



City of Keene Zoning Board of Adjustment

AGENDA

Monday, July 3, 2023

6:30 p.m.

City Hall, 2nd Floor Council Chambers

- I. Introduction of Board Members:
- II. Minutes of the Previous Meeting: May 1, 2023 & June 5, 2023
- III. Unfinished Business:
- IV. Hearings:

Continued 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 23-18: Petitioner, Lynn Stanford of Keene, requests a Variance for property located at 334 Chapman Rd., Tax Map #241-048-000-000-000 and is in the Rural District. The Petitioner requests to permit the building of a single family home on the substandard lot size of 1.03 acres where five acres are required, per Chapter 100, Article 3.1.2 of the Zoning Regulations.

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

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1 City of Keene
2 New Hampshire

3
4 ZONING BOARD OF ADJUSTMENT
5 MEETING MINUTES
6

7 **Monday, June 5, 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
Michael Hagan, Plans Examiner
Corinne Marcou, Zoning Clerk

Members Not Present:

8 **I) Call to Order**
9

10 Chair Hoppock called the meeting to order at 6:30 PM. Roll call was conducted.
11

12 **II) Minutes of the Previous Meeting – May 1, 2023**
13

14 Chair Hoppock asked Ms. Taylor to go through her proposed changes to the meeting minutes.
15

16 Ms. Taylor stated that line 60 of the May 1 minutes state, “*Mr. Phippard continued that he was*
17 *contacted through his attorney,*” and she is not sure whom that refers to, but it does not refer to
18 Mr. Phippard. She continued that it is possible that it refers to Mr. Hanna, but they need to clarify
19 that. Mr. Gorman stated that he thinks it is the Putnams’ attorney. Ms. Marcou stated that she and
20 the minute taker can listen to the audio recording, make the correction, and the Board can adopt
21 the minutes at the next meeting. Chair Hoppock agreed.
22

23 Ms. Taylor stated that she believes “*Mr. Ryan*” on line 564 should be “*Mr. Owens.*” His name is
24 Ryan Owens. She continued that line 683 currently reads, “*Mr. Jackson stated that he will try to*
25 *respond to the individual points,*” and she thought he said he was *not* going to respond to the
26 individual points, but to respond generally, as the rest of the minutes seem to indicate.
27

28 Chair Hoppock asked if anyone else had comments on the minutes. Hearing none, he continued
29 that if there are no objections, they will table the vote until next time.
30

31 Chair Hoppock stated that the Board also has draft minutes from the special meeting held on
32 May 16, 2023.

33 Ms. Taylor stated that she has three suggested edits:

34 Line 166: the minutes currently state “*Mr. Chartier replied that they are looking to make this lot*
35 *more appeasing,*” and she thinks it should be “more appealing.”

36
37 Line 193: “*Mary Jane Doody of 185 South Lincoln St. stated she abuts one of the abutters.*” She
38 actually abuts the property, and said that, not that she abuts an abutter. Mr. Gorman replied that
39 he thinks Ms. Doody had stated that she is one of the abutters. He continued that she is, in fact,
40 an abutter. Chair Hoppock agreed that the minutes should reflect that Ms. Doody is an abutter.

41
42 Line 225: “*Because the property in question has right-of-way to his driveway*” should read
43 “...has a right-of-way to his driveway.”

44
45 Mr. Gorman made a motion to approve the meeting minutes of May 16, 2023 with the
46 amendments. Chair Hoppock seconded the motion, which passed with a vote of 3-0. Mr. Clough
47 and Mr. Welsh abstained, having not been present at the meeting.

48
49 **III) Unfinished Business**

50
51 Chair Hoppock asked if there was any unfinished business. Mr. Rogers replied no.

52
53 **IV) Hearings**

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

60
61 Chair Hoppock asked staff to give background information.

62
63 Mr. Hagan stated that 32 Optical Ave. is located in the Industrial Park District. He continued that
64 the Industrial Park District is “*intended to provide for relatively low intensity manufacturing and*
65 *research and development firms that are employee intensive, clean in nature, and promote an*
66 *attractive industrial park environment. Service operations and sales activities are excluded from*
67 *this district, except for minor sales that may be accessory to the primary use. All uses in this*
68 *district shall have City water and sewer services.*” He continued that this is a 10.84-acre lot,
69 which currently has a 52,000 square foot manufacturing building and a 168,000 square foot area
70 paved. There are no ZBA applications on file.

71
72 Chair Hoppock asked if the Board had questions for staff. Hearing none, he asked to hear from
73 Jim Phippard.

74
75 Mr. Phippard stated that he is here on behalf of Samson Associates, LLC, the owners of the
76 property at 32 Optical Ave. He showed the plan and oriented the Board as to the location of the

77 property. He continued that the existing manufacturing facility, Samson Manufacturing, is a gun
78 manufacturer with 124 parking spaces on site. They have an additional land area that is currently
79 undeveloped that is mostly an open field, flat, with sandy soils and has been that way for many
80 years. The total property is 10.84 acres. Samson Associates proposes doing something on the
81 southerly portion of land, having talked about creating a 4-acre lot, subdividing a separate parcel
82 from the main parcel. That would leave the main parcel 6.75 acres, which meets all the zone
83 dimensional requirements for the Industrial Park District. Samson Associates would like to
84 create an electric vehicle (EV) charging station at the frontage of the property along Optical Ave
85 and leave a placeholder area for storm water detention, and at the rear of the property, they
86 propose self-storage units.

87
88 Mr. Phippard continued that (Mr. Samson) has been looking since approximately 2018 to create
89 some additional use on this property to best utilize his land; it has been quite a challenge. Once
90 or twice a week, he (Mr. Phippard) is contacted by realtors, developers, and companies who are
91 interested in locating in Keene, asking about available sites and about zoning. Half a dozen
92 (people/companies) have been interested in the area along Optical Ave. that used to be a drive-in,
93 which there is a proposal now coming forward for this lot. He has made them aware that there is
94 an area of roughly four acres available. The problem has been that the Industrial Park zoning is
95 quite restrictive and not like the Industrial Zone or the Commerce Zone. The Zoning regulations
96 only list four or five permitted uses. As time has gone on during the 40+ years he has been doing
97 this work, land uses have changed, and companies' needs and requirements have changed. When
98 the Industrial Park was created in the 1950's, there was a need to create large, flat lots for big
99 buildings where companies could move in and have many employees and a lot of parking, and
100 access to the highway to accommodate their employees and deliveries. It was successful as
101 Markem, MPB, American Optical, and other corporations existed there. Today, some of those
102 companies are gone, and many of those companies are changing. The former American Optical
103 space is office space for ES3, a division of C&S. He worked on that property and came before
104 the ZBA to get a Special Exception to allow that office use. That is an example of the changes
105 that have occurred.

106
107 Mr. Phippard continued that they are at that point again, where he is not able to bring these
108 companies to Keene because Keene's zoning does not accommodate them without a Variance.
109 Most of these companies are large. One is an international company, one of the largest
110 companies in the world. When he tells them they need a Variance for their use to locate in this
111 area in Keene, they are not interested, and are off to other towns. They do not want to bother
112 with (a Variance). Keene's restrictive zoning is affecting Keene's marketability for companies
113 looking at the area.

114
115 Mr. Phippard stated that his client needs two Variances to accommodate the proposed use on the
116 property. He continued that the EV charging station is not defined as an industrial use in the
117 Ordinance having talked about it at length with John Rogers (Zoning Administrator). It is a
118 "vehicle fueling station" and just happens to be an alternative fuel – electricity, rather than
119 gasoline or diesel. There is a tremendous difference between a gas station with gasoline and

120 diesel and an EV charging station. Most gas stations in the Keene area have convenience stores,
121 drive-thrus, or some other use with them. The only dedicated, single fuel station he can think of
122 is Cheshire Oil off Rt. 101. They only sell fuel; they do not have a store or anything else
123 associated with it. The EV charging station does not have any of that. They want the EV
124 charging station open to the public, knowing there are not yet many EV charging stations in
125 Keene. The City has a public station available in the parking lot areas near downtown, and three
126 of the car dealers have EV charging stations, primarily available for their customers. Someone
127 traveling a long distance in an electric car, and needing to charge along the way, can go to some
128 of the EV chargers that sponsor these, and they will tell you where these charging stations are
129 located. His client would like this to be one of those locations, being close to Rt. 101 and thus
130 convenient.

131
132 Mr. Phippard continued that it would have at least two types of chargers, level 2 and level 3,
133 which are the faster chargers. At a gas station, filling up your car takes five or ten minutes. This
134 is not that. Plugging your EV in for the quick charge, which comes with a higher fee, takes about
135 half an hour. That is probably the quickest turnover, depending on what type of EV you have,
136 knowing there is a big difference between EVs. For the longest time, it was Tesla, and if you did
137 not drive a Tesla, you could not plug in your car and charge it because it would not fit as Tesla's
138 plug was proprietary. Now, they have opened their market and offer the original plugs as well as
139 newer ones that fit models other than Tesla. A customer not going for the more expensive quick
140 charge will be plugging their EV in for three to six hours. This is not like a gas station, where
141 you drive up, fill up your tank, and drive away; it does not work that way. There is a big
142 difference, and he wishes the Zoning Ordinance reflected that. There is increasing political
143 pressure to (transition) to electric cars, and there needs to be a support system to allow that. That
144 will not happen fast enough unless (people) do not need a Variance every time they want to
145 locate one of these (charging stations) in Keene.

