



City of Keene Zoning Board of Adjustment

AGENDA

Monday, November 6, 2023 6:30 p.m. City Hall, 2nd Floor Council Chambers

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

ZBA 23-24: Petitioner, Grady Budd and Lauren Lavoie, represented by A. Eli Leino of Bernstein Shur, of Manchester NH, requests a Variance for property located at 143 Jordan Rd., Tax Map #232-008-000 and is in the Rural District. The Petitioner requests to permit the construction of an energy vestibule entrance 41' 5" into the front setback where 50' is required per Article 3.1.2 of the Zoning Regulations.

ZBA 23-25: Petitioner, 706 Main St. Owner LP, of Newark, DE, represented by Jeffrey Christensen, Esq. of Cleveland, Waters and Bass of Concord, NH, requests an Enlargement or Expansion of a Nonconforming Use for property located at 706 Main St., Tax Map #120-019-000 and is in the Low Density District. The Petitioner requests to expand or enlarge the pre-existing, nonconforming three unit multi family use to add two additional dwelling units, per Articles 18.2 and 25.7 of the Zoning Regulations.

ZBA 23-26: Petitioner, Tasoulas Realty, dba MGJ Realty of Keene, requests a Variance for property located at 63 Carpenter St., Tax Map #573-067-000 and is in the Medium Density District. The Petitioner requests a change of use from warehouse to a health center/gym where a gym is not a permitted use per Article 3.5.5 of the Zoning Regulations.

ZBA 23-27: Petitioner, Kathryn Willbarger of Cheshire Medical Center, represented by Michael Vickers of Design Communications, Avon, MA, requests a Variance for property located at 62 Maple Ave., Tax Map #227.006-000 and is in the Industrial Park District. The Petitioner requests a directional sign exceeding the allowable size of 4 square feet per Article 10.2 of the Zoning Regulations.

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

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1 City of Keene
2 New Hampshire

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5 ZONING BOARD OF ADJUSTMENT
6 MEETING MINUTES
7

8 **Monday, September 5, 2023**

6:30 PM

**Council Chambers,
City Hall**

Members Present:

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

Staff Present:

Corinne Marcou, Zoning Clerk
Mike Hagan, Plans Examiner

Members Not Present:

Richard Clough

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

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

16 **II) Minutes of the Previous Meeting – August 7, 2023**
17

18 Ms. Taylor gave corrections to the meeting minutes:
19

20 Line 54 – “too” should be “to.”

21 Line 174 – “not seating” should be “no seating.”
22

23 Mr. Gorman made a motion to approve the meeting minutes of August 7, 2023, with the two
24 edits. Mr. Welsh seconded the motion, which passed by unanimous vote.
25

26 **III) Unfinished Business**
27

28 None.
29

30 **IV) Hearings**
31

32 **A) ZBA 23-23: Petitioner, Live Free Recovery, LLC., represented by Chuck
33 Ritchie of Fieldstone Land Consultants, PLLC, requests an Expansion for property**

34 **located at 106 Roxbury St., Tax Map #569-066-000 and is in the Downtown Edge**
35 **District. The Petitioner requests an expansion of a 16 bed residential drug/alcohol**
36 **treatment facility to a 28 bed residential drug/alcohol treatment facility. The**
37 **expansion does not require any external changes to the building or site.**
38

39 Chair Hoppock asked to hear from staff.
40
41

42 Plans Examiner Mike Hagan stated that 106 Roxbury St. is zoned Downtown Edge District that
43 sits on .28 acres and is roughly 16,552 square feet and was built pre-1900. Currently, it is 3,587
44 square feet of residential use and 2,524 square feet of office use. A permit was issued in 1994
45 for this 16-bed residential treatment facility and as part of that permit, it was a seven-unit office
46 building with one residential unit.
47

48 Mr. Hagan stated that regarding the Downtown Edge District, (the Land Development Code
49 states), *“The Downtown Edge District provides for a heterogeneous mix of commercial and*
50 *residential uses and varied development forms including areas of both walkable development as*
51 *well as auto-oriented development on the edges of downtown Keene. This district accommodates*
52 *this rich mixture, while providing for a transition into lower intensity commercial or residential*
53 *development outside of the delineated downtown area.”*
54

55 Mr. Welsh asked, regarding the 16-bed facility, if the number 16 was a function of any limits on
56 zoning for facilities of this sort in a prior Ordinance, or if it was just the number of beds they
57 could get in the facility.
58

59 Mr. Hagan replied that there was no delineation in the zoning at the time. Now the current Land
60 Development Code (LDC) defines the amount or number of beds for congregative living-type
61 facilities. He continued that back then; it was more driven by the Building Code and at the time,
62 “residential care” was (defined as) 16 (beds) and under, with many different requirements.
63 Anything over 16 would require “institutional use,” which has a much higher standard for
64 development in existing buildings and code requirements. In addition, licensing with the State of
65 NH may have had something to do with it at the time.
66

67 Ms. Taylor stated that she is not sure, because of the various definitions of “residential treatment
68 facility,” but Article 8 calls for a conditional use permit. She continued that she understands that
69 at the moment they (Live Free Recovery) have a conditional license from the licensing board.
70 She asked if Mr. Hagan could reconcile those two things.
71

72 Mr. Hagan replied that the conditional use permit would be for if it was a new facility. He
73 continued that this is a pre-existing, non-conforming structure that has that use currently. The
74 expansion of it would trigger some sort of review from Planning. They would have to go back
75 and look at the records to see how much of a change in use it is, which may require Planning
76 approval. At this time, a conditional use permit is only for new facilities.

77
78 Ms. Taylor asked if the Building Code currently has a limitation related to square feet of rooms
79 or anything else. Mr. Hagan replied that there are requirements for if you want to use a building
80 in a certain way, it would be reviewed through the Building Department and the Fire
81 Department.

82
83 Ms. Taylor asked if he means it does not necessarily address the number of bodies per square
84 foot. Mr. Hagan replied that there is a calculation for that, but he does not know it off the top of
85 his head, though this would be looked at as part of the permit review process. If the Board were
86 to grant this, the Building Department and Fire Department would review it for all the other
87 Code requirements.

88
89 Chair Hoppock stated that he has a question about the August 24, 2023, email from Corinne
90 Marcou, Zoning Clerk, regarding “Section 46-565 - Licensing Board Review Procedures.” He
91 continued that he is not sure what Board that is, but sub paragraph A speaks to three criteria.
92 The first one involves applicable building, fire, and safety codes. The second sounds more
93 related to zoning, “*The use is of a character that does not produce noise, odors, glare, and/or*
94 *vibration that would adversely affect surrounding areas.*” The third one speaks to public health
95 and safety concerns in connection with traffic, pedestrians, infrastructure, and police and fire
96 department actions. He asked what license (the applicant) holds from this licensing board, and
97 what board it is. Ms. Marcou replied that it is the Congregate Living and Social Services
98 Licensing Board (CLSS). She continued that those three items Chair Hoppock just read are the
99 criteria that that Board uses to review its applications.

100
101 Chair Hoppock asked what license this applicant received, under those criteria. Ms. Marcou
102 replied that at the August meeting of the CLSS, the applicant received a conditional license. She
103 continued that the license is under the condition that the applicant receives this Expansion as
104 well as a few other items that they have had to address.

105
106 Chair Hoppock asked if the conditional license becomes permanent at some point, or if it is
107 subject to renewal periodically. Ms. Marcou replied that it is an annual renewal. Chair Hoppock
108 asked if it is fair to say that these criteria just mentioned have to be looked at every year by the
109 CLSS board. Ms. Marcou replied yes, and along with the review from the CLSS Board, annual
110 inspections will happen between the Housing Inspector, the Fire Department, and the Police
111 Department. Chair Hoppock asked if it is correct that the City works with the State licensing
112 board and gives them information so they can do these reviews. Ms. Marcou replied that it is not
113 State level; it is a City level board, one that is relatively new. Live Free Recovery has four
114 locations, and this is their first license that they are applying for as this is one of their locations.

115
116 Chair Hoppock asked if there were any further questions for staff. Hearing none, he asked to
117 hear from the applicant. He continued that the ZBA was aware at last month’s meeting that Mr.
118 Clough, unable to attend Tuesday meetings, would not be present tonight. The applicant is
119 entitled to a five-member board, because it takes three affirmative votes to approve an

120 application. If a vote is 2-2, it does not pass. The applicant has the right to request a five-
121 member board and reschedule to the next meeting.

122
123 Mr. Gagne asked if the Board would be willing to meet again with the five members present if
124 (there is a tie vote tonight). Chair Hoppock replied that if the applicant wants a five-member
125 Board, they could adjourn this meeting and address his application from scratch at next month's
126 meeting. He continued that to be clear, if the applicant asks for a continuance, it does not have
127 any negative implications on his application. Mr. Gagne replied that there are some timeline
128 issues at his end; he did not plan for coming back later. He continued that if it had been a few
129 weeks ago, he might have been able to get the extension on certain items. He is not sure he
130 would have that option now. Chair Hoppock replied that it is harder to do this over again once a
131 vote is made, thus, he recommends caution with this decision. Mr. Gagne replied that they will
132 move forward with the four-member Board. He continued that there are uncertainties, and he
133 does not know if there would be benefits to (rescheduling this).

134
135 Chad Branon, Civil Engineer with Fieldstone Land Consultants, stated that he is sitting in for
136 Chuck Ritchie, as Mr. Ritchie was the one who helped prepare the application for this project.
137 He continued that with him tonight is Ryan Gagne from Live Free Recovery Services, LLC. As
138 was stated, they are before the ZBA to seek approval for an Expansion of a non-conforming use.
139 This non-conforming use has existed on the subject site since 1994. Live Free Recovery
140 Services has been occupying the site and operating the 16-bed residential drug and alcohol
141 treatment facility on the subject property for some time now. The proposed expansion is for up
142 to 28 beds. A number of approvals and permits would have to still be secured with this
143 application through other City departments, such as the Building Department and the
144 Community Development Department. They understand that there will be additional work to be
145 done if they are successful this evening with the ZBA, but they want to touch on some of the
146 details of why they believe this building and site will adequately service this community's great
147 need for additional space and treatment.

148
149 Mr. Branon continued that this property at 106 Roxbury St. is about .288 acres with 79 feet of
150 frontage with on-site parking as well as parking on the street in front. Unique to this operation is
151 that none of the clients are permitted to have vehicles on site; parking is only needed and utilized
152 by staff. The proposal contemplates a number of improvements to the existing building,
153 including ADA accessibility improvements. Exceeding a certain number of people in a building
154 triggers the requirement to install a sprinkler system, which will be part of this improvement and
155 expansion if the ZBA approves the Expansion request. Also included will be the installation of a
156 commercial kitchen, as well as the typical renovations one would expect when improving a very
157 large building with a square footage of about 11,000 sq. ft. Only a portion of the building is
158 being used and occupied by the current facility.

159
160 Mr. Branon continued that they submitted floor plans that allocated potential space for
161 bedrooms. The floor plan's purpose was to address what they understand was a concern raised
162 on an application review level, regarding whether the building can support this expansion. That

163 is why the footprint and the breakdown of the existing rooms in the building shows potential
164 rooms for bedroom space. It is their understanding that the square footage requirement for
165 bedrooms is that a one-bed room would require 70 square feet, a two-bed room would require
166 120 square feet, and a three-bed room would require 180 square feet. All labeling on the plans
167 before the ZBA tonight breaks down different potentials for how the 28-bed expansion can be
168 accomplished. This exhibit is intended to show that the building is large enough for the
169 proposed expansion.

170
171 Ms. Taylor stated that since this (the floor plan) was presented to the ZBA this evening and not
172 in advance, she believes the ZBA's rules require that they vote to accept it and make it part of the
173 record. Chair Hoppock replied that they will do that at the end of the presentation, so as not to
174 break the applicants' flow. Mr. Branon stated that Mr. Gagne provided this material via email
175 late last week, but they brought 11"x17" copies tonight because they are more legible.

176
177 Mr. Branon continued that they think there is a significant need here. Mr. Gagne has other
178 facilities in the city for which he has secured other licenses similar to this one and this is not the
179 first license he is seeking. He provides a superb service to the community with different
180 properties and facilities that address people's needs at different levels of treatment. He asked if
181 Mr. Gagne wanted to speak to that.

182
183 Ryan Gagne, owner and CEO of Live Free Recovery Services, stated that they have been in
184 business since 2015. He continued that they provide a wide variety of levels of care, from
185 medical stabilization to 30-day residential programs to outpatient programs in Keene. They have
186 sober living programs as well, in Keene and other areas of the state where there is a need. The
187 Roxbury St. property was previously operated and under the same use and did have a license that
188 Mr. Hagan explained before. He (Mr. Gagne) and Mr. Rogers (John Rogers, Zoning
189 Administrator) found that the licenses for this property went back to the 1980's, with Marathon
190 House and Phoenix House after that. Many Keene residents are aware of those two facilities
191 operating in this location. When Live Free Recovery took over the location, it was due to
192 financial instability that took place, and the property was in poor condition. Live Free Recovery
193 did light interior renovations to take care of many items, to raise the standard for the people
194 staying there so it met those needs. At that point, they had deferred many of the renovations they
195 will be moving forward with after the approvals, in order to have those in a more secure, long-
196 range financial plan.

197
198 Mr. Gagne continued that they began a process with NH Housing during the COVID process,
199 when Live Free Recovery became aware of particular grants and funding available for the
200 population they serve. That process has taken about 18 months, which is much longer than Live
201 Free Recovery anticipated. Since then, another challenge was the change to the Zoning Code
202 and, as Ms. Marcou was talking about, the licenses that have come in and some things like that.
203 Now they are looking to be able to operate within that facility and continue the services they
204 have been providing in and around Keene, being able to have additional occupancy for the
205 (additional) need they very commonly find. Additional renovations will take place for this

206 facility. Dating back to approximately May 2019, they put in the fire alarm system that rang
207 right in with the Fire Department. Many other renovations were needed, such as replacing all the
208 plumbing and all the electrical in the building and the full sprinkler system going in for all four
209 floors. The commercial kitchen is compliant with the State licensing they will apply for after
210 those renovations are complete.

211
212 Mr. Gagne continued that up at 881 (Marlboro Rd.), they rent the building from Southwestern
213 Community Services (SCS). Keith Thibault is here from SCS, where Live Free Recovery has
214 acquired a “3.7 license” and also offers similar services here and a little bit more with medical
215 stabilization. They have had a strong relationship with SCS and other agencies throughout the
216 city, being able to provide these services, and working with local populations of people who are
217 homeless and also struggle with substance use disorders. People can be with Live Free Recovery
218 for anywhere from five to six months all the way to 18 months, step down into sober living, and
219 eventually transition into apartments locally. That is the continuum of care that Live Free
220 Recovery serves for Keene.

221
222 Chair Hoppock asked to hear about the criteria. Mr. Branon stated that Section 25.7 of the LDC
223 outlines the requirements for the Expansion or Enlargement of a Non-conforming Use.

224
225 *1. Such expansion or enlargement would not reduce the value of any property within the zoning*
226 *district, nor otherwise be injurious, obnoxious, or offensive to the neighborhood.*

227
228 Mr. Branon began that they stated in the application that the proposed expansion will certainly
229 meet this criterion, because it will not require any exterior changes to the building or the site. He
230 continued that the enlargement of the facility from 16 beds to 28 will just be an addition of beds
231 on the inside of the treatment facility, and improvements and renovations on the inside of the
232 facility. This allows for the visual appearance as it relates to the neighborhood and the abutting
233 properties to remain the same, and as such, it should not have a negative impact or reduce any of
234 the adjacent properties’ values. The operations on site do not permit clients to have vehicles, so
235 there will not be an increase in vehicular traffic or intensity measurable to the neighborhood or
236 surrounding public. They do not think there will be any obnoxious or offensive activities to the
237 neighbors, as the existing site and the use is consistent. This will just provide additional service
238 to the community, in an appropriate location that has been operating for some time now. To
239 their knowledge, it has operated with no issues, (as determined by) their conversations with City
240 staff.

241
242 *2. There will be no nuisance or serious hazard to vehicles or pedestrians.*

243
244 Mr. Branon stated that very similar to the first criterion, they are not proposing there would be
245 any additional traffic. He continued that maybe a staff member or two, but certainly nothing
246 measurable to the surrounding neighborhood. Because this expansion does not propose any new
247 pavement and does not alter the vehicle or pedestrian traffic in any negative way, they believe
248 that the existing traffic along Roxbury St. will remain as it currently does. The parking area on

249 site will also remain as is. For these reasons, the proposed expansion should not create any
250 nuisance or serious hazard to vehicles or pedestrians. Certainly internally, there will be
251 improvement to this site, because the site will be brought into conformance with the ADA,
252 regarding pedestrian traffic. They will be addressing a number of safety elements by updating
253 the existing structure.

254
255 Chair Hoppock stated that before he opens it up to questions, he would like to ask Mr. Branon or
256 Mr. Gagne to speak about the availability of onsite parking. He continued that they had also
257 mentioned some parking off site. He is trying to get an idea of the number of spots available on
258 the property and on the street in the front.

259
260 Mr. Branon replied that his understanding is that there are about 10 parking spaces available in
261 total. He continued that certainly that would be more than adequate for this facility. The
262 expansion from 16 to 28 beds would probably require an additional staff member or two at most,
263 based on (Fieldstone Land Consultants') conversations with Mr. Gagne. They do not anticipate
264 any issues with (parking), but that is also an item that would be reviewed by the Planning
265 Department. That is why they hope the Board would consider up to 28, and that way, if there
266 were any concerns, they could address that. As Mr. Gagne shared with (Fieldstone Land
267 Consultants) when they were preparing the application, the goal is to provide a service for 24
268 beds on site and try to plan for some expansion to 28, as there is a continuous need in the area.

269
270 Mr. Gagne stated that the idea behind it was to look at what the total number would actually be,
271 instead of having to come back to the ZBA for an additional four more beds. He continued that
272 if they were under what was possible for the building, they would go with that number, in hopes
273 of not having to repeat this process (with the ZBA).

274
275 Chair Hoppock asked questions from the board.

276
277 Mr. Gorman stated that the board received the email five days ago. He continued that way back
278 in the conversation, Mr. Branon mentioned that the property was 11,000 square feet and
279 currently not being completely used with its 16-bed setup. He asked him to speak to what
280 portion of it is being used, from a percentage or square footage perspective.

