted Solar Energy System with the EV Charging Station honors the spirit of the ordinance for the Industrial Park District. The combined proposal is an attractive amenity for the Industrial Park District and should be approved through the two Variances. Having an EV Charging Station that is powered by an attractive local Solar Energy System salutes the City’s Energy and Climate Change goals and adds a strong statement to the innovative character of the Industrial Park District. The layout of the two elements of the project does not diminish the character of the Industrial Park District or the existing Samson facility. The fenced and screened presentation of the Storage Facility, and the clustering of the storage buildings on the vacant portion of the existing Samson lot, prevents overcrowding or congestion of the clean, open feel of the Industrial Park District along Optical Avenue. Having the EV Charging Station as the primary public street-facing amenity will provide services that will support the workers within the Industrial Park District, while elevating and enhancing the profile of the Industrial Park District. While the Storage Facility will be tucked into an unused portion of the Samson site, it will not be visible from Optical Avenue, and the streetscape for the Industrial Park District will remain consistent with the aesthetics of the district.

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

The project and Variances will help secure additional local energy generation and provide additional opportunities for EV charging in Keene. Denying the Variances that would allow this project to move forward would hinder Keene’s ability to maximize reasonable opportunities to meet its ambitious Energy and Climate Change goals.

Approving the Variances would allow Samson to realize a beneficial project on this land rather than unduly restrict the development potential of the Property.

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

The Storage Facility and EV Charging Station are well designed and will not diminish surrounding properties. The orientation of the buildings on the Property and the installation of the Solar Energy System will have minimal impact on any neighboring properties. The primary street-facing portion of the project is the attractive EV Charging Station oriented toward Optical Avenue and away from the residences along Marlboro Street. Similarly, the orientation of the panels will be primarily south or southwesterly facing to maximize exposure. The panels will not cause glare or any other impacts on the neighboring properties. Again, the Storage Facility will be screened with fencing, with robust planting of arborvitae on the exterior of the fence, providing pleasant vegetative screening.

Lastly, the Petitioner is committed to maintain appropriate timing and directional controls on the lighting for the newly developed areas which will be consistent with its current light fixtures at the Samson facility and compliant with the City's lighting requirements and restrictions.

It is important to stress that this portion of the property owned by Samson is eligible for development. There is no requirement within the LDC that would require this section of Samson's property to remain undeveloped. Thus, to the extent the Variances are being opposed by some who would prefer to prevent construction on the site, this is not a legitimate or viable consideration for the Board. In addition, buildings approved as of right in the Industrial Park District can have two stories above grade or maximum height of 35 feet, with the potential for a 3.5 story building at 50 feet with a special exception. The proposed profile of the Storage Facility with solar panels is considerably lower than these permissible limits.

**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 purpose of the ordinance provision and the specific application of that provision to the property because:**

As discussed in the applications, a strict application of the Industrial Park District constraints on this Property would limit the utility of the Property and effectively restrict the land to the one existing amenity, which would impose a hardship on the landowner.

The clever layout of the Storage Facility and the EV Charging Station take advantage of the dimensions of this unused vacant portion of the Property, while maintaining the open space feel of the Samson facility facing Optical Avenue.

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

In addition to providing an attractive amenity that reflects the spirit of the Industrial Park District, the Property is located near Route 101. This proximity to Route 101 makes the Property a great location for an EV Charging Station, as the community, state, and nation push to establish critical infrastructure which will enable greater utilization of electric vehicles.

As discussed in the application, there is no fair or substantial reason why an EV Charging Station could not be located in the Industrial Park District. Again, including this innovative amenity would be an asset to the district. Co-locating the street facing EV Charging station with a screened self-storage area which will host the Solar Energy System that will provide the electricity for the charging station, capitalizes on this strategic location.

**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 cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.**

A strict application of the zoning criteria for the Industrial Park District on this Property would impose a significant constraint on the development potential of this parcel. The Variances are a reasonable accommodation to promote the City's Energy and Climate goals, while improving the amenities and services available at this location. The existing use on the Property honors the industrial use with the Samson facility, but the remainder of the parcel should not be constrained such that it could not accommodate the Storage Facility paired smartly with an EV Charging Station. The proposed use is reasonable, and the Board should grant Variances to allow this innovative project to proceed.

Consistent with legal precedent in New Hampshire, the Board should grant the Variances. In addition to the Variance criteria, it is important to consider the landowner's ability to receive a reasonable return on his or her investment. *Harrington v. Town of Warner*, 152 N.H. 74, 80-81 (2005). Parties that are arguing for the Petitioners' land to remain fallow and undeveloped are effectively arguing for no economic return on this parcel. The Board should be "more considerate of the constitutional right to enjoy property. *Id.*, citing *Simplex Technologies v. Town of Newington*, 145 N.H. 727, 731 (2001).

May 18, 2023  
Page 6

Lastly, granting the Variances would not alter the essential character of the neighborhood. The Variances would still promote the essential characteristics of the Industrial Park District and would not have any greater impact on the abutting district. In particular, the EV Charging Station powered by Solar Energy System on the roofs of Storage Facility would not have a greater impact on the character of any abutting residential properties than those properties would otherwise experience from similar build-out under the as-of-right criteria in the Industrial Park District.

In sum, based on the totality of the information submitted by the Petitioner, the Board should act reasonably and grant the Variances to permit the installation of needed infrastructure to advance and promote the City's Energy and Climate Change goals while providing a development that compliments the amenities available in the Industrial Park District.