146
147 Mr. Phippard stated that the rest of the project his client proposes is self-storage units, wanting a
148 low-intensity use. They could not find a user that did manufacturing, or research and
149 development for this site. After four years of searching, they are now trying for a Variance to
150 allow self-storage, which is a very low-intensity use. He has worked on projects for thousands of
151 self-storage units in Walpole, Keene, Swanzey, Fitzwilliam, and Troy, NH. Thus, he knows how
152 it works and how to make it fit a site. It takes about a year to fill the (self-storage units), and then
153 the traffic goes to almost nothing. He talked with the owners of local storage units on Dunbar St.
154 and Bradco St. There are a couple units available on Dunbar St., but Bradco St. is full, they will
155 put your name on a waiting list. Swanzey is full and has a waiting list. Walpole is about 80% full
156 and will probably be full by the end of this year. The traffic is busier when they are trying to fill
157 units, with people who come and go as they are looking at units. Once the units are full, (it is
158 different). Dunbar St. has over 100 units and they get about six cars a day. Bradco St. has almost
159 200 storage units and gets about 10 cars a day. People just do not come and go every day; it is
160 not like a commercial use. The Zoning Ordinance recognizes self-storage units as a commercial
161 use, not as an industrial use and he thinks that is a mistake. Mr. Rogers knows he disagrees with
162 it and that he thinks of it as a "light industrial use." It is industrial in nature because it is storage.

163 It is not commercial, because you cannot go there and buy anything since (self-storage units) are
164 not selling products. People who go there, go to their own storage unit where they have furniture
165 or whatever they are storing, which is different from a traditional commercial entity. It is not like
166 an office or retail store. He thinks that is significant.

167

168 Mr. Phippard stated that he will go through the criteria.

169

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

171

172 Mr. Phippard stated that he believes this is true, because there is a continuing need for more
173 units. He continued that Keene does not have a lot of land for anything. On a regular basis, he
174 receives calls from national companies that build storage units all over the country – they are
175 looking for anything and everything, because there is still such a demand for self-storage units.
176 After the first year, the units are full, and people tend to stay there for 3-17 years. Once
177 established, these businesses generate a lot of money as they are inexpensive to build. A new
178 industrial building like Samson Manufacturing today would cost between \$300 and \$400 per
179 square foot. Storage buildings are between \$30 and \$40 per square foot, if unheated. Many
180 developers look at these as placeholders. If they can put a use on a (property) that will pay for
181 itself and cover the taxes, and in a few years a business comes around that is a better user/better
182 generator for income, they can tear it down. They have reserved it, created the pad, brought in
183 utilities so it is ready to go. It ends up being a very good investment.

184

185 Mr. Phippard continued that he believes self-storage units in this location would be a very low-
186 intensity use, generating less than a dozen cars a day once the units are occupied. The Institute of
187 Transportation Engineers says that a large storage facility like this would generate about 90 cars
188 a day. Maybe when it is first built and available to lease, but once occupied, there is no way (it is
189 that many); he has not seen that. He has worked on at least a dozen of these sites and has been in
190 contact with the owners. The traffic goes down to almost nothing, making it one of the lowest
191 intensity uses you can have and would be compatible in an area like this. It will not overtax the
192 roadway, is in close proximity to Rt. 101, so people can drive on a state highway to get to it,
193 instead of using the streets through town. It is not like an entity with 200 employees, which
194 would generate a high volume of traffic during peak hours in the morning and evening. This is a
195 uniformly low-intensity use.

196

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

198

199 Mr. Phippard stated that part of the Industrial Park District, as Mr. Hagan read, is low intensity
200 uses, manufacturing and research and development. This is neither of those, but it is a low
201 intensity use. He believes it is industrial in nature, as he described. As long as it is properly
202 screened and constructed, he thinks it is an appropriate use and meets the spirit of the Ordinance.
203 The self-storage units would be surrounded by six-foot chain-link fencing, primarily for security.
204 Access is via a gate controlled by a keycard where the keycards record when a person enters and
205 leaves. The units would be screened along the frontage of Optical Ave. with arborvitae hedge.

206 These are only single-story buildings, 10 feet high at the eave and 12 feet high at the ridge,
207 except for the wider buildings, which are 18 feet high at the ridge. They are not very visible to
208 start with, and with an effective, quick-growing hedge that starts at six feet high, this will not
209 even be visible to traffic on Optical Ave. People will not even know it is there unless they read
210 the sign and go look. He thinks it meets the spirit of the Ordinance.

211
212 3. *Granting the Variance would do substantial justice.*

213
214 Mr. Phippard stated that substantial justice would be done because this would enable the
215 property owner to have a reasonable use of his property with little to no effect on the
216 neighbors/abutting properties. He does not believe there is any public benefit to denying a
217 Variance where he does not have a significant negative effect on any of the abutting properties.

218
219 4. *If the Variance were granted, the values of the surrounding properties would not be*
220 *diminished.*

221
222 Mr. Phippard stated that usually, abutting properties become affected when a use goes in that is
223 high intensity, has a lot of lighting 24 hours a day, or generates noise or fumes. He continued that
224 this would not be doing any of that as traffic is very low, lighting will be full cut-off LED
225 fixtures, wall-mounted only, no pole lights. The lights would be on timers, reducing to 50% after
226 10:00 PM, which the City Ordinance requires. The owner is willing to go to motion sensor lights
227 if that would make the neighbors and boards happier, as this proposal would have to go to the
228 Planning Board if the Variance is granted. The factors that primarily affect surrounding property
229 values would be minor, would be addressed, and would not have a significant effect on property
230 values. This area is large, paved, and has several buildings. The site's elevation is 487 at the rear
231 and 483 down at the road, so it slopes naturally away from the residential area at the rear. That is
232 why the plan has a large storm water detention area. They [the values of surrounding properties]
233 will not be affected by runoff, lighting, or traffic. He does not think they will be affected by
234 noise. He thinks this is a reasonable use in this location.

235
236 5. *Unnecessary Hardship*

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

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

242 *and*

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

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

249 Mr. Phippard stated that this is one of the toughest issues, when they are talking about a use
250 Variance, which is what they are talking about for both the EV charging stations and the self-
251 storage units. He continued that as he stated in the background information, Keene's regulations
252 are considered restrictive. That is not something he is personally saying, it is something he hears
253 from customers/clients who are looking at the city and saying they want to build their business
254 here. One client, just two months ago, [wanted a] 50,000-square foot building but cannot go here
255 without a Variance. He told the client he thought he could get it, since the client is a big enough
256 user, with good, high-paying jobs. However, the client's primary use is not manufacturing or
257 research and development, and just does not fit under the Ordinance. This client is now talking to
258 Swanzey. Another client wants to build a new building and has been in Keene for 60 years. He
259 wants to relocate to this portion of the city and cannot do it without a Variance. That is enough to
260 discourage these clients.

261
262 Mr. Phippard continued that he has learned throughout his career that industrial users want sites
263 that are ready to go and want to know that the City of Keene will work with them, as they build
264 their \$15- to \$20-million facilities. He tries to assure these industrial users that the City will work
265 with them, and that they do want these users to come to Keene; all they have to do is get a
266 Variance, which he can do. He is in front of the Zoning Board too many times. He has been
267 successful over the years. Staff tells him he has a 96% approval rating, which may or may not be
268 accurate. He encourages his customers to see the process through, to come talk with City staff,
269 and meet with the City Manager. The company (he is talking about tonight) has been in the area
270 for many years and has been on Optical Ave. since 2016. He is trying hard to stay here and wants
271 to utilize the rest of his property. This (self-storage units) would be a rather benign way to do it,
272 without interfering with abutters or overtaxing the road system, but he needs a Variance. This
273 argument, that the City's own Zoning regulations become a special condition that affects a
274 property, is true. He is not personally making it up; he hears it from other entities that are trying
275 to come into Keene. He hopes the Board recognizes this.

276
277 Mr. Phippard continued that he understands that if the Variance is not granted, then they have to
278 try to get the City Council to fix the Zoning again. For two years, he served on the committee
279 when the LDC was being redeveloped and spent a lot of time providing comments and input. As
280 time went on and there was increasing pressure to get something on paper so the new regulations
281 could be in place, the attitude became, "Well, we'll fix it later; let's just get something approved
282 and in place." Staff has been doing that. Mr. Rogers has been diligently trying to clean up the
283 changes, gaps, and conflicts in the rules as they were developed, but it still leaves him (Mr.
284 Phippard) in this situation where he has to say, "I'm sorry, Mr. Client, you can't come to this site
285 without a Variance, because of the existing regulations. Maybe [the City] will fix it next year; I
286 don't know." At least he can go for a Variance, make everyone aware of it, and hopefully get it.
287 That is his argument for the special condition that has been created by the City's regulations. He
288 knows one (ZBA) member wants it to be a unique situation for this one property. It affects
289 actually about three properties in the Industrial Park District. He feels that is unique and a special
290 condition, which is hard to overcome. It puts a burden on the landowners to carry these
291 properties year after year, because this restriction prevents this type of use. As uses keep

292 changing over time, he sees more and more situations where it does not fit exactly in the
293 description in the regulations, and he ends up having to come to the ZBA. He hopes he is almost
294 done with that. He has two more Variances next month and then thinks he is done and will not
295 bother the Board anymore. He hopes the Board works with him and his client on this and he is
296 happy to answer questions.

297
298 Mr. Welsh stated that the ZBA is not tired of Mr. Phippard, and they appreciate his history of
299 working on the Ordinance and on specific issues. He continued that he is interested in Mr.
300 Phippard's history of work, as he mentioned working on the recent revision of the LDC and
301 therefore was present for many of the discussions about specific points of revision. He wonders
302 if, in his work, Mr. Phippard recalls any discussion about the Industrial Park District, either its
303 specific parameters or where it would apply in the city.