281
282 Mr. Gagne replied that there are currently quite a few office spaces. He continued that to back
283 up, when Live Free Recovery first took over the location [from the previous entity operating in
284 the building], there was far more than the allowed use that was there. The basement had people
285 who were in some type of medical de-tox; "they" [the previous entity] did not have a license for
286 that. There is only one room in the basement that is adequate for a bedroom, which he correctly
287 labeled (on the floor plan). Anything (labeled) 'office space' on the first floor (plan) is currently
288 being used as offices or for storage. On the existing first floor plan, the three offices are the front
289 two rooms, and the adjoining room (seen on) the lower half (of the floor plan). Many of the
290 rooms right now are being used as single occupancy, which spreads it out quite a bit. The third
291 floor is not being occupied at all and Live Free Recovery has no plans to occupy the third floor

292 in any way. Looking at the existing second floor, currently the top left corner labeled “bedroom
293 space for three” is currently being used as an office. The room to the right of that is also
294 currently in use as an office. Thus, there is a significant amount of room not being used. Other
295 rooms are singles, and another three rooms on the first floor are singles as well.

296

297 Mr. Gorman stated that the second part of his question is the bathrooms. He continued that it
298 does not look like there is a substantial amount of bathrooms. He asked how many full
299 bathrooms will be in the final (expansion). Mr. Gagne replied that there ends up being five full
300 bathrooms. He continued that with 28 beds, they would be at 5.5 people per bathroom. State
301 requirements are six individuals per bathroom, so they will meet State code for that. He was
302 careful; he did not want to put future plans on here to confuse (it tonight). When he started
303 labeling things, he realized the key would not make sense until he presented it. There is a lot of
304 opportunity to create additional bathrooms. In addition, although it is not outlined here, one of
305 the bathrooms is a double bathroom, with two showers and two separated bathroom stalls.

306

307 Mr. Gorman stated that his other question, for Mr. Hagan, is about parking, (thinking about) the
308 potential for future use of this property that falls under the same category. He asked what the
309 parking requirements are. Mr. Hagan replied that the Expansion portion of it would require .5
310 spaces per bed, per the LDC, Table 901. Mr. Gorman asked if that calculation is made on the
311 difference between the two, so that when they go from 16 to 28 (beds), that is 12 (more beds),
312 which would be six parking spaces. He asked how many would be required for the original 16
313 (beds). Mr. Hagan replied eight. Mr. Gorman replied that it is possible that this does not meet
314 the parking requirements. Mr. Hagan replied that is correct.

315

316 Mr. Gagne asked Mr. Hagan to specify the parking requirements for which type. Mr. Hagan
317 replied that currently there are two legal uses there. He continued that regarding the 2,000
318 square feet where the building splits in half, all of that was issued and is currently legal for office
319 use only. The back portion was issued in 1994 for the residential care facility. That portion
320 would require (something) different. There are two different requirements. They are reducing
321 the amount of office space, but increasing the bed space, so they would have to do a calculation
322 of what those are. To answer Mr. Gorman’s question, just for the residential bed space, current
323 Zoning requires half a parking space per bed. For 16 beds, the requirement is eight parking
324 spaces just for that portion. The office use requires four parking spaces per 1,000 square feet.
325 Thus, Live Free Recovery would need about 10 parking spaces for that. He stated that he could
326 review the record again, but at the time, he saw 18 parking spaces, not the eight that Mr. Gagne
327 represents. They would have to go back and look at the file, but it was side parking up against
328 the abutment. The (application materials) show parking forward. What exists is non-
329 conforming, and expanding it, they would have to meet those parking requirements.

330

331 Mr. Gorman stated that for the sake of tonight, and the ZBA’s purpose, (parking) is not why they
332 are here, but this will be addressed. Mr. Hagan replied yes, it will be addressed. Mr. Gorman
333 asked if it is possible that this will come back (to the ZBA) for parking. Mr. Hagan replied that
334 he cannot say at this time. He continued that for their proposed expansion to 28 beds, they are

335 required to have 14 parking spaces for the residential care and four per 1,000 square feet (for the
336 office use), which can get reduced, because it looks like they only have two or three office
337 spaces down below. That can substantially reduce the amount of parking they need there, and
338 that can be put toward the residential care/institutional use.

339

340 Mr. Branon stated that it was their understanding that there have not been any parking issues
341 with the site operating, because of the rules of the operation, but they can certainly address that
342 with staff, and validate those 18 parking spaces. He continued that he does recall it being more
343 (than eight) but does not want to misrepresent the number. He appreciates Mr. Hagan sharing
344 the potential for 18. If there are actually 18 parking spaces, they could be very close to making
345 that work. That could be a function of “up to” this number of beds, or they might have to come
346 back to the ZBA.

347

348 Ms. Taylor stated that for the record, what the ZBA received via email was a partially filled out
349 first floor plan without any legible labels. She continued that before they get into discussing it,
350 she would like to clarify that this labeled plan is new to the ZBA this evening. There was
351 another plan on the screen tonight that she had not seen. Ms. Marcou replied that what she had
352 on the screen was what was emailed to her (Ms. Marcou) earlier just before the meeting. She
353 continued that when she sent the ZBA the first initial floor plan that was in the body of the email;
354 she had not seen the attachments. It was brought to her attention that those attachments had been
355 sent to her, where she then added those attachments to the slide. They are all handwritten, done
356 prior to it all being typed out and presented to the ZBA this evening. Thus, the versions she has
357 on the screen are the same; it is just that it is handwritten, whereas what the ZBA sees is typed
358 out. Ms. Taylor replied that she could tell the handwritten one that was on the screen was
359 different, but she cannot read it. It is not very helpful. She continued that the ZBA should get all
360 of this material on the record, to be in compliance with the rules.

361

362 Ms. Taylor made a motion for the Zoning Board of Adjustment to accept into the record the two
363 sheets with the typewritten labeling as well as the handwritten exhibit. Mr. Gorman seconded
364 the motion, which passed by unanimous vote.

365

366 Ms. Taylor stated that she understands the difficulties of trying to label what is going to be
367 where, but one of the things that strikes her is that if they are eliminating all of those office
368 spaces and turning them into bedrooms, her understanding is this is not just some place to live,
369 but a treatment facility as well. She asked where the (other services) will be, such as
370 consultation or whatever staff is allowed to do without being a medical clinic. Mr. Gagne asked
371 if she was talking about future plans. Ms. Taylor replied yes.

372

373 Mr. Gagne replied that the offices that are labeled as “offices” now will remain the same. He
374 continued that multiple modalities take place in treatment, and most common is group therapy.
375 The five common areas will double as group settings. It is more relaxed that way, as opposed to
376 institutional. The relaxed setting is far more effective than the institutional setting. There is also
377 rotation of staff. Many times, what people do not take into consideration is that you have a

378 multitude of (staff) shifts taking place, and these individuals (clients) are present 24/7. Once the
379 first shift changes over to second shift, a new set of clinicians comes in and are meeting with
380 these individuals. Thus, their schedules are spread out over the course of an entire day. Over the
381 course of those two shifts, all those individuals would not be going into those areas, for example,
382 (just) from 8:00 AM to 2:00 PM. Treatment schedules go all the way until 10:00 or 11:00 PM.
383 Staff continually have to maneuver through it and the way the treatment flows through. There is
384 also the ability to utilize the kitchen and the dining room for experiential activities that take place
385 for group therapy, life skills, and that type of thing.

386
387 Ms. Taylor stated that her understanding is that there is currently 24-hour staff on site. Mr.
388 Gagne replied that was correct. Ms. Taylor asked if more staff members will be needed, if there
389 are more beds, and where they will be in the facility, if they are just staff members and not
390 necessarily treatment (providers). Mr. Gagne replied that typically they have peer staff, who
391 interact with the clients the most. He continued that in any kind of treatment program, peer staff
392 are the most important staff. They will work with the individuals on all areas of what comes up
393 for them. Those peer staff are out with the clients, not in an office. They are sitting and chatting
394 with clients, processing things with them, navigating treatment with them. In addition, clinical
395 staff would be there, as well as what would be called “visiting staff.” For example, if someone
396 was meeting with a medical practitioner for medication management, that person would come in
397 and physically locate a space for maybe two hours. (Medical practitioners) are not there for an
398 eight-hour shift. They will see (each) client for about 20 to 30 minutes. They do an initial
399 psychological assessment and then meet weekly with the clients, which can take place via
400 telehealth as well.

401
402 Ms. Taylor stated that her question is more about who is there at 2:00 AM. Mr. Gagne replied to
403 the staff. Ms. Taylor asked if they were just sitting in a chair at 2:00 AM. Mr. Gagne replied
404 that if she is asking where they will be sleeping, staff do not sleep. He continued that they have
405 awake staff only. For 24/7 care, they have three shifts occupied by staff who are awake, because
406 this is a population who need that. Sometimes clients who come to the facility are not medically
407 well, (or become so at some) point in their stay, so they need eyes on them.

408
409 Ms. Taylor asked how many staff per number of clients. Mr. Gagne replied that he would have
410 to do the math and it depends on the shift, but if they were fully occupied and there were 24
411 individuals, it would be about four or five staff during the day/first shift and six or seven with the
412 visiting (clinicians). He continued that then it drops down to three (staff) and two for the
413 overnight shift. Every (client) will be sleeping at that point. The second shift slows down before
414 the shift even ends, as clients start to wind down and head into bed. Staff are good, and they do
415 not have a lot of issues that pop up (overnight) that require additional/outside mediation.

416
417 Ms. Taylor stated that she is sure Live Free Recovery already has existing security. She asked
418 Mr. Gagne to speak to that. She continued that she is sure there are clients who take medications
419 that need to be secured as well. Mr. Gagne asked if she meant electronic security. Ms. Taylor
420 replied not necessarily. Mr. Gagne replied that they do not have security guards. He continued

421 that he has worked in this field for almost 16 years and has never worked for a facility (with
422 that). This is not a locked place; people are there voluntarily. If someone wants to come to them
423 and is willing to do some work, the door is open, but they're also open to leave. The staff is
424 fantastic in terms of mitigating and working with individuals, having a long track record of it.
425 They do have security cameras to be able to monitor things that are taking place and have been
426 operating in Keene since 2019 with the police showing up on site probably about six times.
427 Typically, that is not due to a person's current behavior, but rather their background, such as a
428 warrant that pops up from the year previous. Regarding medication, it is in a locked area behind
429 another locked door, per State requirements. Live Free Recovery follows that protocol no matter
430 what the level of care is, even if it is "overkill." They also have a security camera that is on,
431 (focused) on the area of medication, and is unable to be (focused) out of sight of the medication,
432 to monitor staff and clients' behavior with the medication. Thus, they have three things in place:
433 the security camera, the staff, and the locked doors.

434
435 Ms. Taylor stated that all her questions are funneling into one concern, which is intensity of use.
436 She continued that what she is trying to gauge through her various questions, which goes toward
437 the whole concept of expanding a non-conforming use, is how the different intensity of going
438 from 16 to 28 beds will impact the operation. She continued that it does not seem logical that it
439 will have no impact.

440
441 Mr. Gagne replied that they would scale appropriately. He continued that if they have a process
442 in place for 16 individuals, they will come close to doubling that in order to be able to
443 [unfinished sentence]. He continued that it is really only during the most secure hours, the most
444 intensive hours of treatment. From there, it is just a matter of going through and being able to
445 have the appropriate staff for the number of individuals who are there. Ms. Taylor asked him to
446 explain more. Mr. Gagne replied that if they were to take, what is currently happening at 16
447 beds, and appropriately move that number to the number they are proposing, they would be
448 below doubling that same level of care that is provided. Meaning, if they are providing services
449 to 16 individuals, they would simply provide that same service with the number of staff that
450 would be required to provide the services to 28. For example, consider a nursing home, with a
451 certain set number of individuals whom staff work with there. If the nursing home were to
452 increase that number (of individuals), they would increase the staff ratio accordingly to the
453 number of individuals of occupancy increase. He asked if that makes sense.

454
455 Ms. Taylor replied that makes sense, and that is why she was asking about the number of
456 consultation rooms and things like that. Mr. Gagne replied that he should also add that right now
457 with 16 individuals, they are also at a strange point because the number of individuals on a
458 clinician's caseload would usually be much higher than it is now. Clinicians do not have a full
459 caseload due to where Live Free Recovery is from an occupancy standpoint. Live Free Recovery
460 proposes a service later down the road that is not currently being provided at the intensity they
461 are talking about now.

462

463 Ms. Taylor stated that the (application) says “Live Free Recovery Services, LLC,” but the City
464 has it listed in its records as “106 Roxbury, LLC.” She asked who that was. Mr. Gagne replied
465 that 106 Roxbury, LLC is the real estate entity owned by himself as well. He continued that for
466 clarification, they might see multiple names of addresses that are for some of the other licenses
467 they applied for. They have four licenses, one for 881 Marlboro Rd., one for 26 Water St., one
468 for 361 Court St., and Roxbury St. They just had their final Fire Department walkthrough for all
469 four locations, and they should be submitting those findings as they were able to address the
470 issues that came up.

471
472 Chair Hoppock asked if the ZBA had any more questions. Hearing none, he asked for public
473 comment. Hearing none, he asked if the applicants had anything further to add.

474
475 Mr. Branon stated that they understand that there is a path that needs to be taken to improve this
476 property, with permits through the Building Department and potentially approval through
477 Planning, and his client looks forward to navigating that process. He continued that a number of
478 the conditions in the criteria are obviously presumptive on them addressing that criterion,
479 meaning that they fully look forward – assuming tonight’s meeting is successful – to going
480 through the process and securing these approvals in the appropriate manner.

481
482 Chair Hoppock stated that before closing the public hearing, he wants clarification about the
483 parking issue, which befuddles him. He continued that assuming 28 beds are approved, Live
484 Free Recovery must have 14 parking spaces for those 28 beds. He asked if that is correct. Mr.
485 Hagan replied under current Zoning requirements, yes. Chair Hoppock asked how many parking
486 spaces will be required for the office use when the plan that the ZBA has before them is
487 implemented, because he is not concerned with future plans at the moment. Mr. Hagan replied
488 that he has not seen a plan so he cannot give that calculation. He continued that he understands
489 there is a rough drawing. It would be based upon the overall change. Staff would look at it as a
490 department and address any of those. If Live Free Recovery is required to seek additional relief,
491 they would come back to the ZBA for that. Chair Hoppock stated that by his math, there are 18
492 existing parking spaces that could be utilized. He continued that Mr. Hagan said 18, and the
493 applicants said 10.

494
495 Mr. Branon stated that if they do the math and it is half space required for each bedroom, that is
496 14 as Chair Hoppock stated. He continued that if 18 (total existing) is the number, that would
497 leave room for 1,000 square feet of office space. That is probably close to what is being
498 proposed. He suggests that they need to satisfy the criteria or seek relief. There is always an
499 element with parking that is difficult. He is not here tonight seeking relief, but this is often a
500 discussion they have. Parking regulations are written for a broad spectrum of uses. This parking
501 requirement is actually written for uses that allow people to have cars on site. As long as Live
502 Free Recovery meets the calculation requirement there will be additional spaces available for
503 staff, which he suspects is why Live Free Recovery has not run into any issues with parking on
504 site. Some of the questions he heard tonight were surrounding that concern, to some extent, such
505 as how many staff they will have for 28 beds compared to 16 beds. What he heard from Mr.

506 Gagne is that some of that staff can take on a larger workload, so it is not a straight multiple.
507 They (Fieldstone Land Consultants) fully believe that the parking that is provided here will be
508 satisfactory. He understands the concern that came up during the initial review about whether
509 the site can support this expansion. That is why they are suggesting and maybe requesting that
510 the ZBA consider some form of a motion to approve “up to 28,” assuming they meet the other
511 criteria. Certainly, if there is a need and Live Free Recovery comes back before the ZBA it
512 would be another request that they are not currently asking this evening. They believe the site
513 will support the expansion they are proposing. They just must work through some other
514 approvals.

515
516 Chair Hoppock stated that it sounds like at this stage of their planning, regarding the number of
517 parking spaces to accommodate both the residential and the office use, whatever that may be, at
518 the end of the day, they will have sufficient space to manage it. He continued that he did not
519 even ask about off-site street parking, but he assumes there is some availability. Mr. Hagan
520 replied that he believes there is some parking up the street off Roxbury St.

521
522 Chair Hoppock asked if there were any further questions. Hearing none, he closed the public
523 hearing and asked the board to deliberate.

524
525 *1. Such expansion or enlargement would not reduce the value of any property within the zoning*
526 *district, nor otherwise be injurious, obnoxious, or offensive to the neighborhood.*

527
528 Mr. Gorman stated that he does not see a problem with this criterion, for the simple reason that
529 the use is not really changing. He continued that it is expanding, of course; that is why they are
530 here. However, regarding what everyone else will experience, he does not think it will be much
531 different. The property will not look different, thus not contributing to any erosion of value, and
532 the use will be the same, thus not contributing to injurious, obnoxious, or offensive
533 neighborhood activities.

534
535 Ms. Taylor stated that she is not sure she agrees. She continued that she does not necessarily
536 think it will reduce the values, but she is concerned about increasing the intensity of use. There
537 is so little outdoor space. You cannot keep people cooped up. They want to go out and about,
538 and without cars, people will be walking all over. Her concern is simply the number of people
539 outside, milling about, not necessarily doing anything wrong; it is just that there are a lot of
540 people in a small area. You have to go a bit of a ways to get to any park or open space.

541
542 Mr. Welsh stated that he had two issues. He continued that first; it was so long ago that the prior
543 board granted the Variance that they do not know what that prior board’s concerns were and
544 whether the operation of the facility has been consistent with what they wanted. His second
545 concern was along the lines of what Ms. Taylor was asking about, and her questions did a lot to
546 clarify in his mind that this increase in scale is not one that will have the kind of negative impact
547 that will go against the criteria the ZBA is asked to review. There would be that point

548 somewhere, but he does not think 24 or 28 beds hit it. Thus, he is satisfied that he can vote for
549 the first criterion.

550
551 Chair Hoppock stated that he agrees with all of that.

