



City of Keene Zoning Board of Adjustment

AGENDA

Monday, November 3, 2025
Chambers

6:30 p.m.

City Hall, 2nd Floor Council

- I. Introduction of Board Members:
- II. Minutes of the Previous Meeting: October 6, 2025
- III. Unfinished Business:
- IV. Hearings:

CONTINUED ZBA-2025-08: Petitioner, Michael Pappas, of 147-151 Main Street, LLC, represented by Timothy Sampson, of Sampson Architects, requests an Extension, for property located at 147 Main St., Tax Map # 584-060-000-000 and is in the Downtown Core District. The Petitioner is requesting an extension for a Special Exception granted on August 7, 2023, per Article 26.6.9 of the Zoning Regulations.

ZBA-2025-19: Petitioner, Scott and Eileen Adams, requests a Variance for property located at 509 Hurricane Rd., Tax Map #222-017-000 and is in the Rural District. The Petitioner is requesting a Variance to permit street access up to an approximately 18 degree slope per Article 9.3.4.C of the Zoning Regulations.

- V. New Business:
- VI. Staff Updates:

Rules of Procedure Updates

- VII. Communications and Miscellaneous:
- VIII. Non-Public Session: (if required)
- IX. Adjournment:

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**City of Keene
New Hampshire**

**ZONING BOARD OF ADJUSTMENT
MEETING MINUTES**

Monday, October 6, 2025

6:30 PM

**Council Chambers,
City Hall**

Members Present:

Richard Clough, Chair
Edward Guyot, Vice Chair
Tad Schrantz
Adam Burke
Zach LeRoy

Staff Present:

Evan Clements, Planner, Deputy Zoning
Administrator

Members Not Present:

Kathleen Malloy, Alternate

I) Introduction of Board Members

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

II) Minutes of the Previous Meeting: July 7, 2025

Mr. Guyot made a motion to approve the meeting minutes of July 7, 2025. Mr. Schrantz seconded the motion, which passed by unanimous vote.

III) Unfinished Business

Chair Clough asked if there was any unfinished business. Mr. Clements replied no.

IV) Hearings

A) CONTINUED ZBA-2025-08: Petitioner, Michael Pappas, of 147-151 Main Street, LLC, represented by Timothy Sampson, of Sampson Architects, requests an Extension, for property located at 147 Main St., Tax Map # 584-060-000-000 and is in the Downtown Core District. The Petitioner is requesting an extension for a Special Exception granted on August 7, 2023, per Article 26.6.9 of the Zoning Regulations.

33 Mr. Clements stated that staff received a communication from the Applicant's representative. He
34 continued that they have contract with Eli Leino of Bernstein Shur, a law firm out of Manchester.
35 They apologize for their late addition to this application and request a continuance so they can be
36 properly prepared to present to the Board at the November meeting.

37

38 Mr. Schrantz asked how the extension process works and how often they can extend the
39 application. Mr. Clements replied that it is the Board's decision. He continued that in his
40 professional experience, he has seen Zoning cases where attorneys have become involved, and
41 they asked for a couple of continuances so they could prepare. It is not the norm, but it is not
42 unheard of. He personally feels confident that this representative will be ready in November. He
43 encourages the Board to grant the continuance to November. He explained to Mr. Leino that this
44 application had already been continued due to absenteeism and further delay beyond November
45 is not recommended.

46

47 Chair Clough thanked Mr. Clements and asked if anyone wanted to make a motion or had further
48 discussion.

49

50 Mr. LeRoy stated that he personally feels that since the Board has already given the Applicant
51 two continuances, without the Applicant's presence or request tonight, he thinks this is pushing
52 too far and disrespecting the process. He does not know it warrants another continuance.

53

54 Chair Clough asked what would happen if they did not grant a continuance. Mr. Clements
55 replied that ultimately, they would end up hearing the application anyway. He continued that the
56 Applicant would motion for a re-hearing, and they would be more or less forced to grant it
57 because they never heard the application. The Applicant would challenge the decision if a denial
58 were issued tonight. All it would do is add some minor costs to the Applicant, regarding re-
59 noticing. The Board would still end up hearing the application. While such behavior of the Board
60 would not necessarily be unjustified, it is generally recommended that they err on the side of
61 leniency.

62

63 Chair Clough replied that he acknowledges that sentiment. He continued that the Board has dealt
64 with Mr. Leino before, and he thinks Mr. Leino is a little more accountable than what they have
65 seen thus far with this application. He agrees with Mr. Clements that they could expect to see
66 real movement on this in November.

67

68 Mr. Schrantz stated that he has one more question about the process. He continued that the
69 Applicant got a Variance a few years ago. He asked how long it is valid for. Mr. Clements
70 replied that this application is for a Special Exception. He continued that Special Exceptions and
71 Variances are good for two years, unless they are acted upon, and then they expire. The genesis
72 of this application was that the original Special Exception was going to expire, so they are
73 submitting an extension of that approval, and through the process in the Land Development Code
74 (LDC), that extension request is treated like a new application. If they were to deny this
75 application and then the 30-day appeal period were to expire without any challenge to that

76 decision, the Special Exception would be null and void. The LDC has since changed, so the
77 Applicant would not be able to reapply for a new Special Exception for this situation; they would
78 have to get a Variance.

79

80 Mr. Burke asked if Mr. Clements said they are applying for an addition to the application,
81 meaning adding onto it, or just an extension. Mr. Clements replied that it is an extension of the
82 original approval, which is treated like a new application. But they are not proposing any
83 changes to the previous approval.

84

85 Mr. Guyot stated that he agrees with Mr. LeRoy's observation. He continued that the Applicant
86 has had a long history of delaying and not showing up. However, he sees the change in
87 representation as very encouraging to the process. He agrees that given what they know about
88 this firm, they will be able to move forward. He is okay with continuing this until November.

89

90 Mr. Guyot made a motion for the Zoning Board of Adjustment to continue ZBA-2025-08 to the
91 November 3, 2025 meeting. Mr. Schrantz seconded the motion, which passed by a vote of 4-1.

92 Mr. LeRoy was opposed.

93

94 **CONTINUED ZBA-2025-13: Petitioner, Mike Gokey, of Markem-Imaje, 150**
95 **Congress St., represented by Jonathan Lefebvre, of Fieldstone Land Consultants,**
96 **206 Elm St., Milford, requests a Variance for property located at 150 Congress St.,**
97 **Tax Map #598-002-000-001-002 and is in the Industrial Park District. The**
98 **Petitioner requests a Variance to allow a lot that does not meet the setback**
99 **requirements per Article 6.3.2 of the Zoning Regulations.**

100

101 **C) CONTINUED ZBA-2025-18: Petitioner, Mike Gokey, of Markem-Imaje, 150**
102 **Congress St., represented by Jonathan Lefebvre, of Fieldstone Land Consultants,**
103 **206 Elm St., Milford, requests a Variance for property located at 150 Congress St.,**
104 **Tax Map #598-002-000 and is in the Industrial Park District. The Petitioner**
105 **requests a Variance to allow an indoor recreation/entertainment facility where not**
106 **permitted per Article 6.3.5 of the Zoning Regulations.**

107

108 **D) CONTINUED ZBA-2025-14: Petitioner, Mike Gokey, of Markem-Imaje, 150**
109 **Congress St., represented by Jonathan Lefebvre, of Fieldstone Land Consultants,**
110 **206 Elm St., Milford, requests a Variance for property located at 150 Congress St.,**
111 **Tax Map #598-002-000-001-002 and is in the Industrial Park District. The**
112 **Petitioner requests a Variance to allow a lot that does not meet the minimum lot**
113 **size requirements per Article 6.3.2 of the Zoning Regulations.**

114

115 Chair Clough introduced Continued ZBA-2025-13, then asked to hear from staff.

116

117 Mr. Clements stated that tonight's agenda has several hearings all revolving around the same
118 project. He continued that he would give an introduction, describing the property, its surrounding

119 uses, and things like that for this first application, and then for the subsequent applications, he
120 will give just the most pertinent points to save some time as they work their way through all of
121 this. That said, the subject property is an existing 31-acre parcel located on the southern side of
122 Tiffin St., approximately 1,000 feet from the Optical Ave./Marlboro St. intersection, with
123 Timken Manufacturing located directly to the east. The property is home to the Markem-Imaje
124 headquarters campus, consisting of several buildings of approximately 246,000 square feet of
125 office, manufacturing, and warehouse floor space. The property also contains associated site
126 improvements, such as walkways, drive aisles, parking area, and drainage systems. The property
127 is also home to a 798 square foot building, located in the northeast corner of the parcel along
128 Tiffin St., which contains an indoor squash court, owned and operated by the Amalgamated
129 Squash Chowder and Development Corporation (ASC&DC). In 1976, an agreement was made to
130 relocate the building from West St. to its current location. Three parking spaces are associated
131 with the squash court. It is the oldest indoor squash court in the United States.
132

133 Mr. Clements continued that the purpose of this application is to seek a Variance from the
134 setback requirements of the Industrial Park Zoning District to allow a subdivision of a new
135 parcel to accommodate the squash court and its associated parking spaces. The request is to
136 permit a 37.8-foot rear setback where 50 feet would normally be required. Surrounding uses for
137 the subject parcel include industrial manufacturing and single-family residential to the north,
138 vacancy and state highway to the south, industrial manufacturing to the east, and industrial
139 manufacturing, conservation, and state highway to the west. In the staff report, he provided the
140 definition for the Industrial Park Zoning District as well as the dimensional requirements for the
141 district. The sample motion is also presented, if the Board is inclined to approve this request.
142 Staff recommend no conditions.
143

144 Mr. Guyot stated that his question might be more for the Applicant than staff. He asked if the
145 squash court is on the National Historic Registry. The Applicant and Mr. Clements replied that
146 they do not think it is. Hearing no further questions, Chair Clough asked to hear from the
147 Applicant.
148

149 John Lefebvre of Fieldstone Land Consultants stated that he is here tonight on behalf of
150 Markem-Imaje. He continued that Markem-Imaje owns about 31 acres, with about 246,000
151 square feet of warehouse and office space. They do not utilize all the space. There was a time
152 when these properties were used to a greater margin. It was once New England Box Company,
153 and once Platts Box Company. Markem-Imaje has utilized the space for many years, and there
154 was a time when they were using a lot of the building space, but not anymore. They now utilize
155 very little of the space, and maintaining all the buildings together is a lot of upkeep, with the
156 heat, electricity, water, roof repairs, plowing, and more. If they had someone to lease the
157 property, the money they would get from that would be put into the buildings. They have not had
158 any interest from anyone wanting to lease it, but they have been approached by several people
159 looking for office space or manufacturing space. They had an application before this board about
160 two years ago, when a woman wanted to occupy one of the buildings to make bakery products.
161 That fell through when she could not get funding for the building. Markem-Imaje stepped back

162 and looked at it as a bigger property plan, thinking about what they want to do and what they
163 want to occupy. They are looking to separate the buildings on the property.

164
165 Mr. Lefebvre continued that one of the buildings, as mentioned, is the ASC&DC, which has
166 some history. This building was located on Main St. near the bank, and in 1976 the bank
167 property was being sold, and they did not have a place for the building. They offered to locate
168 the building to this property, where it has been ever since. The City of Keene has given it a Tax
169 Map lot number, although it is not actually a lot. It is just the building on the property. It does not
170 even have bathrooms. You go through the door, and it is just a racquet ball court, used as a
171 squash court, which isn't used by many people, mainly by members of the ASC&DC. Its history
172 as the oldest squash court in the US is great. Markem-Imaje wants to be able to give ASC&DC
173 that property so its historic significance can continue. In addition to looking to separate the
174 buildings, Markem-Imaje is looking at the interests of the ASC&DC. They want the ASC&DC to
175 be able to have that as their own lot with their own parking spaces, and to be able to maintain
176 their status. Thus, tonight he is before the Board to request Variances in relation to the
177 subdivision of this property. The property was developed before many of these Zoning
178 Regulations came into play, so to subdivide it makes it difficult where separation distances do
179 not exist between the buildings to the degree that the dimensional requirements want them to be.
180 To be able to capture a parking lot that works with this building, and to be able to capture
181 walkways and everything is nearly impossible. They tried to get as close to the regulations as
182 they could, and to only ask for Variances where they believe they are truly necessary.

183
184 Mr. Lefebvre continued that the first application tonight is, as Mr. Clements mentioned, for the
185 ASC&DC to be able to create that lot so they could have their own existence. Chair Clough
186 asked him to go through the criteria, noting that he does not have to do so verbatim. Mr.
187 Lefebvre replied that he will do the first one verbatim. He continued that many of their responses
188 to the criteria are repetitive due to the dimensional requirements of the regulations and the
189 buildings' existence prior to the regulations. He will point out some differences as they go
190 through the applications.

191
192 *1. Granting the Variance would not be contrary to the public interest.*

193
194 Mr. Lefebvre stated that the proposed Variance will not be contrary to the public interest. He
195 continued that the purpose of the Ordinance is to protect public health, safety, and welfare.
196 Setback requirements are intended to ensure appropriate physical and visual separation between
197 adjacent land uses and to maintain adequate distance between adjacent buildings and the street.
198 The existing building on the proposed lot was originally constructed in the early 1900s and was
199 relocated to the Markem-Imaje Corporation property in 1976. It has remained in its current
200 location unchanged for nearly 50 years. The ACS&DC is not proposing any new construction,
201 only the transfer of land ownership.

202
203 *2. If the Variance were granted, the spirit of the Ordinance would be observed.*

204

205 Mr. Lefebvre stated that the purpose of the Ordinance is to ensure adequate separation from
206 buildings to adjacent properties and the street. He continued that the proposed relief is to the side
207 setback of a dead-end road and will not alter the essential character of the neighborhood, threaten
208 public health, safety, or welfare, or otherwise injure public rights. For these reasons, they believe
209 the proposed Variance will serve the spirit of the Ordinance.

210

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

212

213 Mr. Lefebvre stated that granting this Variance serves the interest of substantial justice. He
214 continued that it will enable the property owner to transfer a portion of the land to the ACS&DC,
215 which has leased the site since 1976. The property owner would benefit from the relief of tax and
216 liability obligations associated with this parcel. Denying the Variance would provide no
217 corresponding public benefit, as no new development is proposed and there would be no impact
218 on density.

219

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

222

223 Mr. Lefebvre stated that the abutters will not experience any substantial change from granting
224 this Variance. He continued that the area of the current recreational squash building will remain
225 the only building on the lot with three parking spaces. It is their experience that creating a lot
226 while making no improvements to the building or surrounding area will not diminish
227 surrounding property values.

228

229 5. *Unnecessary Hardship*

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

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

236

237 Mr. Lefebvre stated that the setback requirements are intended to ensure appropriate physical and
238 visual separation between adjacent land uses and to maintain adequate distances between
239 buildings and the street. Literal enforcement of the Ordinance would overlook the fact that this
240 building predates the regulations. Consideration should also be given to the fact that this is a low
241 traffic, low density area. Therefore, the Variance will have no impact on the general public of
242 Keene. For this and the reasons stated above, they believe there is no substantial relationship
243 between the general public purpose and the division of this lot.

244

245 *and*

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

247

248 Mr. Lefebvre stated that the proposed use is reasonable, with no substantial changes being made
249 to the existing building or the surrounding land. He continued that the creation of the Ordinance
250 after the construction of the building poses a hardship as the ACS&DC has occupied and enjoyed
251 this building since 1976. The transfer of ownership of this portion of the property will relieve the
252 current owner of liability.

253
254 Mr. Schrantz stated that it looks like the requirement for Zoning is four acres and they are
255 looking for a .17-acre lot for this particular property. He asked if that is right. Chair Clough
256 replied that it is a combination of many things. He continued that the specific issue is the
257 setback, but ultimately, to just have a sliver of a lot, enough for the building and three parking
258 spaces. He asked if that is correct. Mr. Lefebvre replied yes. He continued that the building is
259 very small, with a couple squash courts inside. A couple of people come to play.

260
261 Mr. Schrantz stated that he has a follow-up question. He continued that the application is for the
262 setbacks, but not for the size of the lot. He asked if that should be taken into consideration. Mr.
263 Lefebvre replied that they have several Variance applications, but each is treated separately. He
264 continued that the Board would see an application for the size of the lot, and an application for
265 the use of the property. They just started with the setbacks.

266
267 Mr. Guyot stated that to follow up with Mr. Schrantz's concern, he wonders what would happen
268 if, for example, the Board says the setback is okay, but the next application is for the lot size, and
269 the Board says no to that. He asked where they would go from there. Mr. Clements replied that
270 the Applicant would have to adjust. He continued that the Applicant could appeal that decision or
271 come in with a new application for a different size lot. Yes, the Applicant is taking some risk
272 tonight. They are obligated to do this one application at a time, and the aggregation of these
273 decisions will be the outcome of this project moving forward. The Applicant currently has a
274 subdivision application pending to go to the Planning Board, which is dependent on the decisions
275 the Board makes tonight.

276
277 Mr. Guyot asked, as a procedural question, whether there is a way to look at these applications
278 more holistically. Mr. Clements replied that he thinks they are allowed to do that, in a general
279 sense, although each application will ultimately have to stand on its own merits. He continued
280 that the Board is aware that they have three applications before them tonight with the intent of
281 creating a small, unique lot that is custom tailored for the ASC&DC building. Mr. LeRoy asked
282 if they could discuss them all at the same time, as long as they vote on them individually. Mr.
283 Clements replied yes, they can look at the larger project here.