304
305 Mr. Phippard replied that his role on that committee was primarily representing the development
306 community, and primarily he complained. He continued that he felt it was part of his job to make
307 (the City) aware of what was seen as a problem by the development community and property
308 owners. The discussion he remembers about the Industrial Park District was that it was
309 "antiquated." It came from the 1950s and was very effective then, where they succeeded in
310 getting many large companies to come in. Today, it does not fit as well with the same four or
311 five uses are listed. He thinks the City added "office use with special exception," which is
312 because C&S came in and wanted that to salvage one of the buildings, and redeveloped it for
313 ES3. That went very well, where the City supported that and changed the Ordinance to allow it.
314 Other than that, he thinks the attitude was to protect it. (The City) sees (The Industrial Park
315 District) as a gateway into Keene and felt that the buildings should be primarily brick, not metal
316 industrial buildings. They wanted it to be clean, with bigger setbacks than normally required. He
317 understands all that. Those aspects, the setbacks, are satisfied by the proposed plan the Board is
318 considering tonight. The storage buildings will not be brick but will be well screened. The
319 (Industrial Park District) did not get a lot of discussion. He did not receive a lot of feedback and
320 did not see any changes come about as a result.

321
322 Mr. Welsh stated that it seems like they are addressing ZBA 23-03 and ZBA 23-04 together, and
323 he has a question about 04, regarding accessory uses in some of the facilities. He understands
324 that vendors, and commercial users, are acceptable as long as they are demonstrably an accessory
325 to the overall facility. He imagines that an industrial facility with a cafeteria, for example, would
326 be an acceptable use if it sold food primarily for employees of the factory, even though it would
327 not be acceptable as a standalone restaurant on the corner of the lot. Mr. Phippard replied that
328 that is his understanding. Mr. Welsh replied that if a cafeteria is an acceptable use if primarily for
329 employees' use, his question is why an electric vehicle fueling station would not be pitched as
330 primarily for the employees' use. Then it could be an accessory use and not need a Variance.

331
332 Mr. Phippard replied that it could be if that is allowed as an accessory use. He continued that he
333 and Mr. Rogers talked about that. (His client) wants the charging station to be open to and
334 available to the public, and that makes it a primary use, not "accessory." He asked Mr. Samson if

335 he wants to put in a solar array on the ground if the ZBA does not approve the storage units, and
336 Mr. Samson does not want that. He himself agrees with that decision. He pointed out that Mr.
337 Samson has 50,000 square feet of roof area next door and asked if he wanted to use that. Mr.
338 Samson's answer was no, because he wants to create a separate lot with separate uses and wants
339 the ability to sell it. Mr. Samson is approaching the end of his working career and wants the
340 ability to sell it and get out. Thus, he wants this entirely separate. Putting the solar array on the
341 roofs of the storage units, all on one lot, would be permitted. It would be permitted to be larger
342 than 2,000 square feet, because 2,000 square feet would not service a 10-space EV charging
343 station. It would not service a single charging station with a level 3 charger. You need a much
344 larger solar array to accomplish that, which is what Mr. Samson is trying to do, making it is a
345 creative, innovative plan. Ten charging stations is great; that is more than the City of Keene has
346 today as is having it open to the public is great.

347
348 Mr. Phippard continued that in talking with the car dealers, he has heard plenty of stories of
349 people having driven from, say, New York City, and stopping in Keene because they heard there
350 were charging stations at Fairfield's. Those are busy all the time. Unless someone can come after
351 6:00 PM to occupy one of the stations and essentially stay the night in Keene, they will not be
352 able to charge their car there. There are not enough charging stations in Keene to keep up with
353 the EV growth. Thus, he thought (Mr. Samson's) idea was great and ideally located close to Rt.
354 101. If he registers this with the companies that manufacture these chargers, they get listed on
355 websites. Depending on the service you are providing, these websites can tell people whether a
356 charging station is available. If you are driving from Massachusetts and know that in 75 miles
357 you need to charge your EV, you can check the website to see if there is an available charging
358 station in Keene. It would say, 'yes, there are three charging stations available at 32 Optical
359 Ave.,' and you would park there and then head into Keene.

360
361 Mr. Phippard continued that a part of the project he has not talked about yet is that Samson
362 Associates proposes adding a bus stop to this location with a small, covered seating area. The
363 City Express would make this a new stop, approximately every hour. People could park, plug in
364 their car for a three-hour charge, and take the bus into downtown Keene to have dinner or walk
365 around. The charging station will send a text to let you know when your car is charged, to 50%
366 or whatever amount you need, and then you can go pick up your car. Again, this is nothing like a
367 gas station. It is completely different and evolving all the time. He is amazed learning how this
368 work and are continually improving. This would be the first one in Keene like this and he hopes
369 the Board can support it. His client wants the buildings to hold the solar array, because they need
370 over 20,000 square feet of photovoltaic systems to support these charging stations. Otherwise, it
371 is all on the grid, and that is not what Samson Associates is trying to do.

372 Mr. Gorman stated that he is curious about the rear boundary, which he believes abuts residential
373 properties. He asked if that will be screened or if it is already naturally screened. Mr. Phippard
374 replied that it is forested now, and they will leave trees standing within 10 feet of the property,
375 which is the setback, and put a chain-link fence around that area. Mr. Gorman asked if it is
376 evergreen. Mr. Phippard replied that it is a mix of trees, such as white pines, scrub shrub, a few
377 hardwoods. Mr. Gorman then asked about the long boundary. Mr. Phippard replied that it is all

378 forested. He showed the location of EVS Metals nearby and continued that they propose an
379 expansion on their building, but the area (Mr. Gorman is referring to) is all forest. Mr. Gorman
380 asked if it is correct that it is zoned Industrial, not Residential. Mr. Phippard replied yes. Mr.
381 Gorman asked if it is correct that the Residential zone is to the rear. Mr. Phippard replied yes, up
382 the hill onto Marlboro St., it is mostly single-family homes.

383
384 Ms. Taylor asked Mr. Phippard to clarify his position on the hardship criterion, asking if she
385 heard correctly that Mr. Phippard thinks the special condition is the Zoning. Mr. Phippard replied
386 that he thinks the existing Zoning creates a special condition that exists and runs with this
387 property. He continued that if the property owner cannot get a Variance, they would have to seek
388 a zone change from the City Council in order to try to address it.

389
390 Ms. Taylor asked if the development issue and economic return is the basic reason why they are
391 asking for the Variance. Mr. Phippard replied that he is shocked that he could not find a user
392 between 2018 and today. He continued that he showed this property, and the (former) drive-in
393 property, and he frequently does a lot of this without the owners' knowledge. Mr. Samson did
394 not know that he was showing his property as a potential usable area. If he found a potential user,
395 then he would have approached Mr. Samson and asked for his thoughts. When the Keene
396 Sentinel purchased the (former) drive-in property, he had discussions with Mr. Ewing about
397 users for that property, which all would have required Variances because of the Zoning
398 restrictions, similar to what they are today. In all that time, he could not find a user willing to go
399 through that process in Keene.

400
401 Ms. Taylor asked if that means he will not find somebody tomorrow. Mr. Phippard replied no, it
402 is possible he could find someone tomorrow. He continued that what he is seeing happening,
403 however, is that these (potential users) have gone to Swanzey or other towns where they do not
404 face such restrictions.

405
406 Mr. Gorman stated that Mr. Phippard mentioned there are four/a small handful of uses (allowed).
407 He asked if he knows those off the top of his head. Mr. Rogers replied that Section 6.3, which
408 covers Industrial Park, lists the following as uses: office, which requires a special exception;
409 research and development; daycare center; data center; industrial, light; and conservation area.
410 He continued that also allowed are infrastructure uses dealing with all three levels of solar
411 energy, some requiring CUPs; and telecommunications facilities. Mr. Gorman asked if the solar
412 farm being created here would be a use as well. Mr. Rogers replied yes, it is of a scale that would
413 meet the medium- or large-scale (definition); it would not be an accessory use. Accessory use
414 solar is only allowed up to 2,000 square feet. From the presentation, he did not hear the actual
415 square footage, but it would be a medium- or large-scale, requiring a CUP from the Planning
416 Board as it would be a use allowed in that district. Mr. Gorman asked if mixed uses are allowed.
417 Mr. Rogers replied yes.

418
419 Ms. Taylor stated that Mr. Phippard said he served on the committee that was reviewing the
420 Ordinances and that resulted in the big changes (to the LDC) in 2021. She continued that usually

421 they see Zoning districts that have purposes, but this one is rather express. It says, “*Service*
422 *operations and sales activities are excluded from the district, except for minor sales that may be*
423 *accessory to the primary use.*” She found that to be a rather explicit statement. She was
424 wondering, since Mr. Phippard sat on the committee, if he had any knowledge as to why they
425 would have made such a firm, expressed statement if they did not mean it.
426

427 Mr. Phippard replied that he believes it came from the original documents. He continued that in
428 the 1950’s, the documents were created as restrictive covenants that ran with this land area. It
429 was not just an area zoned by the City; it had the recorded, restrictive covenants that were in
430 place for 25 years. At the end of the 25 years, then they could start making changes if necessary.
431 By that time, there were existing buildings that were already 100 feet back from the road, so that
432 stayed in. Most of these restrictions just stayed in because they had always been there. There
433 were some legal questions around the end of that period, regarding whether those restrictions
434 actually expired. They spent a lot of time with attorneys for C&S researching that and
435 determined that they did expire. Then it was just the City’s Zoning that took over, and the office
436 use could be allowed by special exception.
437

438 Ms. Taylor stated that there was the opportunity to change the purpose of (the district), as part of
439 the review process. Mr. Phippard replied yes, he believed so, and he wanted to change it, but he
440 was a lone voice in that group.
441

442 Chair Hoppock stated that he has questions regarding the unnecessary hardship criterion. He
443 continued that Mr. Phippard is saying the restrictions in this Zone create the special condition for
444 this parcel. Mr. Phippard replied yes. Chair Hoppock asked, if wouldn’t that be true for every
445 parcel in the district. Mr. Phippard replied yes, but most of the other parcels are already
446 developed. He continued that this is a vacant piece of land. It is easier to go into an existing
447 building that becomes vacant, like C&S did. The City did not want to leave that large building
448 vacant, and this was an opportunity to convert it to mostly office use, which is what (C&S)
449 needed. The City went along with that change. It was a burden then and is a burden now. He
450 believes they had the opportunity, because of who the user was, to be open to that change, and
451 that is why (the City) allowed it. However, (it is different for) the rest of those properties. If
452 Markem Corporation became a vacant building tomorrow and some other user the City does not
453 allow came in, he questions what their chance would be of getting a Variance so they could
454 occupy that building. He would advise them that their chances are good and would think they
455 would get a lot of community support. They do not want 200,000 square feet of vacant building.
456 The Kingbury property is 300,000 square feet of vacant building and that is not positive for any
457 community. He believes this is legitimately a special condition and does not agree with Ms.
458 Taylor that it has to be only one property affected. He thinks if it affects six properties, it is still a
459 special condition that is unique, when you look at the community as a whole.
460

461 Chair Hoppock stated that Mr. Phippard would have to agree that the rule does say “*a special*
462 *condition of the property that distinguishes it from other properties in the area.*” He continued
463 that he finds himself in the middle ground between Ms. Taylor’s and Mr. Phippard’s positions,

464 because he can see two or three similar properties would distinguish it. However, Mr. Phippard is
465 just painting with a broad brush (and saying) the entire district is affected because of the Zoning
466 conditions and he has a hard time with that.