552
553 Mr. Gorman stated that as a footnote to that, 11,000 square feet with 28 bedrooms is a lot of
554 square footage per bedroom. He continued that if you do the math, it is about 400 square feet.

555
556 Chair Hoppock replied that he agrees. He continued that it sounds like a well-managed use.
557 History has been good, from what he has heard. He does not see anything about the expansion
558 that would impact the values of neighborhood properties. He does not see anything that is
559 injurious, obnoxious, or offensive to the neighborhood, based on what he has heard about the
560 expansion.

561
562 *2. There will be no nuisance or serious hazard to vehicles or pedestrians.*

563
564 Chair Hoppock stated that this seems somewhat redundant, following the first criterion, but for
565 the reasons just articulated, he agrees that there does not seem to be a nuisance or serious hazard
566 presented by the expansion.

567
568 Mr. Gorman stated that he knows this is specific to Live Free Recovery's operation of business,
569 but he would add that they do not allow clients to have cars, so that diminishes this potential
570 impact, at least for the time being while it is being run that way.

571
572 Chair Hoppock stated that it does not sound like there is a great deal of traffic coming and going.
573 He continued that Roxbury St. is very busy, and he does not know what the traffic flow is there
574 but treating practitioners and counselors who come and go during the day (do not account for)
575 much, in terms of volume.

576
577 *3. Adequate or appropriate facilities will be provided for the proper operation of the proposed*
578 *use.*

579
580 Chair Hoppock stated that this seems to be more about the physical plant. Mr. Gorman stated
581 that he thinks they have covered some of this tonight, and they keep coming around to the same
582 answer that it is not up to the ZBA to determine some of these things, but because of the nature
583 of this project, the Code Enforcement Department would make sure all those things are adequate.
584 Regarding the use, there probably will be some requirements for incoming water and sewer, and
585 again, the Building Department will handle that, and handle the parking. Electrical upgrades
586 have to be done by Code as well. Thus, he thinks many of those issues will get handled by the
587 Community Development Department.

588
589 Ms. Taylor stated that she agrees with Mr. Gorman, but her concern is still not completely
590 allayed, regarding whether there will be adequate facilities for everything that will be going on,

591 from residential to recreational to treatment. She continued that there may be adequate facilities
592 for 16 or 20 people, but she is not convinced that there are for 28 people.

593
594 Chair Hoppock stated that earlier, they spoke about the licensing requirements. He asked Ms.
595 Marcou what Section 46-565 part is of. Ms. Marcou replied that the Congregate Living and
596 Social Services Licensing Board is under the City Ordinance. Chair Hoppock stated that to Mr.
597 Gorman's point, many of these issues are being addressed by other City boards; Fire, Safety, and
598 Building Codes; "noise pollution" Codes; and traffic issues by the Police and Fire Departments.
599 Coupled with that level of oversight and the fact that the license has been approved conditionally
600 for a year, he is satisfied that the Expansion request is not inappropriate.

601
602 Mr. Gorman made a motion for the Zoning Board of Adjustment to approve ZBA 23-23. Mr.
603 Welsh seconded the motion.

604
605 *1. Such expansion or enlargement would not reduce the value of any property within the zoning*
606 *district, nor otherwise be injurious, obnoxious, or offensive to the neighborhood.*

607
608 Granted with a vote of 4-0.

609
610 *2. There will be no nuisance or serious hazard to vehicles or pedestrians.*

611
612 Granted with a vote of 4-0.

613
614 *3. Adequate or appropriate facilities will be provided for the proper operation of the proposed*
615 *use.*

616
617 Granted with a vote of 3-1. Ms. Taylor was opposed.

618
619 The motion to approve ZBA 23-23 was approved with a vote of 3-1. Ms. Taylor was opposed.

620
621 **V) New Business**

622
623 Chair Hoppock stated that he and Ms. Taylor have some new business. He continued that they
624 would like the administration to disregard the New Hampshire Municipal Association's
625 recommendation about not providing the abutters lists. He continued that that is a dangerous
626 practice, in his opinion.

627
628 Mr. Gorman stated that he agrees, provided it is just a recommendation. Mr. Welsh replied that
629 he agrees. Ms. Marcou stated that this is something staff will be having conversations about with
630 the City Attorney.

631
632 Chair Hoppock stated that just so his position is clear, today the ZBA received the abutters list
633 via email, and he saw a former client of his on that list. He continued that had he seen her in the

634 audience tonight, he would have recused himself. Without that list, it never would have been
635 brought to his attention.

636
637 Ms. Taylor stated that as she mentioned earlier, she does not think it should be up to members of
638 any land use board to go searching and pull up their own abutters list to see if there are any
639 conflicts when the applicant is required to provide it. She continued that if there is no change in
640 law, case law, or statute that would advise them not to get abutters lists, regardless of whatever
641 in-house conversations staff has with the City Attorney, the ZBA still should be getting the
642 abutters lists. She does not think it is the staff's decision or even the City Attorney's decision. It
643 is public information, and the ZBA should be able to have it prior to their meetings.

644
645 Chair Hoppock stated that they will leave the matter at this; their opinions have been voiced. He
646 continued that as a board they have unanimously stated their concern and given reason for it.

647
648 Chair Hoppock asked if there was any other new business. There was no response.

649
650 **VI) Communications and Miscellaneous**

651
652 Chair Hoppock asked if there were any communications or miscellaneous. Mr. Hagan replied
653 no.

654
655 **VII) Non-public Session (if required)**

656
657 **VIII) Adjournment**

658
659 There being no further business, Chair Hoppock adjourned the meeting at 7:48 PM.

660
661 Respectfully submitted by,
662 Britta Reida, Minute Taker

663
664 Reviewed and edited by,
665 Corinne Marcou, Board Clerk

143 JORDAN RD.
ZBA 23-24



Petitioner requests a Variance to construct an entrance 41 ft 5 in into the front setback where 50 ft is required per Article 3.1.2 of the Zoning Regulations.



NOTICE OF HEARING

ZBA 23-24

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

ZBA 23-24: Petitioner, Grady Budd and Lauren Lavoie, represented by A. Eli Leino of Bernstein Shur, of Manchester NH, requests a Variance for property located at 143 Jordan Rd., Tax Map #232-008-000 and is in the Rural District. The Petitioner requests to permit the construction of an energy vestibule entrance 41' 5" into the front setback where 50' is required per Article 3.1.2 of the Zoning Regulations.

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

Corinne Marcou, Zoning Clerk

Notice issuance date October 27, 2023

City of Keene, NH

Zoning Board of Adjustment Variance Application



For Office Use Only:

Case No. ZBA23-21
Date Filled 10/19/23
Rec'd By CWH
Page 1 of 21
Rev'd by _____

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

SECTION 1: CONTACT INFORMATION

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

OWNER / APPLICANT

NAME/COMPANY: Grady Budd and Lauren Lavoie

MAILING ADDRESS: 143 Jordan Road, Keene, NH 03431

PHONE: (603) 769-7384

EMAIL: gbudd24@hotmail.com

SIGNATURE: *Lauren Lavoie*

PRINTED NAME: Lauren Lavoie

APPLICANT (if different than Owner/Applicant)

NAME/COMPANY: same as above

MAILING ADDRESS:

PHONE:

EMAIL:

SIGNATURE:

PRINTED NAME:

AUTHORIZED AGENT (if different than Owner/Applicant)

NAME/COMPANY: A. Eli Leino

MAILING ADDRESS: Bernstein Shur, P.O. Box 1120, Manchester, NH 03105-1120

PHONE: (603) 665-8859

EMAIL: eleino@bernsteinshur.com

SIGNATURE: *A. Eli Leino*

PRINTED NAME: A. Eli Leino

SECTION 2: PROPERTY INFORMATION

Property Address: **143 Jordan Road, Keene, New Hampshire**

Tax Map Parcel Number: **232/ 008/000 000/000**

Zoning District **(R) Rural**

Lot Dimensions: Front: **263.4'** Rear: **207.4'** Side: **312.5'** Side: **222.4'** See Included Plan

Lot Area: Acres: **1.5** Square Feet: **62,187 sf**

% of Lot Covered by Structures (buildings, garages, pools, decks, etc): Existing: **3%** Proposed: **4%**

% of Impervious Coverage (structures plus driveways and/or parking areas, etc): Existing: **7%** Proposed: **8%**

Present Use: **Single Family**

Proposed Use: **Single Family**

SECTION 3: WRITTEN NARRATIVE

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

See attached

SECTION 4: APPLICANTION CRITERIA

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

See attached

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

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

See attached

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

See attached

3. Granting the variance would do substantial justice because:

See attached

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

See attached

5. Unnecessary Hardship

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

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

See attached

and

ii. The proposed use is a reasonable one because:

See attached

B. Explain how, if the 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.

See attached

**Lauren Lavoie and Grady Budd
143 Jordan Road
Map 232, Lot 8**

Addendum to Application for Variance

SECTION 3: WRITTEN NARRATIVE

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

The property owners, Lauren Lavoie and Grady Budd (collectively, the “Applicant”), purchased the home at 143 Jordan Road (the “Property”) in 2017 and have recently engaged KCS Architects to design an energy efficient renovation to modernize and improve the existing 1976 home. The Property is zoned Rural (R) and contains ±1.5 acres. Due to the Property’s age, the existing lot size and front setback are not compliant with the present Land Development Code Zoning Regulations (the “Ordinance”), which require two acre lots in the Rural district and a 50-foot front setback. Despite the nonconformity, the Applicant’s proposal will greatly improve the utility and appearance of the home, and meets the variance criteria.

SECTION 4: APPLICANTION CRITERIA

A Variance is requested from Article (s) 3.1.2 (Minimum Front Setback) of the Zoning Regulations to permit:

The construction of a new building façade with an “energy vestibule” entrance to reduce the loss of heated or cooled air when using the front door. The existing building encroaches 6’4” into the 50-foot front setback and the new improvements will be 8’5” into the setback area if permitted; thus, 41’5” from Jordan Road (an increase of 2’1”).

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

A variance is contrary to the public interest when it unduly, and in a marked degree, conflicts with the Ordinance such that it violates the Ordinance’s basic zoning objectives. Malachy Glen Assocs., Inc. v. Town of Chichester, 155 N.H. 102, 105 (2007). There are two methods for determining whether a variance violates a zoning ordinance’s basic zoning objectives: (1) “whether granting the variance would alter the essential character of the neighborhood” or (2) “whether granting the variance would threaten the public health, safety or welfare.” Harborside Assocs.. L.P. v. Parade Residence Hotel, LLC, 162 N.H. 508, 514 (2011).

The variance requested here will not alter the essential character of the neighborhood nor threaten the public health, safety, or welfare. Granting the requested relief would allow reasonable improvements to the existing nonconforming single-family residence. The neighborhood is residential and includes many other lots smaller than two acres with homes built prior to the

imposition of the 50-foot front setback. The proposed improvements will be consistent with both the surrounding area and the current use of the Property.

Additionally, there is no risk to the public health, safety, or welfare that would arise from the Applicant's proposal. The new entrance and façade will generally be cosmetic improvements and will not impact traffic or emergency access. The side setbacks will remain Ordinance compliant, so there will be no issue of overcrowding or the risks associated therewith.

The requested relief will allow the Applicant to rehabilitate their home and maximize the Property's value without negatively impacting any other property. Such investment in the existing home, while improving energy efficiency, inherently supports the public interest.

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

The requirement that the variance not be "contrary to the public interest" is "related to the requirement that the variance be consistent with the spirit of the Zoning Ordinance." Malachy Glen, 155 N.H. at 105.

As noted above, the improvements will be consistent with the character of the area and will allow the Property to be put to its highest and best reasonable use without negatively impacting any neighbor or the public at large. The proposed variance does not conflict with the purpose and intent of the Rural district (namely, "very low density development, predominantly of a residential or agricultural nature." §3.1.1 Purpose.) and does not violate the basic objectives of the Ordinance. The proposal is so minimal that there would be no discernable change to the basic and essential character of the neighborhood by the granting of this variance, which observes the spirit of the Ordinance.

3. Granting the variance would do substantial justice because:

The "substantial justice" element of a variance is guided by two rules: that any loss to the individual that is not outweighed by a gain to the general public is an injustice, and whether the proposed development is consistent with the area's present use. Malachy Glen, 155 N.H. at 109. Denying this Application will prevent the Applicant from rehabilitating the Property and reviving a dated but serviceable home. Granting the Application will benefit not only the Applicant, but the neighborhood and the public at large, by improving the appearance of the Property and promoting energy efficiency.

There is no offsetting public benefit to be gained by the denial of this Application. None of the harms the Ordinance seeks to prevent are created by the proposal. The existing home is already non-conforming, but even with the requested relief, the Property will still be used for low-density residential development. Denying the variance will therefore harm the Applicant and the public for no discernable benefit.

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

The proposal is of a reasonable size and location and consistent with the other residential uses in the neighborhood. Most of the surrounding lots are similarly nonconforming and encroach on the setbacks. The Applicant's project will be no different and therefore should not have any detrimental impact on the value of surrounding properties. The renovation will, if anything, improve surrounding property values because it will be aesthetically pleasing and energy efficient. There is therefore no basis to conclude that the proposed improvements on the Property would diminish the value of any of the other properties in the area.

5. Unnecessary hardship.

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

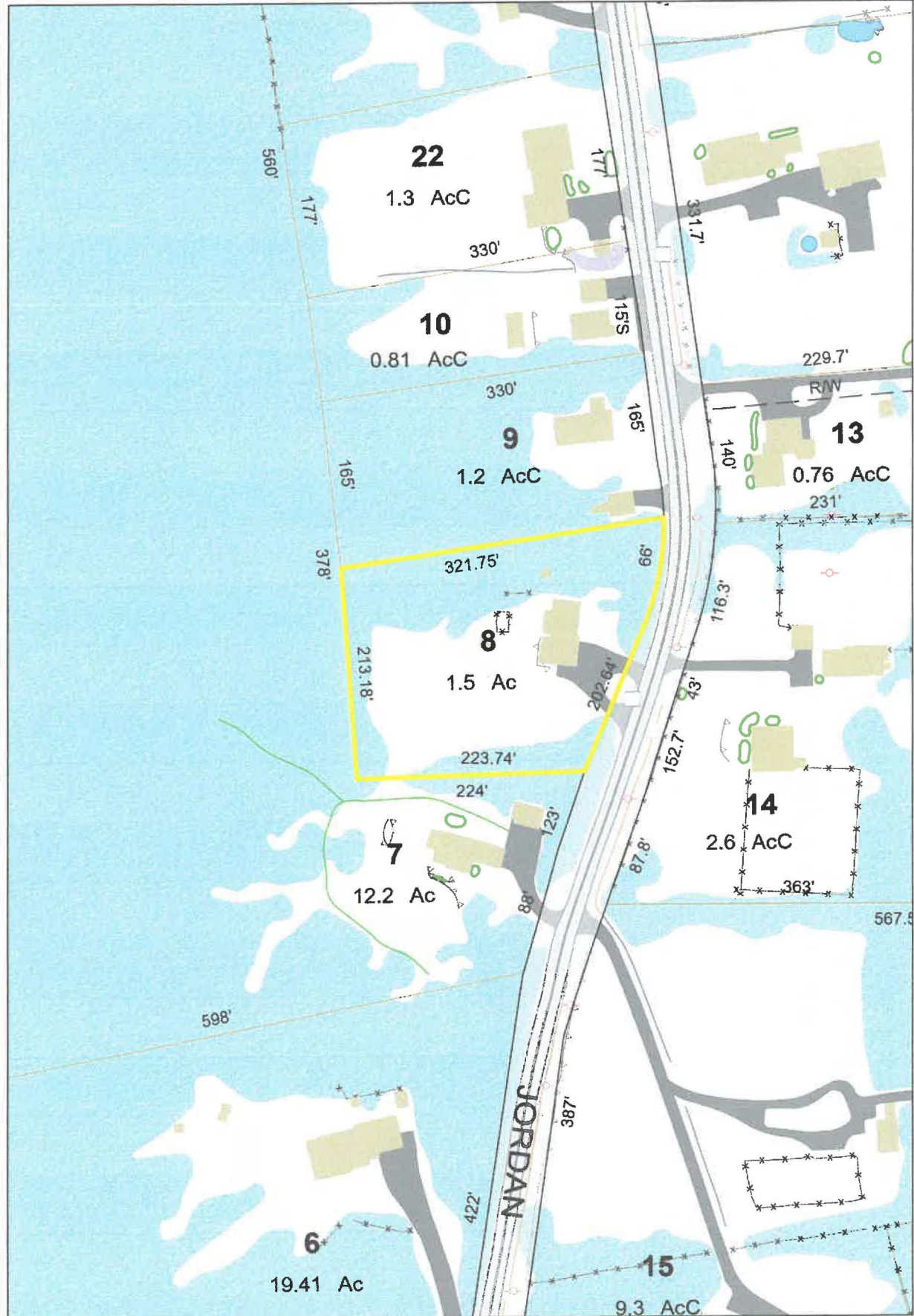
The home on the Property was built prior to the current 50-foot front setback requirement, which is an existing condition that may be considered while deliberating the Applicant's request for relief. Additionally, the Property is located "outside of the valley floor" (§3.1.1) and slopes dramatically from Jordan Road to the back of the property.

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:

Setback requirements are generally enacted to prevent overcrowding of the land. Devaney v. Town of Windham, 132 N.H. 302, 307 (1989). Setback requirements are also typically enacted to ensure adequate emergency access and response. See 2 Young, Anderson's American Law of Zoning (4th ed., 1996), §9.56, Setback Regulations, at 293. In this case, the proposed improvements do not substantially increase the encroachment (~2 feet further into the setback than the current building) and do not pose a risk of overdevelopment. If the Applicant is denied this relief, similar improvements to the appearance and energy-efficiency of the Property could only be achieved by demolishing the existing structure and rebuilding in compliance with the current setback. That route would clearly be more expensive and energy intensive than a limited renovation, and is an unreasonable solution outside the general public purpose of the Ordinance.

and, ii. The proposed use is a reasonable one because:

A proposed use is presumed to be reasonable if it is a permitted use under the Town's Ordinance. Malachy Glen, 155 N.H. at 107. A single-family residence is permitted on the Property by right and is a reasonable use. See id. Only the dimensional requirements of the Ordinance are impacted.