284
285 Chair Clough replied that that makes sense to him. He continued that if there are no further
286 questions for the Applicant right now, they welcome public comment. He asked if anyone
287 wanted to speak in opposition or support. Hearing none, he suggested the Board table the
288 deliberations to first hear the other applications. He asked if that is okay.

289

290 Mr. Clements replied yes, and he recommends the Board hear the applications in the following
291 order: ZBA-2025-13, ZBA-2025-14, and ZBA-2025-18, which all cover the ASC&DC; and then
292 the other three, related to the Markem-Imaje campus. Mr. Lefebvre replied that that is correct.
293 He continued that with the Markem-Imaje property, where they are looking to create a lot for the
294 ASC&DC, there are three requests for Variances. He thinks it does make sense to run through
295 those in unison. The other three Variances deal with trying to separate the properties where there
296 are dimensional restraints for existing buildings.

297

298 Chair Clough introduced **ZBA-2025-14: Petitioner, Mike Gokey, of Markem-Imaje, 150**
299 **Congress St., represented by Jonathan Lefebvre, of Fieldstone Land Consultants, 206 Elm**
300 **St., Milford, requests a Variance for property located at 150 Congress St., Tax Map #598-**
301 **002-000-001-002 and is in the Industrial Park District. The Petitioner requests a Variance**
302 **to allow a lot that does not meet the minimum lot size requirements per Article 6.3.2 of the**
303 **Zoning Regulations.**

304

305 He asked to hear from staff.

306

307 Mr. Clements stated that the purpose of this application is to allow for the creation of a lot that is
308 .17 acres in size where four acres is normally required. He continued that the rest of the staff
309 report looks identical to the one for ZBA-2025-13. Staff recommends no conditions, if the Board
310 is inclined to approve this request.

311

312 Chair Clough asked if the Board had any questions for staff. Hearing none, he asked to hear from
313 the Applicant.

314

315 Mr. Lefebvre stated that as mentioned, they are trying to create this small, .17-acre lot, to give
316 the ASC&DC an opportunity to exist. He continued that while most of the applications are
317 repetitive, there are a few points they wanted to make.

318

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

320

321 Mr. Lefebvre stated that the Master Plan aims to promote the stewardship of New Hampshire's
322 resources for recreation and other activities that contribute to the health and quality of life for
323 citizens and visitors. He continued that that is one of the reasons they believe the Variance would
324 observe the spirit of both the Ordinance and the Master Plan.

325

326 Mr. Lefebvre continued that he would be happy to read what is written for all the criteria, if the
327 Board wants, but most of it is a repetition of what was in the first application. They can move on
328 to ZBA-2025-18 if they want, and he could point out elements of that application.

329

330 Chair Clough asked what staff recommends. Mr. Clements replied that he is split on it. He
331 continued that a part of him thinks the Applicant's rationale for why they think the Variance
332 should be granted needs to be read into the record. Mr. Lefebvre replied that he can do that.

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

334

335 Mr. Lefebvre stated that the proposed Variance will not be contrary to the public interest. He
336 continued that the Ordinance's purpose is to ensure public health, safety, and welfare. The
337 minimum lot size provision is required by the Ordinance to manage development, control
338 density, and preserve the character of the area. The existing building on the proposed lot was
339 built in the early 1900s and moved to the Markem-Imaje lot in 1976. The building will remain
340 the only structure on the lot, used for recreational purposes, along with three parking spaces. The
341 lot is being created solely for ownership and liability purposes. Consequently, the creation of this
342 lot will have no impact on public health, welfare, or safety. The ASC&DC aims to promote
343 health, pleasure, and social and mental improvement of its members.

344

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

346

347 Mr. Lefebvre stated that the spirit of the Ordinance is to manage development, control density,
348 and preserve the character of the area. The spirit would be upheld by leaving the property
349 unchanged except for the creation of a new lot for ownership and liability purposes. The
350 proposed relief, to create a lot smaller than the required minimum lot size, will not alter the
351 essential character of the neighborhood; threaten public health, safety, or welfare; or otherwise
352 infringe upon public rights. The Keene Master Plan aims to promote the stewardship of New
353 Hampshire's resources for recreation and other activities that contribute to the health and quality
354 of life for citizens and visitors. For these reasons, they believe the proposed Variance will serve
355 the spirit of the Ordinance and the Master Plan.

356

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

358

359 Mr. Lefebvre stated that granting this Variance serves the interests of substantial justice because
360 it will enable the property owner to transfer a portion of the land to the ASC&DC, which has
361 leased the building since 1976. The property owner would benefit from the relief of tax and
362 liability obligations associated with this parcel. Denying the Variance would provide no
363 corresponding public benefit, as no new development is proposed and there would be no impact
364 on density.

365

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

368

369 Mr. Lefebvre stated that abutters will not experience any substantial change from granting this
370 Variance. He continued that the area of the current recreational squash building will remain the
371 only building on the lot, with three parking spaces. It is their experience that creating a lot while
372 making no improvements to the building or surrounding area will not diminish surrounding
373 properties' values.

374

375 5. *Unnecessary Hardship*

- 376 A. *Owing to special conditions of the property that distinguish it from other*
377 *properties in the area, denial of the variance would result in unnecessary*
378 *hardship because*
379 i. *No fair and substantial relationship exists between the general public*
380 *purposes of the ordinance provision and the specific application of that*
381 *provision to the property because:*
382

383 Mr. Lefebvre stated that the general public purpose of the Ordinance is to manage development,
384 control density, and preserve the character of the area. He continued that literal enforcement of
385 the Ordinance would overlook the fact that this building predates the regulations. Consideration
386 should also be given to the fact that this is a low traffic area. Therefore, this Variance will have
387 no impact on the general public of Keene. For this and the reasons stated above, they believe
388 there is no substantial relationship between the general public purpose and the division of this
389 lot.

390

391 *and*

- 392 ii. *The proposed use is a reasonable one.*
393

394 Mr. Lefebvre stated that the proposed use is reasonable, with no substantial changes being made
395 to the existing building or the surrounding land. The creation of the Ordinance after the
396 construction of the building poses a hardship, as the ASC&DC has occupied and enjoyed this
397 building since 1976. The transfer of ownership of this portion of the property will relieve the
398 current owner of liability.

399

400 Chair Clough thanked the Applicant and asked if the Board had any questions. Hearing none, he
401 asked for public comment in opposition. Hearing none, he asked for public comment in support.
402 Hearing none, he stated that they will move on to the third application on this subject.

403

404 Chair Clough introduced **ZBA-2025-18: Petitioner, Mike Gokey, of Markem-Imaje, 150**
405 **Congress St., represented by Jonathan Lefebvre, of Fieldstone Land Consultants, 206 Elm**
406 **St., Milford, requests a Variance for property located at 150 Congress St., Tax Map #598-**
407 **002-000 and is in the Industrial Park District. The Petitioner requests a Variance to allow**
408 **an indoor recreation/entertainment facility where not permitted per Article 6.3.5 of the**
409 **Zoning Regulations.**

410

411 He asked to hear from staff.

412

413 Mr. Clements stated that first, he wants to check in with the members of the public to make sure
414 they are following along. He explained how tonight's process is a little atypical, but they are
415 trying to do it in a way that makes sense. Chair Clough stated that if anyone has questions or
416 needs the process clarified, they can raise their hand at any time and ask questions.

417

418 A member of the public who identified herself as Marion on Martin St. stated that they seem to
419 be focusing on the squash court and its three parking spaces, which are in a giant lot of 60
420 spaces. She continued that her question is what happens with the other parking spaces. Mr.
421 Clements replied that right now, they are only focused on this little portion of the land. The
422 member of the public replied that she understands that but questioned whether one Variance
423 being granted means they all are, and what happens if, for example, they say okay to the squash
424 court and then decide to put something like an Olive Garden in the rest of the parking lot. She
425 wishes she could see the whole picture. She questions whether it sets a precedence for the rest of
426 the city, for their Variances to go back this far.

427
428 Mr. Clements replied that a very simple principle with land use decisions is that every case is
429 unique, and every piece of property is unique. Everything is different. A decision that this board
430 makes this evening to grant a Variance does not automatically mean that anyone else with a
431 small squash court in the city gets to have a small lot wherever they want it to be, too, and that
432 this board would have to grant that decision.

433
434 The member of the public replied that that is good to know. She continued that she feels like she
435 cannot see the big picture yet. Mr. Clements replied that there are three requests the Board is
436 currently going over, with the goal of creating a small lot for the squash court. If those three
437 applications are granted, that can move forward.

438
439 Kyle Gunnell of Martin St. stated that his concern is what would happen if the Board granted the
440 proposal for the small lot, and for the setback, but not for the indoor recreation use, or somehow
441 grants two of the Variances but not the third. Mr. Clements replied that then, the Applicant
442 would be stuck. Mr. Gunnell asked if that would mean the Applicant's plan would not move
443 forward. Mr. Clements replied that their subdivision application to the Planning Board would
444 probably need to be paused, because they would need to re-do the merits of that application
445 based on the change. They might choose to pause it in its entirety to address what did not happen
446 this evening, in an attempt to come up with a way to get the Board to support the request. Mr.
447 Gunnell stated that he does not have an issue with it. He continued that he has lived there for 21
448 years, and the squash court building is set back and partially obscured by trees, and usually, he
449 does not even know if someone is there. He does not have an issue with the squash court
450 building.

451
452 Marian (same woman who spoke before Mr. Gunnell) stated that when they talk about this
453 squash court, she feels like they are trying to make people pay attention to that small portion of
454 the property to take the attention away from the acres and acres of the rest of it. She continued
455 that they say this is a "quiet part of town," and that is right, but if they make apartments or build
456 buildings that they are not yet talking about, that changes. Sure, this little squash court building
457 is "cute," but she has concerns about the rest.

458
459 Mr. Lefebvre stated that they are looking to subdivide the Markem-Imaje property so that each
460 building can be used by an individual owner. He continued that the uses that are allowed are

461 “industrial park.” If someone wanted to come in and do housing, they would have to come
462 propose that to the ZBA, because that change is not allowed. All they are asking for tonight is for
463 the buildings to be used for what they are allowed for, just industrial. They are not looking for a
464 change. Markem-Imaje is looking for someone to occupy the buildings. They are hoping
465 someone can make use of the property and be able to create jobs for the community. There is no
466 proposal for residential. If someone wanted to create a residential use, they would need to come
467 before the ZBA and explain what they wanted to do and why. In that situation, the public would
468 have merit to express their thoughts. But tonight, that is not what they are asking for. They are
469 only looking to be able to have someone own these buildings separately. There are 246,000
470 square feet of space, which is a lot. If someone can use, say, 50,000 square feet on that lot where
471 a building is, that is what Markem-Imaje hopes for – that someone will want to come in and
472 purchase that property, to produce a good or do something that is allowed in the district, to be
473 able to utilize the building and do good for the community as this aligns with the Master Plan.
474 They want to see existing properties used to their value. This is a difficult one, with the buildings
475 being built prior to when the regulations were passed. In the next application, they are asking for
476 relief from three regulations. Right now, they are addressing the applications related to this small
477 piece of property for the ASC&DC. In the next three applications, they will be speaking to the
478 whole property, asking for relief from three areas. One is the use, because while it exists on its
479 own as a grandfathered use, once the ownership is changed, they have to ask for a Special
480 Exception. It is an accessory use to this property, where it will be the sole use for this property.

481
482 The same member of the public asked if this small area is the opening to everything else. Mr.
483 Lefebvre replied no, this is just to allow history to exist on this property. It was further asked if it
484 is correct that Markem-Imaje wants to sell all the other acreage. Mr. Lefebvre replied no,
485 Markem-Imaje will occupy one of the buildings. He continued that they have two vacant
486 buildings they do not use, and they are trying to make use of them. They tried to get a Variance
487 for the front building before from a woman that approached them to put a bakery in, backed out
488 of the deal. They have had other people approach them about the other space they have, but no
489 one wants to lease; they want to own. The plan is to have someone own the vacant building,
490 make use as allowed by the Industrial District, and have employees park in the parking lot. Mr.
491 Lefebvre indicated the building that Markem-Imaje will occupy, to continue doing the same
492 work they have been doing, and the other building they would sell. He continued that it would be
493 occupied by a use allowed in the Industrial Park, such as a company that makes a product, and
494 has employees and needs a space like this to buy. All Markem-Imaje is looking to do is separate
495 the buildings, ownership-wise.

496
497 Mr. Clements stated that he will read what is allowed in the Industrial Park District: office,
498 research and development, daycare, data center, and light industrial. He continued that those are
499 the only permitted uses within the district. Not restaurants, housing, or clubs. Someone wanting
500 to do one of those uses would need to come to the ZBA with their request, as this project is doing
501 regarding the indoor recreation, which will only be allowed on the small lot they propose
502 creating for the squash court.

503

504 It was further asked by the same member of the public if it is correct that anyone wanting to do a
505 use not allowed in the district would have to come to the ZBA again. Mr. Clements replied yes,
506 and she and other abutters would be notified again.

507
508 Chair Clough stated that they will now return to addressing ZBA-2025-18. He asked to hear from
509 staff.

510
511 Mr. Clements stated that the request is to allow for an indoor recreation/entertainment facility
512 use in the Industrial Park for the proposed small lot, which is not normally permitted. He
513 continued that they sort of got into the rationale. The squash court was considered an accessory
514 use to the principal use, which was the Markem-Imaje campus. As it existed legally as part of
515 that larger property, the act of creating its own lot brings into question what the principal use of
516 that lot will be. The answer is, a squash court, which is not allowed in the Industrial Park, so the
517 Applicant needs the use Variance to allow for the “indoor recreation/entertainment facility,”
518 which is the category a squash court would fall within.

519
520 Chair Clough asked to hear from the Applicant.

521
522 1. *Granting the Variance would not be contrary to the public interest.*

523
524 Mr. Lefebvre stated that the proposed Variance will not be contrary to the public interest. He
525 continued that the Ordinance is in place to ensure public health, safety, and welfare. The current
526 use provision is required by the Ordinance to ensure land is used for its intended and appropriate
527 purposes. The existing building on the proposed lot was built in the early 1900s and moved to the
528 Markem-Imaje lot in 1976. This building will remain the only structure on the lot and continue to
529 be used for recreational purposes. The lot being created solely for ownership and liability
530 purposes. Consequently, the creation of this lot will have no impact on public health, safety, or
531 welfare. The ASC&DC aims to promote health, pleasure, and social and mental improvement of
532 its members.

533
534 2. *If the Variance were granted, the spirit of the Ordinance would be observed.*

535
536 Mr. Lefebvre stated that the spirit of the Ordinance is ensuring that land is being used for its
537 intended purposes. He continued that the spirit will be upheld by leaving the property unchanged
538 except for the creation of a new lot for ownership and liability purposes. The proposed relief to
539 be able to use the property for recreational purposes will not alter the essential character of the
540 neighborhood, threaten public health, safety, or welfare, or otherwise infringe upon public rights.
541 The Keene Master Plan aims to promote the stewardship of New Hampshire’s resources for
542 recreation and other activities that contribute to the health and quality of life for citizens and
543 visitors. For these reasons, they believe the proposed Variance will observe the spirit of both the
544 Ordinance and the Master Plan.

545
546 3. *Granting the Variance would do substantial justice.*

547 Mr. Lefebvre stated that granting this Variance serves the interest of substantial justice. He
548 continued that it would enable the property owner to transfer a portion of the land to the
549 ASC&DC, which has leased the building since 1976. The property owner would benefit from the
550 relief of tax and liability obligations associated with this parcel. Denying the Variance would
551 provide no corresponding public benefit, as no new development is proposed and there would be
552 no impact on density.

553
554 4. *If the Variance were granted, the values of the surrounding properties would not be*
555 *diminished.*

556
557 Mr. Lefebvre stated that the abutters will not experience any substantial change from granting
558 this Variance. He continued that the area of the current recreational squash building will remain
559 the only building on the lot, with three parking spaces. It is their experience that creating a lot
560 while making no improvements to the building or surrounding area will not diminish the
561 surrounding properties' values.

562
563 5. *Unnecessary Hardship*

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

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

570
571 Mr. Lefebvre stated that the general public purpose of the Ordinance is to ensure that land is used
572 for its intended and appropriate purposes. He continued that literal enforcement of the Ordinance
573 would overlook the fact that this building, along with its use and location, predate the Zoning
574 regulations where relief is being sought. Consideration should also be given to the fact that this is
575 a low traffic area, and therefore, this Variance will have no impact on the general public of
576 Keene. For this and the reasons stated above, they believe there is no substantial relationship
577 between the general public purpose and the division of this lot.

578
579 Mr. Schrantz stated that the request is to give sort of a broad category to the parcel, with regards
580 to indoor recreation. He continued that his thinking is to put a restriction on it so it can only be
581 used as a squash court, as it has been for about 50 years, versus giving it the opportunity to
582 become something else if it is sold to someone else. Then, "indoor recreation" would be much
583 more flexible, and they do not know what it might become. He asked Mr. Lefebvre to speak to
584 the long-term intended use.