Thank you for your consideration of this submission.

Sincerely,



---

Peter F. Durning

encl.

cc: *(via electronic mail)*  
John Rogers, Zoning Administrator  
Mari Brunner, Staff Liaison for the Energy and Climate Committee  
Scott W. Samson  
Jim Phippard  
Laura L. Carroll, Esq.

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# 32 OPTICAL AVE. ZBA 23-04



Petitioner requests a Variance to permit vehicle fueling station in the Industrial Park District where not permitted per Chapter 100, Article 6.3.5 of the Zoning Regulations.



# City of Keene

New Hampshire

## NOTICE OF HEARING

### ZBA 23-04

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

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

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

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

City of Keene, NH

# Zoning Board of Adjustment Variance Application



<b>For Office Use Only:</b>	
Case No.	2BA23-04
Date Filled	2/15/23
Rec'd By	cmh
Page	of
Rev'd by	

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

## SECTION 1: CONTACT INFORMATION

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

NAME/COMPANY:	Samson Associates LLC
MAILING ADDRESS:	32 Optical Ave Keene NH 03431
PHONE:	413-221-4806
EMAIL:	scott@samson-mfg.com
SIGNATURE:	
PRINTED NAME:	Scott Samson

NAME/COMPANY:	
MAILING ADDRESS:	
PHONE:	
EMAIL:	
SIGNATURE:	
PRINTED NAME:	

NAME/COMPANY:	James Phippard / Brickstone Land Use Consultants LLC
MAILING ADDRESS:	185 Winchester Street Keene NH 03431
PHONE:	(603) 357-0116
EMAIL:	jphippard@ne.rr.com
SIGNATURE:	
PRINTED NAME:	James P Phippard



**SECTION 4: APPLICATION CRITERIA**

A Variance is requested from Article (s)

of the Zoning Regulations to permit:

See Attached

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

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

**PROPERTY ADDRESS 32 Optical Avenue**

**APPLICATION FOR A VARIANCE**

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

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

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

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

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

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

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

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

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

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

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

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

## 5. Unnecessary Hardship

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

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

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

**And**

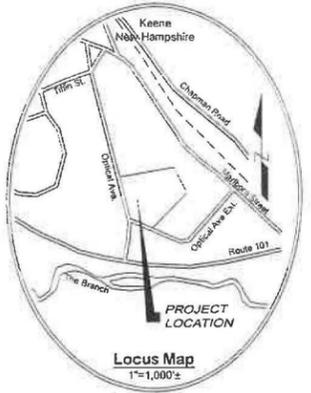
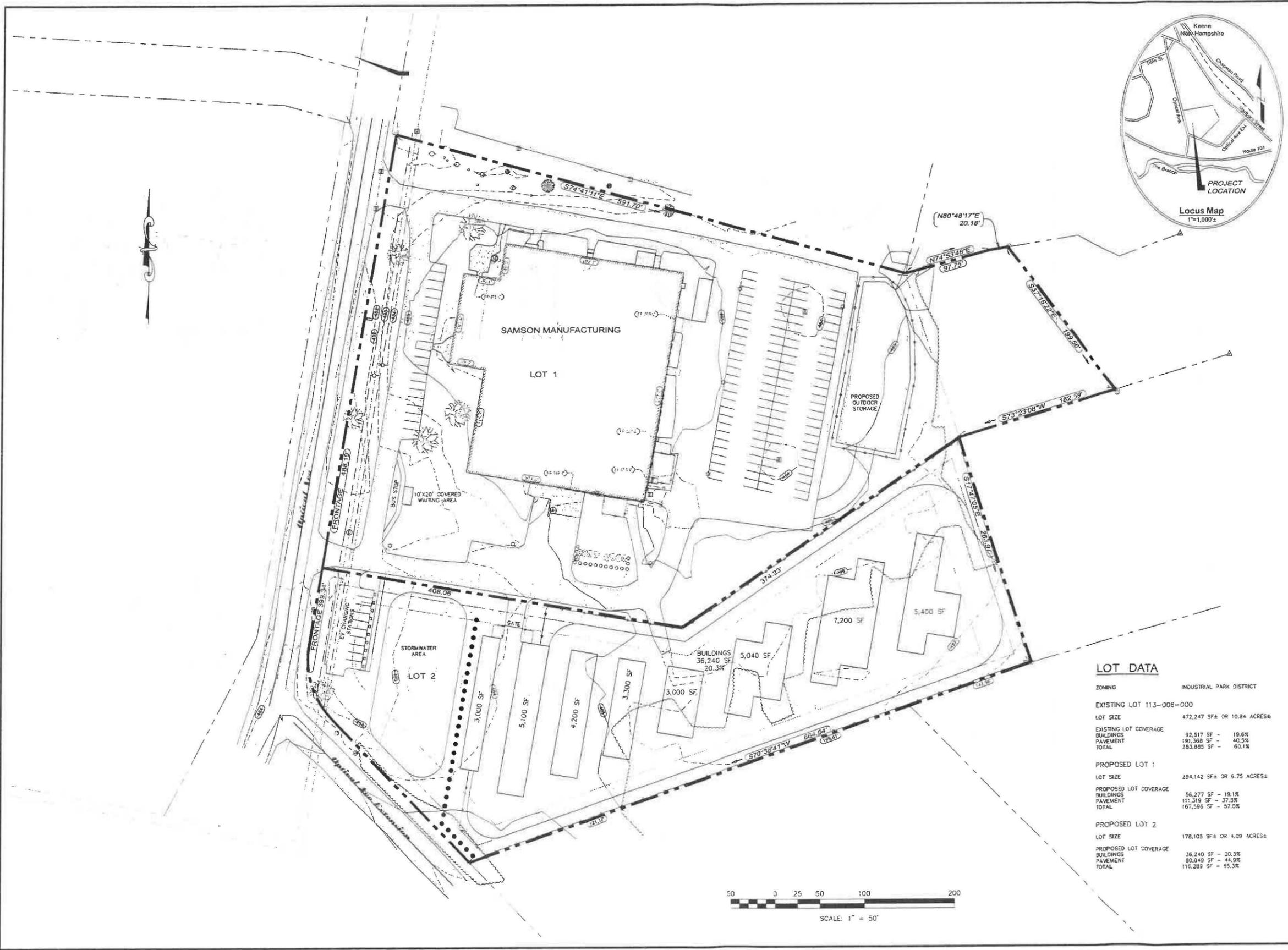
ii. **The proposed use is a reasonable one because:**