467
468 Mr. Phippard replied it is, but primarily it is the vacant lots. Chair Hoppock replied that this is
469 not a vacant lot yet. Mr. Phippard replied that it would be a 4-acre vacant lot.

470
471 Mr. Gorman stated that Mr. Phippard is using this analogy of vacant buildings, but to be clear,
472 this is not a vacant building. He continued that this is part of a lot that was purchased this way
473 and asked when Samson Associates purchased this lot. Mr. Phippard replied that he believes it
474 was 2016. Mr. Gorman stated that in 2016, according to what Mr. Phippard said, the Zone was
475 substantially alike what it is now, in terms of permitted uses. He continued that not many
476 changes were brought forth in this recent rewrite (of the LDC). Thus, when Mr. Phippard's client
477 bought the property seven years ago, the Zoning was similar. If the Zoning was so bad, he
478 questions why Mr. Samson would have purchased it, knowing that he was getting what he was
479 getting.

480
481 Mr. Phippard replied that Samson Manufacturing is a manufacturer, who wanted a larger
482 building to expand into and this building became available. It used to be part of MPB and then
483 Tidland Corporation. At the time, it was an existing manufacturing (building), it was a permitted
484 use, and Mr. Samson could move right in, making this property enticing to him. He knew he had
485 area where he could expand if he wanted to. Given what has happened since 2016, they are just
486 barely starting to see some of the local manufacturers trying to expand. EVS Metals got approval
487 to expand their building, though they cannot find any employees, which is why they have not
488 broken ground. That is part of today's challenges. For Samson Associates, this was a good
489 investment. As everything has happened with the pandemic, changes in companies, and the
490 nature of large companies, this is just four acres of land that he is carrying and wants to find a
491 good use for. As he explained, storage units are inexpensive to build and are great placeholders.
492 If Mr. Samson gets permits to develop this, it will be an area to be developed in the future,
493 because it will have already been altered, paved, had drainage addressed, connected to City water
494 and sewer, and three phase electrics, making it essentially a ready-to-go site. There are industrial
495 companies, such as the large, international one he spoke about earlier, who are not afraid to buy a
496 site with an existing building and tear it down, throwing away millions of dollars. They have the
497 ability to do that if it meets their needs.

498
499 Mr. Phippard continued that he thinks this is a smart move on (Mr. Samson's) part, and a good
500 move for the City of Keene. He hopes the Board supports it.

501 Mr. Gorman stated that he does not disagree that this is a good project. He continued that his
502 question is the hardship criterion. He is not sure about it, going by Mr. Phippard's point, which
503 he was asking Mr. Phippard to elaborate on. If Mr. Phippard thinks the Zoning is the crux of the
504 problem, he would have anticipated that there would have been a substantial change during the
505 LDC rewrite that took the applicant by storm, but that does not seem to be case. This appears to
506 be exactly what (Mr. Samson) bought. The Zoning was such then that it is now, and Mr. Samson

507 likely did diligence when he bought it, and must have known what the Zoning is. If he did not,
508 then the onus is on him. To see a hardship, he (Mr. Gorman) would have to see something
509 change remarkably between 2016 and now that made the Zoning so dysfunctional. He does not
510 know what that is. Perhaps it is the evolution of business; he does not know. He asked for further
511 elaboration.

512
513 Mr. Phippard replied that he feels that the Zoning has been dysfunctional since the early 2000s.
514 Once the restrictions/land covenants that had been developed in the 1950's expired, the City
515 Council should have taken a hard look at the Industrial Park and thought about what they need to
516 do to drive the economy in Keene, what business needs to see, and what they could change in the
517 Ordinance to make it easier for business to come in. Since that time, C&S has gone in there, but
518 other than that, he (Mr. Phippard) met with about a dozen companies who looked at the area and
519 said no; Keene is too hard to deal with, and there would be opposition. C&S had a lot of
520 opposition to going in there, but thankfully, they are there. Other large companies from outside
521 the region looked at this area and wanted to come in. It has been interesting to watch what has
522 been happening after companies moved out of Massachusetts, trying to get away from the cities
523 and into the more rural areas like Keene. What has been holding them back are local regulations
524 in Keene, and workforce. The (lack of) workforce is now attributed to the lack of housing,
525 making it a complicated picture. He feels that the Zoning regulations in the Industrial Park
526 District have been dysfunctional ever since the original covenants expired. If it is not possible to
527 get a Variance to allow this type of use, which he thinks is quite creative and innovative, he
528 thinks it is time to talk to the City Council. They need to do something.

529
530 Chair Hoppock asked if anyone else had questions for Mr. Phippard. Hearing none, he asked for
531 public comment, beginning with people wanting to speak in opposition.

532
533 Tom Hanna stated that he is a lawyer at 41 School St. with the firm of BCM Environmental and
534 Land Law. He continued that like Mr. Phippard, he has been doing this work for more than 40
535 years, and he is not retiring. He represents Jim Putnam and three of his siblings who comprise
536 HL Realty Holdings, LLC. Over the years, HL Holdings purchased all three of the four-acre lots
537 directly across Optical Ave. from the Samson Associates site, which the lots were formerly the
538 drive-in theater. Markem purchased two of those four-acre lots. Jim and Ruth Ewing purchased
539 one, thinking that the Keene Sentinel might move there. Eventually, HL Realty acquired the
540 Ewing properties, so they have these four lots.

541
542 Mr. Hanna stated that this case requires going through the individual criteria for a Variance, but
543 there are some other things raised by Mr. Phippard and previously by the law firm that wrote a
544 letter on May 16. He asked if the Board received his Friday letter in response to that letter from
545 Burns & Levinson, indicating that Ms. Marcou had distributed it. He did not receive the (May
546 16) letter until the Tuesday after Memorial Day, through the kindness of Mr. Phippard. The
547 attorneys did not copy him on the letter, even though they indicated that it was an effort to refute,
548 in part, the memorandum that he and Tara Kessler prepared.

549

550 Chair Hoppock stated that the Board has Mr. Hanna’s letter from June 2, 2023. He continued that
551 it is on the record.

552

553 Mr. Hanna stated that earlier in the week, he submitted a one-page letter from Jim Putnam. The
554 Board should have that, too. He continued that Mr. Phippard is creative, did not have typical
555 responses to the issue of special condition, and came up with this idea that the restrictions of the
556 Zoning Ordinance in and of themselves created a special condition. To him (Mr. Hanna), that
557 seems the most problematic of his arguments. He thinks Mr. Phippard has minimized the
558 importance of the political process here, and minimized the attention given to the Industrial Park
559 Zone by this latest political effort to review the entire Zoning Ordinance. Tara Kessler was a
560 Planner (for the City) for many years and was very involved in the LDC rewrite. On page 2 of
561 her memo, she indicated, “*the Industrial Park District was revisited with the most recent code*
562 *adoption and was updated to provide more modern uses that are aligned with its underlying*
563 *purpose. Self-Storage and Vehicle Fueling Stations were not identified as uses appropriate for*
564 *this District.*” As a Board member pointed out, this is one of the more explicit enabling
565 provisions at the beginning of a Zoning district that he has seen, where it not only indicates the
566 underlying purpose of the district but expressly indicates what is not allowed. The proposed uses
567 before the Board for these Variances are not allowed.

568

569 Mr. Hanna continued that as it relates to at least one of those uses, the self-storage, page 2 of the
570 memo says,

571

572 “*During this same Code update, the City accounted for the recent demand for self-storage by*
573 *expanding the areas where this use is permitted and by distinguishing between interior and*
574 *exterior self-storage facilities. Prior to the adoption of the 2021 Land Development Code, Self-*
575 *Storage was only permitted outright in the Commerce Limited District and by special exception*
576 *in the Industrial District. Today, Exterior Self-Storage [which is what they are dealing with*
577 *tonight, added Mr. Hanna] is permitted outright in the Commerce, Commerce Limited, and*
578 *Industrial Districts.*”

579

580 Mr. Hanna continued that he does not deny that there may be a need for self-storage, (but) there
581 are opportunities (for it elsewhere) in the city. If the self-storage is in derogation of the intent
582 clause of the Industrial Park District, then it does not matter that there is a need for it throughout
583 the city, especially if there are provisions for that use.

584

585 Mr. Hanna stated that he has one more comment regarding Mr. Phippard’s comments that the
586 City did explicitly recognize EV stations. He continued that on page 2 of the memo, Ms. Kessler
587 sets out Section 8.3.2, which defines a Vehicle Fueling Station as “*a commercial establishment*
588 *primarily engaged in the retail sales of vehicle fuels, traditional and alternative fuel types (e.g.*
589 *electric charging stations, [etc]).*” There was not a separate definition for EV stations, but that
590 (definition) is clear, and it is clear that it is a use that is not permitted in the Industrial Park
591 District, and that the (people in) the recent political process knew exactly what they were doing.