585
586 Mr. Lefebvre replied that given the building's setback on the property, because they are
587 proposing such a small lot, there is no room to expand. He continued that if anyone wanted to
588 make changes and expand, they would need to go to the Planning Board for a change of use, if
589 doing anything beyond the squash court for recreational purposes. Right now, it is a "glorified

590 shed.” It is a beautiful building, but it is hard to think of it as more than it is – you open the door,
591 and there are squash courts. The intended use is for the squash court to continue. It is a historical
592 part of Keene. The ASC&DC can have this as their own property, their own taxes. One would be
593 hard pressed to try and do something different with it in the future. They would have to deal with
594 a couple rooms to try and do something recreational, and he does not see how, especially with
595 only three parking lots. The proposal is not for a big parking lot, leaving room for expansion, or
596 anything like that. The proposal is to give the ASC&DC what is necessary to preserve what is
597 there.

598

599 Chair Clough asked if there were any further questions from the Board. Hearing none, he asked
600 for public comment.

601

602 Vaughan Hennem stated that he has been President of the ASC&DC for about 12 years. He
603 continued that the club is unique. It was a Sears building, built in 1915 where the current TD
604 Bank is. Then, it was moved, and from 1976, if you were to come by to the club, members would
605 be happy to show you pictures of how the club building moved down Main St. with all the wires
606 removed, and up Optical Ave., to its current location. It is the oldest freestanding squash court in
607 North America. It is an exceptional asset for Keene. The ASC&DC looks forward to having its
608 home entirely. They appreciate the ZBA’s consideration.

609

610 Chair Clough asked for further public comment. Hearing none, he closed the public hearing and
611 asked the Board to deliberate on ZBA-2025-13. He continued that this is dealing with the
612 setback. He asked for the Board’s comments.

613

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

615

616 Mr. Burke stated that he thinks it meets this criterion. He continued that the current use will be
617 the future use of the current property, and it already does not meet the setback requirements.
618 Chair Clough replied yes, and the building is already there, so they cannot change much of that.

619

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

621

622 Chair Clough asked if the Board had comments.

623

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

625

626 (Minute taker note: no comments).

627

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

630

631 Chair Clough stated that he does not see any issue with this.

632

- 633 5. *Unnecessary Hardship*
634 A. *Owing to special conditions of the property that distinguish it from other*
635 *properties in the area, denial of the variance would result in unnecessary hardship*
636 *because*
637 i. *No fair and substantial relationship exists between the general public*
638 *purposes of the ordinance provision and the specific application of that provision*
639 *to the property.*
640

641 Chair Clough stated that it is a unique property, and you cannot really make use of the building
642 in any other way. He continued that he drove by the building and actually missed it the first time
643 because it was so hidden by trees. It is obvious that there is no parking on that lot at the moment.
644 You would have to park across the street in the big parking lot that was noted before.
645

646 Mr. Lefebvre replied that regarding the three parking spaces he mentioned before are on gravel,
647 in front of the building. (Minute taker note: the public hearing was technically closed when Mr.
648 Lefebvre made this comment).
649

650 Chair Clough replied that they really need their own designated parking, so that made sense to
651 him, too.
652

653 Chair Clough asked if there were further comments. Hearing none, he asked for a motion to
654 approve.
655

656 Mr. Burke made a motion to approve ZBA-2025-13 for the Variance to allow a 37.8-foot rear
657 setback where 50 feet is normally required, for property located at 150 Congress St., Tax Map
658 #598-002-000-001-002 as shown in the plan titled "Zoning Board of Adjustment Exhibit" dated
659 August 15, 2025, at a scale of 1" = 100', prepared by Fieldstone Land Use Consultants in the
660 application and supporting materials received on August 15, 2025, with no conditions. Mr.
661 LeRoy seconded the motion.
662

- 663 1. *Granting the Variance would not be contrary to the public interest.*
664

665 Met with a vote of 5-0.
666

- 667 2. *If the Variance were granted, the spirit of the Ordinance would be observed.*
668

669 Met with a vote of 5-0.
670

- 671 3. *Granting the Variance would do substantial justice.*
672

673 Met with a vote of 5-0.
674

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

677
678 Met with a vote of 5-0.

679
680 5. *Unnecessary Hardship*

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

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

687
688 Met with a vote of 5-0.

689
690 The motion to approve ZBA-2025-13 passed unanimously.

691
692 Chair Clough asked the Board to deliberate on ZBA-2025-14. He continued that this is the
693 Variance to allow a lot that does not meet the minimum lot size requirements.

694
695 1. *Granting the Variance would not be contrary to the public interest.*

696
697 Chair Clough stated that the key thing he noticed in the presentation is the sliver of property in
698 question is already delineated by existing roadways. That is what is creating that. Otherwise,
699 they would have to be changing a road. Since the usage seems to have so few people, expanding
700 for more parking does not seem to be needed. Even though it is highly unusual that it is such a
701 small lot, the placement of the building is almost in the middle of the sliver. If it were on an end,
702 maybe they could do more with it, but that actually limits what can be done with the space, also.
703 From his perspective, granting the Variance is not contrary to the public interest.

704
705 2. *If the Variance were granted, the spirit of the Ordinance would be observed.*

706
707 Chair Clough stated that he concurs with that.

708
709 3. *Granting the Variance would do substantial justice.*

710
711 Chair Clough stated that it is already in use for what it is. He continued that they are not asking
712 for more parking, and in fact, across the street there is a lot of parking they are trying to separate
713 it from. If anything, this will maintain the smaller usage it seems to have already.

714
715 4. *If the Variance were granted, the values of the surrounding properties would not be*
716 *diminished.*

717

718 (Minute taker note: no comments).

719

720 5. *Unnecessary Hardship*

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

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

727

728 Chair Clough stated that he thinks they agree that this has been in existence and that it has been a
729 secondary use, not a primary use, but if they are going to split it off, it is of sufficient size. He
730 continued that it actually prevents somebody from doing something bigger there. It would be
731 very difficult to put a bowling alley in, for example, even though that would be covered. It must
732 be one of the smallest squash courts. That is why three parking spaces are sufficient.

733

734 *and*

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

736

737 (Minute taker note: no comments).

738

739 Mr. LeRoy made a motion to approve ZBA-2025-14 for a Variance to allow a .17-acre lot where
740 four acres is normally required, for property located at 150 Congress St., Tax Map #598-002-
741 000-001-002, as shown in the plan titled "Zoning Board of Adjustment Exhibit," dated August
742 15, 2025, at a scale of 1"=100', prepared by Fieldstone Land Use Consultants and in the
743 application and supporting materials received on August 15, 2025, with no conditions. Mr. Burke
744 seconded the motion.

745

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

747

748 Met with a vote of 5-0.

749

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

751

752 Met with a vote of 5-0.

753

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

755

756 Met with a vote of 5-0.

757

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

760

761 Met with a vote of 5-0.

762

763 5. *Unnecessary Hardship*

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

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

770

771 Met with a vote of 5-0.

772

773 *and*

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

775

776 Met with a vote of 5-0.

777

778 The motion to approve ZBA-2025-14 passed unanimously.

779

780 Chair Clough asked the Board to deliberate on ZBA-2025-18. He continued that as a reminder; it
781 is to allow an “indoor recreation/entertainment facility” where not permitted by the Zoning
782 regulations.

783

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

785

786 Mr. Burke stated that he does not think it would be contrary to the public interest. He continued
787 that he likes Mr. Schrantz’s recommendation of maybe a condition allowing only the squash
788 court as part of the motion to approve. That way, it preserves the use as it is and would not allow
789 anyone else to come in and use the “indoor recreation/entertainment” idea for any other use in
790 the future. Chair Clough replied that that sounds reasonable.

791

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

793

794 Chair Clough asked how the Board feels about this. He asked if they are pretty much in line.
795 (Minute taker note: no verbal responses).

796

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

798

799 (Minute taker note: No comments).

800

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

803

804 Chair Clough stated that it has not diminished the values of surrounding properties in all these
805 years, so he thinks it is safe to continue.

806

807 5. *Unnecessary Hardship*

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

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

814

815 Chair Clough stated that if the Ordinance provision were enforced, he does not know what this
816 piece of property could be used for. He continued that it does not seem to have any other use.

817

818 Mr. Schrantz stated that he needs Mr. Clements's help with the wording of the motion. He
819 continued that based on tonight's conversation, he thinks the Board wants to restrict the use on
820 the property to the use of the squash court. He asked how to state that correctly. Mr. Clements
821 replied they could say, "With the following condition: the recreation use shall be limited to
822 squash." He continued that his only concern, although this might sound pedantic, is that it might
823 restrict it too much, in the sense that it would disallow other racquet sports like pickleball. He
824 asked Mr. Guyot for suggested wording. Mr. Guyot replied that they could say, "squash and
825 related racquet sports," or something to that effect. He continued that squash courts are unique in
826 size and structure, based on the nature of the game. Potentially, it could be converted to a
827 handball court, but probably the dimensions are not right for it to be used for tennis or pickleball.
828 Trying to be fair to the Applicant and keep the theme of what they are trying to accomplish here,
829 maybe "squash and related racquet sports" would work.

830

831 Mr. Clements asked Mr. Lefebvre if he thinks they are splitting hairs for no reason. He asked if it
832 is fair to say this will never be anything else. He does not want to tie the ASC&DC's hands here
833 unnecessarily. For example, if people play a game other than squash in the building, it is not like
834 someone is going to come enforce it.

835

836 Randall Lake of 73 Dunn Rd. stated that the squash court is wall to wall. He continued that it is a
837 little different than a regular-sized squash court, as it was made for hardball squash, which is old.
838 There is nothing else you can do with the building. It is not big enough for pickleball, and it is a
839 different size than handball. Racquetball uses a slightly different size court but is similar to
840 squash.

841

842 Chair Clough asked if they should then just let it ride the way it is. Mr. Lefebvre replied yes, and
843 if someone wanted to change the use, they would have to come back to the Board.

844

845 Mr. Schrantz stated that "indoor recreation/entertainment facility" sounds broad, which is why
846 they were restricting it to squash, so someone cannot come in and create an entertainment facility

847 there next to the neighborhood. Mr. Clements replied that he will read the definition: “A facility
848 for spectator and participatory uses conducted within an enclosed building, including but not
849 limited to movie theaters, live performance venues, nightclubs, indoor sports arenas, bowling
850 alleys, skating centers, physical adventure facilities, and pool halls.” Mr. Lefebvre replied that
851 you would not be able to pull any of those off, especially with no parking. He continued that with
852 the setbacks the way they are, they have limited the building to nothing. No expansion. Mr.
853 Clements replied that on the other hand, you could probably throw some billiard tables in there
854 and convert it to a very different use. Raves in random places are no longer a common
855 occurrence, but “nightclub,” who knows. Maybe they should limit it to “racquet sports.”
856

857 Mr. Schrantz made a motion to approve ZBA-2025-18, for a Variance to allow a
858 Recreation/Entertainment Facility – indoor use when the use is not normally permitted for
859 property located at 150 Congress St., Tax Map # 598-002-000-001-002, as shown in the plan
860 titled “Zoning Board of Adjustment Exhibit” dated August 15, 2025, at a scale of 1” = 100’,
861 prepared by Fieldstone Land Use Consultants and in the application and supporting materials
862 received on September 5, 2025, with the condition that racquet sports are the only allowed use.
863 Mr. Guyot seconded the motion.
864

865 1. *Granting the Variance would not be contrary to the public interest.*
866

867 Met with a vote of 5-0.
868

869 2. *If the Variance were granted, the spirit of the Ordinance would be observed.*
870

871 Met with a vote of 5-0.
872

873 3. *Granting the Variance would do substantial justice.*
874

875 Met with a vote of 5-0.
876

877 4. *If the Variance were granted, the values of the surrounding properties would not be
878 diminished.*
879

880 Met with a vote of 5-0.
881

882 5. *Unnecessary Hardship*

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

886 i. *No fair and substantial relationship exists between the general public
887 purposes of the ordinance provision and the specific application of that provision
888 to the property*
889

890 Met with a vote of 5-0.

891

892 *and*

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

894

895 Met with a vote of 5-0.

896

897 The motion to approve ZBA-2025-18 with the condition passed unanimously.

898

899 Chair Clough called for a five-minute recess and called the meeting back to order at 8:00 PM.

900

901 **B) CONTINUED ZBA-2025-15: Petitioner, Mike Gokey, of Markem-Imaje, 150**
902 **Congress St., represented by Jonathan Lefebvre, of Fieldstone Land Consultants,**
903 **206 Elm St., Milford, requests a Variance for property located at 150 Congress St.,**
904 **Tax Map #598-002-000 and is in the Industrial Park District. The Petitioner**
905 **requests a Variance to allow a lot that does not meet the parking surface**
906 **requirements per Article 9.4.2 of the Zoning Regulations.**

907

908 Chair Clough introduced ZBA-2025-15 and asked to hear from staff.

909

910 Mr. Clements stated that this request is related to the parking lot setback requirements within
911 Article 9 of the Zoning Regulations. Within Article 9 is Table 9-2, which is included in the staff
912 report. Table 9-2 requires a certain amount of a green space “collar” around parking areas, based
913 on the size of the parking lot. Parking lots of less than 10,000 square feet are required to have 8-
914 foot front, side, and rear green space setbacks, and then it moves up from there. For parking lots
915 between 10,000 and 30,000 square feet, it is a 10-foot front setback and 8-foot side setbacks, and
916 for parking lots greater than 30,000 square feet but less than 2 acres, it is a 15-foot front setback
917 and 10-foot side setback. Parking lots greater than 2 acres requires a 20-foot front and 15-foot
918 side and rear setbacks. The Applicant is requesting to have an 8-foot parking lot setback where
919 10 feet is normally required. He will let the Applicant explain that in greater detail.

920

921 Mr. Lefebvre stated that he thanks the Board for granting the Variances related to the ASC&DC,
922 and he knows it will make the ASC&DC very happy. He continued that regarding the remaining
923 property of Markem-Imaje, it would be great to be able to make use of these properties. Markem-
924 Imaje has been approached by several people, but no one wants to lease. They want these
925 buildings to have some use. What they are trying to propose is to make best use of the property.
926 The Industrial Park is limited. It is challenging to determine how to subdivide these buildings,
927 since they are existing – the only way to bring them into conformance would be to take them
928 down. Similarly, they have issues with the parking lots. While they would like to maintain every
929 dimensional requirement, they simply cannot. They did their best to only ask for Variances they
930 felt they were necessities. One is the parking. On the rear of the property, if they move the
931 property line two more feet, it sounds incidental, it gets closer to the building and creates a
932 greater restriction. They are trying to put the division line more in the middle of the two

933 buildings, trying to divide what is there. To them, parking is incidental. Regarding the goal of
934 having that 10-foot setback, his thoughts are that when there is a main road, they want to make
935 sure they are set back far enough. With a property on which new construction is proposed, they
936 want to ensure the neighbors are not violated. In this circumstance, all the infrastructure exists.
937 They are asking for three separate Variances to subdivide the property. The first is the parking.
938 The setback, 8 feet versus 10, is because they are looking at the bigger picture with the buildings
939 involved.

940
941 Mr. Lefebvre asked if the Board had any questions before he went through the criteria. Mr.
942 Schrantz replied that he understands what the Applicant is trying to do here. He continued that
943 first, he has a question for Mr. Clements. From a process standpoint, the properties have not been
944 subdivided yet, but they are trying to grant these Variances on properties that have not been
945 subdivided. Mr. Lefebvre replied that they cannot go to the Planning Board and propose
946 violations. He continued that when the Planning Board says, “You do not meet requirements,”
947 they have to say, “We have permission to not meet those requirements.” Thus, they have to come
948 to the ZBA before the Planning Board. Mr. Clements replied that it is interesting that Mr.
949 Schrantz asked that question, because this very question is being discussed in the email listserv
950 for Planners that he is a member of. He continued that statute lets you do it either way. Keene’s
951 practice is to not let applications go to the Planning Board until they have their Zoning squared
952 away. In this case, just like the Applicant just said, they will go to the Planning Board – if the
953 ZBA grants these Variances – with their special permissions in hand. Then, the Planning Board
954 can look, note the deviations from the Zoning Ordinance, and know that it has already been
955 addressed by the ZBA, so they can approve the subdivision as long as it meets all the other
956 criteria. If the ZBA grants the Variances tonight and something happens and the subdivision
957 changes, those Variances are not necessarily valid anymore. It is a hand-in-hand process. They
958 would reevaluate, to determine whether it was a minor tweak and the spirit of this approval was
959 still maintained, and if it is not, the Applicant might have to come back for changes, new
960 Variances, to adjust. The process is correct, for the Applicant to come to the ZBA first and then
961 the Planning Board.

962
963 Mr. Schrantz thanked Mr. Clements for the explanation. He continued that that was his
964 confusion, what would happen if, say, they grant this Variance, but then something changes on
965 the application to the Planning Board. His question was whether there is a stop gap measure to
966 prevent that Variance sitting with the land going forward. Mr. Clements replied yes, if nothing
967 happened, like if Markem-Imaje got their Variances and then completely changed their mind and
968 decided not to subdivide, and to just give the ASC&DC their little lot and keep the Markem-
969 Imaje campus whole, the Variances would just time out in two years of not being acted upon.
970 These Variances are very much related to the subdivision plan that is part of the application
971 materials for these Variances, and which is in the queue for the Planning Board. That is part of
972 why the approval motion language refers specifically to those materials. Thus, if things change,
973 and the Applicant comes in with new materials, it is clear that it is not what they received a
974 Variance for. That is protection in the process.
975

976 Chair Clough stated that Mr. Lefebvre can go through the criteria, addressing each one briefly,
977 since the Board has to vote on each criterion. He continued that the Board can proceed with each
978 application individually.