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

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

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





REVISIONS:

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

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

32 OPTICAL AVENUE  
 KEENE, NH

## CONCEPT PLAN

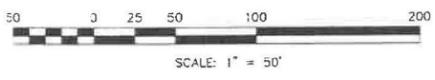
SCALE: 1"=50'

DATE: FEBRUARY 14, 2023

SHEET 1

### LOT DATA

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



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# 147 MAIN ST. ZBA 23-16



**Petitioner requests a drive through use in the Downtown Core District per Chapter 100, Article 8.4.2.C.2 of the Zoning Regulations.**



NOTICE OF HEARING

ZBA 23-16

A meeting of the Zoning Board of Adjustment will be held on **Monday, June 5, 2023, at 6:30 PM** in City Hall Council Chambers, 2<sup>nd</sup> floor, 3 Washington St, Keene, New Hampshire to consider the following petition.

**ZBA 23-16:** Petitioner, 147-151 Main Street, LLC and represented by Jim Phippard, of Brickstone Land Use Consultants, LLC, requests a Special Exception for property located at 147 Main St., Tax Map #584-060-000-000-000 and is in the Downtown Core District. The Petitioner requests to permit a drive-through use in the Downtown Core District at this property, per Chapter 100, Article 8.4.2.C.2 of the Zoning Regulations.

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

Corinne Marcou, Zoning Clerk  
Notice issuance date May 26, 2023

# Zoning Board of Adjustment Special Exception Application



<b>For Office Use Only:</b>	
Case No.	ZBA23-10
Date Filled	5/11/2023
Rec'd By	CM
Page	1 of 10
Rev'd by	

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

## SECTION 1: CONTACT INFORMATION

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

### OWNER / APPLICANT

NAME/COMPANY: 147-151 Main Street LLC

MAILING ADDRESS: PO Box 575 West Swanzey NH 03469

PHONE:

EMAIL:

SIGNATURE:

PRINTED NAME:

MIKE PAPPAS

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

NAME/COMPANY: Same as above

MAILING ADDRESS:

PHONE:

EMAIL:

SIGNATURE:

PRINTED NAME:

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

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

MAILING ADDRESS: 185 Winchester St Keene NH 03431

PHONE: 6

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

SIGNATURE:

PRINTED NAME:

James P Phippard

**SECTION 2: GENERAL PROPERTY INFORMATION**

Property Address: **147 Main Street**

Tax Map Parcel Number: **584-060-000**

Zoning District: **Downtown - Core**

Lot Dimensions: Front: **63'**      Rear: **63'**      Side: **176'**      Side: **176'**

Lot Area: Acres: **.25**      Square Feet: **11,088'**

% of Lot Covered by Structures (buildings, garages, pools, decks, etc): Existing: **0**      Proposed: **40.7%**

% of Impervious Coverage (structures plus driveways and/or parking areas, etc): Existing: **0**      Proposed: **82.8%**

Present Use: **Vacant**

Proposed Use: **Mixed Use: Commercial / Residential**

**SECTION 3: WRITTEN NARRATIVE**

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

See Attached

**SECTION 4: APPLICATION CRITERIA**

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

**See Attached**

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

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

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

**PROPERTY ADDRESS 147 MAIN STREET**

**APPLICATION FOR A SPECIAL EXCEPTION**

- A Special Exception is requested under Section (s) 8.4.2 C.2 of the Land Development Code of the Keene Zoning Ordinance to permit: A Drive-Through use in the Downtown-Core district at 147 Main Street.

**Background:** 147-151 Main Street LLC is the owner of the property at 147 Main Street in the Downtown-Core district. This is the property where a mixed use building burned and had to be completely removed. The owner wishes to construct a new, three story mixed use building on the site. The existing site is 63' x 130' = 8190 sf (0.19 ac). The owner is proposing to do a boundary line adjustment with the vacant property to the rear of this site which will add to this site, making the expanded lot 63' x 176' = 11,088 sf (0.25 ac.). The proposed mixed uses will include commercial spaces on the ground floor with residential apartments on the second and third floors.

The commercial spaces will include a restaurant use with a drive-through lane and a pickup window on the west side of the building. A Special Exception is required for the drive-through use. The proposed restaurant will be takeout only. There will be no seats inside or out.

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

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

The LDC allows a drive-through use in the Downtown-Core district by Special Exception. The DT-C district encourages high intensity mixed uses including commercial, residential, civic and cultural uses. The proposed mixed use building will add to the vibrancy of downtown and is encouraged by the Keene Master Plan. The drive-through use with a pickup window offers the convenience today's customers want and will add to the viability of this business in a downtown location.