592

593 Mr. Hanna stated that Samson Associates' lawyer who wrote the letter a couple weeks ago talked
594 about this being a symbiotic project whereby the many storage units become platforms for solar-
595 powered EV stations. He continued that that does not alter the fact that each use is not only
596 prohibited in this Zone but violates the intent and it cannot be argued that they satisfy the intent.
597 Certainly, you cannot argue that they satisfy the spirit of the Ordinance, because it is not correct
598 to look to certain goals in the LDC, such as promoting sustainability and promoting climate
599 change (adaptations). The intent provision in the Ordinance they need to look at is the intent of
600 the particular District. Once again, it bears repeating that the intent of this District is "*to provide*
601 *for relatively low-intensity manufacturing and research and development firms that are*
602 *employee intensive [...].*" That "employee intensive" part is key. Clearly, the uses proposed for
603 these Variances are not employee intensive. The intent is also "*to promote an attractive*
604 *industrial park environment.*" The intent further states, "*Service operations and sales activities*
605 *are excluded from this district [...].*" The applicant alleges that there is a need for self-storage
606 units and EV stations, not necessarily deniable, and that these uses advance the City's
607 sustainability and climate change goals. There may be merit in that, but it misses the mark in
608 terms of a Variance analysis. Again, one must look at the purpose of an Ordinance with respect
609 to the Industrial Park District.

610
611 Mr. Hanna stated that if the proposed uses advance the cause of a goal of the LDC that is
612 unrelated to the Industrial Park District, then the applicant's argument fails if it is not a goal of
613 the District itself. He continued that regarding the issue of the special condition, and the hardship
614 criterion, Burns & Levinson raised the *Harrington v. Town of Warner* case. He wants to address
615 two aspects of that. One, it discusses the special condition issue, and says the property must be
616 burdened by a Zoning restriction in a manner that is distinct from other, similarly situated
617 properties. He continued that Chair Hoppock raised that point that the burden must arise from the
618 property, not the applicant's individual plight. In this case, the fact that the entire Zoning District
619 is affected or burdened by these Zoning restrictions simply does not meet the special condition
620 test that Samson Associates' own lawyer referred to when he referred to the *Harrington* case.
621 Burns & Levinson's letter said, "*...a strict application of the Industrial Park District constraints*
622 *on this Property would limit the utility of the Property and effectively restrict the land to the one*
623 *existing amenity...*" and, "*it is important to consider the landowner's ability to receive a*
624 *reasonable return.*" He is also troubled by the fact that this property has not been put up for sale
625 to flesh out whether there are opportunities to use the property in compliance with the Zoning
626 Ordinance. To the best of his knowledge, even though he takes Mr. Phippard at his word that he
627 complained, it sounds generally of the Industrial Park District, he did not hear any indication that
628 Mr. Samson engaged in the process in any way to say, 'Look, this is a hardship for me. You need
629 to either change the purpose of this Ordinance or you need to change/broaden the uses.' That was
630 an opportunity to do it. This is an unusual situation where the City has just finished looking at
631 this whole issue.

632
633 Mr. Hanna stated that moreover, as has been cited before, there are quite a few uses that could go
634 in this property. Office use, for one, by Special Exception. As this Board well knows, a Special
635 Exception means that it is a permitted use.

636 Ms. Marcou stated that they have lost internet connection and the recording has stopped.

637

638 *With the loss of internet connection, no further minutes are available except for the written notes*
639 *of John Rogers, Zoning Administrator, Michael Hagan, Plans Examiner and Corinne Marcou,*
640 *Board Clerk on each of the motions before the Board.*

641

642 Mr. Gorman made a motion to approve ZBA 23-03. Mr. Welsh seconded the motion.

643

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

645

646 The Finding of Facts for Criterion #1: The proposed project does not meet the intent of Industrial
647 Park District Purpose statement.

648

649 Not met, with a vote of 1-4. Chair Hoppock, Ms. Taylor, Mr. Welsh and Mr. Clough voted in
650 opposition.

651

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

653

654 The Finding of Facts for Criterion #2: The proposed project does not meet the intent of Industrial
655 Park District Purpose statement.

656

657 Not met, with a unanimous vote of 0-5.

658

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

660

661 The Finding of Facts for Criterion #3: There are other permitted uses the proposed project could
662 use.

663

664 Met with a vote of 3-2. Chair Hoppock and Ms. Taylor voted in opposition.

665

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

668

669 The Finding of Facts for Criterion #4: Evidence that the proposed project would diminish
670 surrounding property values without restrictions.

671

672 Not met, with a vote of 1-4. Chair Hoppock, Mr. Gorman, Mr. Welsh, and Mr. Clough voted in
673 opposition.

674

675 5. *Unnecessary Hardship*

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

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

681 *and*

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

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

688

689 The Finding of Facts for Criterion #5: The Board's purview is not to change the ordinance and
690 zoning is not a hardship.

691

692 Not met, with a unanimous vote of 0-5.

693

694 The motion to approve ZBA 23-03 failed with a unanimous vote of 0-5.

695

696 Mr. Gorman made a motion to deny ZBA 23-03, which was seconded by Mr. Welsh and passed
697 with a unanimous vote of 5-0.

698

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

705

706 Mr. Gorman made a motion to approve ZBA 23-04. Ms. Taylor seconded the motion.

707

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

709

710 The Finding of Facts for Criterion #1: The proposed project does not meet the intent of Industrial
711 Park District Purpose statement.

712

713 Not met, with a vote of 2-3. Chair Hoppock, Ms. Taylor, and Mr. Welsh voted in opposition.

714

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

716

717 The Finding of Facts for Criterion #2: The proposed project does not meet the intent of Industrial
718 Park District Purpose statement.

719

720 Not met, with a unanimous vote of 0-5.

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

722

723 The Finding of Facts for Criterion #3: There are other permitted uses the proposed project could
724 use.

725

726 Met with a vote of 3-2. Chair Hoppock and Ms. Taylor voted in opposition.

727

728 The Finding of Facts for Criterion #4: Evidence that the proposed project would diminish
729 surrounding property values without restrictions.

730

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

733

734 Not met, with a vote of 1-4. Chair Hoppock, Mr. Welsh, Mr. Gorman and Mr. Clough voted in
735 opposition.

736

737 5. *Unnecessary Hardship*

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

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

743 *and*

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

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

750

751 The Finding of Facts for Criterion #5: The Board's purview is not to change the ordinance and
752 zoning is not a hardship.

753

754 Not met, with a unanimous vote of 0-5.

755

756 The motion to approve ZBA 23-04 failed with a unanimous vote of 0-5.

757

758 Mr. Gorman made a motion to deny ZBA 23-04, which was seconded by Ms. Taylor and passed
759 with a unanimous vote of 5-0.

760

761 C) **ZBA 23-16: Petitioner, 147-151 Main Street, LLC and represented by Jim**
762 **Phippard, of Brickstone Land Use Consultants, LLC, requests a Special Exception**
763 **for property located at 147 Main St., Tax Map #584-060-000-000-000 and is in the**

764 **Downtown Core District. The Petitioner requests to permit a drive-through use in**
765 **the Downtown Core District at this property, per Chapter 100, Article 8.4.2.C.2 of**
766 **the Zoning Regulations.**

767
768 *After hearing testimony from Mr. Phippard on this proposed project, the Board voted*
769 *unanimously to continue this petition to the July 3, 2023 meeting. The Board questioned a*
770 *previously approved petition for the neighboring property, 143 Main St., owned by the same*
771 *individual as 147 Main St. This continuance will provide Staff an opportunity to research the*
772 *previous decision then report to the Board. According to Mr. Phippard’s testimony, the owner of*
773 *147 Main St. will seek to do a boundary line adjustment with 143 Main St. to enlarge the lot at*
774 *147 Main St. for their proposed project before the Board. The Board questions if the previous*
775 *decision required the property of 143 Main St. to use this section of the proposed boundary line*
776 *adjustment for parking.*

777
778 Mr. Gorman made the motion to continue petition ZBA 23-16 to the July 3, 2023, meeting. Mr.
779 Welsh seconded. The motion passed unanimously.

780
781 **D) ZBA 23-17: Petitioner, Wayne E. Brown Jr. Revocable Trust of 28 Village**
782 **Rd. Surry, requests a Variance for property located at 661 Main St., Tax Map #120-**
783 **056-000-000- 000 and is in the Low Density District. The Petitioner requests two**
784 **buildings on a single lot containing two independent dwelling units, which are**
785 **designed, occupied or intended for occupancy by separate families and a non-**
786 **conforming use shall not be changed to a different non-conforming use, per Chapter**
787 **100, Articles 8.3.1.E.1 and 18.2.4 of the Zoning Regulations.**

788
789 Mr. Gorman made a motion to approve ZBA 23-17. Ms. Taylor seconded the motion.

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

791
792 The Finding of Facts for Criterion #1: The proposed use will be more conforming with a
793 residential feel and an improvement to the lost four units.

794 Met with a unanimous vote of 5-0.

795
796 2. *If the Variance were granted, the spirit of the Ordinance would be observed.*

797
798 The Finding of Facts for Criterion #2: The proposed use will be a benefit to the community that
799 will not alter the neighborhood.

800
801 Met with a vote of 5-0.

802
803 3. *Granting the Variance would do substantial justice.*

804
805 The Finding of Facts for Criterion #3: The proposed use will be a loss to the public if denied,
806 will be an improvement to the area and not a detriment to the public.

807 Met with a unanimous vote of 5-0.

808

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

811

812 The Finding of Facts for Criterion #4: The proposed use will remove the burnt building,
813 improving the area, and will not diminish the surrounding property values.