979
980 Mr. Lefebvre stated that as he mentioned, they looked at this as a whole, because the first time
981 that Markem-Imaje tried to do something with the property, it was disappointing to see that the
982 person of interest (did not follow through) and it was all for nothing. He continued that this
983 opens the door for opportunity, so if someone wants one building or the other building, they can
984 do it. Everything is in place, like utility separations, for this to work well. The only problem is
985 that when subdividing this, they want the parking lot to stay with the building, but taking the
986 dimensional requirements literally does not allow for that. They would have to pull the parking
987 lot that has been in existence or remove part of a building.

988
989 Mr. Lefebvre continued that there are three more applications tonight. This first one is for
990 parking. They were looking more at the building separation than at parking. Rather than having a
991 bunch of jig jogs around stuff and removing some pavement, this is what is in place. It is an
992 incidental request, when you look at it as a whole, especially when you look at the dimensional
993 requirements. The lot line they are creating and the separation to the parking lot is internal. The
994 public will not see it unless they physically come onto the property, and they would not know the
995 difference between the two properties.

996
997 1. *Granting the Variance would not be contrary to the public interest.*

998
999 Mr. Lefebvre stated that they do not believe it conflicts with the public interest. He continued
1000 that the primary purpose of the parking setback deals with proposed development, visual
1001 properties, and does not necessarily deal with structures that predate the Ordinance.

1002
1003 2. *If the Variance were granted, the spirit of the Ordinance would be observed.*

1004
1005 Mr. Lefebvre stated that the spirit of the Ordinance is to ensure parking lots are not adjacent
1006 across from roads or properties to guarantee visual appeal. He continued that if someone buys
1007 this property, they are buying it with that setback in place. There is no room for someone to
1008 come in and do something. They are solely asking for what is existing.

1009
1010 Mr. Lefebvre stated that he could read through the rest of the criteria, but essentially, it speaks to
1011 the fact that they have existing improvements and are trying to do the best they can to separate
1012 the properties to make use of them, just as the Master Plan asks for. The Master Plan says it
1013 would like to see properties being used. The industrial zone is small. The incidental parking
1014 setback is what they are asking for.

1015
1016 Mr. Schrantz stated that Mr. Lefebvre talked about jigs and jags in the property line. He
1017 continued that on page 102 of the packet of information, in between proposed lot 2.2 and 2.3,
1018 there is a red line that goes through the median. He thinks that is where the setback question is.

1019 He asked Mr. Lefebvre to help them understand why they did not just move the property line two
1020 feet to the right, where it looks like it could be in the median.

1021
1022 Mr. Lefebvre replied that they are trying to have the parking lot go along the fence line that
1023 exists and already separates the properties. Indicating on the plans, he showed the loading dock
1024 that they want to own and showed the area that would be easement to access it. He continued that
1025 after that is the parking lot where there will be some snow plowing, and they want to be able to
1026 have and maintain that area. Thus, they went along the fence line. It was about trying to make as
1027 few jogs as possible for the improvements that exist. Where the line is proposed, there is a
1028 parking lot and fence there.

1029
1030 Mr. Clements stated that to conform with the regulation, they would have to rip out two feet of
1031 the parking lot, and then they would eliminate all those parking spaces along that part of the
1032 parking lot. Mr. Lefebvre replied that they are trying to make sure the area that Markem-Imaje is
1033 utilizing for snow storage is still part of the parking lot. Right after that they have the property.
1034 They have to come up to the loading dock. It would be very hard for someone to maintain jigs
1035 and jogs. They want it to be the most pleasant separation of the properties, with any necessity
1036 such as utilities dealt with as a blanket easement or easements where required. They want the
1037 improvements relative to that building to exist with the least amount of jigs, jogs, and angle
1038 points.

1039
1040 Chair Clough asked if there were further questions. He asked if the Board feels that they have
1041 enough information to deliberate and vote. He closed the public hearing and asked the Board to
1042 deliberate on the criteria.

1043
1044 1. *Granting the Variance would not be contrary to the public interest.*
1045

1046 Chair Clough stated that seeing as it is contained away from the public in the first place, it does
1047 not seem that there would be any impact whatsoever to the public. Mr. Guyot replied that he
1048 agrees. He continued that this is in the Applicant's private space, and the public would not see it.

1049
1050 2. *If the Variance were granted, the spirit of the Ordinance would be observed.*
1051

1052 Chair Clough stated that regarding the difference of a couple of feet in this particular instance, if
1053 they force the Applicant to do it, it would make the parcels unattractive to someone wishing to
1054 buy one, as opposed to parcels that make sense to people and they can see, "I can approach and
1055 go right to here." Even though it is a slight deviation from what the Zoning asks for.

1056
1057 3. *Granting the Variance would do substantial justice.*
1058

1059 Chair Clough stated that he thinks they are following the path of established construction and
1060 altering that construction just to conform to Zoning would not be justice, in his opinion. He
1061 continued that that would almost be spiteful.

1062 4. *If the Variance were granted, the values of the surrounding properties would not be*
1063 *diminished.*

1064
1065 Chair Clough stated that it should have no effect on surrounding properties.

1066
1067 5. *Unnecessary Hardship*

1068 A. *Owing to special conditions of the property that distinguish it from other*
1069 *properties in the area, denial of the variance would result in unnecessary hardship*
1070 *because*

1071 i. *No fair and substantial relationship exists between the general public*
1072 *purposes of the ordinance provision and the specific application of that provision*
1073 *to the property.*

1074
1075 Chair Clough stated that again, they are making use of existing lines. He continued that if it were
1076 a blank slate, they could do a lot more with it, but when things are existing, that creates a special
1077 condition. This criterion is always the hardest one to vote on, but in this case, if you do not want
1078 someone to have to alter a building or alter parking or access points, that can create an
1079 unnecessary hardship.

1080
1081 *and*
1082 *ii. The proposed use is a reasonable one.*

1083
1084 (Minute taker note: no comments).

1085
1086 Mr. Burke made a motion to approve ZBA-2025-15 for the Variance to allow 8-foot parking lot
1087 surface setback where 10 feet is normally required, for property located at 150 Congress St., Tax
1088 Map # 598-002-000-001-002, as shown in the plan titled “Zoning Board of Adjustment Exhibit”
1089 dated August 15, 2025, at a scale of 1” = 100’, prepared by Fieldstone Lane Use Consultants and
1090 in the application and supporting materials received on August 15, 2025, with no conditions. Mr.
1091 Guyot seconded the motion.

1092
1093 1. *Granting the Variance would not be contrary to the public interest.*

1094
1095 Met with a vote of 5-0.

1096
1097 2. *If the Variance were granted, the spirit of the Ordinance would be observed.*

1098
1099 Met with a vote of 5-0.

1100
1101 3. *Granting the Variance would do substantial justice.*

1102
1103 Met with a vote of 5-0.

1104

1105 4. *If the Variance were granted, the values of the surrounding properties would not be*
1106 *diminished.*

1107
1108 Met with a vote of 5-0.

1109
1110 5. *Unnecessary Hardship*

1111 A. *Owing to special conditions of the property that distinguish it from other*
1112 *properties in the area, denial of the variance would result in unnecessary hardship*
1113 *because*

1114 i. *No fair and substantial relationship exists between the general public*
1115 *purposes of the ordinance provision and the specific application of that provision*
1116 *to the property*

1117
1118 Met with a vote of 5-0.

1119
1120 *and*

1121 ii. *The proposed use is a reasonable one.*

1122
1123 Met with a vote of 5-0.

1124
1125 The motion to approve ZBA-2025-15 passed unanimously.

1126
1127 **C) CONTINUED ZBA-2025-16: Petitioner, Mike Gokey, of Markem-Imaje, 150**
1128 **Congress St., represented by Jonathan Lefebvre, of Fieldstone Land Consultants,**
1129 **206 Elm St., Milford, requests a Variance for property located at 150 Congress St.,**
1130 **Tax Map #598-002-000 and is in the Industrial Park District. The Petitioner**
1131 **requests a Variance to allow a lot that does not meet the minimum lot size**
1132 **requirements per Article 6.3.2 of the Zoning Regulations.**

1133
1134 Chair Clough introduced ZBA-2025-16 and asked to hear from staff.

1135
1136 Mr. Clements stated that the purpose of this application is to seek a Variance to allow for a lot
1137 that is 3.52 acres in size where four acres is normally required.

1138
1139 Chair Clough asked if there were any questions for Mr. Clements. Hearing none, he asked to
1140 hear from the Applicant.

1141
1142 Mr. Lefebvre stated that as mentioned previously, you can see where Markem-Imaje tried to
1143 create these lots. Indicating on the plan, he stated that the parking lot is the main entrance for the
1144 building. They belong together. The other parking lot belongs with the other building. It comes
1145 down to a point where another parking lot belongs to another building. They are really chasing
1146 lot lines with existing features, and to meet the dimensional requirements, they would have to
1147 move them and ask for a Variance for setbacks, and they would have to remove parking. This lot

1148 on the northeast side, too, has as much as it can without interfering with the existing
1149 improvements relative to other buildings.

1150
1151 Chair Clough asked if there was anything unique about the criteria for this application that Mr.
1152 Lefebvre wants to point out, for the Board to discuss. Mr. Lefebvre replied that he could read the
1153 criteria again. He continued that he is stuck with the task of trying to find the best and most
1154 appropriate boundary lines for a 31-acre parcel that now wants to be separated and has existing
1155 features. He believes the proposal captures the improvements for each one of the buildings, their
1156 parking lots, and associated necessities. They just cannot quite make it. Thus, they are asking for
1157 3.5 acres where four acres is the requirement.

1158
1159 Chair Clough asked if the Board had any questions. Hearing none, he stated that it seems clear to
1160 him. He does not see anyone from the public here to speak in support or opposition, so they will
1161 close the public hearing. He asked the Board to deliberate.

1162
1163 *1. Granting the Variance would not be contrary to the public interest.*

1164
1165 Chair Clough stated that he does not think trying to enforce a four-acre lot would change the
1166 usage ability here. He continued that it is not like adding another half acre would suddenly give
1167 the ability to build some sort of additional industrial space, or anything like that, but he is willing
1168 to hear from others. He continued that it looks like the other Board members concur.

1169
1170 *2. If the Variance were granted, the spirit of the Ordinance would be observed.*

1171
1172 Chair Clough stated that he thinks it is close enough. He continued that it is 80% of what would
1173 be expected for an industrial site. Especially with how things downsize, he thinks it would still
1174 be attractive for someone to move into. Three and a half acres would be fairly good. He asked if
1175 the rest of the Board members are good with this criterion.

1176
1177 *3. Granting the Variance would do substantial justice.*

1178
1179 Chair Clough stated that it is following the lines that are already established by existing utilities,
1180 buildings, and parking. He continued that trying to alter that would not improve any functionality
1181 that he can see, and it is not in a place where the public would notice at all if it were changed.
1182 Thus, he thinks it is doing justice there. Mr. Guyot replied that he agrees.

1183
1184 *4. If the Variance were granted, the values of the surrounding properties would not be*
1185 *diminished.*

1186
1187 Chair Clough stated that probably no one else would even notice, at all.

1188
1189 *5. Unnecessary Hardship*

- 1190 A. *Owing to special conditions of the property that distinguish it from other*
1191 *properties in the area, denial of the variance would result in unnecessary hardship*
1192 *because*
1193 i. *No fair and substantial relationship exists between the general public*
1194 *purposes of the ordinance provision and the specific application of that provision*
1195 *to the property.*
1196

1197 Chair Clough stated that that is pretty much what all of the other things led up to. He continued
1198 that it would be ridiculous to try to enforce the Ordinance provision for this piece, when there is
1199 no benefit to the public and it would just be a hardship for the owner to try and make this work.
1200 It would potentially mess up two or three other parts of the parcel. Mr. Guyot stated that he
1201 agrees.
1202

1203 Mr. Schrantz made a motion to approve ZBA-2025-16, for the Variance to allow a 3.52-acre lot
1204 where four acres are normally required, for property located at 150 Congress St., Tax Map #598-
1205 002-000-001-002, as shown in the plan titled “Zoning Board of Adjustment Exhibit” dated
1206 August 15, 2025, at a scale of 1” = 100’, prepared by Fieldstone Land Use Consultants and in the
1207 application and supporting materials received on August 15, 2025, with no conditions. Mr.
1208 LeRoy seconded the motion.
1209

- 1210 1. *Granting the Variance would not be contrary to the public interest.*
1211

1212 Met with a vote of 5-0.
1213

- 1214 2. *If the Variance were granted, the spirit of the Ordinance would be observed.*
1215

1216 Met with a vote of 5-0.
1217

- 1218 3. *Granting the Variance would do substantial justice.*
1219

1220 Met with a vote of 5-0.
1221

- 1222 4. *If the Variance were granted, the values of the surrounding properties would not be*
1223 *diminished.*
1224

1225 Met with a vote of 5-0.
1226

- 1227 5. *Unnecessary Hardship*

- 1228 A. *Owing to special conditions of the property that distinguish it from other*
1229 *properties in the area, denial of the variance would result in unnecessary hardship*
1230 *because*

1231 *i. No fair and substantial relationship exists between the general public*
1232 *purposes of the ordinance provision and the specific application of that provision*
1233 *to the property*

1234
1235 Met with a vote of 5-0.

1236
1237 *and*

1238 *ii. The proposed use is a reasonable one.*

1239
1240 Met with a vote of 5-0.

1241
1242 The motion to approve ZBA-2025-16 passed unanimously.

1243
1244 **D) CONTINUED ZBA-2025-17: Petitioner, Mike Gokey, of Markem-Imaje, 150**
1245 **Congress St., represented by Jonathan Lefebvre, of Fieldstone Land Consultants,**
1246 **206 Elm St., Milford, requests a Variance for property located at 150 Congress St.,**
1247 **Tax Map #598-002-000 and is in the Industrial Park District. The Petitioner**
1248 **requests a Variance to allow a lot where the building currently encroaches**
1249 **approximately four feet into the 30 foot side setback line on the southwesterly**
1250 **corner per Article 6.3.2 of the Zoning Regulations.**

1251
1252 Chair Clough introduced ZBA-2025-17 and asked to hear from staff.

1253
1254 Mr. Clements stated that this is another example of what they have been discussing all evening.
1255 He continued that regarding a southwestern corner of one of the buildings, with the way the
1256 property line is being proposed to be drawn, it just sneaks into that setback, less than five feet.
1257 Thus, the Applicant is requesting a setback of 25.93 feet where 30 feet is normally required.

1258
1259 Chair Clough asked to hear from the Applicant.

1260
1261 Mr. Lefebvre stated that there are two existing buildings, and they propose lot lines, and if they
1262 do not have 30 feet between them it is hard to meet that requirement. He continued that they
1263 want to divide it, and simply do not have the room, so they are here tonight seeking relief.

1264
1265 Chair Clough asked Mr. Lefebvre to show on the map where this is. Mr. Lefebvre did so. He
1266 stated that in these two spots, they do not have the room between the buildings. If they put the lot
1267 line “here,” one lot meets the requirements and the other does not. There is not 30 feet here. It is
1268 one application; it is the same building. They just cannot propose a line because they do not have
1269 the room.

1270
1271 Mr. Guyot asked if it is correct that that is the proposed reason – the proposed lot line is not a
1272 straight line because of the existing infrastructure. Mr. Lefebvre replied that it is simply because
1273 they need 30 feet between buildings in order to meet the 15-foot requirement and they do not

1274 have 30 feet, so no matter where they put the line, they will not get it. He continued that they did
1275 the best they could with what they had.

1276
1277 Mr. Guyot asked if it is safe to say that if they corrected the encroachment on the setback for this
1278 building, they would have an issue on the other building. Mr. Lefebvre replied yes, the only way
1279 to correct the situation would be to remove a building that exists. Mr. Guyot replied that that is
1280 not practical.

1281
1282 Chair Clough asked if there is anything else unique to this application as opposed to the other
1283 ones. Mr. Lefebvre replied no, they are essentially chasing around existing features, looking at
1284 requirements, and they simply cannot subdivide it without relief. They are trying to separate
1285 ownership and there is no way to do it unless they request Variances.

1286
1287 Chair Clough stated that this particular one they are asking for is, if not in the center, well away
1288 from any public thoroughfare. He continued that it would be difficult for the public to even
1289 notice this. Mr. Lefebvre replied that is correct. He continued that the two buildings are existing,
1290 and the only division that anyone will see is that one building is owned by someone different
1291 than the owner of the other building, but all the site features are the same. No one will notice
1292 this. No one will be buying a property not knowing what they are getting into. They are creating
1293 these lots, doing the best they can with the onsite features. The only way to subdivide this
1294 property is to seek relief. There just is not enough room.

1295
1296 Chair Clough asked if there were questions for Mr. Lefebvre. Hearing none, and seeing no
1297 members of the public present, he closed the public hearing and asked the Board to deliberate.