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

Since the pandemic, a restaurant with a drive-through lane and pickup window has become the latest trend in food service. Customers order food online or by phone, pay the bill remotely, and when the order is ready, they can then drive through to the pickup window to pick up their food. There will be no order board on the site. no lengthy delays and no long queues waiting to place their orders, waiting for the food to be prepared and paying the bill at the window. This system avoids the safety issues created by long queues. The driveway to the site will be located on Davis Street and

will provide 145 feet for queueing in the drive-through lane. This is more than adequate for this type of drive-through with a pickup window. As proposed, this use will not endanger the public health, safety or welfare.

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

The proposed use will be operated in a new, three story brick building designed to be compatible with the downtown architecture. There will no outside seating and there will be no noises, fumes or vibrations which would disturb the abutting properties. There is on-site parking for up to five cars and there is public parking on Mian Street and on Davis Street. Business hours are typically 10:30 AM to 9:00 PM seven days a week. This proposal will have no significant effect on the abutting land uses.

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

The proposed drive-thru use will not utilize an order board. It will provide access to a pickup window only. There will be no customer seating inside or outside the restaurant. It will not generate excess traffic, excess noise, or cause a disturbance to neighbors. The proposed use will have no adverse effects on the surrounding area.

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

The proposed use will not generate excess traffic and will not use excessive amounts of city water and will not generate significant wastewater. There is adequate on-site parking existing at the site. Customer sales are expected to average approximately 200 sales per day with approximately 60 sales during the peak hour from 5:30 – 6:30 PM. 60 vehicle trips will not diminish the safety or capacity of Davis Street at Main Street.

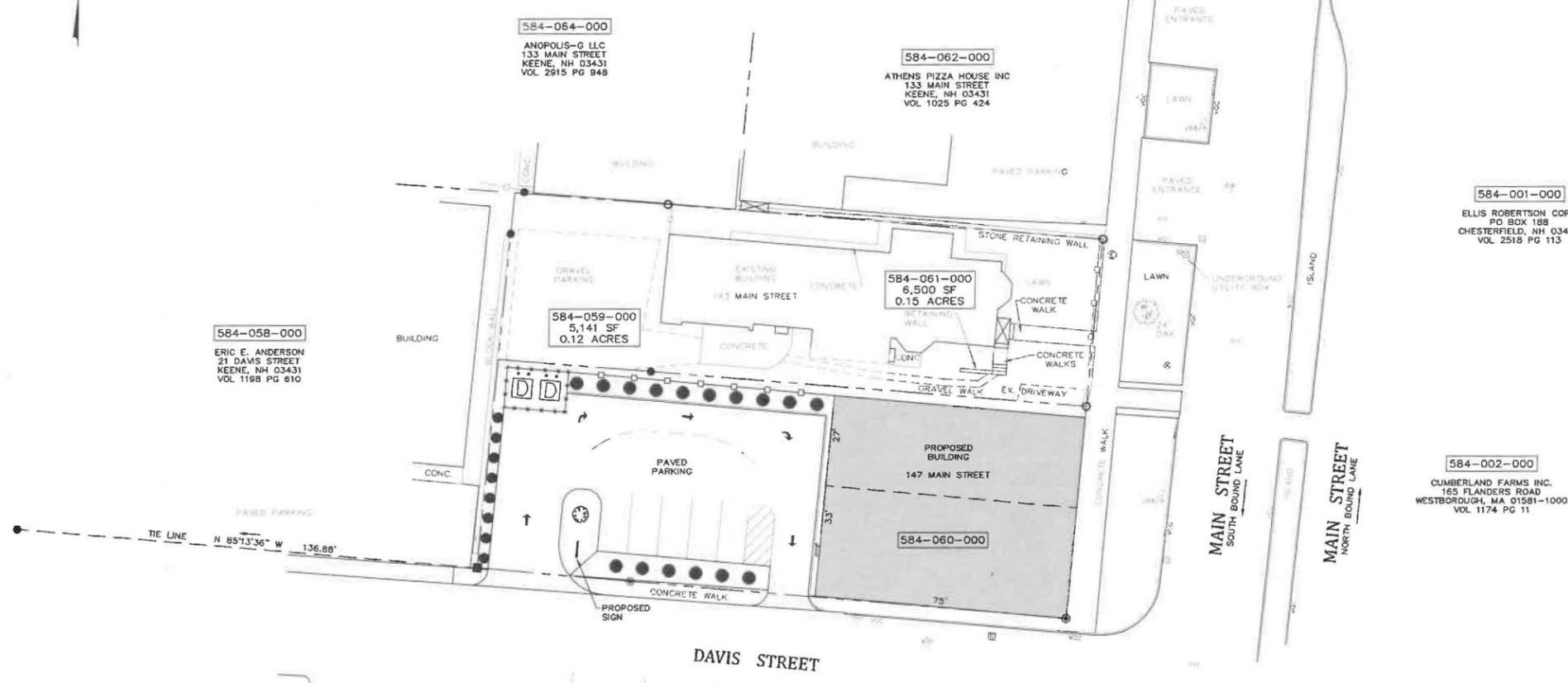
- 6. The proposed use will not result in the destruction, loss or damage of any feature determined to be of significant natural, scenic or historic importance.**

There are no existing natural, scenic or historic features at the site. This is a vacant site where the previous building on the site burned and was removed.