814 Met with a unanimous vote of 5-0.

815

816 5. *Unnecessary Hardship*

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

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

822 *and*

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

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

829

830 Met with a unanimous vote of 5-0.

831

832 V) **New Business**

833 VI) **Communications and Miscellaneous**

834 VII) **Non-Public Session: (if required)**

835 VIII) **Adjournment**

836

837 There being no further business, Chair Hoppock adjourned the meeting at 10:00 PM.

838

839 Respectfully submitted by,

840 Britta Reida, Minute Taker

841

842 Reviewed and edited by,

843 Corinne Marcou, Board Clerk

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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, 2nd 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 4th floor of City Hall between the hours of 8:00 am and 4:30 pm or online at <https://keenenh.gov/zoning-board-adjustment>

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

Zoning Board of Adjustment Special Exception Application



For Office Use Only:	
Case No.	_____
Date Filled	_____
Rec'd By	_____
Page _____ of _____	
Rev'd by	_____

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

SECTION 1: CONTACT INFORMATION

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

(OWNER//APPLICANT)

NAME/COMPANY: 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

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.

Zoning Board of Adjustment Certified Notice List



For Office Use Only:	
Case No.	_____
Date Filled	_____
Rec'd By	_____
Page	_____ of _____
Rev'd by	_____

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

25.2.4 PUBLIC NOTICE

The submittal requirements for Public Notices are outlined further in **Article 25.2** of the Land Development Code

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

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

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

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

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

NOTICE LIST & MAILING LABELS

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

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

The Notice List shall include the following:

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

The mailing labels shall include the following:

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

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

CERTIFY ACCURACY

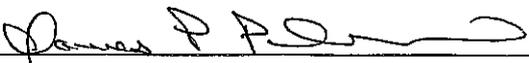
By signing below, you are certifying that the submitted notice list is accurate and true to the best of your ability and that per **Article 25.2.4.A.3**, the notice list is current to within 10 days of the application submittal.

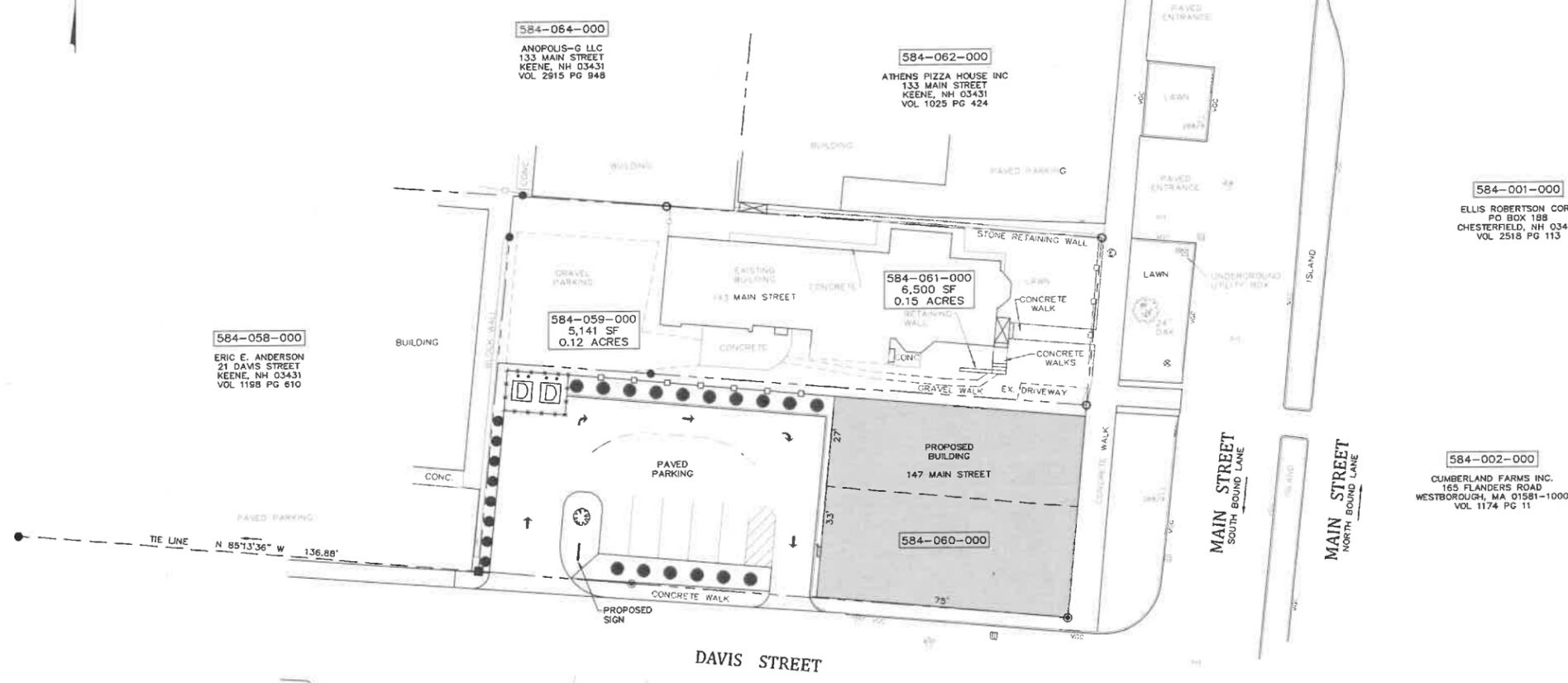
James P Phippard

Print Name

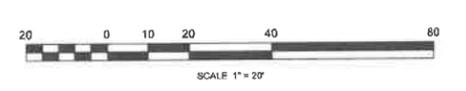
5-11-2023

Date


Signature



- 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%
	4,850 SF - 42.0%
	9,153 SF - 82.8%
	PAVEMENT/CONCRETE
	TOTAL

REVISIONS:

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

PLANNER:

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

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

PRELIMINARY PLAN

SCALE: 1"=20'

DATE: MAY 2, 2023

SHEET 1

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This property, 147 Main St. is now in the Downtown Core District, which has no parking requirements.



City of Keene

New Hampshire

NOTICE OF DECISION

ZONING BOARD OF ADJUSTMENT

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

Notification of Decision:

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

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


Corinne Marcou, Clerk

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

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

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334 CHAPMAN RD. ZBA 23-18



Petitioner requests to permit the building of a single family home on the substandard lot of 1.03 acres where 5 is required, per Chapter 100, Article 3.1.2 of the Zoning Regulations.



NOTICE OF HEARING

ZBA 23-18

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

ZBA 23-18: Petitioner, Lynn Stanford of Keene, requests a Variance for property located at 334 Chapman Rd., Tax Map #241-048-000-000-000 and is in the Rural District. The Petitioner requests to permit the building of a single family home on the substandard lot size of 1.03 acres where five acres are required, per Chapter 100, Article 3.1.2 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 4th floor of City Hall between the hours of 8:00 am and 4:30 pm or online at <https://keenenh.gov/zoning-board-adjustment>

Corinne Marcou, Zoning Clerk
Notice issuance date June 23, 2023

Zoning Board of Adjustment Variance Application



For Office Use Only:	
Case No.	ZBA23-00
Date Filled	6/19/23
Rec'd By	CSM
Page	1 of 12
Rev'd by	

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

SECTION 1: CONTACT INFORMATION

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

OWNER / APPLICANT

NAME/COMPANY: LYNN STANFORD

MAILING ADDRESS: PO BOX 136

PHONE: (603) 355-7885

EMAIL: runher99@gmail.com

SIGNATURE: *Lynn Stanford*

PRINTED NAME: LYNN STANFORD

APPLICANT (if different than Owner/Applicant)

NAME/COMPANY:

MAILING ADDRESS:

PHONE:

EMAIL:

SIGNATURE:

PRINTED NAME:

AUTHORIZED AGENT (if different than Owner/Applicant)

NAME/COMPANY:

MAILING ADDRESS:

PHONE:

EMAIL:

SIGNATURE:

PRINTED NAME:

SECTION 2: PROPERTY INFORMATION

Property Address: 334 CHAPMAN ROAD

Tax Map Parcel Number: 241-048-000-00

Zoning District RURAL

Lot Dimensions: Front: 176 Rear: 177 Side: 264 Side: 264

Lot Area: Acres: 1.03 Square Feet: 44,867

% of Lot Covered by Structures (buildings, garages, pools, decks, etc): Existing: 0 Proposed: 5%

% of Impervious Coverage (structures plus driveways and/or parking areas, etc): Existing: 1 Proposed: 5%

Present Use: BUILDING LOT (EXPIRED 10.7.21)

Proposed Use: BUILDING LOT (FOR SALE)

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.

- SINCE EARLY OF 2000, 334 CHAPMAN RD HAS HAD A CONTINUOUS HISTORY (SEE ATTACHED) OF AREA VARIANCES IN ORDER TO PRESERVE BUILDING LOT STATUS AND PROPERTY VALUE FOR IT'S (2) PREVIOUS OWNERS.
- IN LATE 2020, I CONTRACTED TO PURCHASE 334 CHAPMAN RD TO BUILD MY FOREVER HOME. AREA VARIANCE ZBA 19-13 WAS ACTIVE AND DUE TO EXPIRE 10/7/21.
- PRIOR TO THE FEBRUARY CLOSING IN 2021, AN EMERGENCY FAMILY HEALTH CRISIS PUT ALL OTHER PLANS ON HOLD. DURING THIS TIME, ZBA 19-13 EXPIRED.
- CRISIS RESOLUTION INVOLVED MASSIVE CHANGES, INCLUDING BUYING A HOME ON COURT STREET INSTEAD OF BUILDING ONE ON CHAPMAN.
- I AM PUTTING 334 CHAPMAN RD. BACK ON THE MARKET AND IN ORDER FOR IT TO RETAIN ITS VALUE, I NEED TO HAVE IT'S BUILDING STATUS REINSTATED WITH THE PROPER AREA VARIANCE.