1298
1299 *1. Granting the Variance would not be contrary to the public interest.*

1300
1301 Chair Clough asked if the Board had thoughts on the first criterion. Mr. LeRoy stated that he has
1302 no issues with it. Chair Clough stated that he does not see an issue with it. He continued that no
1303 members of the public are present showing any interest in this, and given the location and the
1304 small amount that this deviates from the normal zoning, someone would have to be quite eagle-
1305 eyed to even notice that the buildings are a little too close together.

1306
1307 *2. If the Variance were granted, the spirit of the Ordinance would be observed.*

1308
1309 Chair Clough stated that he does not think anything about this Variance would cause heart
1310 palpitations because it was asking to go off the normal course of things. He continued that it
1311 seems like just a small deviation, not something asking for something significant.

1312
1313 *3. Granting the Variance would do substantial justice.*

1314
1315 Mr. Guyot stated that he believes the Variance would do substantial justice because it allows the
1316 subdivision to move forward. Chair Clough replied that he agrees. He continued that as stated

1317 earlier in their deliberations and from the public, regarding another application, if one thing
1318 scuttles this, it scuttles everything, because the applications are tied together. He thinks it would
1319 do justice, because everything is harmonious, in terms of the attempt to do this subdivision. If
1320 they forced one thing out it would have a ripple effect on everything else.

1321
1322 Mr. LeRoy asked if this is pre-emptive to market these properties, or if sales are contingent upon
1323 these subdivisions. Mr. Lefebvre replied that there is nothing contingent upon. He continued that
1324 there was something that was contingent the last time Markem-Imaje came to the Board.
1325 Someone had approached them with a realistic goal, and they invested a lot of money in it, and it
1326 went nowhere. Markem-Imaje is still looking to do something with these buildings. A few people
1327 have shown interest, but no one wants to lease; anyone who wants to invest money into the
1328 property wants to own it. The intention is to give Markem-Imaje an opportunity to use what they
1329 use and let other people use what Markem-Imaje does not use. This is a great opportunity for
1330 these vacant buildings to be used and allow for jobs and opportunities. He thinks everything
1331 aligns with the Master Plan. No, they do not have anything now, but they hope the plans they
1332 drew up are attractive enough to get people to come in and want to use this and see the
1333 opportunity. The Industrial Park is limited, so this does allow for some opportunity.

1334
1335 Chair Clough stated that for the record, they paused deliberations for a moment to get that
1336 information.

1337
1338 *4. If the Variance were granted, the values of the surrounding properties would not be*
1339 *diminished.*

1340
1341 Chair Clough stated that surrounding properties are fine. He continued that he thinks the Board is
1342 fine with this criterion.

1343
1344 *5. Unnecessary Hardship*
1345 *A. Owing to special conditions of the property that distinguish it from other*
1346 *properties in the area, denial of the variance would result in unnecessary hardship*
1347 *because*
1348 *i. No fair and substantial relationship exists between the general public*
1349 *purposes of the ordinance provision and the specific application of that provision*
1350 *to the property*

1351 *and*
1352 *ii. The proposed use is a reasonable one.*

1353
1354 Chair Clough stated that he sees people nodding. Mr. Schrantz stated that clearly; to accomplish
1355 the subdivision, you would need to move a building or take down a portion of a building, and
1356 that seems like a substantial hardship at this point.

1357
1358 Chair Clough replied yes, it is much more attractive (to have this Variance) so they can say, “The
1359 building’s all there. All you have to do is move in.”

1360 Mr. Guyot made a motion to approve ZBA-2025-17 for the Variance to allow a 25.93-foot
1361 setback where 30 feet is normally required for property located at 150 Congress St., Tax Map
1362 #598-002-000-001-002, as shown in the plan titled “Zoning Board of Adjustment Exhibit” dated
1363 August 15, 2025, at a scale of 1” = 100’, prepared by Fieldstone Land Use Consultants and in the
1364 application and supporting materials dated August 15, 2025, with no conditions. Mr. LeRoy
1365 seconded the motion.

1366
1367 1. *Granting the Variance would not be contrary to the public interest.*

1368
1369 Met with a vote of 5-0.

1370
1371 2. *If the Variance were granted, the spirit of the Ordinance would be observed.*

1372
1373 Met with a vote of 5-0.

1374
1375 3. *Granting the Variance would do substantial justice.*

1376
1377 Met with a vote of 5-0.

1378
1379 4. *If the Variance were granted, the values of the surrounding properties would not be*
1380 *diminished.*

1381
1382 Met with a vote of 5-0.

1383
1384 5. *Unnecessary Hardship*

1385 *A. Owing to special conditions of the property that distinguish it from other*
1386 *properties in the area, denial of the variance would result in unnecessary hardship*
1387 *because*

1388 *i. No fair and substantial relationship exists between the general public*
1389 *purposes of the ordinance provision and the specific application of that provision*
1390 *to the property*

1391
1392 Met with a vote of 5-0.

1393
1394 *and*

1395 *ii. The proposed use is a reasonable one.*

1396
1397 Met with a vote of 5-0.

1398
1399 The motion to approve ZBA-2025-17 passed unanimously.

1400
1401 V) **New Business**

1402 A) **Rules of Procedure Updates**

1403 **VI) Staff Updates**

1404

1405 Mr. Clements stated that he and Corinne Marcou, Zoning Clerk, are working on amending the
1406 ZBA's Rules of Procedure. He continued that one of the changes is to clarify what happens when
1407 an alternate is asked to sit in on an application and that application is then continued to
1408 subsequent meetings. A situation like that recently happened with the Planning Board, so the
1409 Planning Board is updating their Rules of Procedure, and staff wanted to update the ZBA's Rules
1410 of Procedure, too, so it is clear. If an alternate is asked to sit in on an application as a voting
1411 member, they will follow that application for its duration. If it gets continued to the next meeting
1412 and the regular member who was previously absent attends that next meeting, they will still be
1413 able to sit and deliberate, but their voting right has been transferred to the alternate who has seen
1414 that application through in its entirety. That is a simple addition to the Rules of Procedure.

1415

1416 Mr. Clements continued that he noticed a strike-through from a previous update that was never
1417 removed from the Rules of Procedure, so he will clean that up. There are a few more small
1418 tweaks like that. The one substantive change will be the application timeline, which is to prevent
1419 the need for him to write seven staff reports in a week, like what happened with this bucket of
1420 applications. They will change when the application deadline is and when the Board packet
1421 needs to go out, which will buy him about a week and a half of extra time to look at everything
1422 and give better staff reports. Thus, when there are months with six to eight applications, it is a
1423 little more controlled.

1424

1425 Mr. Clements continued that the way the process works is staff introduces the Rules of Procedure
1426 changes in one meeting, and then the Board votes on the changes at the next meeting. It is
1427 unclear whether the Board needs to have the draft changes in writing for that first meeting, or if
1428 just talking about it in public is enough. At the next meeting, they might vote on it, or he might
1429 give the Board the draft changes in writing and that will count as the first meeting, with the vote
1430 to follow in December.

1431

1432 Chair Clough thanked Mr. Clements and asked if there was anything else. Mr. Clements replied
1433 that the new Master Plan is officially adopted. He continued that they are no longer working with
1434 the 2010 Master Plan; they are now working with the 2025 Master Plan. That is on the website.
1435 They will make a few print copies to have on the fourth floor, if anyone wants to look at it that
1436 way. That whole process took about two years, and it is "the end of the beginning." There is a
1437 strong push to continue the collaborative, community-building work that the project started.
1438 They will potentially create task groups to target some of the goals that have been articulated in a
1439 meaningful way.

1440

1441 **VII) Communications and Miscellaneous**

1442

1443 **VIII) Non-Public Session (if required)**

1444

1445 **IX) Adjournment**

1446 There being no further business, Chair Clough adjourned the meeting at 8:45 PM.

1447

1448 Respectfully submitted by,

1449 Britta Reida, Minute Taker

1450

1451 Reviewed and edited by,

1452 Corinne Marcou, Board Clerk

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147 MAIN ST
ZBA-2025-08



Petitioner requests an Extension for a Special Exception granted on August 7, 2023 per 26.6.9 of the Zoning Regulations.



NOTICE OF HEARING

ZBA-2025-08

A meeting of the Zoning Board of Adjustment will be held on **Monday, August 4, 2025, at 6:30 PM** in City Hall Council Chambers, 2nd floor, 3 Washington St, Keene, New Hampshire to consider the following petition.

ZBA-2025-08: Petitioner, Michael Pappas, of 147-151 Main Street, LLC, represented by Timothy Sampson, of Sampson Architects, requests an Extension, for property located at 147 Main St., Tax Map # 584-060-000-000 and is in the Downtown Core District. The Petitioner is requesting an extension for a Special Exception granted on August 7, 2023, per Article 26.6.9 of the Zoning Regulations.

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

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

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

Corinne Marcou, Zoning Clerk
Notice issuance date July 22, 2025

STAFF REPORT

ZBA-2025-08 – Extension of Special Exception Approval – Drive-thru, 147 Main St.

Request:

Petitioner, Michael Pappas, of 147-151 Main Street, LLC, represented by Timothy Sampson, of Sampson Architects, requests an Extension, for property located at 147 Main St., Tax Map # 584-060-000-000 and is in the Downtown Core District. The Petitioner is requesting an extension for a Special Exception granted on August 7, 2023, per Article 26.6.9 of the Zoning Regulations.

Background:

The property at 147-151 Main St is an existing vacant parcel located on the northwest corner of Main St and Davis St. with the Cumberland Farms Gas & Convenience across Main St. to the east. The property used to contain a two story, brick construction mixed-use building known as the Cobblestone building; however, the lot is currently vacant after a fire forced the demolition of the building.

In 2023 a Boundary Line Adjustment was approved by the Planning Board for the subject parcel, an adjacent lot to the west at 0 West St. and the adjacent lot to the north at 143 Main St. as part of a larger plan to redevelop the site. The property also received a Special Exception from the Zoning Board of Adjustment to allow for a drive-through as was required from section 8.4.2.C.2 of the Land Development Code (LDC) for parcels located in the Downtown-Core zoning district. The LDC has since been amended to prohibit a drive-thru in the Downtown-Core zoning district.

The purpose of this application is to request an extension of the approved Special Exception from 2023. The Special Exception permitted a drive-through use to accommodate a pick up only drive-thru lane for pre-ordered food items. The drive-thru was not proposed to have an order board or be designed to

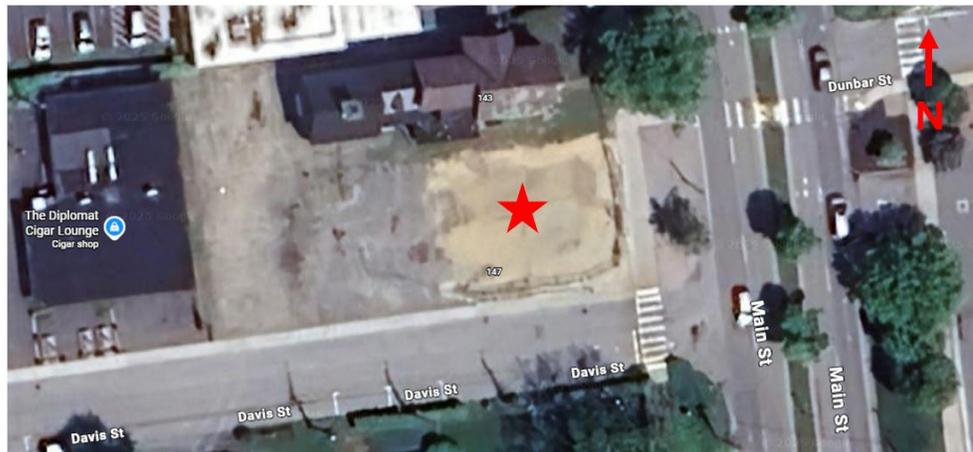


Fig 1: Aerial of 147 Main St located at the red star. Taken from Google Maps (2025)



Fig 2: Aerial of 147 Main St located at the red star. Taken from City Aerial Imagery (2020)

STAFF REPORT

allow for orders to be placed. The meeting minutes from the August 7, 2023 meeting are included in the packet and outline the original request. The application was introduced in June of 2023 but was continued two times until August when the Board acted on the application. The Board approved the request with the condition that “No exterior order board be present.”

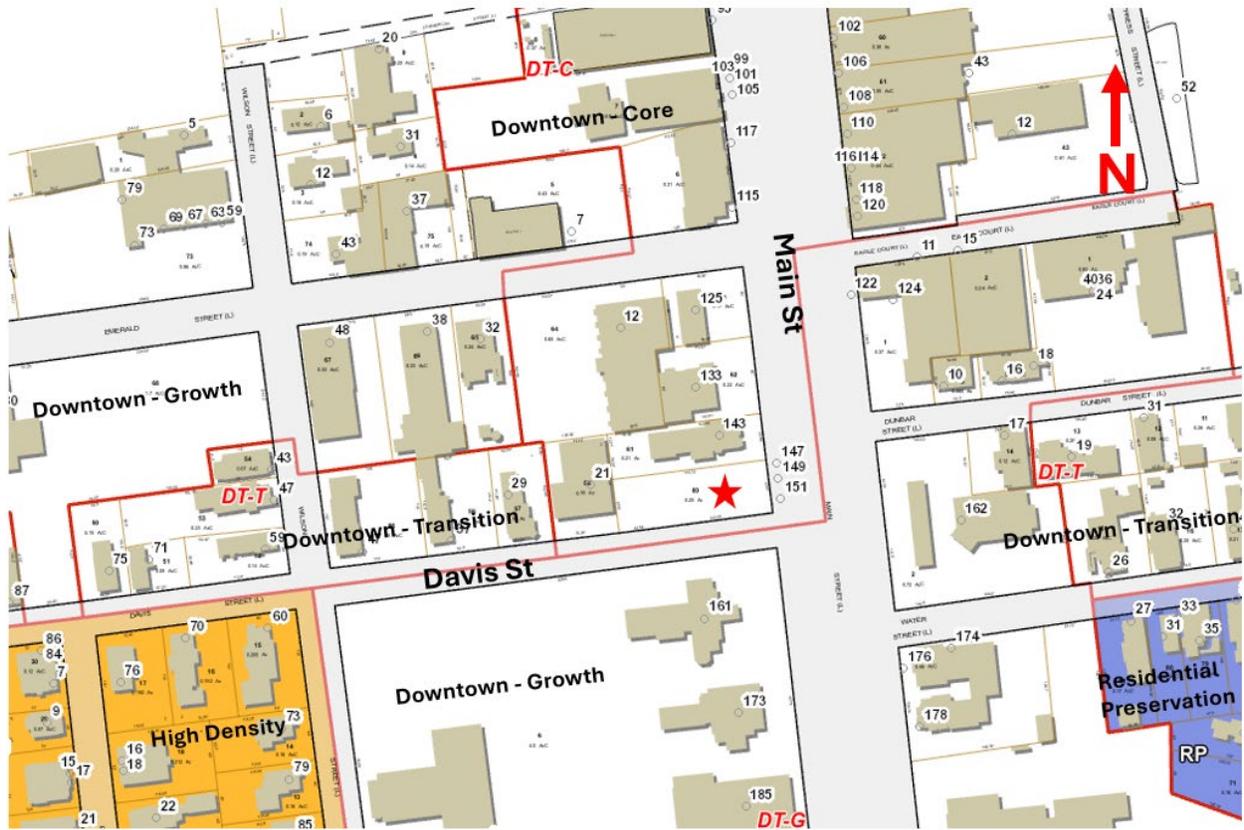


Fig 3: 147 Main St located at the red star with surrounding zoning districts

Surrounding Uses:

North: Residential/Restaurant

South: Religious

East: Vehicle Repair/Restaurant/Gas Station & Retail

West: Restaurant/Residential

STAFF REPORT

Application Analysis: The following is a review of the relevant sections of the Zoning Ordinance and how they impact the subject property:

Drive-Through Uses:

Defined. An establishment designed for the general public to make use from their vehicles of the sales or services provided on the premises.

Use Standards:

1. Drive-through uses shall only be permitted by right in the Commerce and Commerce Limited Districts, and by special exception from the Zoning Board of Adjustment in the Downtown-Growth and Downtown-Core Districts.
2. Drive-through uses shall be subject to the screening standards for drive-through businesses in Section 21.6 of this LDC.

Approval Standards

The Zoning Board of Adjustment may approve a special exception application, only when the Board finds that all of the following conditions apply:

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.
2. The proposed use will be established, maintained and operated so as not to 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 adjacent property.
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.
5. The proposed use will not place an excessive burden on public improvements, facilities, services, or utilities.
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.
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.

STAFF REPORT

Additional Considerations for the Extension Request

The Board will need to determine if the established findings of fact and conditions of the approved Special Exception are still applicable to the property and proposed project and that the extension request is warranted for good cause.

Good cause is a substantial reason or justification of why the Special Exception has not yet been acted on by the applicant and includes a reasonable plan on how the applicant intends to act on the Special Exception within the timeframe granted by the extension. The Board will need to determine a realistic and reasonable amount of time to grant the extension for.