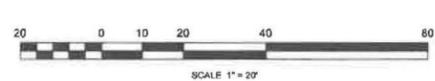
- 7. The proposed use will not create a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity of the use.**

The proposed restaurant will have up to 20 employees with a maximum of 4 employees per shift. Customer sales are expected to average approximately 200 sales per day with approximately 60 sales during the peak hour from 5:30 – 6:30 PM. The intersection at Main Street is right-in right-out only. 60 vehicle trips during peak hour will not diminish the safety or capacity of Davis Street at Main Street.





- LEGEND**
- - PIN FOUND
  - - MONUMENT FOUND
  - - CAPPED REBAR (RBS) / SPIKE SET (SS)
  - ⊙ - DRILL HOLE SET (DHS)
  - ⊕ - SIGN
  - ⊗ - UNDERGROUND UTILITY BOX
  - - UTILITY POLE
  - - LIGHT POLE
  - - ELECTRIC MANHOLE
  - - IRRIGATION VALVE
  - - WATER VALVE
  - - MONITOR WELL
  - - WATER SHUT OFF
  - - DRAIN MANHOLE
  - - CATCH BASIN
  - - SEWER MANHOLE
  - - SEWER CLEAN OUT
  - - VERTICAL GRANITE CURB
  - - WOOD FENCE
  - - - - - APPROXIMATE ABUTTER LINE



**LOT DATA**

ZONING	DOWNTOWN CORE DISTRICT
TAX MAP #	584-060-000
EXISTING LOT SIZE	8,204 SF ± - 0.19 AC±
EXISTING LOT COVERAGE	
VACANT LAND	
PROPOSED LOT SIZE	11,059 SF ± - 0.25 AC±
PROPOSED LOT COVERAGE	
BUILDINGS/AWNING	4,503 SF - 40.7%
PAVEMENT/CONCRETE	4,650 SF - 42.0%
TOTAL	9,153 SF - 82.8%

REVISIONS:

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OWNER/DEVELOPER:  
**143 MAIN LLC & 147-151 MAIN STREET LLC**  
 PO BOX 575  
 WEST SWANZEY, NH 03469

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PLANNER:  
**Brickstone Land Use Consultants LLC**  
Site Planning, Permitting and Development Consulting  
 185 Winchester Street, Keene, NH 03431  
 Phone: (603) 357-0118

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**143 MAIN STREET, 147 MAIN STREET & 0 DAVIS STREET KEENE, NH**

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**PRELIMINARY PLAN**

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SCALE: 1"=20'

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DATE: MAY 2, 2023

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SHEET 1

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# 661 MAIN ST. ZBA 23-17



Petitioner requests a two buildings on a single lot containing independent dwelling units & a nonconforming use shall not be changed to a different nonconforming use per Chapter 100, Articles 8.3.1.E.1 & 18.2.4 of the Zoning Regulations.



## NOTICE OF HEARING

### ZBA 23-17

A meeting of the Zoning Board of Adjustment will be held on **Monday, June 5, 2023, at 6:30 PM** in City Hall Council Chambers, 2<sup>nd</sup> floor, 3 Washington St, Keene, New Hampshire to consider the following petition.

**ZBA 23-17:** Petitioner, Wayne E. Brown Jr. Revocable Trust of 28 Village Rd. Surry, requests a Variance for property located at 661 Main St., Tax Map #120-056-000-000-000 and is in the Low Density District. The Petitioner requests two buildings on a single lot containing two independent dwelling units, which are designed, occupied or intended for occupancy by separate families and a non-conforming use shall not be changed to a different non-conforming use, per Chapter 100, Articles 8.3.1.E.1 and 18.2.4 of the Zoning Regulations.

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

Corinne Marcou, Zoning Clerk  
Notice issuance date May 26, 2023

# Zoning Board of Adjustment Variance Application



<b>For Office Use Only:</b>	
Case No.	<u>ZBA23-17</u>
Date Filled	<u>5/19/23</u>
Rec'd By	<u>CSU</u>
Page	<u>1</u> of <u>13</u>
Rev'd by	_____

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

## SECTION 1: CONTACT INFORMATION

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

### OWNER / APPLICANT

NAME/COMPANY: Brown Wayne E. Jr. Re. Trust c/o Wayne E. Brown Jr

MAILING ADDRESS: 28 Village Rd Surry, NH 03431

PHONE: (603) 357-6382

EMAIL: [pamela.hall@bankerslife.com](mailto:pamela.hall@bankerslife.com)

SIGNATURE: *Wayne E Brown Jr*

PRINTED NAME: *Wayne E Brown Jr*

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

NAME/COMPANY:

MAILING ADDRESS:

PHONE:

EMAIL:

SIGNATURE:

PRINTED NAME:

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

NAME/COMPANY: Jon Saccoccio, AIA

MAILING ADDRESS: 139 Main St, Ste 607

PHONE: (802) 490-2296

EMAIL: [jon@jasworkshop.com](mailto:jon@jasworkshop.com)

SIGNATURE: **Jonathan Saccoccio**

PRINTED NAME: **Jonathan Saccoccio**

Digitally signed by Jonathan Saccoccio  
DN: C=US, E=jon@jasworkshop.com, O="JA Saccoccio Workshop, PLLC", CN=Jonathan Saccoccio  
Date: 2023.05.22 14:58:03-04'00'

## SECTION 2: PROPERTY INFORMATION

Property Address: **661 Main St**

Tax Map Parcel Number: **120-056-000-000-000**

Zoning District: **Low Density**

Lot Dimensions: Front: **124.79** Rear: **168.77** Side: **209.98** Side: **256.84**

Lot Area: Acres: **0.70** Square Feet: **30,546.0**

% of Lot Covered by Structures (buildings, garages, pools, decks, etc): Existing: **28** Proposed:

% of Impervious Coverage (structures plus driveways and/or parking areas, etc): Existing: **44.5** Proposed:

Present Use: **Multi-family Residential**

Proposed Use: **Two-family Residential x2**

## 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 located in the Low Density District which only allows for single family homes. The property is owned by Wayne Brown Jr. and the Brown Wayne E. Jr. Rev. Trust. Wayne has owned and maintained this property since 1999.