THANK YOU FOR YOUR CONSIDERATION IN THIS MATTER.

SECTION 4: APPLICATION CRITERIA

A Variance is requested from Article (s) 3.1.2 of the Zoning Regulations to permit: AN AREA VARIANCE

PERMITTING THE BUILDING OF A SINGLE FAMILY HOME ON THE SUB-STANDARD LOT SIZE OF 1.03 ACRES WHERE 5 ACRES IS REQUIRED.

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:

- 334 CHAPMAN HAS ALWAYS BEEN A 'BUILDING LOT' SINCE IT'S CREATION WITH PROPER VARIANCES AND EXTENSIONS IN PLACE. THE INTENDED EXISTENCE OF 334 CHAPMAN WAS FOR RESIDENTIAL/DWELLING PURPOSES.
- I AM THE 3RD OWNER WHO HAS PURCHASED THIS PROPERTY IN ORDER TO BUILD A HOME. IN ORDER TO SELL IT, AND NEW OWNERS TO BUY AND BUILD, IMPROVING THE CURRENT VACANT LOT INTO A SINGLE FAMILY RESIDENCE, IMPROVING BOTH THE GENERAL SURROUNDINGS AND PROPERTY VALUE(S).

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

THE CONSTRUCTION OF A SINGLE FAMILY HOME WOULD ALLOW FOR THE COMPLETION OF THIS LOT'S DEVELOPMENT - ALREADY BEGUN WITH VARIANCE APPROVAL - AND IS CONSISTENT WITH THE AREA.

3. Granting the variance would do substantial justice because:

IT WOULD FULFILL THE BUILDING LOT INTENT FOR A SINGLE FAMILY DWELLING COMPARABLE TO OTHERS IN THE AREA:

- INCREASING TAXABLE PROPERTY VALUE FOR KEENE
- ENHANCING ADJACENT PROPERTY VALUES FOR NEIGHBORS
- PRESERVING PURCHASE VALUE + SELLING VIABILITY FOR CURRENT OWNER

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

THE CURRENT NEIGHBORHOOD 'LIABILITY' OF A VACANT BUILDING LOT WOULD NOW HAVE THE ABILITY TO BE COMPLETED WITH A SINGLE FAMILY DWELLING CONSISTENT WITH OTHERS IN THE AREA.

5. Unnecessary Hardship

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

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

THIS LOT ALREADY HAS A 20⁺ YEAR HISTORY OF VARIANCE GRANTS AND RENEWALS TO PRESERVE ITS BUILDING LOT STATUS: ORIGINALLY HAVING A MOBILE HOME AND OUT-BUILDINGS WHEN THE SYMONDS PURCHASED IT IN 2000. EXTENSIONS CONTINUED AS THEY CLEARED AND DEVELOPED THE SITE FOR A SINGLE FAMILY HOME: ADDING A DRIVEWAY; A BUILDING SITEPAD; A PERC TEST; AND A SEPTIC SITE PLAN (ATTACHED). THE PROPERTY WAS THEN BOUGHT AND SOLD AGAIN - TO ME - IN 2021 AS A BUILDING LOT.

IN ADDITION, THERE ARE OTHER HOMES ON CHAPMAN^{ALREADY} BUILT, OR VARIANCE APPROVED FOR BUILDING, ON SMALLER THAN ORDINANCE REQUIRED ACREAGE.

PRESERVING THE PRE-EXISTING BUILDING LOT VARIANCE WOULD NOT NEGATE THE INTENT OR PUBLIC PURPOSE OF THE ORDINANCE.

and

ii. The proposed use is a reasonable one because:

THIS LOT HAD A SINGLE FAMILY STRUCTURE PREVIOUSLY, AND HAS BEEN GRANDFATHERED AS, AND DEVELOPED AS, A BUILDING LOT. DENIAL OF THE VARIANCE WOULD DEEM THE LOT UNUSABLE AND HARM THE PROPERTY'S VALUE.

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 HAS A WELL-ESTABLISHED HISTORY AS ALWAYS BEING 1.03 ACRES, AND REPEATEDLY SECURING VARIANCES AS A BUILDING LOT. THE LOT'S VALUE RESTS ENTIRELY ON ITS BUILDING LOT STATUS AS IT HAS NO OTHER REASONABLE PURPOSE. I AM REQUESTING ANOTHER VARIANCE BE APPROVED IN ORDER TO REINSTATE & PRESERVE THE VALUE OF THIS PROPERTY MAKING ~~THE~~ ^{ITS} SALE & ACQUISITION VIABLE FOR ALL PARTIES.



NOTICE OF DECISION

ZONING BOARD OF ADJUSTMENT

CASE NUMBER: ZBA 19-13
Property Address: 334 Chapman Rd.
Zone: Rural District
Owner: Tim and Christine Symonds
Petitioner: Tim and Christine Symonds
Date of Decision: October 7, 2019

Notification of Decision:

Petitioners, Tim and Christine Symonds of 8 Leahy Rd., Keene, requested a Variance for property located at 334 Chapman Rd., Keene, Tax Map #241-048-000-000, which is in the Rural District. The Petitioner requested a Variance to permit a sub-standard lot size of 1.03 acres where five acres is required per Section 102-791, Basic Zone Dimensional Requirements of the Zoning Ordinance, was approved 5-0.

Condition:

Corinne Marcou, Clerk

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

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

**Tim & Christine Symonds
8 Leahy Road
Keene, NH 03431**

August 28, 2019

City of Keene-Zoning Board of Adjustments

RE: 334 Chapman Road – Case Number ZBA 14-30

To Whom It May Concern:

In February of 2000 we purchased 334 Chapman Road and were granted an Area Variance ZBA-00-01 for continuation of building lot status. This variance was granted for 5 years.

Case Number ZBA-05-01 January of 2005 ZBA granted the extension of the Area Variance for an additional 5 years.

Case Number ZBA-09-28 December of 2009 ZBA granted the extension of the Area Variance for an additional 5 years.

Case Number ZBA-14-30 December of 2014 ZBA granted the extension of the Area Variance for an additional 5 years.

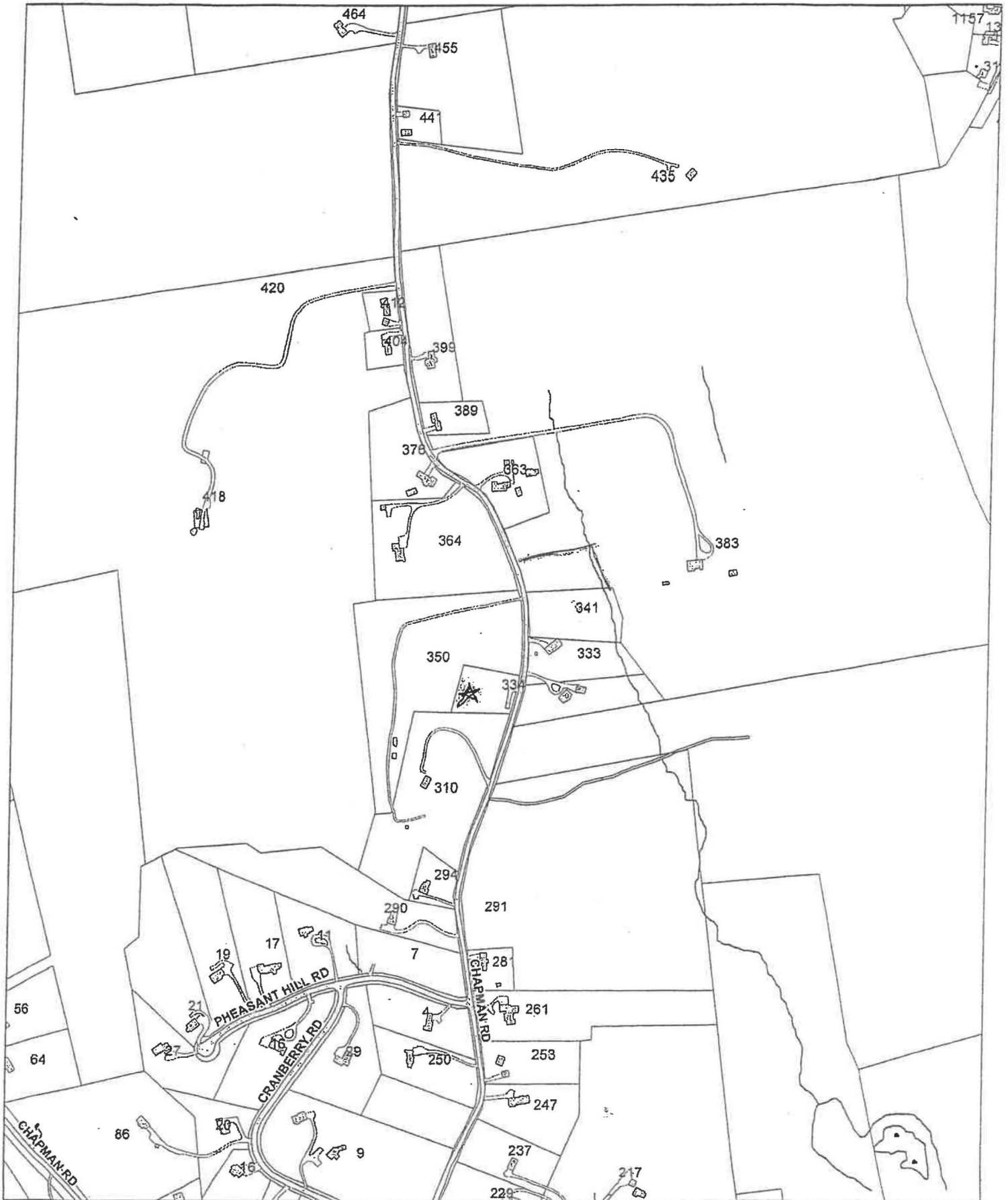
Current extension expires December 7, 2019. At this time we are requesting an extension of this variance for another 2 years.