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.

Zoning Districts

R (Rural)

REQUIREMENTS

MAX HEIGHT
LOT SIZE
FRONTAGE
LOT WIDTH AT BUILDING

BUILDING SETBACKS
FRONT
SIDE
REAR

MAX BUILDING COVERAGE
MAX IMPERVIOUS COVERAGE

Overlay Districts

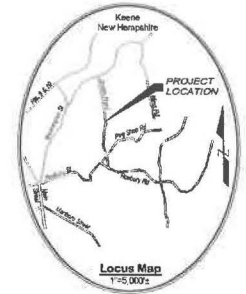
Surface Water Protection District:

75' SETBACKS FROM SURFACE WATERS

Hillside Protection District:

PRECAUTIONARY SLOPES BETWEEN 18 & 20% 20,000 SF MAXIMUM DISTURBANCE
PROHIBITIVE SLOPES 20% OR GREATER
NO BUILDING OR IMPROVEMENTS

SEE CITY OF KEENE LAND DEVELOPMENT CODE CONCERNING ADDITIONAL REQUIREMENTS PERTAINING TO PARCELS



Plan References

REFERENCES INCLUDE ALL INFORMATION REFERRED TO ON ANY OF THE FOLLOWING PLANS

1. PLANS

- THE BEARINGS SHOWN ON THIS PLAN ARE REFERENCED TO NAD83 NH STATE PLANE GRID, BASED ON A STATIC GPS SURVEY PERFORMED IN SEPTEMBER 2023 USING AN XBOX ONE S RECEIVER.
- THE BOUNDARY LINES SHOWN ON THIS PLAN WERE CALCULATED FROM DEEDS, RECORD PLANS & PHYSICAL EVIDENCE FOUND DURING THE FIELD SURVEY.
- TOPOGRAPHY SHOWN ON THIS PLAN IS FROM AN ACTUAL FIELD SURVEY BY HUNTLEY SURVEY & DESIGN, PLLC PERFORMED DURING THE MONTH OF SEPTEMBER 2023. THE VERTICAL DATUM IS NAVD83. CONTOUR INTERVAL IS TWO (2) FEET.
- UNDERGROUND UTILITIES, STRUCTURES AND FACILITIES HAVE BEEN PLOTTED FROM DATA OBTAINED FROM FIELD SURVEY OF SURFACE LOCATIONS ONLY. THEIR LOCATIONS MUST BE CONSIDERED APPROXIMATE. THERE MAY BE OTHER UNDERGROUND UTILITIES THE EXISTENCE OF WHICH ARE NOT KNOWN. THE SIZE AND LOCATION OF ALL UTILITIES AND STRUCTURES MUST BE VERIFIED PRIOR TO ANY AND ALL CONSTRUCTION. CALL 811-GAME PRIOR TO ANY CONSTRUCTION.
- JURISDICTIONAL WETLANDS WERE NOT OBSERVED IN THE PROJECT AREA.

Notes

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- JURISDICTIONAL WETLANDS WERE NOT OBSERVED IN THE PROJECT AREA.

Surveyor's Certification

PURSUANT TO RSA 676:16 II AND RSA 677:14, I CERTIFY THAT THIS SURVEY AND PLAT WERE PRODUCED BY ME OR THOSE UNDER MY DIRECT SUPERVISION FROM A TOTAL STATION AND DATA COLLECTOR TRAVELING WITH A POSITION TOLERANCE THAT MEETS OR EXCEEDS NH LAM 609 AND THE ALLOWABLE RELATIVE POSITIONAL ACCURACY REQUIRED BY THE STATE OF NEW HAMPSHIRE IN TABLE 609.1. ACCURACY MEASUREMENTS, LOCAL ACCURACY OF CONTROL SUPPORTING THE SURVEY AND IS BASED ON INFORMATION RECORDED AT THE CHESTER COUNTY REGISTRY OF DEEDS AS REFERENCED HEREON, INFORMATION PROVIDED BY THE CLIENT AND PHYSICAL EVIDENCE FOUND.

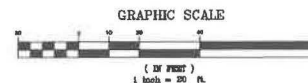


Plan of Land

LAND OF
Lauren Lavoie & Grady Budd
located at
Tax Map 232 Lot 008
143 Jordan Road, Keene, Cheshire County, New Hampshire
Book 3000, Page 1158

Surveyed 09/2023 Plan prepared 08/15/2023
Project No. H23-055 Cad File No. H23-055 Excon.dwg

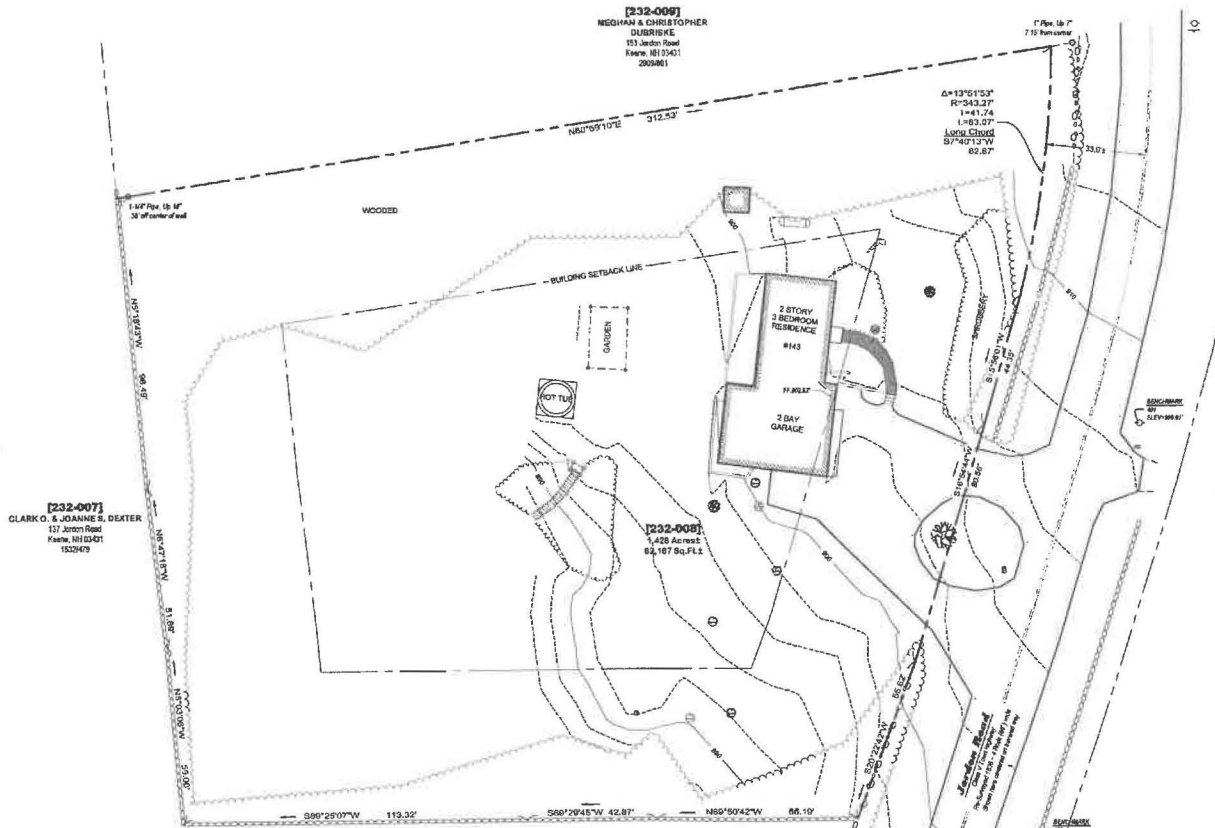
Huntley Survey & Design, PLLC
NH & VT Land Surveying, Wetlands & NH Septic System Design
656 West Road, Temple, NH 03084 (803) 624-1889 www.huntleysurvey.com



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

Symbol Legend

- ⊕ WELL
- ⊙ SIGN
- ⊖ MAIL BOX
- UTILITY POLE
- STONE WALL
- STONE WALL REMNANTS
- TREE LINE
- EDGE OF PAVEMENT
- ⊙ MIM FRINGE
- ⊙ CONIFEROUS TREE
- ⊙ DECIDUOUS TREE
- ⊙ SHRUB
- ⊙ CHESHIRE REGISTRY OF DEEDS
- ① TAX MAP PARCEL NUMBER
- ② DEED VOLUME & PAGE
- FF FINISH FLOOR



Zoning Districts

R (Rural)

REQUIREMENTS

MAX HEIGHT 2 STOREYS
 LOT SIZE 2 ACRES
 FRONTAGE 50'
 LOT WIDTH AT BUILDING 200'
 BUILDING SETBACKS
 FRONT 60'
 SIDE 60'
 REAR 60'
 MAX BUILDING COVERAGE 10%
 MAX IMPERVIOUS COVERAGE 20%

Overlay Districts

Surface Water Protection District:

75' SETBACKS FROM SURFACE WATERS

Hillside Protection District:

PRECAUTIONARY SLOPES BETWEEN 10 &

20% 20,000 SF MAXIMUM

DISTURBANCE

PROHIBITIVE - SLOPES 20% OR GREATER:

NO BUILDING OR IMPROVEMENTS

SEE CITY OF KEENE LAND DEVELOPMENT CODE

CONCERNING ADDITIONAL REQUIREMENTS

PERTAINING TO PARCELS

[232-005]
 MEGHAN & CHRIS TOPHER
 DUBINSKIE
 15 Jordan Road
 Keene, NH 03431
 2638101

[232-007]
 CLARK O. & JOHANNE B. DEKTER
 137 Jordan Road
 Keene, NH 03431
 1512479

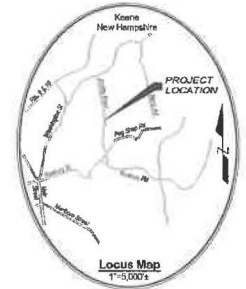
[232-005]
 1,428 Acres
 62,187 Sq.Ft.

[232-014]
 CAROL N. ARDENVAULT
 142 Jordan Road
 Keene, NH 03431
 313-0111EJ-0040

[232-007]
 CLARK O. & JOHANNE B. DEKTER
 137 Jordan Road
 Keene, NH 03431
 1512479

Symbol Legend

- ⊕ WELL
- ⊙ SIGN
- ⊙ MAIL BOX
- ⊙ UTILITY POLE
- ⊙ STONE WALL
- ⊙ STONE WALL REMAINTS
- ⊙ TREE LINE
- ⊙ EDGE OF PAVEMENT
- ⊙ HIGH FRINGE
- ⊙ CONIFEROUS TREE
- ⊙ DECIDUOUS TREE
- ⊙ SHRUB
- ⊙ CHESHIRE REGISTRY OF DEEDS
- ⊙ TAX MAP PARCEL NUMBER
- ⊙ DEED VOLUME & PAGE
- ⊙ FLOOR FLOOR



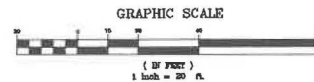
Plan References

REFERENCES INCLUDE ALL INFORMATION REFERRED TO ON ANY OF THE FOLLOWING PLANS

1. PLANS

Notes

1. THE BEARINGS SHOWN ON THIS PLAN ARE REFERENCED TO NAD83 NH STATE PLANE GRID, BASED ON A STATIC OPS SURVEY PERFORMED IN SEPTEMBER 2023 USING AN 6305 GNSS RECEIVER.
2. THE BOUNDARY LINES SHOWN ON THIS PLAN WERE CALCULATED FROM DEEDS, RECORD PLANS & PHYSICAL EVIDENCE FOUND DURING THE FIELD SURVEY.
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5. JURISDICTIONAL WETLANDS WERE NOT OBSERVED IN THE PROJECT AREA.



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

Surveyor's Certification

PURSUANT TO RSA 676:18 III AND RSA 672:14, I CERTIFY THAT THIS SURVEY AND PLAN WERE PRODUCED BY ME OR THOSE UNDER MY DIRECT SUPERVISION FROM A TOTAL STATION AND DATA COLLECTION TRAVELING WITH A POSITION TOLERANCE THAT MEETS OR EXCEEDS NH LAWS AND THE ALLOWABLE RELATIVE POSITIONAL ACCURACY REQUIRED BY THE STATE OF NEW HAMPSHIRE IN TABLE 500.1, "ACCURACY MEASUREMENTS, LOCAL ACCURACY OF CONTROL, SUPPORTING THE SURVEY" AND IS BASED ON INFORMATION RECORDED AT THE CHESHIRE COUNTY REGISTRY OF DEEDS AS REFERENCED HEREON. INFORMATION PROVIDED BY THE CLIENT AND PHYSICAL EVIDENCE FOUND.



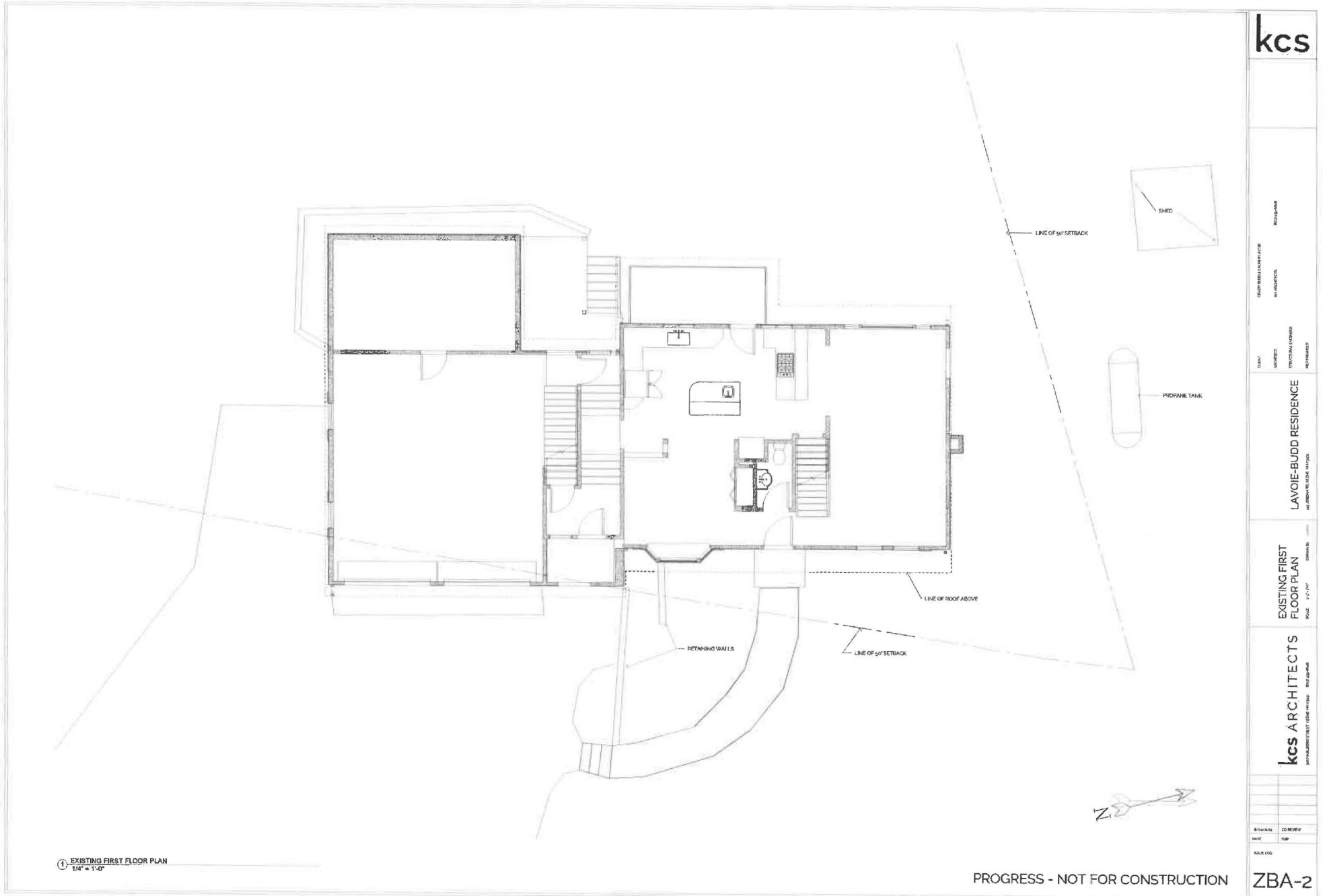
Plan of Land

LAND OF
Lauren Lavoie & Grady Budd
 located at
 Tax Map 232 Lot 008
 143 Jordan Road, Keene, Cheshire County, New Hampshire
 Book 3000, Page 1158

Surveyed 06/2023 Plan prepared 09/15/2023
 Project No. H23-055 Cad File No. H23-055 Excon.dwg

Huntley Survey & Design, PLLC
 NH & VT Land Surveying, Wetlands & NH Splic System Design
 850 West Road, Temple, NH 03084 (603) 924-1865 www.huntleysurvey.com





① EXISTING FIRST FLOOR PLAN
1/4" = 1'-0"

PROGRESS - NOT FOR CONSTRUCTION

kcs

CLIENT: LAYOIE-BUDD RESIDENCE
ARCHITECT: KCS ARCHITECTS
STRUCTURAL ENGINEER: [REDACTED]