This building was previously established before burning, the use as a single building multi-family building is grandfathered so long as construction begins within a year. The previous building was non-conforming use and rear setback requirements of 15-ft. We would like to request a variance to approve the construction of two (2) duplexes instead of a single structure to replace the previous building. Approval of this plan would make it so that the two new buildings would be smaller in size therefore consistent with the character of the area which, is single family style homes in the surrounding neighborhood.

The two duplexes could also then conform to setback requirements on all sides of the property. By with strategic placement on the parcel and shifting the parking area, each of the families in the duplexes could have their own yard/outdoor space.

## SECTION 4: APPLICATION CRITERIA

A Variance is requested from Article (s) 8.3.1.E.1 of the Zoning Regulations to permit:

Two buildings on a single lot containing 2 independent dwelling units, which are designed, occupied or inte



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 new buildings would still be for residential use as was the previous building.

The density would not change from the grandfathered density. The only difference would be splitting the density between two buildings instead of all in one.

Duplexes are more consistent with single family residential neighborhood of the district than a single building with apartments in it. The duplexes would bring it closer to what the rest of the neighborhood is and the character of the area.

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

The spirit of the ordinance would be observed because the new structures would be more consistent with the single-family homes of the neighborhood. Each duplex will be smaller than the original apartment house that was previously on the property. The smaller style home will be more consistent with the character of the area than an apartment building, allowing for the small cozy neighborhood feel to thrive.

The duplexes would also bring the property into conformance with setbacks.

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

Construction of two duplexes will be more affordable and cost effective to the landowner and a more attractive option for the neighborhood as a whole. This plan not only seeks to benefit the landowner but the surrounding properties as well.

If this variance is not granted the owner will have to replace the building with the grandfathered use, which is less fitting with this zoning district. By granting the variance the city is providing justice to the neighborhood by bringing a non-conforming property more into conformance.

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

The value of surrounding properties would not be diminished because there would no longer be a large apartment building standing out in the neighborhood. The two duplex buildings would bring charm to the neighborhood and boost curb appeal, in turn increasing value to the surrounding properties.

**5. Unnecessary Hardship**

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

**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:**

If this variance is denied unnecessary hardship falls on the neighbors. Two duplexes would be more consistent with the character of the single family home neighborhood. The multi-family building is grandfathered, but not consistent with the character of the area, and not compliant with the rear setback requirements. The easiest option is to just replace the building exactly how it was without the need for a zoning variance application, but in an effort to bring the property into uniformity with others, the duplexes are a better alternative.

and

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

The proposed use is reasonable because two duplexes would bring continuity to the neighborhood instead of one large building in the midst of smaller homes along the street.

It is reasonable because multi-family housing is already grandfathered on the property. This request is an effort to bring value to the neighborhood as a whole by creating an attractive layout of two duplexes on the property.

**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 multi-family use is an already grandfathered use, but building two duplexes is an effort to rebuild in the spirit of the single family homes neighborhood, which is the only permitted use in the Low Density District.

The owner would like to continue to use the property for rental units, the best way to continue doing this while also being sensitive to the characteristics maintained in the zoning code would be to build two smaller buildings on the parcel.



# 200 foot Abutters List Report

Keene, NH  
May 17, 2023

## Subject Property:

Parcel Number: 120-056-000  
CAMA Number: 120-056-000-000-000  
Property Address: 661 MAIN ST.

Mailing Address: BROWN WAYNE E. JR. REV. TRUST  
28 VILLAGE RD.  
SURRY, NH 03431

## Abutters:

Parcel Number: 120-002-000  
CAMA Number: 120-002-000-000-000  
Property Address: 650 MAIN ST.

Mailing Address: LAURENT JAMES W. LAURENT DONNA L.  
650 MAIN ST.  
KEENE, NH 03431

Parcel Number: 120-003-000  
CAMA Number: 120-003-000-000-000  
Property Address: 654 MAIN ST.

Mailing Address: BAILEY JOANN REV. TRUST  
654 MAIN ST.  
KEENE, NH 03431

Parcel Number: 120-004-000  
CAMA Number: 120-004-000-000-000  
Property Address: 656 MAIN ST.

Mailing Address: BAILEY JOANN REV. TRUST  
654 MAIN ST.  
KEENE, NH 03431

Parcel Number: 120-005-000  
CAMA Number: 120-005-000-000-000  
Property Address: 660 MAIN ST.

Mailing Address: RAYNE PROPERTIES LLC  
120 BEAVER ST.  
KEENE, NH 03431

Parcel Number: 120-006-000  
CAMA Number: 120-006-000-000-000  
Property Address: 16 ROSE LN.