We have completed the following at the 334 Chapman Road property, removal of the older mobile home and well as various out buildings, general cleaning and improvement of the property and the surroundings. Installed a driveway and building site pad.

For the last 18 months this property has been for sale. Having this variance in place keeps the potential sale of the property viable.

Thank you for the consideration, respectfully submitted,

Tim and Christine Symonds



630 315 0 630 Feet



200 foot Abutters List Report

Keene, NH
June 19, 2023

Subject Property:

Parcel Number: 241-048-000
CAMA Number: 241-048-000-000-000
Property Address: 334 CHAPMAN RD.

Mailing Address: STANFORD, LYNN E.
PO BOX 136
KEENE, NH 03431-0136

Abutters:

Parcel Number: 239-001-000
CAMA Number: 239-001-000-000-000
Property Address: 350 CHAPMAN RD.

Mailing Address: HOUGHTON BRIAN I. HOUGHTON
MARJORIE E.
16 FAIRFIELD CT.
KEENE, NH 03431

Parcel Number: 239-048-000
CAMA Number: 239-048-000-000-000
Property Address: 341 CHAPMAN RD.

Mailing Address: ABEL CLAIR E. ABEL AMEE L.
341 CHAPMAN RD.
KEENE, NH 03431

Parcel Number: 239-049-000
CAMA Number: 239-049-000-000-000
Property Address: 333 CHAPMAN RD.

Mailing Address: WHITE CAROL L.
333 CHAPMAN RD.
KEENE, NH 03431

Parcel Number: 241-047-000
CAMA Number: 241-047-000-000-000
Property Address: 310 CHAPMAN RD.

Mailing Address: GREGORY DAVID PALACHE TRUST
831 MOUNTAIN RD.
JAFFREY, NH 03452

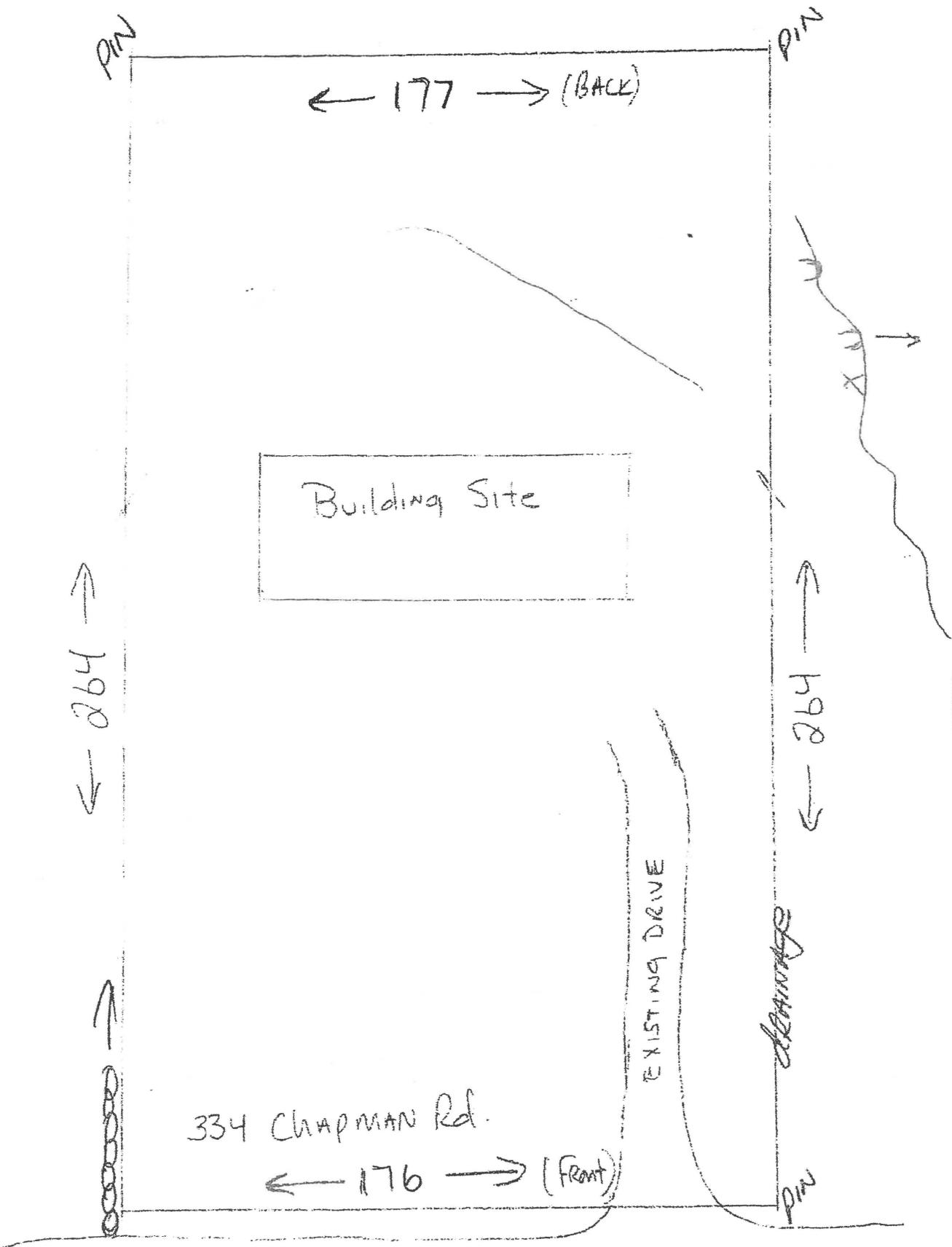
Parcel Number: 241-049-000
CAMA Number: 241-049-000-000-000
Property Address: 0 CHAPMAN RD.

Mailing Address: WHITE CAROL L.
333 CHAPMAN RD.
KEENE, NH 03431



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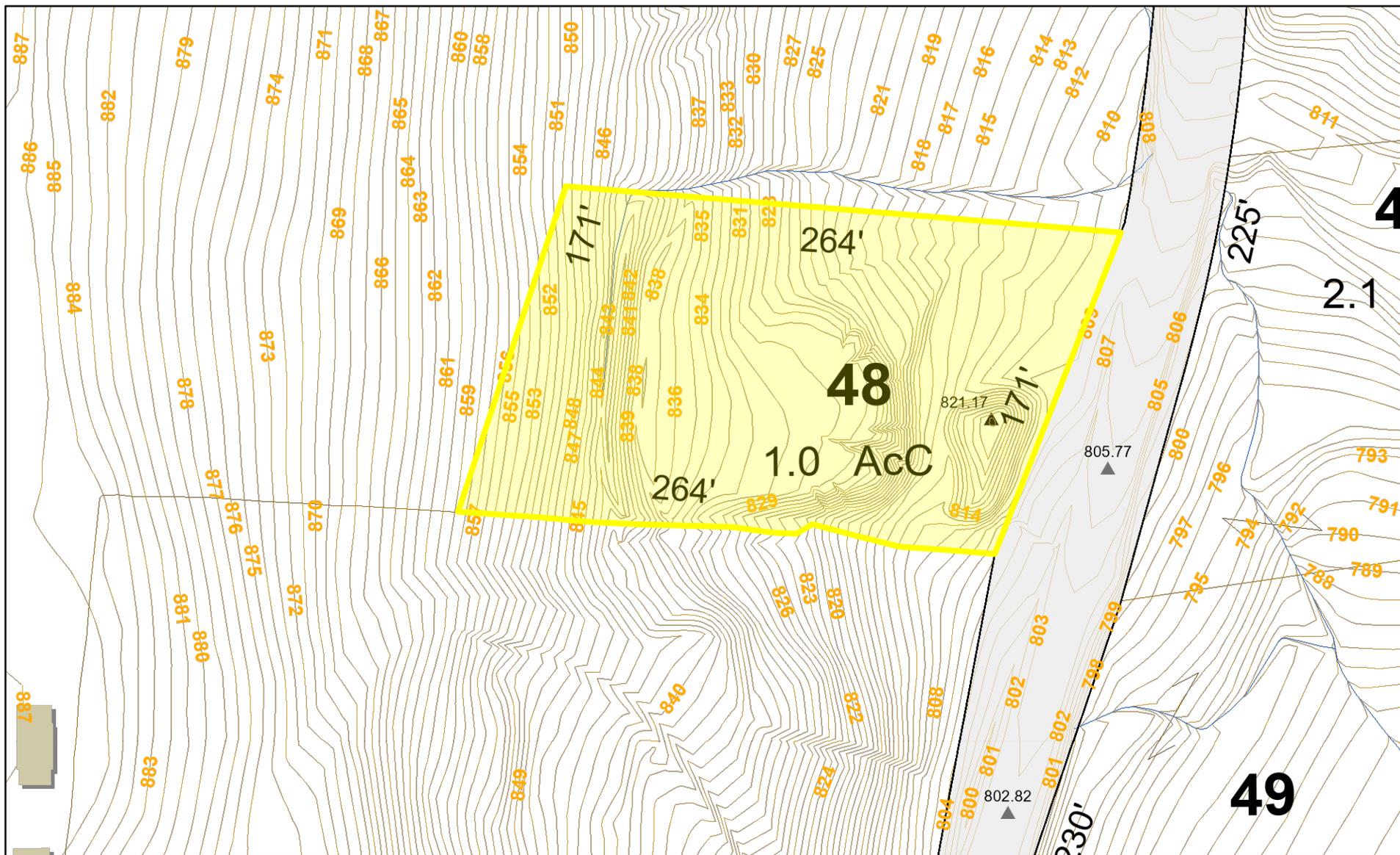
Keene, NH



June 20, 2023

1 inch = 69 Feet

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