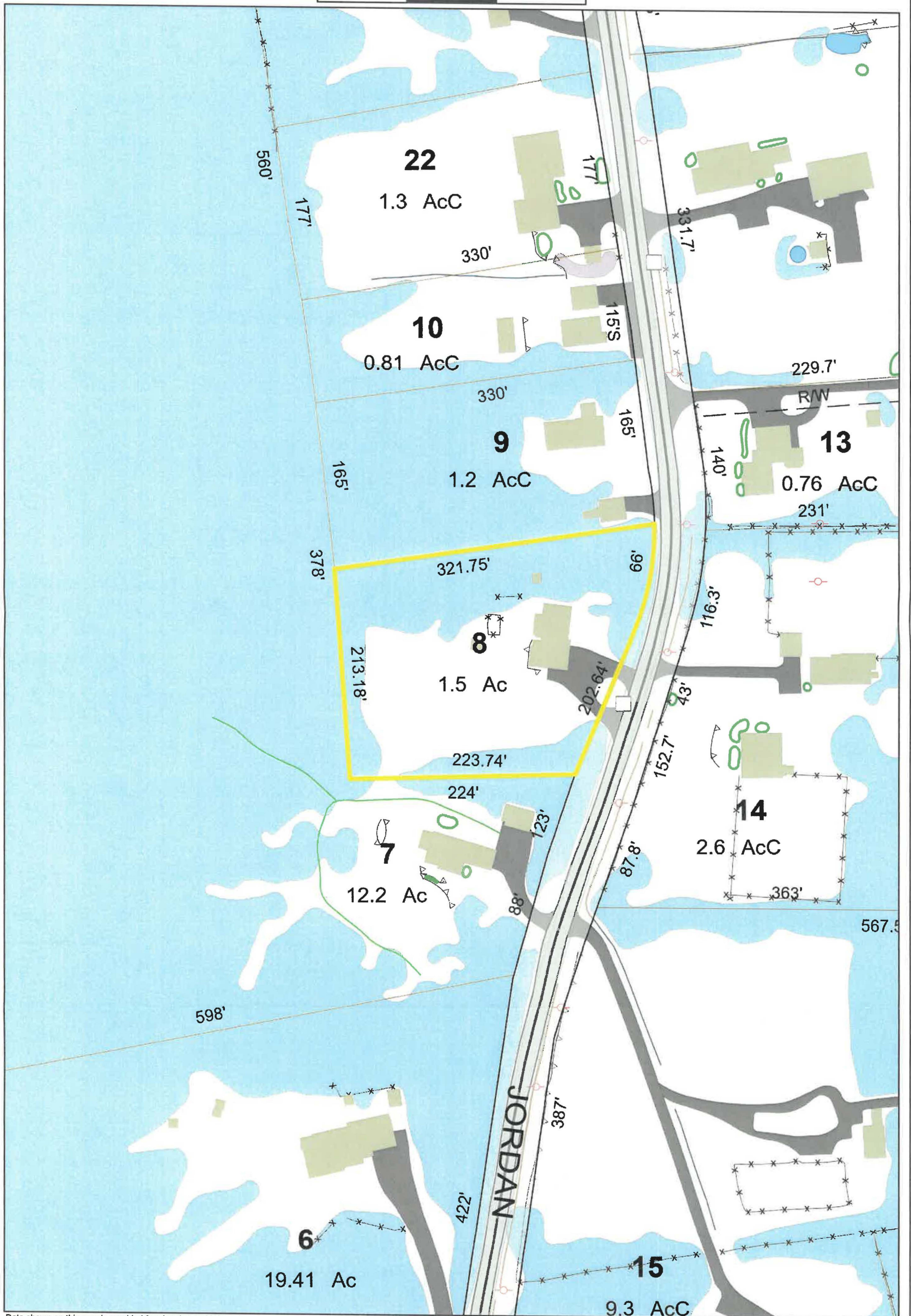
EXISTING FIRST FLOOR PLAN
DATE: 11/1/17

PROJECT: LAYOIE-BUDD RESIDENCE

kcs ARCHITECTS
1000 UNIVERSITY STREET, SUITE 200, VANCOUVER, BC V6P 1G8

| | |
|-------------|--------------|
| DATE: | 11/1/17 |
| BY: | [REDACTED] |
| CHECKED BY: | [REDACTED] |
| SCALE: | 1/4" = 1'-0" |

ZBA-2



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.

Zoning Districts

R (Rural)

REQUIREMENTS

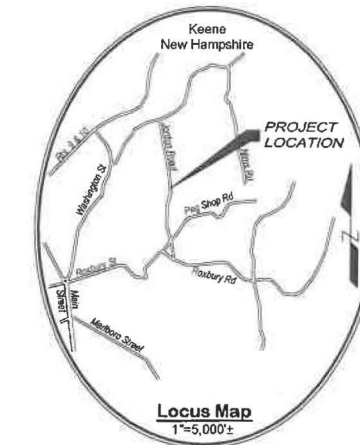
| | |
|--------------------------|---------------|
| MAX HEIGHT | 2 STORIES/20' |
| LOT SIZE | 2 ACRES |
| FRONTAGE | 50' |
| LOT WIDTH AT BUILDING | 200' |
| BUILDING SETBACKS | |
| FRONT | 50' |
| SIDE | 50' |
| REAR | 50' |
| MAX BUILDING COVERAGE | 10% |
| MAX IMPERMEABLE COVERAGE | 20% |

Overlay Districts

Surface Water Protection District:
75' SETBACKS FROM SURFACE WATERS

Hillside Protection District:
PRECAUTIONARY - SLOPES BETWEEN 15 & 25%: 20,000 SF MAXIMUM DISTURBANCE
PROHIBITIVE - SLOPES 25% OR GREATER: NO BUILDING OR IMPROVEMENTS

SEE CITY OF KEENE LAND DEVELOPMENT CODE CONCERNING ADDITIONAL REQUIREMENTS PERTAINING TO PARCEL



[232-009]
MEGHAN & CHRISTOPHER
DUBRISKE
153 Jordan Road
Keene, NH 03431
2909/801

$\Delta=13^{\circ}51'53''$
 $R=343.27'$
 $T=41.74'$
 $L=93.07'$
Long Chord
 $S7^{\circ}40'13''W$
82.87'

[232-007]
CLARK O. & JOANNE S. DEXTER
137 Jordan Road
Keene, NH 03431
1532/479

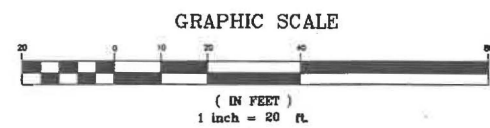
[232-008]
1.428 Acres
62,187 Sq. Ft.

[232-014]
CAROL N. ARSENAULT
142 Jordan Road
Keene, NH 03431
313-2011/ET-00480

[232-007]
CLARK O. & JOANNE S. DEXTER
137 Jordan Road
Keene, NH 03431
1532/479

Symbol Legend

| | |
|----------------|----------------------------|
| | WELL |
| | SIGN |
| | MAIL BOX |
| | UTILITY POLE |
| | STONE WALL |
| | STONE WALL REMNANTS |
| | TREE LINE |
| | EDGE OF PAVEMENT |
| | IRON PIN/PIPE |
| | CONIFEROUS TREE |
| | DECIDUOUS TREE |
| | SHRUB |
| | CHESHIRE REGISTRY OF DEEDS |
| [1-2-3] | TAX MAP PARCEL NUMBER |
| 1234/56 | DEED VOLUME & PAGE |
| FF | FINISH FLOOR |

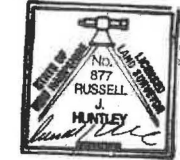


| NO. | DATE | REVISION | BY |
|-----|------|----------|----|
| | | | |

- Plan References**
- REFERENCES INCLUDE ALL INFORMATION REFERRED TO ON ANY OF THE FOLLOWING PLANS
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- Notes**
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Surveyor's Certification

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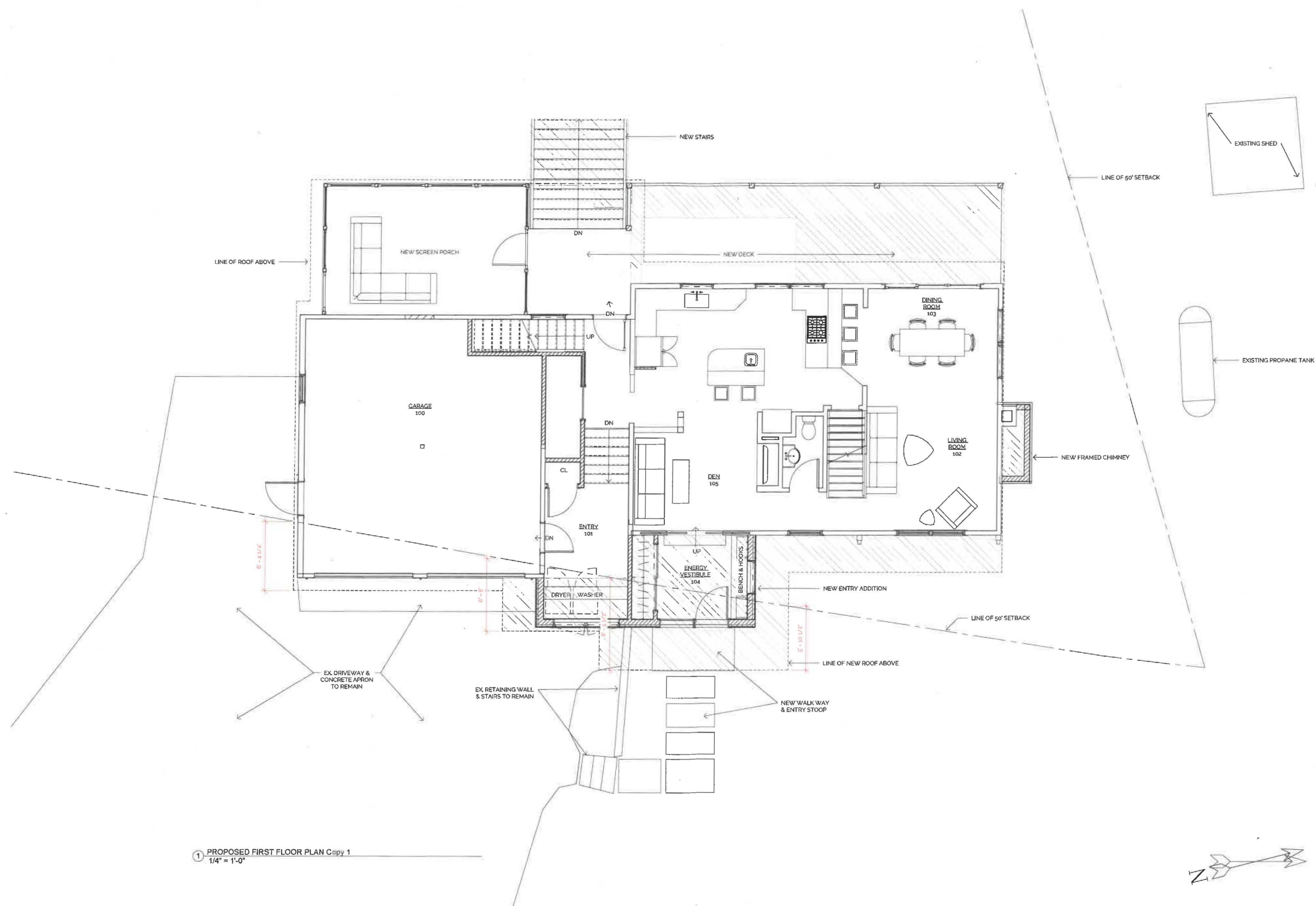


Plan of Land

LAND OF
Lauren Lavoie & Grady Budd
located at
Tax Map 232 Lot 008
143 Jordan Road, Keene, Cheshire County, New Hampshire
Book 3000, Page 1156

Surveyed 09/2023 Plan prepared 09/15/2023
Project No. H23-055 Cad File No. H23-055 Excon.dwg

Huntley Survey & Design, PLLC
NH & VT Land Surveying, Wetlands & NH Septic System Design
659 West Road, Temple, NH 03084 (603) 924-1669 www.huntleysurvey.com



1 PROPOSED FIRST FLOOR PLAN Copy 1
1/4" = 1'-0"



CLIENT: GARY BUDD & LAURIE LAVOIE 800.439.8488
ARCHITECT: KCS ARCHITECTS
STRUCTURAL ENGINEER: MPT ENGINEER

LAVOIE-BUDD RESIDENCE
141 KERRAVILLE AVENUE, #103, SUVA

PROPOSED FIRST FLOOR PLAN
SCALE: 1/4" = 1'-0"
DRAWN BY: AUBIN

kcs ARCHITECTS
30 HOLLAND STREET, KENNESAW, GA 30144
800.439.8488

| | |
|-----------|-----------|
| 5/14/2023 | CD REVIEW |
| DATE | FOR |

ISSUE LOG

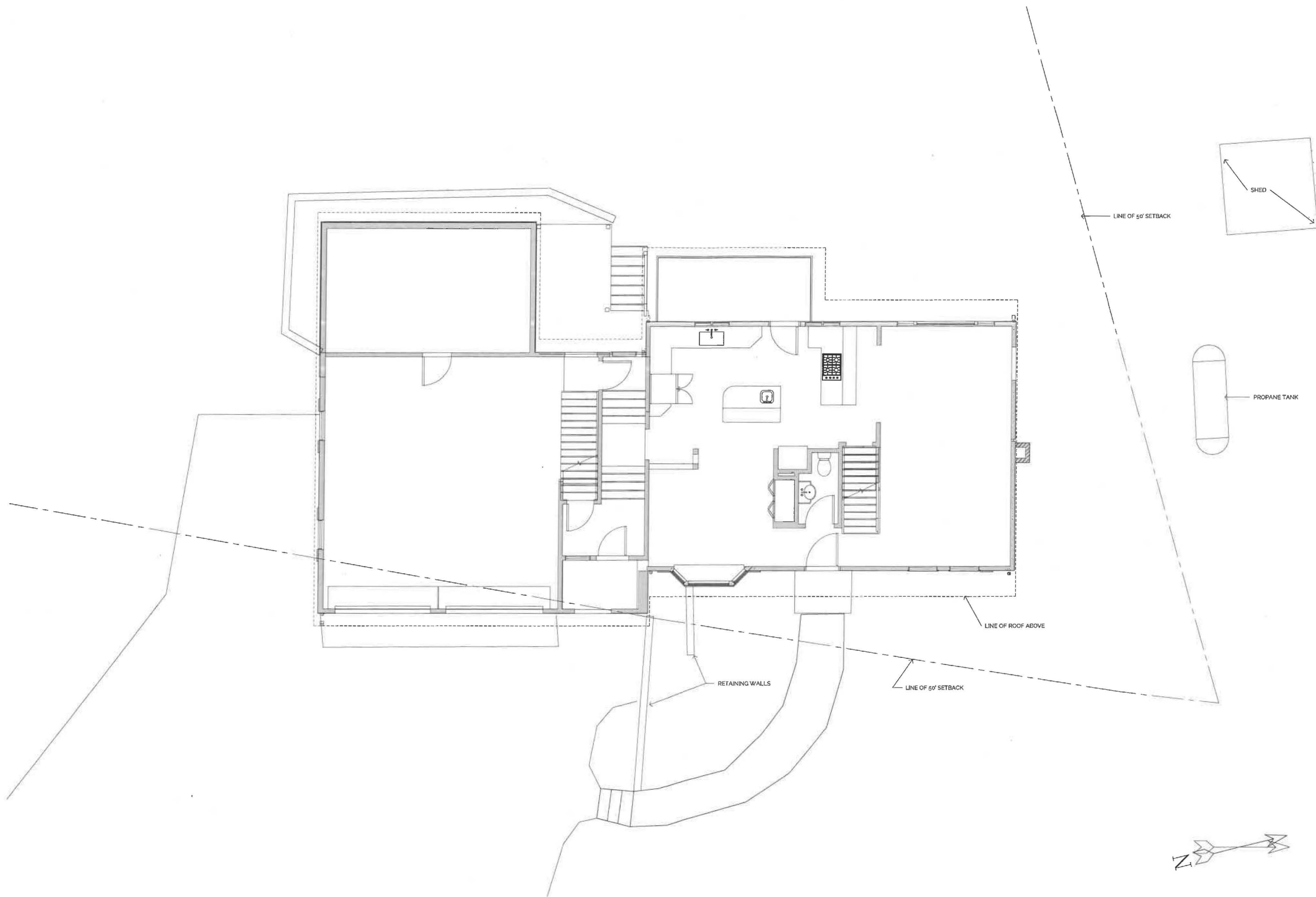
PROGRESS - NOT FOR CONSTRUCTION

ZBA-1

| | |
|------|-----------|
| DATE | CD REVIEW |
| | FOR |

ISSUE LOG

ZBA-2



1 EXISTING FIRST FLOOR PLAN
1/4" = 1'-0"

PROGRESS - NOT FOR CONSTRUCTION

| | |
|-----------|-----------|
| 8/14/2023 | CD REVIEW |
| DATE | FOR |

ISSUE LOG



1 PROPOSED EAST ELEVATION-ZBA
 1/4" = 1'-0"



2 EXISTING EAST ELEVATION
 1/4" = 1'-0"

PROGRESS - NOT FOR CONSTRUCTION

706 MAIN ST.
ZBA 23-25



Petitioner request to enlarge a pre-existing non-conforming multifamily use from 3 units to 5 units per Articles 18.2 & 25.7 of the Zoning Regulations.



NOTICE OF HEARING

ZBA 23-25

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

ZBA 23-25: Petitioner, 706 Main St. Owner LP, of Newark, DE, represented by Jeffrey Christensen, Esq. of Cleveland, Waters and Bass of Concord, NH, requests an Enlargement or Expansion of a Nonconforming Use for property located at 706 Main St., Tax Map #120-019-000 and is in the Low Density District. The Petitioner requests to expand or enlarge the pre-existing, nonconforming three unit multi family use to add two additional dwelling units, per Articles 18.2 and 25.7 of the Zoning Regulations.

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

Corinne Marcou, Zoning Clerk

Notice issuance date October 27, 2023

City of Keene, NH

Zoning Board of Adjustment Enlargement or Expansion Application



| | |
|-----------------------------|-----------------|
| For Office Use Only: | |
| Case No. | <u>ZBA23-25</u> |
| Date Filled | <u>10/19/23</u> |
| Rec'd By | <u>CJM</u> |
| Page | _____ of _____ |
| Rev'd by | _____ |

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

SECTION 1: CONTACT INFORMATION

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

OWNER / APPLICANT

NAME/COMPANY: 706 Main St Owner LP

MAILING ADDRESS: 254 Chapman Road Suite 208 #12236, Newark, DE, 19702

PHONE: (236) 994-7172

EMAIL: pellegrinoenterprises@gmail.com

SIGNATURE:

PRINTED NAME: Leslie Pellegrino

APPLICANT (if different than Owner/Applicant)

NAME/COMPANY:

MAILING ADDRESS:

PHONE:

EMAIL:

SIGNATURE:

PRINTED NAME:

AUTHORIZED AGENT (if different than Owner/Applicant)

NAME/COMPANY: Cleveland, Waters and Bass, P.A.; Jeffrey Christensen, Esq.