Mailing Address: GRANITE KEENE LLC  
19 QUINCY AVE.  
QUINCY, MA 02169-6709

Parcel Number: 120-007-000  
CAMA Number: 120-007-000-000-000  
Property Address: 664 MAIN ST.

Mailing Address: COX, JAMIE L. COX TODD H.  
664 MAIN ST.  
KEENE, NH 03431

Parcel Number: 120-008-000  
CAMA Number: 120-008-000-000-000  
Property Address: 14 ROSE LN.

Mailing Address: DAVIS OIL CO INC  
559 MAIN ST.  
KEENE, NH 03431-4038

Parcel Number: 120-009-000  
CAMA Number: 120-009-000-000-000  
Property Address: 668 MAIN ST.

Mailing Address: VICKERS, CRAIG A.  
85 WENTWORTH RD.  
WALPOLE, NH 03608

Parcel Number: 120-041-000  
CAMA Number: 120-041-000-000-000  
Property Address: 14 LEAWOOD AVE.

Mailing Address: HITCHINGS RONALD & JUDITH LIVING TRUST  
14 LEAWOOD AVE.  
KEENE, NH 03431

Parcel Number: 120-042-000  
CAMA Number: 120-042-000-000-000  
Property Address: 11 LEAWOOD AVE.

Mailing Address: HOLBROOK JOHN N. HOLBROOK MARY J.  
11 LEAWOOD AVE.  
KEENE, NH 03431



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# 200 foot Abutters List Report

Keene, NH  
May 17, 2023

Parcel Number: 120-054-000  
CAMA Number: 120-054-000-000-000  
Property Address: 675 MAIN ST.

Mailing Address: FREDERIKSEN JAMES & GERALDINE  
LIVING TRUST  
675 MAIN ST.  
KEENE, NH 03431

Parcel Number: 120-055-000  
CAMA Number: 120-055-000-000-000  
Property Address: 667 MAIN ST.

Mailing Address: KEENE FOUR SQUARE CHURCH  
667 MAIN ST.  
KEENE, NH 03431

Parcel Number: 120-057-000  
CAMA Number: 120-057-000-000-000  
Property Address: 659 MAIN ST.

Mailing Address: LILLY KATHLEEN F. LILLY THOMAS C.  
1974 WINDROSE WAY  
MYRTLE BEACH, SC 29577

Parcel Number: 120-058-000  
CAMA Number: 120-058-000-000-000  
Property Address: 655 MAIN ST.

Mailing Address: STUTES DARYL L. BATTY JILL I.  
655 MAIN ST.  
KEENE, NH 03431

Parcel Number: 120-059-000  
CAMA Number: 120-059-000-000-000  
Property Address: 649 MAIN ST.

Mailing Address: BATTY JILL I. STUTES DARYL L.  
649 MAIN ST.  
KEENE, NH 03431

Parcel Number: 120-060-000  
CAMA Number: 120-060-000-000-000  
Property Address: 10 EDGEWOOD AVE.

Mailing Address: LUPIEN ROBERT J. & MARYJANE IRREV.  
TRUST  
10 EDGEWOOD AVE.  
KEENE, NH 03431

Parcel Number: 120-061-000  
CAMA Number: 120-061-000-000-000  
Property Address: 14 EDGEWOOD AVE.

Mailing Address: BORDEN LAURA C.  
14 EDGEWOOD AVE.  
KEENE, NH 03431

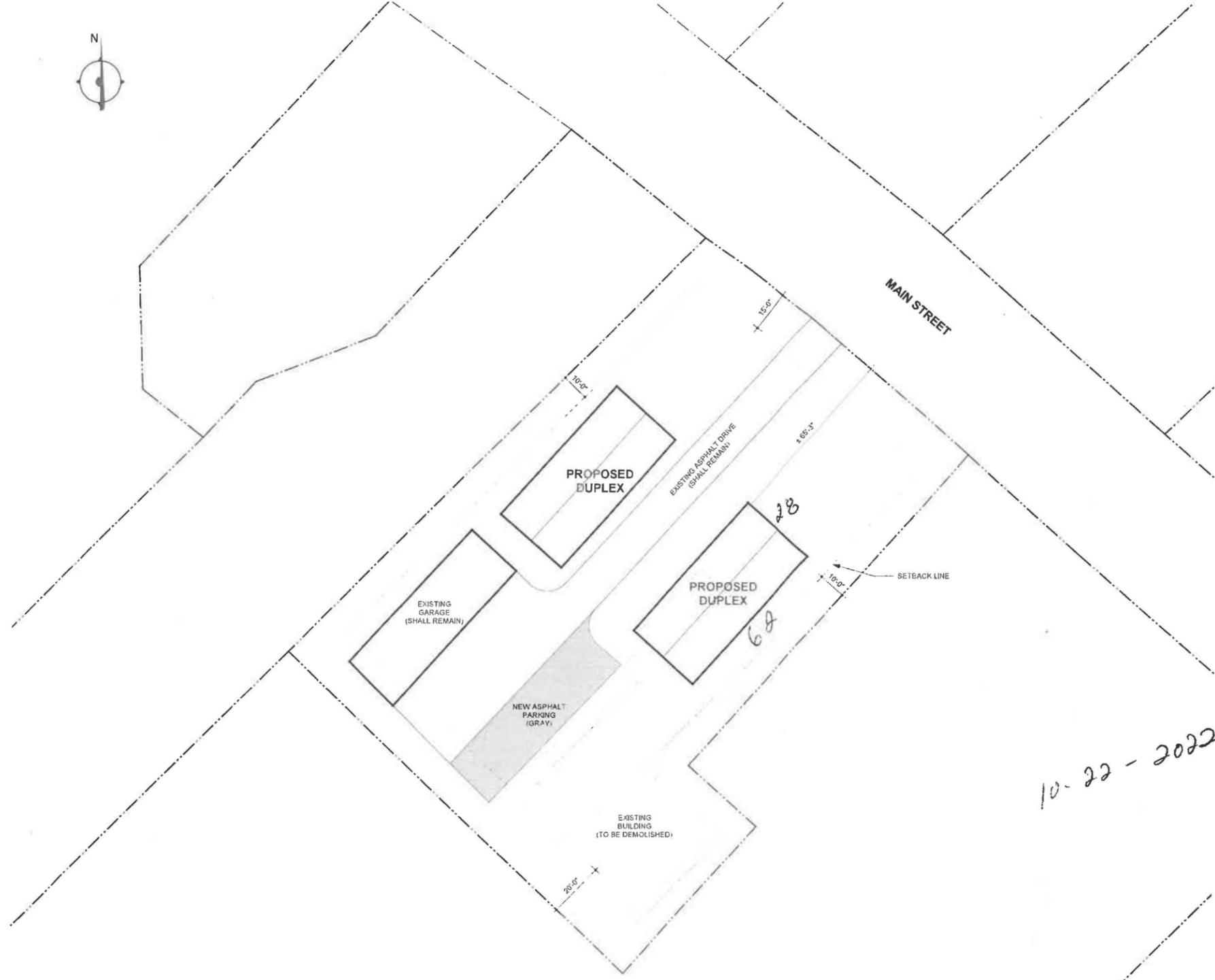
Parcel Number: 120-062-000  
CAMA Number: 120-062-000-000-000  
Property Address: 24 LYNWOOD AVE.

Mailing Address: MASON JONATHAN R.  
24 LYNWOOD AVE.  
KEENE, NH 03431



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BROWN WAYNE E. JR. REV. TRUST

MAP/LOT #:  
1201 / 056/000 000/000  
661 MAIN STREET, KEENE, NH  
0.7 ACRES

JA  
**saccoccio**  
Architectural WORKSHOP PLLC

DRAFT

**SITE PLAN NOTES**

1. THIS DRAWING IS NOT A SURVEY. THIS SCHEMATIC ARCHITECTURAL SITE PLAN WAS DERIVED FROM ONLINE PUBLIC-ACCESSIBLE TOPOGRAPHY AND PARCEL DATA, AND INFORMATION PROVIDED BY THE OWNER. ALIGNMENT OF PARCEL BOUNDARIES AND/OR SATELLITE IMAGE, IF SHOWN, IS APPROXIMATE.
2. THE PURPOSE OF THE CONTENTS CONTAINED ON THIS SHEET ARE CONCEPTUAL LAYOUT DRAWINGS, THE INTENT OF WHICH IS TO ASSIST THE OWNER AND/OR CONTRACTOR WITH SITE LAYOUT, BUILDING, UTILITIES COORDINATION, AND OTHER IMPORTANT FEATURES AND OVERALL SITING IN RELATION TO THE PARCEL CONFIGURATION. THE EXECUTION OF THIS WORK, AND ANY ADDITION OR MODIFICATION TO THE SCOPE, IN ACCORDANCE WITH ANY APPLICABLE CODE OR STANDARD, SHALL BE THE RESPONSIBILITY OF THE OWNER, CONTRACTOR AND/OR SUBCONTRACTORS.

**ZONING DATA**

ZONING ORDINANCE/REGULATION	
CITY OF KEENE LAND DEVELOPMENT CODE	
EFFECTIVE SEPTEMBER 1, 2021; LAST AMENDED NOVEMBER 2022	
DISTRICT & OVERLAY DISTRICT	
District:	LOW DENSITY (LD)
Overlay District:	N/A
USE	
Use:	MULTI-FAMILY RESIDENTIAL
Conditional:	N

DIMENSIONAL CRITERIA	REQ'D	PROPOSED
MIN LOT AREA	10,000 SF	NO CHANGE
MIN LOT WIDTH AT BUILDING LINE	70 FT	115'
MIN ROAD FRONTAGE	60 FT	NO CHANGE
MIN FRONT SETBACK	15 FT	-
MIN REAR SETBACK	20 FT	-
MIN SIDE SETBACK	10 FT	-
MAX BUILDING COVERAGE	35%	-
MAX IMPERVIOUS COVERAGE	45%	-
MIN GREEN / OPEN SPACE	55%	-
MAX STORIES ABOVE GRADE	2	1
MAX BUILDING HEIGHT	35 FT	SEE BLDG DRAWINGS

PARKING	REQ'D	PROPOSED
TABLE 9-1: MINIMUM ON-SITE PARKING		
DWELLING, MULTIFAMILY	2 SPACES/UNIT	8
<b>Total Parking:</b>		<b>8</b>

PROGRESS SET  
NOT FOR CONSTRUCTION

PROJECT  
**661 Main Street**  
661 Main Street  
Keene, NH  
03431  
**Wayne Brown**

PROJECT ISSUE  
**SCHEMATIC DESIGN**

ISSUES  
01 06-10-2023 OWNER REVIEW DRAFT

DRAWING TITLE  
**SITE PLAN**

DRAWN BY: JS  
PROJ. NO.: 2313  
SHEET NO.:

**A1.0**

1 | SITE PLAN  
1" = 20'-0"