Suggested Conditions and Draft Motion:

If the Board is inclined to approve this request, the following language is recommended for the motion:

“Approve ZBA-2025-08, for the extension of a Drive-Through Special Exception for property located at 147 Main St., Tax Map # 584-060-000-000 as shown in the application and supporting materials, received on July 17, 2025 with the following conditions:

- 1. No exterior order board be present”**

Zoning Board of Adjustment Extension Application



| | |
|-----------------------------|-----------------------|
| For Office Use Only: | |
| Case No. | <u>ZBA-2025-08</u> |
| Date Filled | <u>7/17/2025</u> |
| Rec'd By | <u>CJM</u> |
| Page | <u>1</u> of <u>11</u> |
| Rev'd by | _____ |

If you have questions on how to complete this form, please call:
(603) 352-5440 or

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 Swinney Ht 03469

PHONE:

EMAIL:

SIGNATURE:

PRINTED NAME: Mike Pappas

APPLICANT (if different than Owner/Applicant)

NAME/COMPANY:

MAILING ADDRESS:

PHONE: SAME

EMAIL:

SIGNATURE:

PRINTED NAME:

AUTHORIZED AGENT (if different than Owner/Applicant)

NAME/COMPANY: Sampson Architects PLLC

MAILING ADDRESS: 11 King Court Suite 1E Keene NH 03431

PHONE: 603 769 7736

EMAIL: Tim @ SampsonArchitects.com

SIGNATURE: Tim P Sampson

PRINTED NAME: Timothy Sampson

SECTION 2: PROPERTY INFORMATION

Property Address: 147 Main St

Tax Map Parcel Number: 584 060 000

Zoning District: Downtown Core

Date of Damage or Destruction: NA

List of Known Nonconformities: NA

SECTION 3: WRITTEN NARRATIVE

Article 18.2.7: Describe the property, the damage or destruction of the property, and the justification for the extension request.

See Attached



200 feet Abutters List Report

Keene, NH
July 16, 2025

Subject Property:

Parcel Number: 584-060-000
CAMA Number: 584-060-000-000-000
Property Address: 147 MAIN ST.

Mailing Address: 147-151 MAIN STREET LLC
PO BOX 575
WEST SWANZEY, NH 03469

Abutters:

Parcel Number: 584-001-000
CAMA Number: 584-001-000-000-000
Property Address: 122-124 MAIN ST.

Mailing Address: ELLIS ROBERTSON CORP
PO BOX 188
CHESTERFIELD, NH 03443

Parcel Number: 584-002-000
CAMA Number: 584-002-000-000-000
Property Address: 162 MAIN ST.

Mailing Address: OBSIDIAN ML 7 LLC
C/O EG AMERICA 165 FLANDERS RD
WESTBOROUGH, MA 01581

Parcel Number: 584-006-000
CAMA Number: 584-006-000-000-000
Property Address: 161-185 MAIN ST.

Mailing Address: ROMAN CATHOLIC BISHOP OF
MANCHESTER NH
153 ASH ST.
MANCHESTER, NH 03104

Parcel Number: 584-056-000
CAMA Number: 584-056-000-000-000
Property Address: 37 DAVIS ST.

Mailing Address: 37 DAVIS STREET LLC
268 ROWLAND RD.
FAIRFIELD, CT 06824

Parcel Number: 584-057-000
CAMA Number: 584-057-000-000-000
Property Address: 29 DAVIS ST.

Mailing Address: CHESHIRE PROPERTIES LLC
61 HILLTOP DR.
KEENE, NH 03431

Parcel Number: 584-058-000
CAMA Number: 584-058-000-000-000
Property Address: 21 DAVIS ST.

Mailing Address: 21 DAVIS STREET LLC
C/O GEORGE LEVINE 11 RIVER ST #300
WELLESLEY, MA 02481-2021

Parcel Number: 584-061-000
CAMA Number: 584-061-000-000-000
Property Address: 143 MAIN ST.

Mailing Address: 143 MAIN LLC
PO BOX 575
WEST SWANZEY, NH 03469

Parcel Number: 584-062-000
CAMA Number: 584-062-000-000-000
Property Address: 133 MAIN ST.

Mailing Address: ATHENS PIZZA HOUSE INC
133 MAIN ST.
KEENE, NH 03431

Parcel Number: 584-063-000
CAMA Number: 584-063-000-000-000
Property Address: 125 MAIN ST.

Mailing Address: ADELPHIA INC
133 MAIN ST.
KEENE, NH 03431

Parcel Number: 584-064-000
CAMA Number: 584-064-000-000-000
Property Address: 12 EMERALD ST.

Mailing Address: ANOPOLIS-G LLC
133 MAIN ST.
KEENE, NH 03431



www.cai-tech.com

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



200 feet Abutters List Report

Keene, NH
July 16, 2025

Parcel Number: 584-065-000
CAMA Number: 584-065-000-000-000
Property Address: 32 EMERALD ST.

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

Parcel Number: 584-066-000
CAMA Number: 584-066-000-000-000
Property Address: 38 EMERALD ST.

Mailing Address: GREENWALD3 LLC GREENWALD4 LLC
PO BOX 361
KEENE, NH 03431-0361



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7/16/2025

Page 2 of 2

Extension Request – 147 Main Street

An extension is being requested for the special exception granted on August 7, 2023 to allow a drive thru located at 147 Main Street. The original application and the notice of decision are both attached as part of the extension application. The property owner recognizes the approval and all conditions of the approval.

An extension is requested because its taken more time than expected to explore designs and forecast the financial implication that various schemes present. There have been several potential tenants for the first floor retail space that have required design changes significantly impacting both the design schedule and costs. The intent is to provide a viable project that is successful for all involved, the city as well as the property owner. Granting an extension would allow the property owner to further explore options and include the previously approved drive thru that provides added value to potential grade level retail tenants.



NOTICE OF DECISION

ZONING BOARD OF ADJUSTMENT

CASE NUMBER: ZBA 23-16
Property Address: 147 Main St.
Zone: Downtown Core District
Owner: 147-151 Main Street, LLC
Petitioner: Jim Phippard, Brickstone Land Use Consultants, LLC
Date of Decision: August 7, 2023

Notification of Decision:

Petitioner, 147-151 Main Street, LLC and represented by Jim Phippard, of Brickstone Land Use Consultants, LLC, requested a Special Exception for property located at 147 Main St., Tax Map #584-060-000-and is in the Downtown Core District. The Petitioner requested 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.

The motion to approve ZBA 23-16 was approved by a vote of 3-2, with one condition according to the Special Exception Findings of Fact listed below and as further specified in the minutes of the meeting.

Criteria 1: The proposed plan, with a mixed use, will provide more housing, as well as more businesses; this plan supports both the strive for a more walkable downtown as well as vehicular traffic.

Criteria 2: The proposed plan does not provide clear evidence the business model works and leads to concerns with walk-ins not having trash receptacles in the front of the building.

Criteria 3: The proposed plan leads to concerns again on that the business model works in relation to the traffic impact on Davis St.

Criteria 4: The proposed plan, is not more intense compared to the previous uses with the corner of Davis St. and Main St. having supported intense vehicular use.

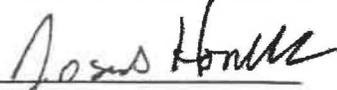
Criteria 5: The proposed plan does not have any excessive burden on public improvements, facilities services, or utilities.

Criteria 6: Not applicable as the lot is empty with the loss from the building fire.

Criteria 7: The proposed plan does hold concerns with the possible traffic increase through the neighborhoods.

Condition: No exterior order board being present.

NOTE: Contact the Community Development Department and the Fire Prevention Officer for any applicable permits that may be needed.



Joseph Hoppock, Chair

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 Technician
City Attorney
City Appraiser
File Copy

City of Keene, NH

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

(AUTHORIZED AGENT (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

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 uscs.

- 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.

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509 HURRICANE RD. ZBA-2025-19



Petitioner requests a street access up to an approximately 18 degree slope per Article 9.3.4.C of the Zoning Regulations.



NOTICE OF HEARING

ZBA-2025-19

A meeting of the Zoning Board of Adjustment will be held on **Monday, November 3, 2025, at 6:30 PM** in City Hall Council Chambers, 2nd floor, 3 Washington St, Keene, New Hampshire to consider the following petition.

ZBA-2025-19: Petitioner, Scott and Eileen Adams, requests a Variance for property located at 509 Hurricane Rd., Tax Map #222-017-000 and is in the Rural District. The Petitioner is requesting a Variance to permit street access up to an approximately 18 degree slope per Article 9.3.4.C of the Zoning Regulations.

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

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

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

Corinne Marcou, Zoning Clerk

Notice issuance date October 24, 2025

STAFF REPORT

ZBA-2025-19 – VARIANCE– AGRICULTURAL STREET ACCESS, 509 HURRICANE RD

Request:

Petitioner, Scott and Eileen Adams, requests a Variance for property located at 509 Hurricane Rd., Tax Map #222-017-000 and is in the Rural District. The Petitioner is requesting a Variance to permit street access up to an approximately 18 degree slope per Article 9.3.4.C of the Zoning Regulations.

Background:

The subject parcel is an existing 5 ac lot with 781 ft of frontage located on the east side of Hurricane Rd, approximately 1.5 mi from the Westmoreland municipal boundary. The property contains an existing single-family residence, barn, additional out buildings, and associated site improvements. The property is characterized by steep slopes along the property frontage and throughout the lot area. See fig 2 below for a contour map of the property. The street access that serves the single-family residence is located approximately 430 ft to the south of the proposed agricultural street access.

The applicant had previously submitted a street access permit application to seek approval for this second, agricultural street access point in their property. The application was originally denied by the City Engineer due to deficiencies in the proposal related to sight lines, material, and slope. Planning staff and the City Engineer were able to resolve the issues related to slight lines and material of the proposed driveway. The applicant was able to seek and be granted an exception from the driveway standards in Article 23 of the Land Development Code to allow for a second street access point on a residential lot.

The intent of this application is to seek relief from the 15% slope limit for a driveway in order to permit the installation of a permanent, limited access, agricultural street access. The access is proposed to be used to navigate a tractor to the northern portion of the lot.



Fig. 1: 509 Hurricane Rd outlined in yellow

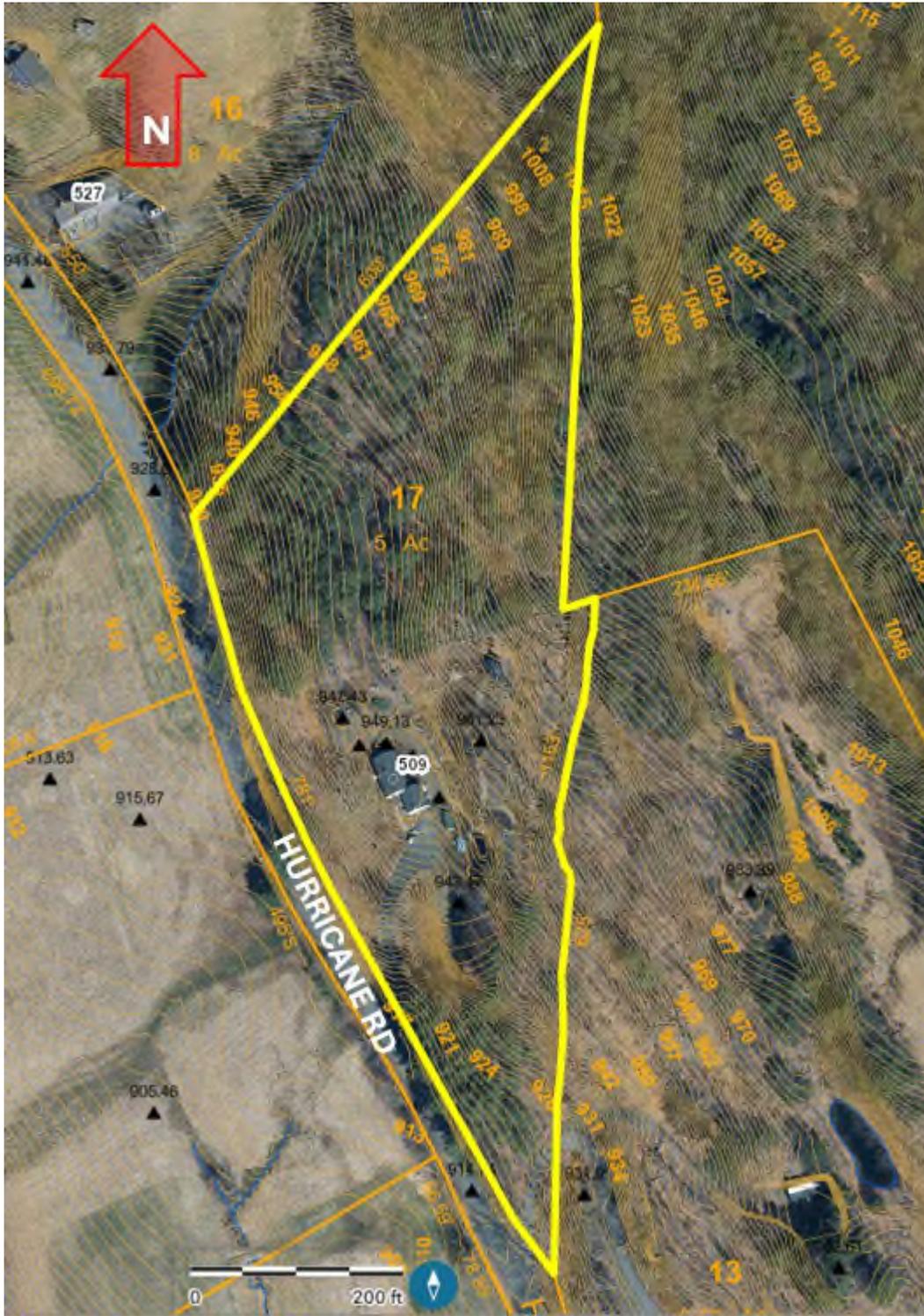


Fig. 2: 509 Hurricane Rd outlined in yellow with GIS contours

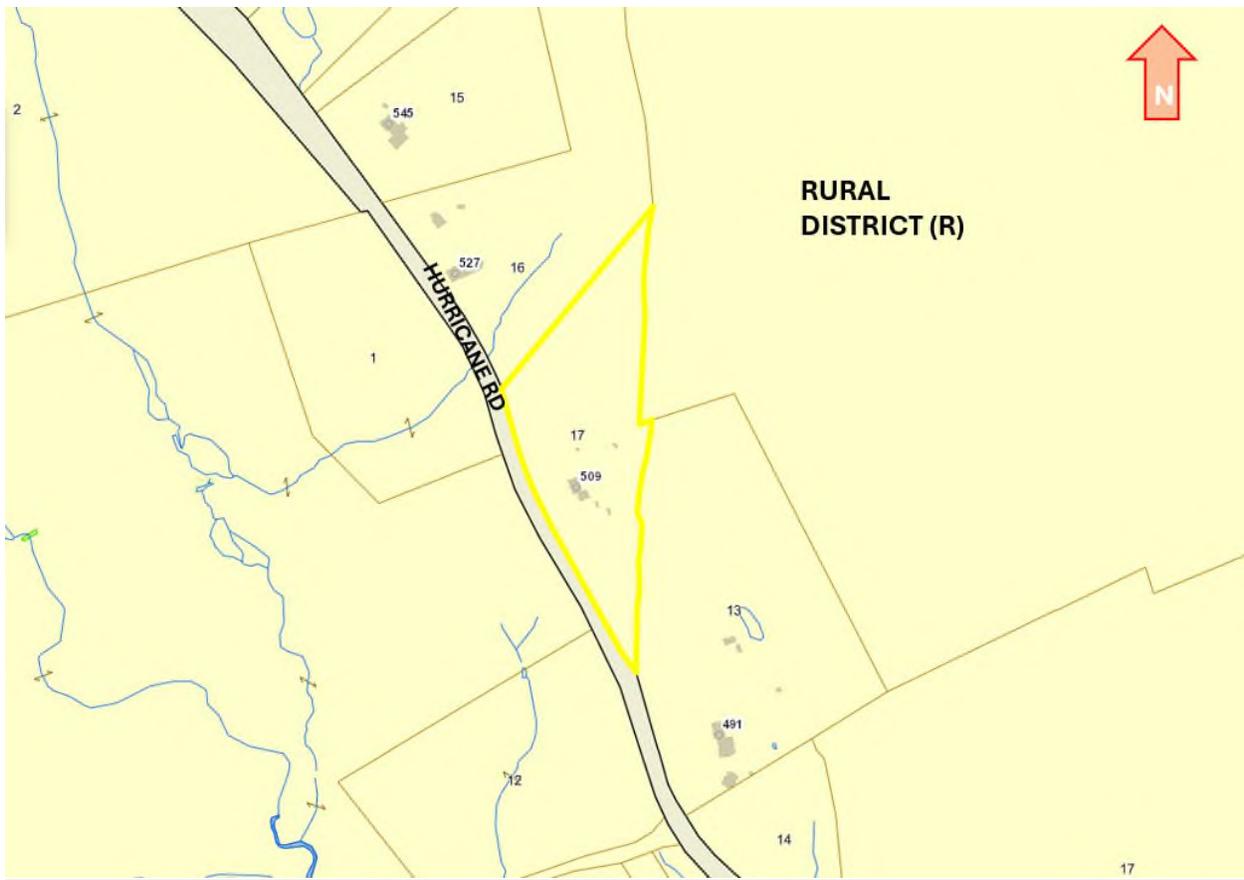


Fig. 3: 509 Hurricane Rd outlined in yellow with surrounding zoning districts

Surrounding Uses:

- North:** Single-family residential
- South:** Single-family residential
- East:** Undeveloped
- West:** Undeveloped

Application Analysis: The following is a review of the relevant sections of the Zoning Ordinance:

3.1 Rural: The Rural (R) District is intended to provide for areas of very low density development, predominantly of a residential or agricultural nature. These areas are generally outside of the valley floor, beyond where city water, sewer and other city services can be readily supplied.