MAILING ADDRESS: Two Capital Plaza, Fifth Floor, Concord, NH 03301

PHONE: (603) 224-7761

EMAIL: christensenj@cwbp.com

SIGNATURE:

PRINTED NAME: Jeffrey Christensen, Esq.

SECTION 2: GENERAL PROPERTY INFORMATION

Property Address: **706 Main Street**

Tax Map Parcel Number: **120-19**

Zoning District: **Low Density**

Lot Dimensions: Front: **57.98** Rear: Side: Side:

Lot Area: Acres: **0.61±** Square Feet: **26,494±**

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

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

Present Use: **multi-family (3-unit)**

Proposed Use: **multi-family (5-unit)**

SECTION 3: WRITTEN NARRATIVE

Article 27.7.4.A.: Describe the property location, owner of the subject property, and explain the purpose and effect of, and justification for, the proposed expansion or enlargement of a nonconforming use.

See attached.

SECTION 4: APPLICATION CRITERIA

Article 25.7.1: A nonconforming use of a structure or land may be expanded or enlarged with approve from the Zoning Board of Adjustment, provided such expansion or enlargement does not violate any of the basic zone dimensional requirements of the zoning district in which it is located.

An enlargement and/or expansion of a nonconforming use is required in order to:

expand or enlarge the pre-existing, nonconforming three-unit multi-family use of the Property to add two additional dwelling units

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

1. Such expansion or enlargement would not reduce the value of any property within the zoning district, nor otherwise be injurious, obnoxious or offensive to the neighborhood.

See attached.

2. There will be no nuisance or serious hazard to vehicles or pedestrians.

See attached.

3. Adequate and appropriate facilities (i.e., water, sewer, streets, parking, etc.) will be provided for the proper operation of the proposed use.

See attached.

**706 Main St Owner LP
706 Main Street (Map 120, Lot 19)**

**APPLICATION FOR VARIANCE
STATEMENT OF FACTS AND LAW**

This Statement of Facts and Law is submitted by 706 Main St Owner LP (the “Applicant”) with respect to its real property located at 706 Main Street (Map 120, Lot 19, the “Property”), in connection with this application for variance (the “Application”) to permit the expansion of its multi-family use on the Property.

All testimony, statements, representations, evidence, plans, reports, studies, and other information submitted or to be submitted by or on behalf of the Application in connection with the Application at or prior to the public hearing on the Application are incorporated by reference hereto. The applicant requests that the Zoning Board of Adjustment (the “ZBA” or the “Board”) approve this Statement of Facts and Law as the specific findings required pursuant to RSA 676:3, I.

Background and Description

The Property is an approximately 0.63 acre pre-existing, nonconforming lot that currently contains a 2,148 square foot three-unit multi-family dwelling (the “Primary Structure”) and a 660 sqft attached barn (the “Barn”). The Property is in the Low Density (LD) Zone. A survey of the Property is attached hereto as Exhibit 1.¹

The Applicant proposes to convert the Barn into two additional dwelling units, converting the Property into a total of five-units. Other than additional parking, the only changes will be to the interior and cosmetic features of the Property. In other words, the footprint of the existing structures will remain unchanged.

Because the Property is a pre-existing nonconforming lot and structure, this will require approval from the ZBA pursuant to Sections 18.2 and 25.7 of the Zoning Ordinance to expand or enlarge the nonconforming multi-family use.

Details of Request

The Applicant requests approval pursuant to Sections 18.2 and 25.7 of the Zoning Ordinance, for the enlargement or expansion of its pre-existing, nonconforming multi-family use of the Property to add two additional dwelling units.

¹ This survey includes the proposed expansion of the parking layout as it will be expanded to accommodate the proposed use.

Application Standards

1. *The proposal would not reduce the value of any property within the zoning district, nor otherwise be injurious, obnoxious or offensive to the neighborhood.*

The proposed expansion will have no impact on the value of other properties within the zoning district. As mentioned above, the proposal redevelops an existing building – the only real changes are to the interior floorplan. It is plausible that neighboring properties would not even notice, never mind experience any negative impact to their property value. Likewise, any theoretical impact on nearby properties that results from the proximity of a multifamily property already exists. In other words, there will be no change resulting from this expansion.

Nor will there be any injurious, obnoxious, or offensive impact to the neighborhood. From the perspective of the surrounding neighborhood, the Property will remain essentially unchanged. The only change visible from the exterior will be additional parking, which the Applicant could do regardless of this variance.

2. *There will be no nuisance or serious hazard to vehicles or pedestrians.*

The Property is oddly shaped and, therefore, has much more space than its frontage would suggest. There is plenty of space for parking on the Property, as shown on Exhibit 1. As such, there will be no nuisance or hazard to vehicles or pedestrians as a result of the proposed expansion. The Property is already used for multi-family purposes and no nuisance, hazard, or other problem has arisen. There is no reason to believe that the expansion of that use will suddenly create such an issue, especially in light of the Property's location on Main Street and proximity to the downtown area, which can easily accommodate a minor increase in vehicle traffic.

3. *Adequate and appropriate facilities will be provided for the proper operation of the proposed use.*

The Property is already served by adequate and appropriate facilities. It is connected to municipal utilities, including water and sewer, and the proposed additions will likewise be connected. There is sufficient space for adequate parking on the Property. The Property's location ensures that it is easily accessible by municipal or emergency services, if necessary.

The Applicant reserves the right to amend, modify, and/or supplement this application at or before the hearing thereon.

EXHIBIT 1

LIST OF ABUTTERS/NOTIFICATION LIST
County of Cheshire
Keene, New Hampshire
706 Main Street (Map/Lot 120-019)
Application for Variance

| Owner Applicant | Street Address | Map/Block/Lot |
|--|------------------------------------|----------------------|
| 706 Main St Owner LP 19 Sunrise Lane Weare, NH 03281 | 706 Main Street Keene, NH 03431 | 120-019 |
| Applicant's Consultants | Street Address | Map/Block/Lot |
| Cleveland Waters and Bass, P.A. Two Capital Plaza, 5 th Floor Concord, NH 03301 Attn: Jeffrey C. Christensen, Esq. | N/A | N/A |
| Allen & Major Associates, Inc. 400 Harvey Road Manchester, NH 03103 | N/A | N/A |
| Abutters | Street Address | Map/Block/Lot |
| State of New Hampshire P.O. Box 483 Concord, NH 03302-0483 | 0 Main Street | 120-014 |
| | 0 Main Street | 120-015 |
| | 0 Main Street | 120-016 |
| | 698 Main Street | 120-017 |
| | 702 Main Street | 120-018 |
| | 708 Main Street | 120-020 |
| | 714 Main Street | 120-022 |
| | 718 Main Street | 120-023 |
| Chestnut Hill Condominium 400 Amherst Street Nashua, NH 03064 | 710 Main Street | 120-021-000-000-995 |
| Princeton Keene LLC 1115 Westford Street Lowell, MA 01851 | 18-38 Village Drive Keene, NH | 120-024 |
| Papagallos LLC 9 Monadnock Highway No. Swanzey, NH 03431 | 709 Main Street | 120-026 |
| Alcide and Linda Bergeron 707 Main Street Keene, NH 03431 | 707 Main Street | 120-027 |
| Jacob and Stacey Meeks 705 Main Street Keene, NH 03431 | 705 Main Street | 120-028 |
| Brian and Sabryna Priest 701 Main Street Keene, NH 03431 | 701 Main Street | 120-029 |

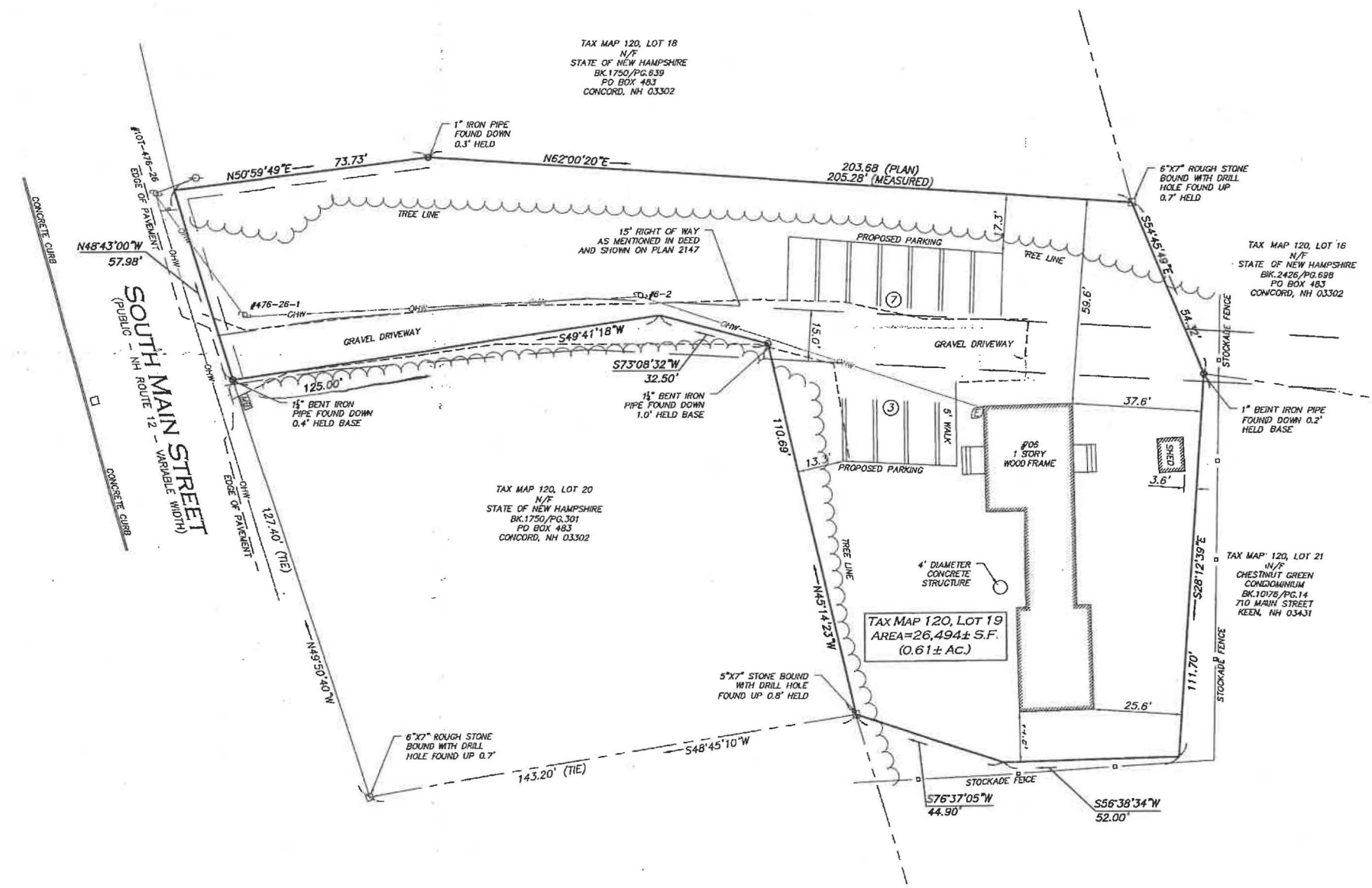
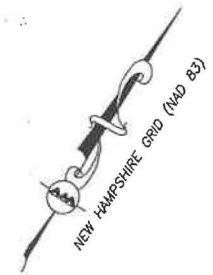
| | | |
|--|-----------------------------|---------|
| David and Hattie Todd 10 Old Homestead Highway Keene, NH 03431 | 0 Old Homestead Highway | 120-030 |
| David P. Todd 10 Old Homestead Highway Keene, NH 03431 | 10 Old Homestead Highway | 120-31 |

October 17, 2023

4884-7330-1895, v. 1



LOCUS MAP
(NOT TO SCALE)

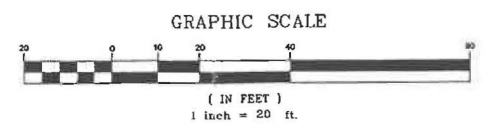


| LEGEND | |
|------------------|-------|
| STONE BOUND (SB) | □ |
| IRON PIPE (IP) | ○ |
| CATCH BASIN (CB) | □ |
| UTILITY POLE | ⊕ |
| GUY POLE | ⊙ |
| MAILBOX | Ⓜ |
| SIGN | Ⓢ |
| ELECTRIC METER | Ⓜ |
| BUILDING | ▭ |
| PROPERTY LINE | — |
| ABUTTERS LINE | - - - |
| TREE LINE | ~ ~ ~ |
| EDGE OF PAVEMENT | — |
| EDGE OF GRAVEL | - - - |
| CURB | — |
| STOCKADE FENCE | — |
| OVERHEAD WIRES | - - - |
| NOW OR FORMERLY | N/F |
| BOOK | BK. |
| PAGE | PG. |

LOCUS REFERENCES
 -CITY OF KEENE TAX MAP 120, LOT 19
 -C.C.R.D. BOOK 3232, PAGE 1142
 -PLAN ENTITLED, "PROPERTY TO BE CONVEYED TO EMILE J. LEGERE MAIN STREET KEENE-SWANZEY", SCALE 1"=50', DATED JAN. 8, 1981, PREPARED BY DIBENARDO ASSOCIATES, AND ON FILE AT THE C.C.R.D. IN PLAN ROLL 913 (CABINET 5-104).

PLAN REFERENCES
 -PLAN ENTITLED, "LAND ACQUIRED BY STATE OF NEW HAMPSHIRE FROM ELAIN H. SCHIERIOTH 2000 REVOCABLE TRUST, ELAINE H. SCHIERIOTH, TRUSTEE, IN KEENE, NH CHESHIRE COUNTY", NOT TO SCALE, DATE UNKNOWN, PREPARED BY UNKNOWN, AND ON FILE WITH THE CITY OF KEENE AS PLAN NO. 2353.
 -PLAN ENTITLED, "PLANIMETRIC SURVEY OF CHESTNUT GREEN AS OF APRIL 1 1985, ROUTE 12, KEENE, NH", SCALE 1"=30', DATED APRIL 2, 1985, PREPARED BY DIBENARDO ASSOCIATES, AND ON FILE AT THE C.C.R.D. IN CABINET 06, DRAWER 00, PLAN 70.

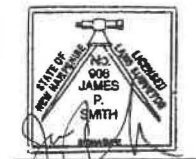
- NOTES**
- NORTH ARROW IS BASED ON NEW HAMPSHIRE GRID COORDINATE SYSTEM (NAD 83).
 - BOOK/PAGE AND PLAN REFERENCES ARE TAKEN FROM THE CHESHIRE COUNTY REGISTRY OF DEEDS IN KEENE, NH.
 - THE INTENT OF THIS PLAN IS TO SHOW THE LOCATION OF BOUNDARIES IN ACCORDANCE WITH CURRENT LEGAL DESCRIPTIONS. IT IS NOT AN ATTEMPT TO DEFINE UNWRITTEN RIGHTS, DETERMINE THE EXTENT OF OWNERSHIP OR DEFINE THE LIMITS OF TITLE.



R:\PROJECTS\3265-01\SURVEY\DRAWINGS\CURRENTS-3265-01-PL.DWG
 12/17/23 11:11 AM PG. 222

THIS PLAN IS THE RESULT OF AN ACTUAL ON THE GROUND SURVEY PERFORMED ON JULY 24, 2023 AND HAD AN ERROR OF CLOSURE OF NO GREATER THAN 1/10,000.

ALLEN & MAJOR ASSOCIATES, INC.



JAMES P. SMITH NH LLS #9908 DATE 8-8-23

| REV | DATE | DESCRIPTION |
|-----|------|-------------|
| | | |
| | | |
| | | |
| | | |

APPLICANT/OWNER:
PELLEGRINO PROPERTIES, LLC
 19 SUNRISE LANE
 WEARE, NH 03281

PROJECT:
706 MAIN STREET
 KEENE, NH

PROJECT NO. 3265-01 DATE: 8/07/23

SCALE: 1" = 20' DWG. NAME: S3265-01-PL

DRAFTED BY: AJR CHECKED BY: JPS

PREPARED BY:

ALLEN & MAJOR ASSOCIATES, INC.
 civil engineering • land surveying
 environmental consulting • landscape architecture
 www.allenmajor.com
 400 HARVEY ROAD
 MANCHESTER, NH 08108
 TEL: (603) 627-5500
 FAX: (603) 627-5501

WOBBURN, MA • LAKEVILLE, MA • MANCHESTER, NH
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DRAWING TITLE: PLAN OF LAND SHEET NO. 1

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63 CARPENTER ST.
ZBA 23-26



Petitioner requests a change of use from warehouse to a health center/gym where a gym is not a permitted use per Article 3.5.5 of the Zoning Regulations.



NOTICE OF HEARING

ZBA 23-26

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

ZBA 23-26: Petitioner, Tasoulas Realty, dba MGJ Realty of Keene, requests a Variance for property located at 63 Carpenter St., Tax Map #573-067-000 and is in the Medium Density District. The Petitioner requests a change of use from warehouse to a health center/gym where a gym is not a permitted use per Article 3.5.5 of the Zoning Regulations.

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

Corinne Marcou, Zoning Clerk

Notice issuance date October 27, 2023

Zoning Board of Adjustment Variance Application



| | |
|-----------------------------|----------|
| For Office Use Only: | |
| Case No. | 2BA23-26 |
| Date Filled | 10/20/23 |
| Rec'd By | cm |
| 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: Tasoulas Realty dba MGJ Realty

MAILING ADDRESS: PO Box 562, Keene, NH

PHONE: (603) 352-5843

EMAIL: tasrent11@gmail.com

SIGNATURE:

PRINTED NAME:

John C. Tasoulas

APPLICANT (if different than Owner/Applicant)

NAME/COMPANY:

MAILING ADDRESS:

PHONE:

EMAIL:

SIGNATURE:

PRINTED NAME:

AUTHORIZED AGENT (if different than Owner/Applicant)

NAME/COMPANY:

MAILING ADDRESS:

PHONE:

EMAIL:

SIGNATURE:

PRINTED NAME:

SECTION 2: PROPERTY INFORMATION

Property Address: **36 Carpenter Street, Keene**

Tax Map Parcel Number: **573067000000000**

Zoning District **Medium density**

Lot Dimensions: Front: **251 ft** Rear: **251 ft** Side: **223** Side: **230**

Lot Area: Acres: **1.2** Square Feet: **52,272**

% of Lot Covered by Structures (buildings, garages, pools, decks, etc): Existing: **42%** Proposed: **42%**

% of Impervious Coverage (structures plus driveways and/or parking areas, etc): Existing: **68%** Proposed: **68%**

Present Use: **Light industrial**

Proposed Use: **Warehouse space to gym**

SECTION 3: WRITTEN NARRATIVE

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

The property is located on the east side of Keene in the former industrial corridor. There are many industrial buildings in the district. This building sits on the edge of a medium density zone and is currently across the street from the Patricia T. Russell Park. It is located on Carpenter Street - a major north/south thoroughfare.

The owner is MGJ Realty and has owned the property since 1995.

The purpose would allow the CrossFit gym to continue to operate on the site. The gym has been open for three years and has yielded a positive effect on the neighborhood, offering the community on the East side of Keene a viable space to improve their quality of life.

Industrial use is very limited and dwindling in Keene, currently. The proposed use serves as an innovative use for the property and has been a positive addition to surrounding neighborhoods.

SECTION 4: APPLICATION CRITERIA

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

A change of use from warehouse to gym.

Permitted 3:5.5 permitted uses EXMS 9K1
in the MD ZONE.

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 public interest would be served as a reasonable use would be permitted in an industrial building that no longer serves as an industrial site. A gym provides opportunities to improve quality of life while providing social capital. Because of its proximity to the Patricia T. Russell Park, use of the public space by gym clientele has increased.

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

If the ordinance were for medium impact residential, then this use would be within the spirit because this too would be very low impact on the district.

3. Granting the variance would do substantial justice because:

Industrial use has diminished in Keene. The building is no longer viable as is. Granting a use variance would allow the gym to create substantial justice by becoming a viable space.

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

See Realtor's opinion provided.

5. Unnecessary Hardship

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

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

The hardship: At some point an industrial building was placed in an medium density which has no or very little permitted industrial uses. It would virtually become impossible to transition this property into residential use. Additionally, the property sits in the flood plain.

There is no other option: it is either a residential property or nothing. The general public purposes is to keep industrial properties out of a medium density zone.

and

ii. The proposed use is a reasonable one because:

It is a reasonable use of an industrial building and will have no or very low impact on a medium density zone.

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

If reasonable uses are not permitted at this site, then the property will have no or very little economic value. By not allowing reasonable use of this building it would be considered a "taking".

4

10/20/2023

To whom it may concern,

I am writing this letter to explain my opinion as a real estate professional and the potential impact the variance could impose on surrounding properties.

Attached is a list of properties within proximity to the subject property, 36 Carpenter St, Keene, NH 03431, the location CrossFit Monadnock currently occupies as long-term tenants.

All the attached properties have sold within the last 3 years, the approximate time frame that the space has been used as a Health Center / Gym.

It would be my professional opinion that the use of the subject space as a Health Center / Gym did not decrease nor diminish the property value whatsoever.

It could be interpreted as a benefit to the neighborhood, and the community, to have a professional, well-established, quiet, and responsible occupant providing services, purpose, and motivation to many individuals. Additionally, this type of use would compliment the cities newly renovated Patricia T. Russell Park, and any further plans for a new skate park and The City's two preliminary concepts for Robin Hood Park improvements based upon community feedback and long-term requirements. (Provided by consultant Dubois & King Inc.)

Sincerely,

Paul Rodenhauer
NH License#077829
VT License#082.0135058
NHCIBOR Member#2508
Realtor®



1

Residential Single Family
4938117
Closed

64 Carpenter Street
Keene NH 03431
Unit/Lot #

Listed: 12/1/2022 \$239,900
Closed: 2/10/2023 \$249,900
DOM: 11



County NH-Cheshire
VillDStLoc
Year Built 1910
Style Other
Color
Total Stories 1.75
Taxes TBD No
TaxGrosAmt \$6,274.27
Tax Year 2022
Tax Year Notes

Rooms - Total 7
Bedrooms - Total 4
Baths - Total 2
Baths - Full 2
Baths - 3/4 0
Baths - 1/2 0
Baths - 1/4 0
SqFt-Apx Total Finished 2,833
SqFt-Apx Total 2,833
Lot Size Acres 0.20
Lot - Sqft 8,712
Footprint

Delayed Showing No
Date - Showings Begin

Directions Main St. to Water St. Left onto Carpenter St. House is on the right.



Property Panorama VTour

Remarks - Public 4 bedroom, 2 bath Keene residence convenient to downtown, Robin Hood Park, Gathering Waters Chartered Public School and Keene State College. This home offers spacious rooms, an attractive kitchen with many cabinets, hardwood floors, handsome woodwork, 2/first floor bedrooms, family room, enclosed front porch and slider to 10x20 deck overlooking a large yard. This home has so much to offer it deserves your attention!

STRUCTURE

Construction Status Existing
Rehab Needed
Construction Wood Frame
Foundation Brick, Granite
Exterior Vinyl Siding
Roof Shingle - Asphalt
Basement Yes
Basement Access Type Interior
Basement Description Bulkhead, Concrete, Full, Stairs - Interior, Unfinished
Garage No
Garage Capacity
Garage Type

Estimated Completion Date

SqFt-Apx Fin Above Grade 1,954
List \$/SqFt Fin ABV Grade \$122.77
SqFt-Apx Fin AG Source Public Records
SqFt-Apx Unfn Above Grade 0
SqFt-Apx Unfn AG Source
SqFt-Apx Fin Below Grade 879
List \$/SqFt Fin Below Grade \$272.92
SqFt-Apx Fin BG Source Public Records
List \$/SqFt Fin Total \$84.68
SqFt-Apx Unfn Below Grade 0
SqFt-Apx Unfn BG Source
SqFt-Apx Tot Below Grade
SqFt-Apx Tot BG Source

ROOMS DIMS. / LVL ROOMS DIMS. / LVL

Deed - Recorded Type Warranty
Deeds - Total
Deed - Book 3060
Deed - Page 0070
Deed 2 - Book
Deed 2 - Page
Plan Survey Number
Property ID
Zoning Residential

PUBLIC RECORDS

Map 57
Block 30
Lot 68
SPAN#
Tax Class
Tax Rate
Current Use
Land Gains
Assessment Year
Assessment Amount
Assessments - Special

LOT & LOCATION

Development / Subdivision
Owned Land
Common Land Acres

School - District
School - Elementary
School - Middle/Jr
School - High

Lot Description City Lot

Roads Public
Road Frontage TBD
Road Frontage Length

ROW - Length
ROW - Width
ROW - Parcel Access
ROW to other Parcel
Surveyed Unknown

Waterfront Property
Water View
Water Body Access
Water Body Name
Water Body Type
Water Frontage Length
Waterfront Property Rights
Water Body Restrictions

Multi-Family
4833434
Closed

215 Church Street
Keene NH **03431-3931**
Unit/Lot #

Listed: 10/9/2020 **\$215,000**
Closed: 1/20/2021 **\$240,000**
DOM: 9



County NH-Cheshire
VillDstLoc
Year Built 1920
Style Multi-Family
Color
Total Stories 2.5
Taxes TBD No
TaxGrosAmt \$80,016.32
Tax Year 2019
Lot Size Acres 0.43
Lot - Sqft 18,731

Total Units 4
Total 1 BR Units 1
Total 2 BR Units 1
Total 3+ BR Units 2
Total Leases
Gross Income
Operating Expense
Net Income

Delayed Showing No
Date - Showings Begin

Directions 215 Church Street in Keene



Remarks - Public Investors take note: Here is an opportunity to purchase a lovely four-unit multifamily property located in the heart of Keene! The building is within walking distance to all that the city has to offer including restaurants, parks, shops and Keene State College. Inside the structure you will find (1) one-bedroom apartment, (1) two-bedroom apartment and (2) three-bedroom apartments. Located on a corner lot this building is on public water and sewer. Owner has a New Hampshire Real Estate License. Listing agent is related to seller.

STRUCTURE

Construction Status Existing
Construction Wood Frame
Foundation Brick, Concrete
Exterior Other
Roof Slate
Basement Yes
Basement Access Type Interior
Basement Description Concrete

Estimated Completion Date

Footprint
SqFt-Apx Fin Above Grade 3,631
SqFt-Apx Fin AG Source Public Records
SqFt-Apx Fin Below Grade 0
SqFt-Apx Fin BG Source Public Records
SqFt-Apx Unfn Above Grade 0
SqFt-Apx Unfn AG Source Public Records
SqFt-Apx Unfn Below Grade 1,533
SqFt-Apx Unfn BG Source Public Records
SqFt-Apx Tot Below Grade
SqFt-Apx Total Finished 3,631
SqFt-Apx Total 5,164

Garage No
Garage Capacity
Garage Type

| | Unit 1 | Unit 2 | Unit 3 | Unit 4 | Unit 5 | Unit 6 | Unit 7 | Unit 8 |
|-----------------------|--------|--------|--------|--------|--------|--------|--------|--------|
| Style | | | | | | | | |
| Level Number | | | | | | | | |
| Apx Sqft | | | | | | | | |
| Bedrooms | | | | | | | | |
| Baths | | | | | | | | |
| Rooms | | | | | | | | |
| Status | | | | | | | | |
| Deposit | | | | | | | | |
| Rental Agr/Trm | | | | | | | | |
| Rental Amt/Frq | | | | | | | | |
| Occupant Name | | | | | | | | |
| Occupant Phone | | | | | | | | |
| Showing Instr | | | | | | | | |
| Unit Info | | | | | | | | |

Tenant Pays

Corinne Marcou

From: John Tasoulas <tasrent11@gmail.com>
Sent: Friday, October 20, 2023 1:21 PM
To: Corinne Marcou
Subject: Fwd: 36 Carpenter St. parking requirements

Sent from my iPhone

Begin forwarded message:

From: John Tasoulas <tasrent11@gmail.com>
Date: October 19, 2023 at 3:49:41 PM EDT
To: Mike Hagan <mhagan@keenenh.gov>
Subject: 36 Carpenter St. parking requirements

Dear zoning administrator. I have tallied up the function square footages at 36 Carpenter St. By uses.

| | |
|---------------------------------|--------------------|
| Office 4000 ft. ² . | 16 parking spaces. |
| Warehouse 5000 ft. ² | 2.5 parking spaces |
| Gym 6000 ft. ² . | 24 parking spaces. |

Total parking spaces 42.5

Currently 36 Carpenter St. has 43 permitted parking spaces and with the changes in use. We still have a half a parking space in excess.

Best regards,
John Tasoulas

Sent from my iPhone

NOTICE LIST

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

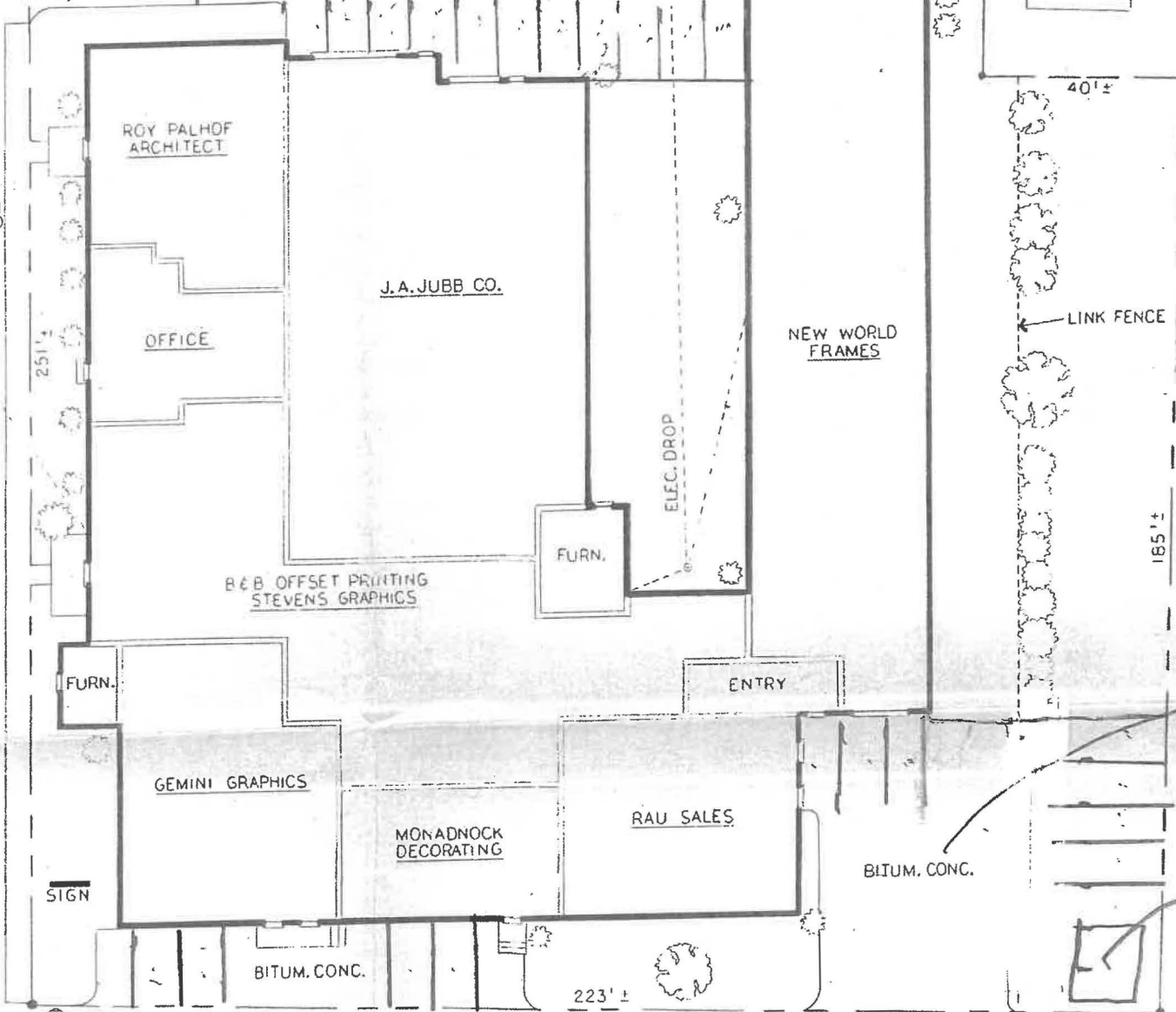
| OWNER NAME | MAILING ADDRESS | STREET ADDRESS (If different from mailing address) | TAX MAP PARCEL (TMP) # |
|--|----------------------------|---|--------------------------------------|
| 64 Carpenter st | 576 Lancaster | Unit 23 ⁰³⁴⁴² Bennington NH | 5730680000000000 |
| AB Management | 283 Mayo Hill Rd | Swanzy NH 03446 | 5730740000000000 |
| Don Beckson | 229 Church st | Keene NH 03431 | 5730650000000000 |
| Wanda Chabott BEP Chabott | 245 Church st | Keene NH 03431 | 5730600000000000 |
| Lisa Cheney | 39 Kingsbury st | Keene NH 03431 | 5730500000000000 |
| City of Keene | 3 Washington st | Keene NH 03431 | 5730730000000000 |
| Royal Desrosiers Catherine Desrosiers | 25 Valley st | Keene NH 03431 | 5730560000000000 |
| William Duine | Po Box 52 | Troy NH 03465 | 5730440000000000 |
| Michael Downs East Haven Property | 39 Valley st Po Box 318 | Keene NH 03431 Chesterfield NH 03443 | 5730540000000000 5730520000000000 |
| Dylan Eastman | 144 Main st Apt C | Winchester NH 03470 | 5730550000000000 |
| Tim Hayes | 20 Kirk ct | Keene NH 03431 | 5730630000000000 |
| Diane Howard | 197 Church st | Keene NH 03431 | 5730750000000000 |
| S&B Properties | 151 Court st | Keene NH 03431 | 5730660000000000 |
| Sedana Korson | 241 Church st | Keene NH 03431 | 5730610000000000 |
| M&S Realty | Po Box 562 | Keene NH 03431 | 5730510000000000 |
| M&S Realty | Po Box 562 | Keene NH 03431 | 5730670000000000 |
| Mick Moore | 185 Church st | Keene NH 03431 | 5730760000000000 |
| Brin Moran | 7 Kirk ct | Keene NH 03431 | 5730640000000000 |
| Molly Old Plumber Davis & SA | 30 Kingsbury st | Keene NH 03431 | 5730530000000000 |
| Michael & Andrea Reynolds | 17 Valley st | Keene NH 03431 | 5730570000000000 |
| Jason Scholz Kara D. Kakis | 82 Washington st | Melrose MA 02176 | 5730430000000000 |

CARPENTER STREET

KIRK COURT

33 spaces
COMPACTED GRANULAR

| | |
|--------------------|-------------------------------------|
| ZONING | MD |
| LOT AREA | 53960 SF |
| EXIST. BLDNG. AREA | 23077 SF |
| AVAILABLE PARKING | 43 SPACES ON SITE @ 8' X 18' EA. |



6 spaces

Dumpster

4 spaces
KINGSBURY STREET



| | |
|------------------------|---------------------------|
| 36-40 CARPENTER STREET | |
| SCALE: 1" = 20' | DRAWN BY: JOHN M. FLEMING |
| DATE: 7-13-87 | |
| TASOULAS REALTY | 70718-P1 |
| SITE PLAN | |

| REVISIONS: |
|------------|
| |
| |
| |
| |
| |

62 MAPLE AVE.
ZBA 23-27



Petitioner requests a Variance for a directional sign exceeding the allowable size of 4 sq. ft. per Article 10.2 of the Zoning Regulations.



NOTICE OF HEARING

ZBA 23-27

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

ZBA 23-27: Petitioner, Kathryn Willbarger of Cheshire Medical Center, represented by Michael Vickers of Design Communications, Avon, MA, requests a Variance for property located at 62 Maple Ave., Tax Map #227.006-000 and is in the Industrial Park District. The Petitioner requests a directional sign exceeding the allowable size of 4 square feet per Article 10.2 of the Zoning Regulations.