9.3.4 Grading & Drainage:

- A.** Driveway and associated parking space(s) shall be graded to prevent drainage across sidewalks, curb cuts, streets or onto adjacent property, except that the portion of a driveway within the public right-of-way may drain towards the street.
- B.** Driveways and associated parking space(s) shall not block the flow of drainage in gutters or drainage ditches or pipes.
- C.** Driveways and associated parking space(s) shall not have a slope greater than 15%.

STAFF REPORT

Suggested Conditions and Draft Motion: If the Board is inclined to approve this request, please consider the draft motion and conditions below:

"Approve ZBA-2025-19, for the Variance to allow a street access/driveway with a slope of 19% for property located at 509 Hurricane Rd., Tax Map # 222-017-000-000 as shown in the application and supporting materials, received on October 17, 2025 with the following conditions:

- 1. The street access/driveway shall not be used to connect any building or structure to the public right of way.**
- 2. If the property is ever subdivided, this street access/driveway shall not be used to connect any building or structure to the public right of way unless it is redesigned and reconstructed to conform to all street access/driveway regulations."**

Zoning Board of Adjustment Variance Application



| | |
|-----------------------------|-----------------------|
| For Office Use Only: | |
| Case No. | <u>ZBA-2025-19</u> |
| Date Filled | <u>10/17/2025</u> |
| Rec'd By | <u>CJM</u> |
| Page | <u>1</u> of <u>17</u> |
| 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: **SCOTT ADAMS**

MAILING ADDRESS: **509 Hurricane Rd**

PHONE: **(603) 852-7375**

EMAIL: **Scottqadams@gmail.com**

SIGNATURE:

PRINTED NAME: **Scott Q. Adams**

APPLICANT (if different than Owner/Applicant)

NAME/COMPANY: **EILEEN CASEY**

MAILING ADDRESS: **509 Hurricane Rd**

PHONE: **(603) 852-7384**

EMAIL: **Eileenpcasey@gmail.com**

SIGNATURE:

PRINTED NAME: **Eileen Casey**

AUTHORIZED AGENT (if different than Owner/Applicant)

NAME/COMPANY:

MAILING ADDRESS:

PHONE:

EMAIL:

SIGNATURE:

PRINTED NAME:

SECTION 2: PROPERTY INFORMATION

Property Address: **509 Hurricane Rd**

Tax Map Parcel Number: **222-017-000-000-000**

Zoning District **Rural**

Lot Dimensions: Front: **781'** Rear: **1163'** Side: **600'** Side: **N/a**

Lot Area: Acres: **5** Square Feet: **~209,465**

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

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

Present Use: **Residential**

Proposed Use: **Same**

SECTION 3: WRITTEN NARRATIVE

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

509 Hurricane Rd owned by Scott Adams is located in the rural district. We are seeking approval for a second street access up an approximately 18 degree slope to allow safer, direct access to our full 5 acre property.

SECTION 4: APPLICATION CRITERIA

A Variance is requested from Article (s) 9.3.4 C of the Zoning Regulations to permit:

A street access up an approximately 18 degree slope.

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

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

The property is located in the low density, rural district where an access on a 18 degree slope into the lot would have minimal/no impact to the general public or the greater Keene area. The access way is designed to minimize any issues with runoff/erosion into the roadway.

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

The access way follows the natural slope of the land and will minimize cutting into the natural vegetation and ledge that occurs on the slope. The access way will also be as short as possible to minimize disturbance to the natural vegetation. The access would be used minimally/seasonally for agricultural/gardening purposes i.e. allowing delivery and movement of compost, dirt, mulch into the field. The access way will be occasionally driven on by heavy vehicles (tractor, delivery trucks) that would help maintain/compact the surface to prevent erosion. The access way will be designed to allow proper drainage and prevent erosion running into the road while aesthetically remain in keeping with the rural area.

3. Granting the variance would do substantial justice because:

The access way to the lot would allow safer access to the portion of the lot that is furthest from the current access way/driveway. This access would allow the property owners to fully utilize the property safely as we age in place.

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

Given the rural, low density district and that other properties along Hurricane Rd. also have access ways that traverse slopes we do not believe that granting this variance would diminish surrounding property values in any way.

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:

Parcel 222-017-000-000-000 is located on a sloping hill. Current street access is located at the southern portion of the lot. Deliveries of bulk gardening products (mulch, dirt, compost) currently must be dropped on the driveway. To get these products to the northern portion of the lot requires a tractor to make a hazardous traverse across the front slope of the property to avoid plumbing/septic around the residence. Access into the northern portion is further impeded by an old stone wall that runs down the middle of the property (see plot diagram).

The most direct access into the northern portion of the lot is up a slope that is greater than 15 degrees. Placing the access way where proposed creates minimal disturbance to the hillside and maintains as much natural vegetation as possible helping maintain the natural aesthetic of the area. The access way design is gravel and includes a berm at the top to minimize run off down the slope. In addition there is a drainage way alongside the slope to direct any runoff down into the culvert at street level. If desired, further crowning or berms can be added along the approximate 100' length to further mitigate run off or erosion into the road should the City deem appropriate.

and

ii. The proposed use is a reasonable one because:

The second access is a small path that allows access into the field over a small drainage ditch on the Hurricane Rd. and would allow the property owners a safer, direct way to fully access their property with minimal impact to the abutting properties or to the city of Keene.

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.

Creating an access way that complies with the 15 degree ordinance would require significantly more cutting into the slope and disturbance of the natural vegetation which would likely cause more erosion issues. In addition, there is ledge along the slope that impedes creating a slope that complies with the ordinance without significant excavation that would cause disturbance to the abutters and potentially impact the aesthetic of the area.





509 Hurricane Rd

City of Keene, NH

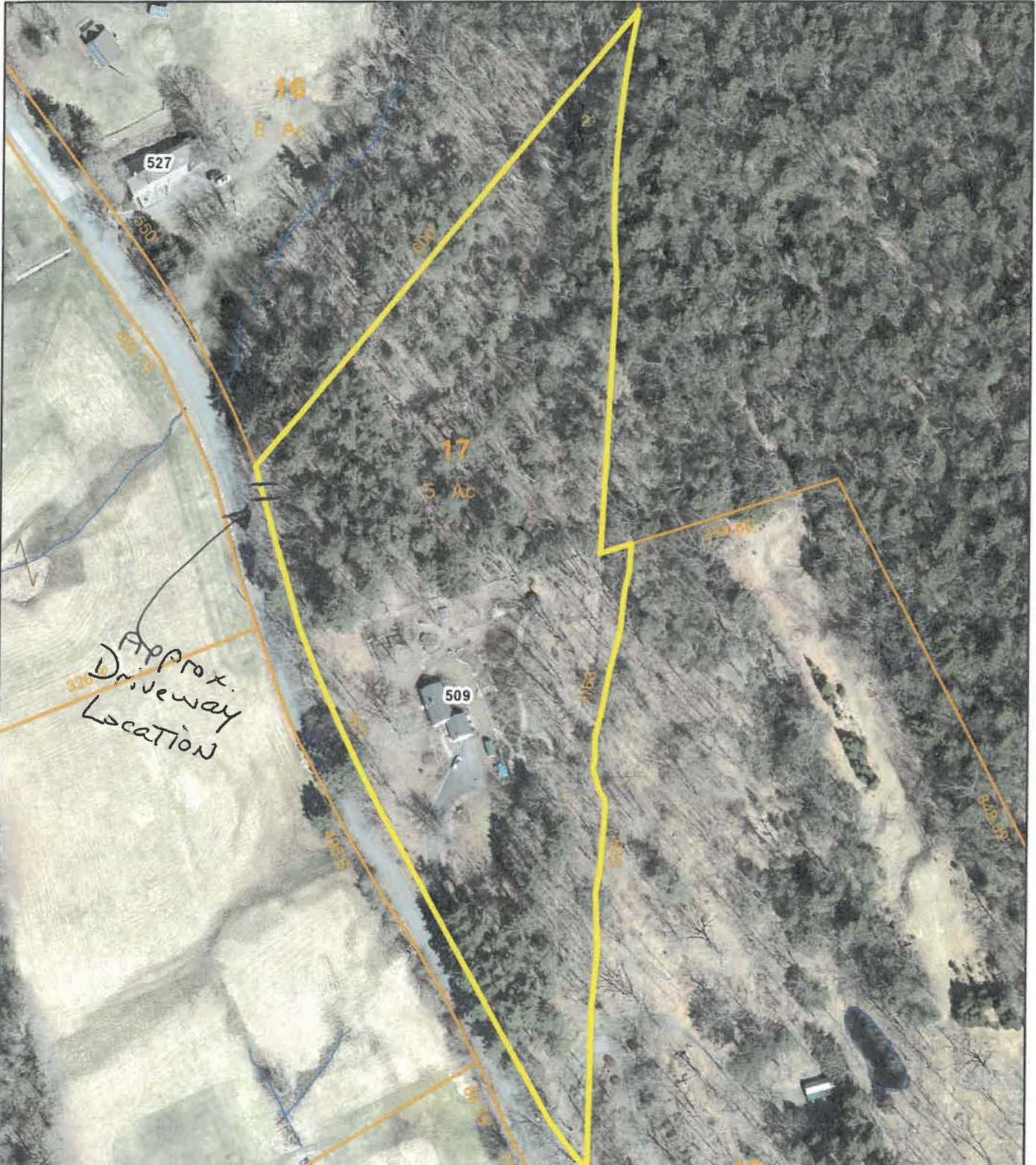
1 inch = 138 Feet



CAI Technologies
Precision Mapping Geospatial Solutions

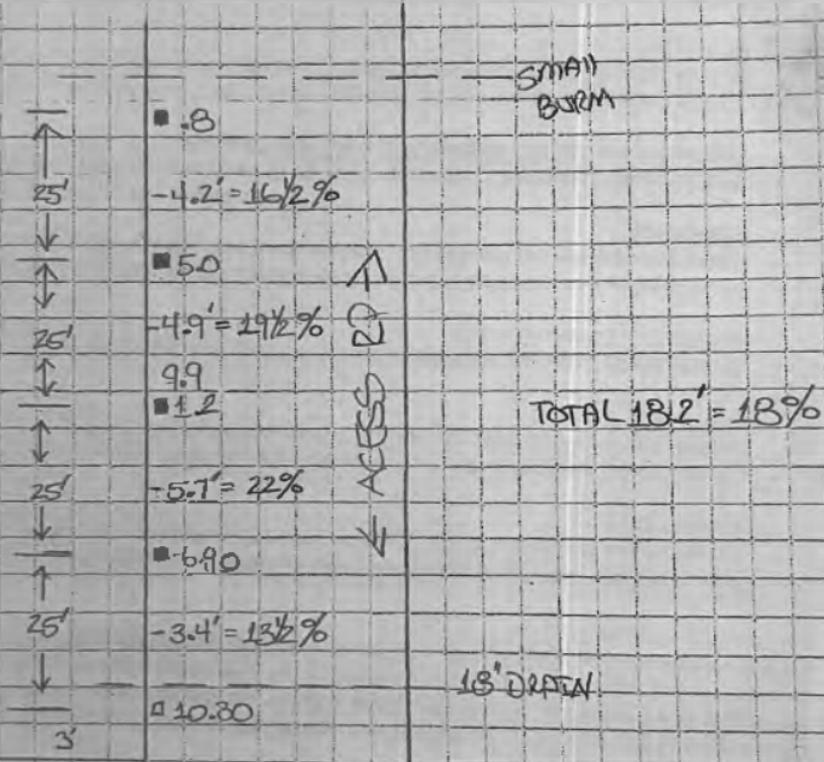
www.cai-tech.com

August 29, 2025

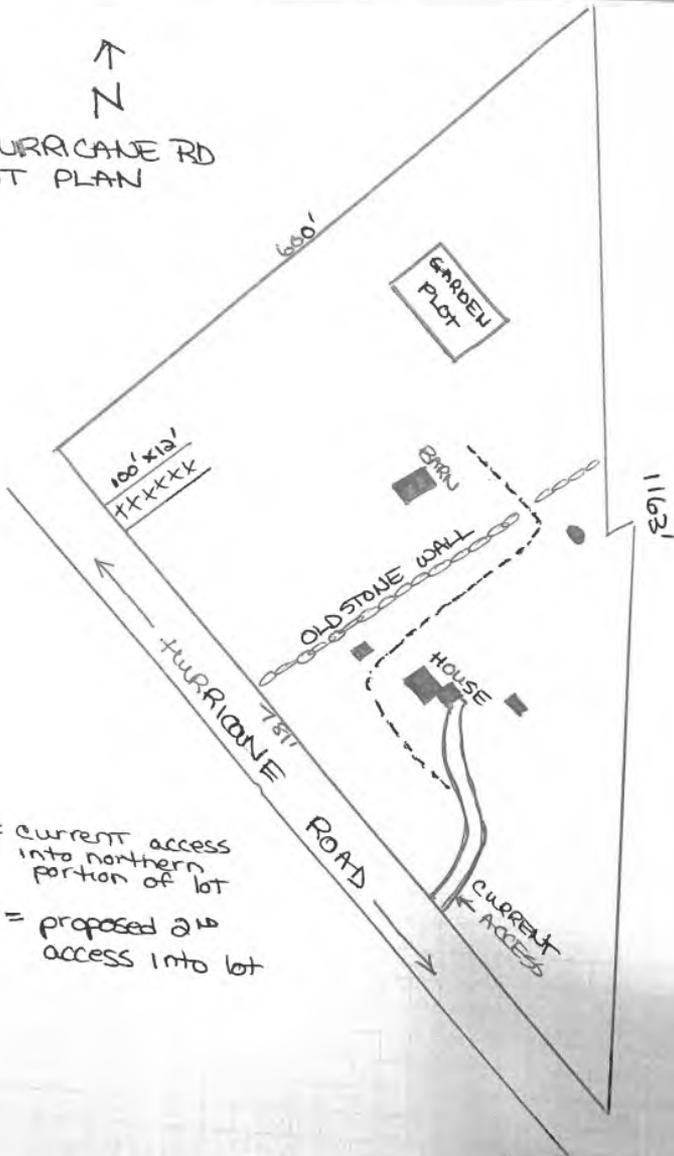


Data shown on this map is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this map.

FIELD



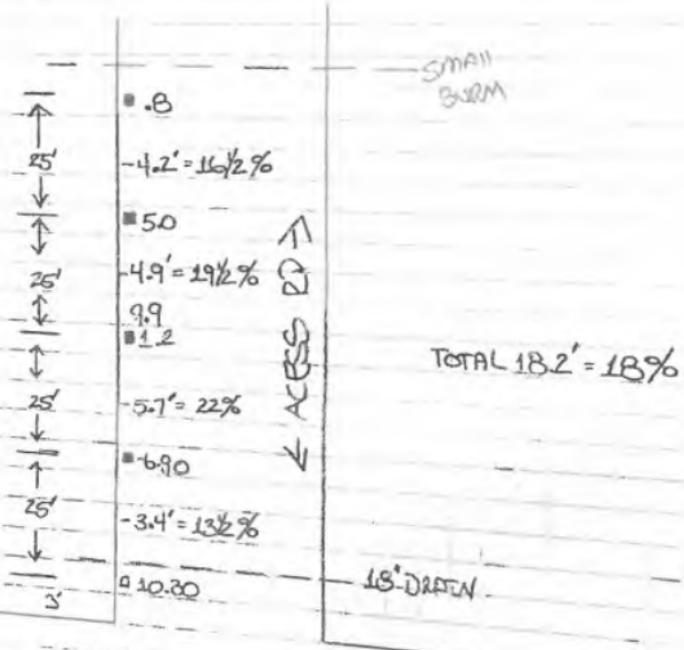
509 HURRICANE RD
PLOT PLAN



----- = current access
into northern
portion of lot

XXXXX = proposed old
access into lot

FIELD



← HURRICANE RD →

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CITY OF KEENE
ZONING BOARD OF ADJUSTMENT
RULES OF PROCEDURE

I. GENERAL RULES

- A. **Authority:** These rules of procedure are adopted under the Authority of New Hampshire Revised Statutes Annotated, 1983, Chapter 676:1, and the zoning ordinance and map of the City of Keene. The Zoning Board of Adjustment (ZBA) shall have and shall exercise all of the powers enumerated in RSA 674:33, or as otherwise provided by State statute and City Ordinances.
- B. **Purpose:** The purpose of these rules is to provide guidance to the City of Keene Zoning Board of Adjustment (“Board”) and all persons participating in proceedings held before the Board, and to allow for the orderly and efficient handling of all matters within the jurisdiction of the Board. Proceedings are not to be strictly governed by formal rules of evidence or parliamentary procedure. Instead, these rules are designed so that all parties interested in an application will be allowed a reasonable opportunity to fully participate and share their views, facts, evidence, and opinions for the Board’s consideration in reaching an appropriate decision. The Board is authorized, by a vote of two-thirds (2/3) of the five (5) member Board, to vote at any meeting to suspend, supplement, alter, or amend any specific rule or procedure, as may be appropriate in a particular matter, in order to best accomplish this purpose.
- C. **Officers:** All officers of the Board, including up to five (5) alternate members, shall be appointed by the Mayor of the City of Keene pursuant to RSA 673:6, and applicable City Ordinance.
- a. A *Chair* shall be elected annually by a majority vote of the Board in the month of January. The *Chair* shall preside over all meetings and hearings, appoint such committees as directed by the Board, and shall affix their signature in the name of the Board.
 - b. A *Vice-Chair* shall be elected annually by a majority vote of the Board in the month of January. The *Vice-Chair* shall preside in the absence of the Chair and shall have the full powers of the Chair on matters which come before the Board during the absence of the Chair.
 - c. A *Clerk* (who shall not be a Board member) shall be appointed by the City of Keene Zoning Administrator, to maintain a record of all meetings, transactions, and decisions of the Board, and perform such other duties as the Board may direct by resolution and otherwise assist the Board.