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

Corinne Marcou, Zoning Clerk
Notice issuance date October 27, 2023

City of Keene, NH

Zoning Board of Adjustment Variance Application



| | |
|-----------------------------|----------|
| For Office Use Only: | |
| Case No. | 2BA23-27 |
| Date Filled | 10/23/23 |
| Rec'd By | GM |
| Page | 1 of 1 |
| Rev'd by | |

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

SECTION 1: CONTACT INFORMATION

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

OWNER / APPLICANT

NAME/COMPANY: Cheshire Medical Center

MAILING ADDRESS: 62 Maple Avenue, Keene, NH 03431

PHONE: 603-757-2006

EMAIL: kwillbarger@cheshire-med.com

SIGNATURE: *Kathryn Willbarger*

PRINTED NAME: Kathryn Willbarger

APPLICANT (if different than Owner/Applicant)

NAME/COMPANY:

MAILING ADDRESS:

PHONE:

EMAIL:

SIGNATURE:

PRINTED NAME:

AUTHORIZED AGENT (if different than Owner/Applicant)

NAME/COMPANY: Design Communications

MAILING ADDRESS: 85 Bodwell St, Avon, MA 02322

PHONE: 857-358-8298

EMAIL: MVickers@dclboston.com

SIGNATURE: *Mike Vickers*

PRINTED NAME: Mike Vickers

SECTION 2: PROPERTY INFORMATION

Property Address: 62 Maple Ave, Keene, NH 03431

Tax Map Parcel Number: Map No. 227, lot 6

Zoning District Industrial Park (IP)

Lot Dimensions: Front: 800' Rear: 800' Side: 975' Side: 975'

Lot Area: Acres: 17.9 Square Feet: 780,000

% of Lot Covered by Structures (buildings, garages, pools, decks, etc): Existing: 88,800 Proposed: 88,800

% of Impervious Coverage (structures plus driveways and/or parking areas, etc): Existing: 32,800 Proposed: 32,800

Present Use: Health Care Facility

Proposed Use: Health Care Facility

SECTION 3: WRITTEN NARRATIVE

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

The request is to allow two directional signs larger than what is allowed by code. Maximum allowed is 4 SF, we request a variance to allow (2) signs that are 17.08 SF each. These signs are directional, not commercial advertising.

Cheshire Medical Center acquired the property recently, and in the future will occupy the entire building. Renovation however is being done in phases. The first phase renovates approximately 10% of the building, in the very back or northwest side of the building. This new entrance is completely invisible from the street, and from the vehicular entrance point at Maple Avenue. As this is a health care facility, patients often arrive under duress, the population is often elderly, and a certain percentage of patients are vision compromised. Efficiently directing them to the back-building entrance is critical.

Our proposed signs feature directional messages at a 4.375" letter height. According to universal design guidelines the maximum legibility of this size letter is 145'. It is critical that the first sign is legible as soon as one enters the property from Maple Avenue to confirm you must proceed straight ahead. The building has a clearly visible "main entrance" at the southeast facade, adjacent to the entry point. If you mistakenly turn left and park there the entry doors are locked, clearly confusing to certain populations. It is unacceptable to have healthcare patients unable to easily and directly access critical services.

The first directional is located 140' from the left turn-in lane off Maple Avenue. The second directional is located 200' past the first, in order to reinforce the correct direction and inform that you will soon turn left to the entrance. The entrance is still not visible from this point, but becomes visible in short order.

The maximum size letter available on a 4 SF sign is approximately 1", or 30', which will not work for this purpose.

SECTION 4: APPLICANTION CRITERIA

A Variance is requested from Article (s) 10.2 of the Zoning Regulations to permit:

a directional sign exceeding the allowable size of 4 square feet.

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:

Granting the variance is in the best interest of the public for reasons expressed in Section 3. Additionally, the directionals are not on the public right of way or visible from the street so the traveling public is not affected. The signs are not illuminated, no lighting issues. And they are not commercial advertising, simply critical, functional directionals.

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

The signs are enlarged only as much as is required to properly function, and they are not near the street. The spirit of the ordinance is to regulate visible clutter and advertising directly on the streets, and in vehicular site-lines for safety reasons. These are not factors in our request. A health care facility is not a "competitive, commercial business entity" in definition, it is a public service entity. Standard business advertising rules cannot apply in the same way.

3. Granting the variance would do substantial justice because:

As stated in section 3 above it is critical that patients easily, directly and quickly find the entrance of any health care facility when under duress, elderly or vision compromised.

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

These signs, though larger than allowed by code are not overbearing in any sense compared to the size of the facility and the lot. There is a substantial buffer zone between the signs and the nearest residential neighbors, who will be notified of this request.

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:

Per Section 3 above, the entrance for now is at the back of the building, these signs are critical functioning tools to direct traffic to the entrance. And per the answer at 4.2. the public purpose of the ordinance is not affected.

and

ii. The proposed use is a reasonable one because:

It utilizes the minimum size sign that will function for the intended purpose and addresses a public-safety concern. If the signs were reduced to 4SF they would not function causing distress, potential liabilities (see Laura's Law in the state of Massachusetts) and could potentially cause patients to seek out information from adjacent properties about where the facility is and how to enter it.

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.

Originally this property was a large insurance office. With that use visitors were few and directing them to park in the visitor lot at the front of the building, with the main entrance clearly visible was a non-critical function. Now that the use has changed drastically, and has a high percentage of visitors, including first-time visitors, these signs are critical in finding the hidden entrance.



● INSTALL LOCATION PLAN
PLAN VIEW



DESIGN COMMUNICATIONS LTD.

85 Bowdoin Street phone 617.543.0830
Aver. MA 02322 fax 617.851.0777

Dartmouth Health Rebrand
DH-027 - Cheshire Medical
Center West

| TITLE | INDEX |
|-------|-------|
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| ISSUE | For approval 14 JUL 23 19 JUL 23 26 JUL 23 |
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| DRAWN BY | LET |
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scale: full

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| Graphic Layout 16963 - | 00 |
|---------------------------|----|

NOTE: PLEASE SEE SHOP DWGS FOR FABRICATION & MTD DETAILS



DESIGN COMMUNICATIONS LTD.

85 Bowdoin Street phone 817.542.9820
 Avon, MA 02322 fax 817.551.0777

Dartmouth Health Rebrand
 DH-027 - Cheshire Medical
 Center West

TITLE Sign Type PPB.48.SS: Post
 and Panels - Standard 48"

ISSUE For Approval
 14 JUL 23
 19 JUL 23

DRAWN BY LET

scale: 3/4" = 1' - 0"

Graphic Layout 2
 18983 -



ST:PPB.48.SS - POST & PANEL - STANDARD 48" - SIGN 002
 ELEVATION VIEW
 QTY: 1
 LOC: WEST CAMPUS

SIDE B (TYP)
 (2) PANELS
 1/8" THK ALUMINUM PANELS (FRONT & BACK)
 PTD (ON ALL SIDES) TO MATCH: PMS 336C "EVERGREEN"
 WITH SATIN CLEAR COAT

TEXT & ARROWS:
 FIRST SURFACE APPLIED REFLECTIVE VINYL GRAPHICS TO MATCH
 3M 680-D10 REFLECTIVE WHITE

COLOR BAND:
 FIRST SURFACE DIGITAL PRINT COLORS TO MATCH:
 PMS 336C (EVERGREEN), PMS 338C (SPRUCE), PMS 368C (JUNIPER)
 WITH 3M 6520 MATTE OVER LAMINATE

3" x 3" ALUMINUM TUBE ALUMINUM & BOTTOM PAINT BAND
 PTD TO MATCH: MP 41342 "BRUSHED ALUMINUM"
 WITH SATIN CLEAR COAT

LOGO:
 FIRST SURFACE APPLIED DIGITAL PRINT (CUT TO SHAPE)
 TO MATCH: PMS 336C "EVERGREEN" AND PMS 338C "SPRUCE"

(ST TOTAL: 2)



DESIGN COMMUNICATIONS LTD.

85 Bodwell Street phone 617.542.9670
Avon, MA 02322 fax 617.851.0777

**Dartmouth Health Rebrand
DH-027 - Cheshire Medical
Center West**

TITLE Sign Type PP.B.48.SS: Post
and Panels - Standard 48"

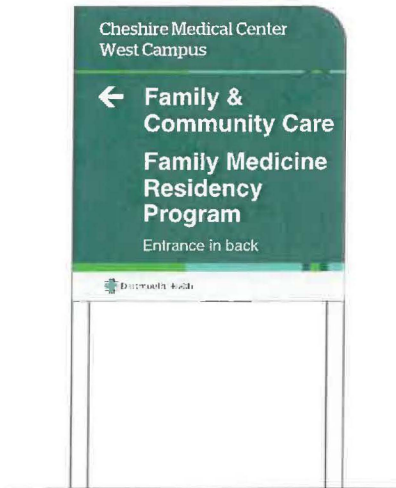
ISSUE For Approval
14 JUL 23
18 JUL 23

DRAWN BY LET

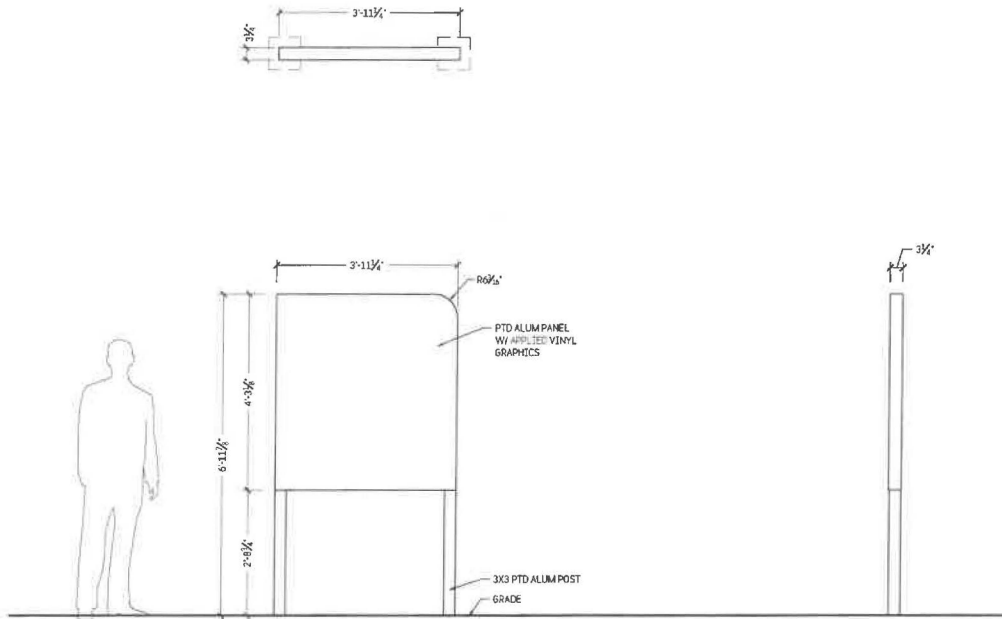
scale: 3/4" = 1' - 0"

Graphic Layout
16903 -

2a



● ST.PPB.48.SS - POST & PANEL - STANDARD 48" - SIGN 009
ELEVATION VIEW
QTY: 1
LOC: WEST CAMPUS



1 FRONT VIEW - PP.48 POST AND PANEL (LOC-002, 009)
1/2" = 1'-0" QTY: 2



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ORLANDO, FL 407.858.8881
NEW YORK, NY 212.265.3226

Dartmouth Health
Cheshire West
580 Court Street
Keene, NH 03401

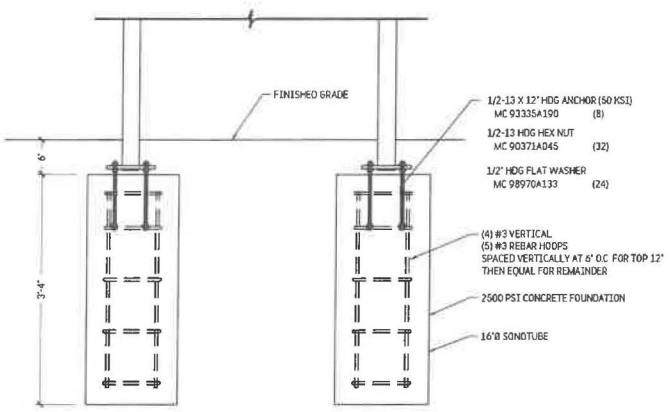
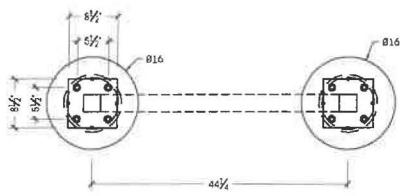
TITLE Sign Type PP.48:
Post and Panel

ISSUE For Approval
21 July 23

DRAWN BY ADH Exterior

CHECKED

Shop Drawing 18683 2



1 FOUNDATION
84" - 1'-0"

- 1/2-12 X 12" HDG ANCHOR (50 KSI)
MC 93335A190 (8)
- 1/2-12 HDG HEX NUT
MC 90371AD4S (32)
- 1/2" HDG FLAT WASHER
MC 98970A133 (24)
- (4) #3 VERTICAL
(5) #3 REBAR HOOPS
SPACED VERTICALLY AT 6" O.C. FOR TOP 12"
THEN EQUAL FOR REMAINDER
- 2500 PSI CONCRETE FOUNDATION
- 16"Ø SONOTUBE



DESIGN COMMUNICATIONS LTD.

BOSTON, MA 017 542 8820
ORLANDO, FL 407 858 8881
NEW YORK, NY 212 255 5228

**Dartmouth Health
Cheshire West**
580 Court Street
Keene, NH 03431

TITLE Sign Type PP.48:
Post and Panel

ISSUE For Approval
21 July 23

DRAWN BY ADH Exterior

CHECKED

Shop Drawing
18883 **2b**



200 feet Abutters List Report

Keene, NH
October 23, 2023

Subject Property:

Parcel Number: 227-006-000
CAMA Number: 227-006-000-000-000
Property Address: 62 MAPLE AVE.

Mailing Address: CHESHIRE MEDICAL CENTER
580 COURT ST.
KEENE, NH 03431

Abutters:

Parcel Number: 221-031-000
CAMA Number: 221-031-000-000-000
Property Address: 10 BOWMAN DR.

Mailing Address: SMITHS MEDICAL ASD INC.
10 BOWMAN DR.
KEENE, NH 03431-5043

Parcel Number: 227-003-000
CAMA Number: 227-003-000-000-000
Property Address: 0 SUMMIT RD.

Mailing Address: C&S WHOLESALE GROCERS INC
7 CORPORATE DR.
KEENE, NH 03431-5042

Parcel Number: 227-004-000
CAMA Number: 227-004-000-000-000
Property Address: 30-32 MAPLE AVE.

Mailing Address: PRINCETON KEENE TWO LLC
1115 WESTFORD ST.
LOWELL, MA 01851

Parcel Number: 227-005-000
CAMA Number: 227-005-000-000-000
Property Address: 44 MAPLE AVE.

Mailing Address: CHESHIRE FAMILY FUNERAL HOME INC

PO BOX 19
WEST SWANZEY, NH 03469

Parcel Number: 227-007-000
CAMA Number: 227-007-000-000-000
Property Address: 84 MAPLE AVE.

Mailing Address: JOHNDROW, THOMAS ALAN
JOHNDROW KATHRYN M.
84 MAPLE AVE.
KEENE, NH 03431

Parcel Number: 227-008-000
CAMA Number: 227-008-000-000-000
Property Address: 90 MAPLE AVE.

Mailing Address: WHORFE FRANK WHORFE TAMMY
90 MAPLE AVE.
KEENE, NH 03431

Parcel Number: 227-009-000
CAMA Number: 227-009-000-000-000
Property Address: 100 MAPLE AVE.

Mailing Address: TRINITY LUTHERAN CHURCH
100 MAPLE AVE.
KEENE, NH 03431

Parcel Number: 227-018-000
CAMA Number: 227-018-000-000-000
Property Address: 91 MAPLE AVE.

Mailing Address: CEDARCREST INC
91 MAPLE AVE.
KEENE, NH 03431

Parcel Number: 227-019-000
CAMA Number: 227-019-000-000-000
Property Address: 79 MAPLE AVE.

Mailing Address: CEDARCREST INC.
91 MAPLE AVE.
KEENE, NH 03431

Parcel Number: 227-020-000
CAMA Number: 227-020-000-000-000
Property Address: 71 MAPLE AVE.

Mailing Address: CEDARCREST FOUNDATION INC
91 MAPLE AVE.
KEENE, NH 03431



www.cai-tech.com



200 feet Abutters List Report

Keene, NH
October 23, 2023

Parcel Number: 227-021-000
CAMA Number: 227-021-000-000-000
Property Address: 63 MAPLE AVE.

Mailing Address: CEDARCREST INC.
91 MAPLE AVE.
KEENE, NH 03431

Parcel Number: 227-022-000
CAMA Number: 227-022-000-000-000
Property Address: 59 MAPLE AVE.

Mailing Address: PARKWOOD REALTY TRUST
681 PARK AVE.
KEENE, NH 03431

Parcel Number: 227-023-000
CAMA Number: 227-023-000-000-000
Property Address: 57 MAPLE AVE.

Mailing Address: KEENE CHURCH OF THE NAZARENE
55 MAPLE AVE.
KEENE, NH 03431

Parcel Number: 227-024-000
CAMA Number: 227-024-000-000-000
Property Address: 55 MAPLE AVE.

Mailing Address: KEENE CHURCH OF THE NAZARENE
55 MAPLE AVE.
KEENE, NH 03431

Parcel Number: 227-025-000
CAMA Number: 227-025-000-000-000
Property Address: 823 PARK AVE.

Mailing Address: NORTHERN NEW ENGLAND
TELEPHONE OPERATIONS LLC
770 ELM ST.
MANCHESTER, NH 03101

Parcel Number: 513-001-000
CAMA Number: 513-001-000-000-000
Property Address: 0OFF ROUTE 12

Mailing Address: 62 MAPLE AVE KEENE LLC
PO BOX 2197
CHICAGO, IL 60690

Parcel Number: 513-002-000
CAMA Number: 513-002-000-000-000
Property Address: 0off ROUTE 12

Mailing Address: 62 MAPLE AVE KEENE LLC
PO BOX 2197
CHICAGO, IL 60690



www.cai-tech.com

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