- d. The *Chair* and *Vice-Chair* shall serve for a one (1) year term and shall be eligible for re-election and shall continue to serve until annual elections are next held.
- D. **Members and Alternates:** Up to five (5) alternate members may be appointed by the Mayor of the City of Keene, pursuant to RSA 637:6, and applicable City Ordinance to serve whenever a regular member of the Board is unable to fulfill that member's responsibilities.
- a. At meetings of the ZBA, alternates who are not activated to fill the seat of an absent or recused member, or who have not been appointed by the Chair to temporarily fill the unexpired term of a vacancy, may participate with the Board in a limited capacity. During a public hearing, alternates may sit at the table with the regular members and may view documents, listen to testimony, ask questions and interact with other Board members, the applicant, abutters, and the public. Alternates shall not be allowed to make or second motions. During work sessions or portions of meetings that do not include a public hearing, alternates may fully participate, exclusive of any motions or votes that may be made. At all times, the Chair shall fully inform the public of the status of any alternate present and identify the members who shall be voting on the application.
 - b. Members must reside in the community and are expected to attend each meeting of the Board to exercise their duties and responsibilities. Any member unable to attend a meeting shall notify the Clerk as soon as possible. Members, including the Chair and all officers, shall participate in the decision-making process and vote to approve or disapprove all motions under consideration.
- E. **Meetings:** Regular meetings shall be held in the Council Chambers, at 3 Washington Street, Keene, New Hampshire, on the first Monday of each month unless otherwise duly noticed by the Clerk. Other meetings may be held on the call of the Chair provided public notice and notice to each member is given in accordance with RSA 91-A:2, II.
- a. **Quorum:** A quorum for all meetings of the Board shall be three (3) members, including alternates sitting in place of members.
 - i. The Clerk shall make every effort to ensure that all five (5) members, and one (1) or two (2) alternates, are present for consideration of any appeal or application.
 - ii. If any regular Board member is absent from any meeting or hearing or disqualifies themselves from sitting on a particular case, the Chair shall designate one of the alternate members to sit in place of the absent or disqualified member, and such alternate shall be in all

respects a full member of the Board while so sitting **for the duration of the application.**

- iii. If there are less than five (5) members (including alternates) available, the Clerk shall give the option to the applicant to proceed or not prior to the scheduled meetings. Should the applicant choose to proceed with less than five (5) members present that shall not solely constitute grounds for a re-hearing should the application be denied. All decisions of the Board shall require the concurrence of at least three (3) members. The option to request to reschedule a meeting of less than five (5) members is not absolute, and the Board may, at its discretion, proceed to consider an application with less than a five (5) member Board.
- b. **Public Hearing Limits:** The Board shall not open a new or continued public hearing after 10:00 p.m.
- c. **Disqualification:** If any member finds it necessary to disqualify (or recuse) themselves from sitting in a particular case, as provided in RSA 673:14, they shall notify the Clerk as soon as possible so that an alternate may be requested to sit in their place. When there is uncertainty as to whether a member should be disqualified to act on a particular application, that member or another member of the Board may request the Board to vote on the question of disqualification. Any such request shall be made before the public hearing gets underway. The vote shall be advisory and non-binding.
 - i. Either the Chair or the member disqualifying before the beginning of the public hearing on the case shall announce the disqualification. The disqualified member shall step down from the Board table during the public hearing and during deliberation on the case.
 - ii. Any interested person appearing in a proceeding, having any information or reason to believe that a Board member should be disqualified, shall notify the Chair as soon as possible and in any event before the commencement of such public hearing.
 - iii. Any Board member or other interested party may, in accordance with RSA 673:14, prior to the commencement of any public hearing, request the Board to make the determination as to whether or not such Board member should be disqualified.
 - iv. In deciding issues of disqualification, the Board shall be guided by RSA 500-A:12, pertaining to jury selection and the requirement that jurors shall be “indifferent,” as well as the City of Keene Code of Ordinances §2-1111, *et seq.* (“Conflict of Interest”).

- d. **Voting:** Unless otherwise required by law (i.e. RSA 674:33, III) all actions before the Board (including appropriate findings of fact) shall require only a majority vote of those members acting on any matter. All members hearing the matter shall vote; abstention shall not be allowed.
- e. **Order of Business:** The order of business for a regular meeting shall be as follows:
 - i. Call to order by the Chair
 - ii. **Roll call by the Chair**
 - iii. Minutes of previous meeting
 - iv. Unfinished business
 - v. Public hearing
 - vi. New business
 - vii. Communications and miscellaneous
 - viii. Other business
 - ix. Non-public session (if required)
 - x. Adjournment

(Note: although this is the usual order of business, the Board may change the order of business after the roll call in order to accommodate efficiency or the public.)

- f. **Nonpublic Sessions:** All deliberations of the Board shall be held in public. Nonpublic sessions shall be held only as necessary and in strict compliance with the provisions of RSA 91-A. The Board may also adjourn, as needed, to meet with its attorney to receive legal advice, which will not constitute a nonpublic session pursuant to RSA 91-A.

II. PROCEDURES FOR FILING APPLICATIONS

A. **Application/Decision**

- a. **Applications:** The original application forms may be obtained from either the Clerk or the Community Development Department. Each application for a hearing before the Board shall be made on forms provided by the Board and shall be presented to the Clerk who shall record the date of receipt. The forms provided by the City must be used; correctness of the information supplied shall be the responsibility of the petitioner at all times. Applications should be identified as one of the following: Appeal of an Administrative Decision, Enlargement or Expansion of a Non-Conforming Use, Equitable Waiver of Dimensional Requirements, Special Exception, Extension, Variances, **including Floodplain, and Motion to Rehear**. All forms and fees prescribed herein, and revisions thereof shall be adopted by the Board and shall become part of these Rules of Procedure.
 - i. Applications to Appeal from an Administrative Decision taken under RSA 676:5 shall be filed within thirty (30) days of the

decision or when such decision becomes known or reasonably should have been known, by the petitioner as determined by the Board.

- b. A public hearing shall be held within ninety (90) days of receipt of an application, provided that the applicant may waive this requirement and consent to such extension as may be mutually agreeable. If a zoning board of adjustment determines that it lacks sufficient information to make a final decision on an application and the applicant does not consent to an extension, the board may, in its discretion, deny the application without prejudice, in which case the applicant may submit a new application for the same or substantially similar request for relief. Public notice of public hearings on each application shall be published in the local newspaper and shall be posted at two locations, of which one posting may be on the City internet website, not less than five (5) days before the date fixed for the hearing. Notice shall include the name of the applicant, description of property to include tax map identification, action desired by the applicant, all applicable provisions of the zoning ordinance, the type of appeal being made, and the date, time, and place of the hearing.
 - i. Personal notice shall be made in accordance with the requirements of RSA 676:7 to the applicant and to all abutters and holders of conservation, preservation, or agricultural preservation restrictions not less than five (5) days before the date of the hearing.
- c. **Plot Plans:** A scale drawing that shows the location and dimensions of all structures and open spaces on the subject lot and on the adjacent lots. Plans need not be professionally drawn but must be a sufficient and accurate representation of the property. Plans deemed to be insufficient by the Clerk shall be returned, and no public hearing shall be scheduled until the receipt of an acceptable plan. The plot plan is to be a minimum of 8 ½ x 11 inches.
- d. **Abutter Notification Materials:** For the purpose of abutter notification, the following items shall be submitted with the application:
 - i. An abutters list that includes the property owner, applicant and if applicable, authorized agent, all owners of properties that directly abut and/or that are across the street or stream from the parcel(s) that will be subject to review, all owners of properties located within two hundred (200) feet of the parcel(s) and holders of conservation, preservation, or agricultural preservation restrictions that will be subject to review. The certified list shall include all property owner names, property street addresses, property tax map parcel numbers, and mailing addresses if different from the property address. In the case of an abutting property being under a condominium or other collective form of ownership, the term “abutter” means the officers of the collective or association as defined in RSA 356-B:3, XXIII.

- ii. Two (2) sets of legible mailing labels (Avery size 5160 or equivalent) for each abutter and including the owner of the property that will be subject to review and his/her designated agent(s).
- iii. A check in an amount sufficient to cover the cost of legal notice advertising and required_mailing.
- e. In accordance with RSA 676:5, IV, each application shall require the payment of an application fee to be determined by the Board, together with fees that may be required for investigative studies, document review or other administrative costs and expenses.

B. Other Requirements

- a. **Appeals of Administrative Decisions:** An appeal from an administrative decision, filed in accordance with RSA 676:5, shall be filed within thirty (30) days of such decision.
- b. **Person Authorized to Submit Applications:** To submit a proper application, an applicant must be one of the following persons:
 - i. The title or record owner of the subject property, or such owner's duly authorized agent, and signed as such on the application form.
 - ii. The holder of a valid Purchase & Sales Agreement or the holder of a valid Option for the purchase of the subject property (with a signed written consent of the title or record owner of such property, or such owner's duly authorized agent).
- c. **Documentation of Title or Authority to Appeal:** The Board may require the holder of record title to submit documentary evidence as to Petitioner's title and holders of Purchase and Sale Agreements or Options may be required to submit evidence that they are valid holders of such agreements before the Board will consider their application.
- d. **Inadequate Application:** Any Petitioner who submits an application, plans and/or exhibits that are deemed inadequate by the Clerk shall not be scheduled for a hearing before the Board until such time as the Clerk receives adequate plans or exhibits and application.
- e. **Floor Plans:** When, in the opinion of the Community Development Department, floor plans are necessary in the case of conversions or renovations to an existing structure, Petitioner shall furnish interior floor plans to scale. Floor plans need not be professionally drawn but must be a sufficient and accurate representation of the floor plan.

- C. **Deadline for filing:** All required information under these rules must be submitted to the Clerk before the scheduled deadlines to be submitted to the Board. The submittal deadline shall be no less than ~~seventeen (17)~~ **twenty-four (24) days** prior to the next month's meeting. The application will not be placed on the agenda until all the required information is received in a format acceptable to the Clerk.
- D. **Notification to Abutters and Public:** The Clerk will set a date, time, and place for a public hearing and shall notify the applicant and all abutters within two hundred (200) feet of the property (using the notification materials required by Paragraph A.d.i., above) as required by RSA 676:7, and shall cause a public notice of the hearing to be published in a newspaper of general circulation in the area, at least five (5) days' prior to the date fixed for the hearing on the application (RSA 676:7, I). Pursuant to RSA 676:7, II, the public hearing shall be held within forty-five (45) days of the receipt of a properly completed application (Paragraph A.b. above).
- E. **Fees:** The petitioner shall pay the Clerk a non-refundable filing fee of Two Hundred and Fifty Dollars (\$250) at the time of filing. Additionally, reimbursement of the cost to notify each abutter, owner, and applicant by required mail based on the current USPS postal ~~certified-mail~~ **certificate of mail** rate and to publish a legal notice advertisement in the local newspaper, a fee of Sixty-Two Dollars (\$62.00) must be paid at the time of filing.
- F. **Assistance by City Staff:** The Zoning Administrator will be available to assist the applicant with the application form, drawings and plans. If necessary, clarification of the Zoning Ordinance can be obtained from the Zoning Administrator, but the City will not provide legal advice as part of the application process.
- G. **Procedural Compliance:** Unless any objection is specifically raised or procedural defect otherwise noticed during a public hearing, the Board shall assume that any application has been properly filed and that due notice has been given as required by these Rules of Procedure, Keene's Zoning Ordinance, and State statutes.
- H. **Consent to Inspection:** Upon filing any application, the owner of the affected land implicitly consents to inspection of property and building by City staff and Board members upon reasonable prior notice and at a reasonable time. In the event that such an inspection is refused when requested, the application shall be dismissed without prejudice by the Board.
- I. **Supplemental Information:** If an applicant or applicant's agent submits supplemental information pertaining to an application within (10) days prior to the public hearing at which the application is to be heard, the board ~~shall~~ **may** consider during the meeting and decide by majority vote, whether to accept the supplemental information for consideration at the meeting, or to continue the application to the next scheduled meeting to allow adequate time to review the supplemental information.

III. CONDUCT OF PUBLIC HEARINGS

- A. **Conduct:** The conduct of public hearings shall be governed by the following rules unless otherwise directed by the Chair:
- a. The Chair shall call the hearing in session, introduce the Board members, and review the previous meeting minutes for corrections, then vote to adopt.
 - b. The Chair shall read ~~the legal notice the application and report on how public notice and personal notice were given~~ and where appropriate, summarize the legal requirements that must be met by the applicant in order to obtain the relief requested.
 - c. The Chair will ask the Staff Liaison to report on the first case, identified by case number.
 - d. Members of the Board may ask questions at any point during testimony.
 - e. Each person who appears shall be required to state his name, address, and indicate whether he is a party to the case or an agent or counsel of a party to the case.
 - f. Any member of the Board, through the Chair, may request any party to the case to speak a second time. The Chair may impose reasonable time restrictions on individuals who wish to speak.
 - g. Any party to the case who wants to ask a question of another party to the case must do so through the Chair.
 - h. The applicant shall be called first to present his appeal.
 - i. Those appearing in favor of the appeal shall be allowed to speak.
 - j. Those in opposition to the appeal shall be allowed to speak.
 - k. The applicant and those in favor shall be allowed to speak in rebuttal.
 - l. Those in opposition to the appeal shall be allowed to speak in rebuttal.
 - m. The Board ~~will~~ may accept any evidence that pertains to the facts of the case or how the facts relate to the provisions of the zoning ordinance and State zoning law. Concerns with Supplemental Information being given to the Board without proper time for review as stated in II.I?
 - n. After all parties have been afforded a reasonable opportunity to testify, the public hearing shall be declared closed by the Chair and no further testimony will be received from the applicant or any other parties (other than minor technical or procedural information as may be needed from City staff), unless the Board, on its own motion, shall reopen the public hearing

- F. **Appeal:** Any further appeal of a final decision or order of the Board shall be in accordance with RSA 677:4, *et seq.*
- G. **Records:** The records of the Board shall be kept by the Clerk and made available for public inspection from the Clerk at City Hall, 4th floor, Community Development Department, in accordance with RSA 673:17.
 - a. Final written decisions will be placed on file and available for public inspection within five (5) business days after the decision is made. RSA 676:3.
 - b. Minutes of all meetings including names of Board members, persons appearing before the Board, and a brief description of the subject matter shall be open to public inspection within five (5) business days of the public meeting. RSA 91-A:2, II.
 - c. The official record of the Zoning Board of Adjustment proceedings shall be the minutes after they have been approved (with corrections, if required) by the Board at a subsequent meeting.

IV. MISCELLANEOUS

- A. **Amendments:** Rules of Procedure shall be adopted or amended by a majority vote at a regular meeting of the Board provided that such new rules or amendments are proposed and discussed prior to the meeting at which the vote is to be taken and shall be placed on file with the City Clerk and be available for public inspection pursuant to RSA 676:1.
- B. **Waivers:** Any portion of these rules of procedure may be waived in such cases where, in the opinion of the Board, strict conformity would pose a practical difficulty to the applicant and waiver would not be contrary to the spirit and intent of the rules.
- C. **Joint Meetings and Hearings:** RSA 676:2, provides that the Board of Adjustment may hold joint meetings or hearings with other land use Boards, including the Planning Board, the Historic District Commission, the Building Code Board of Appeals, and the inspector of buildings, and that each Board shall have discretion as to whether or not to hold a joint meeting with any other land use Board.
 - a. Joint business meetings with any other land use Board may be held at any time when called jointly by the Chair of the two (2) Boards.
 - b. A public hearing on any appeal to the Board of adjustment will be held jointly with another Board **only** under the following conditions:
 - c. The joint public hearing must be a formal public hearing on appeals to both Boards regarding the same subject matter; and

- i. If the other Board is the Planning Board, RSA 676:2, requires that the Planning Board Chair shall chair the joint hearing. If the other Board is not the Planning Board, then the Board of Adjustment Chair shall chair the joint hearing; and
- ii. The provisions covering the conduct of public hearings, set forth in these rules, together with such additional provisions as may be required by the other Board, shall be followed; and
- iii. The other Board shall concur **in with** these conditions.

Originally Adopted: May 3, 1993
Revised: October 3, 1994
Revised: February 3, 2003
Revised: May 2, 2005
Revised: August 7, 2006
Revised: December 5, 2011
Revised: June 5, 2017
Revised: September 3, 2019
Revised: April 20, 2021
Revised: September 7, 2021
Revised: February 7, 2022
Revised: December 5, 2022
Revised: April 1, 2024
Revised: