

**Zoning Board of Adjustment  
Monday, November 6, 2017, 6:30 p.m.  
City Hall Council Chambers  
3 Washington Street, 2<sup>nd</sup> Floor**

**AGENDA**

- I. Introduction of Board Members
- II. Minutes of the Previous Meeting, October 2, 2017
- III. Unfinished Business

Hearings:

Continued: Petitioner, Leah LaRock requests an extension to decision of approval with conditions dated July 6, 2015 for property located at 0 Daniels Hill Rd., which is in the Rural Zone. This approval was to permit the building of a single family dwelling on a lot with 1.76 acres where a five acre minimum lot size is required per Table 102-791, Basic Zone Dimensional Requirements of the Zoning Code.

**Continued ZBA 17-16/** Petitioners, Suzanne and David Boisvert of 35 Keene Rd., Winchester, requests a Variance for property located at 361 Court St., Tax Map Parcel #008-02-001, owned by Prospect Hill Home of 361 Court St. the Petitioners requests an Enlargement of a Nonconforming Use to allow double occupancy in rooms that meet state licensing requirements HeP807 Chapter, from 17 to 26 beds.

**ZBA 17-18/** Petitioners, Henry and Carol Spindler of 64 Peg Shop Rd., represented by Wendy Pelletier, Cardinal Surveying and Land Planning of 463 Washington St., requests a Variance for property located at 64 Peg Shop Rd., which is in the Rural District and is owned by the Petitioners. The Petitioners request a Variance from the 50 foot front setback to 45 feet per Section 102-791 of the Zoning Ordinance.

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

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City of Keene  
New Hampshire

**ZONING BOARD OF ADJUSTMENT**  
**MEETING MINUTES**

**Monday, October 2, 2017**

**6:30 PM**

**Council Chambers**

**Members Present:**

Jeffrey Stevens, Vice Chair  
John Rab, Alternate  
Louise Zerba, Alternate  
Josh Gorman

**Staff Present:**

Gary Schneider, Plans Examiner  
John Rogers, Zoning Administrator

**Members Not Present:**

Stephanie Gaiser, Alternate  
Nathaniel Stout, Chair  
Thomas Plenda

**I. Introduction of Board Members**

Chair Stout was not in attendance of the meeting and Vice Chair Stevens assumed the role as Chair Pro-Tem. He called the meeting to order at 6:34 PM, introduced members of the Board and welcomed everyone to the meeting.

Chair Pro-Tem Stevens stated that the Board would move forward with approving the minutes of the previous meeting and other items on the agenda before hearing the applications. In delaying the meeting, Chair Pro-Tem Stevens stated that he had hoped a fifth member of the Board, Mr. Plenda would be present for the hearing.

Chair Pro-Tem Stevens stated that there were two hearings on the agenda that were related to each other and would be heard at the same time. He noted the applications were ZBA 17-15 and ZBA 17-17.

Chair Pro-Tem Stevens said that Mr. Rab would be recusing himself from the hearing of ZBA 17-16. He explained to the applicant that in order to have the application approved, there would need to be a total of three approved votes, regardless of the Board being a four member Board or a five member Board. Chair Pro-Tem Stevens noted that the decision to move forward with a four member Board was a decision made by the applicant.

After a brief delay, the ZBA reconvened with a four member Board. The fifth member of the Board was not present.

## **II. Minutes of the Previous Meeting**

Ms. Zerba made a motion to accept the minutes from September 5, 2017. The motion was seconded by Mr. Gorman, which carried unanimously.

## **IV. Hearings**

**Continued ZBA 14-12: Petitioner, Leah LaRock requests an extension to decision of approval with conditions dated July 6, 2015 for property located at 0 Daniels Hill Rd., which is in the Rural Zone. This approval was to permit the building of a single family dwelling on a lot with 1.76 acres where a five acre minimum lot size is required per Table 102-791, Basic Zone Dimensional Requirements of the Zoning Code.**

Chair Pro-Tem Stevens recognized Ms. LaRock and explained to her that there were currently four Board members present. He asked Ms. LaRock if she wanted to wait until after the delay in chance of a five member Board. Ms. LaRock replied in the affirmative.

After the delay, Chair Pro-Tem Stevens asked Ms. LaRock if she wanted to move forward with the hearing with a four member Board or have the opportunity to request the hearing be postponed until the next ZBA meeting. Ms. LaRock requested that the hearing be postponed until the next ZBA meeting in order to have a five member Board. Chair Pro-Tem Stevens stated that the next ZBA meeting would be held on November 6, 2017.

Ms. Zerba made a motion to continue ZBA 14-12 to the next scheduled ZBA meeting. The motion was seconded by Mr. Gorman, which carried unanimously.

Mr. Rogers clarified that the ZBA would try their best to have a five member Board for the next ZBA meeting.

**Continued ZBA 17-15/ Petitioners, Michael Lynch and Jeanette Wright of 150 Meetinghouse Rd., Hinsdale, requests a Variance for property located at Grove and Water St., Tax Map Parcel #028-03-011. Represented by Wendy Pelletier of Cardinal Surveying and Land Planning; the Petitioners requests a Variance to permit the current open lot to be converted to a commercial parking lot per Section 102-422 of the Zoning Ordinance.**

Chair Pro-Tem Stevens extended the offer to the applicant to wait for a five member Board. He recognized Ms. Pelletier, the applicant, and she replied that she would wait until after the delay for a five member Board.

After the delay, Chair Pro-Tem Stevens asked the applicant if they wished to move forward with a four member Board or postpone the hearing until the next schedule ZBA meeting. Ms. Pelletier replied that they would move forward with a four member Board.



Mr. Schneider explained that this piece of property has been before the ZBA on one or more occasions and are before the Board again because of a few glitches in their last notice. Mr. Rogers stated that the applicant was requesting a use Variance in their original application. He explained that the original application included a plan proposing a commercial parking lot and there were issues raised from lot coverage and paving setbacks. Mr. Rogers stated that the applicant has now applied for three Variances that included one for the use, the setback and lot coverage.

Ms. Zerba asked Mr. Rogers to clarify why the Board was hearing ZBA 17-15 again. Mr. Rogers explained that there was a discrepancy with the notification process. He explained that the Board would need to start from square one with the application.

Chair Pro-Tem Stevens recognized Wendy Pelletier, of Cardinal Surveying and Land Planning, Keene, NH. Ms. Pelletier explained that the property was over a 4,000 square foot lot, located on the corner of Water Street and Grove Street. She noted that this property has always been a parking lot. She explained that the factory the parking lot was associated with was sold off and now needs a Variance because it is no longer associated with that building plan. Ms. Pelletier said that the owners are requesting to continue to use the property as a parking lot that would have 11 parking spaces. She stated the parking spaces would be rented out to the neighboring apartment buildings. Ms. Pelletier referred to the plan provided in the application, indicating that there would be planters placed on the Water Street and Grove Street side. She explained that there are currently two entrances to the property and the plan is to block off the Water Street side entrance, with pedestrian access to the sidewalk.

Ms. Pelletier stated that there would be a total of 11 parking spaces, a place for snow storage on the southerly edge and a post and chain barrier to divide the property. She referenced the post and chain barrier that Athens Pizza uses to border their property on Emerald Street. Ms. Pelletier explained that the lot is undersized and there is a need for a use Variance so that the owners can continue to use the property as a parking area. She stated in regards to the setbacks it was brought to their attention that the property is no longer in the High Density Zone and now is located in the proposed Residential Preservation District. She explained that the regulations in the proposed Residential Preservation District would make this a tight lot that is almost unusable. Ms. Pelletier said that with the proposed Residential Preservation District, the lot would need to meet from 55% of the lot occupied by a structure down to 35%, 75% for paving down to 45% and would need 55% for green open space. She noted that this almost makes the lot totally unusable at its size and configuration.

Ms. Pelletier said that if they were to adhere to those standards the lot would be of use to only 5 parking spaces. Ms. Zerba asked the size of the parking spaces. Ms. Pelletier replied that the spaces were 8 x 18. She noted that the spaces can be smaller because it is not an associated use with a retail space. Mr. Rogers explained that within the zoning code, the code reads that if it is not a use associated with retail, the 8 x 18 space would be the standard parking space size. He noted that if the space was tied to retail, the size would have to be a 9 x 18 space.

Ms. Zerba asked Mr. Rogers or Mr. Schneider for further details on the Residential Preservation District in reference to this property. Mr. Rogers stated that the main thing that affected the lot and the proposal is that the lot coverage does change. He noted that the Residential Preservation District was in the process of getting Council approval for a zoning change. Ms. Zerba asked if the landscaping standards would be more intense in this zone. Mr. Rogers replied that it was not necessarily the landscaping but the coverage itself would need to be more of a permeable surface.

Mr. Gorman asked Mr. Rogers to clarify if the property is currently located in the High Density Zone and if the property would be located in the proposed Residential District. In addition, he asked Mr. Rogers to clarify if the Variance was a request for the High Density Zone. Mr. Rogers replied that at this point the Variance request is for the High Density Zone. He explained that the Planning Board would have to address the change of use and then they would have to apply the new zoning code to the property.

Chair Pro-Tem Stevens welcomed public comment.

Chair Pro-Tem Pro Stevens read a letter from Medard and Dawn Kopczynski, dated September 27, 2017 that was in opposition of the application.

Chair Pro-Tem Stevens stated that the letter referenced that there was no storm water runoff. He asked Ms. Pelletier if that was something that was addressed. Ms. Pelletier replied that they have not addressed a storm water runoff. She explained that there was no plan to change the property from what is there currently. Mr. Gorman asked how long the property has been a fully paved lot. Ms. Pelletier replied approximately 30 years.

Mr. Gorman said that it was mentioned that the property was connected to another property. He asked what business owned the parking lot. Ms. Jeannette Wright, of 150 Meetinghouse Road, Keene, NH, replied that it was MS Perkins, a machine company. In addition, Mr. Schneider said that the connected property used to be shoe and boot factory called Robert Harts.

Chair Pro-Tem Stevens asked if there was any consideration for additional greenery. Ms. Pelletier stated that the owners were trying to keep expenses down. She noted that she understood that money was not supposed to be considered a hardship. Ms. Pelletier explained that the owners have been using the parking lot for a long time and all of a sudden the City came in and said that the owners cannot do this anymore. She said that the owners were trying to meet as many standards as possible and that by striping the parking lot and adding planter boxes was the most cost effective measure. She noted that the planter boxes would act as curbing as well as reduce impermeable space. In addition, Ms. Pelletier noted that by adding green space would mean that they would lose parking.

Ms. Zerba stated that she was not opposed to the parking lot but explained that by looking at the parking and the proposal she does not see it being very attractive. She expressed her concern with the lack of setbacks and the planter boxes. Ms. Zerba stated that she has seen planter boxes throughout the City and noticed that these tend to not be well maintained. She reiterated her concern with the appearance of the lot.

In addition, Ms. Zerba expressed her concern about the chain link barrier. Ms. Pelletier stated that it was not a chain link fence and that it was a chain in between posts. She said that Athens Pizza has these chain link barriers along their property that acts as a barrier to the sidewalk. Ms. Zerba asked if the applicant could add some sort of greenery along the property line. Ms. Pelletier explained that if any green space was added the owners would not have the 24 foot aisle space that is needed for the parking spaces. Ms. Zerba asked if the owners could remove one parking space and then reconfigure the lot to have green space. Ms. Pelletier replied that it was almost impossible due to the location of the entrances and just the reconfiguration of the lot would need 18 foot long spaces long and 22 feet in between the spaces.

Chair Pro-Tem Stevens stated that he understood the concern with the appearance due to the location of the property being located at a busy intersection. Ms. Pelletier explained that any improvements the owners are requesting to do would improve the appearance of the property.

Chair Pro-Tem Stevens asked if there were landscaping conditions applied with the property when it was previously approved. Mr. Schneider replied that the only condition was that the owners had to go before the Planning Board and get their approval for landscaping. Chair Pro-Tem Stevens stated that at this point it would not meet that approval. Mr. Schneider explained that is due to the fact that there is a set back problem and a coverage problem. He further explained that the Planning Board cannot waive those requirements, which is why the applicant had to come back before the ZBA. He noted that this would be a commercial lot and that the applicant would have to go back before the Planning Department.

Ms. Zerba asked if the waivers for the setbacks were approved, how that would figure with what the Planning Board would be deciding. Mr. Rogers replied that what the ZBA saw before them was for a plan that does not give the Planning Board a lot to work with. He said the fact that if 100% coverage and no setbacks are granted as a Variance, the Planning Board would refer to the section of code that speaks to this for landscaping within parking lots. Mr. Rogers noted that this section of the code has different criteria that the developer can choose from and the final sentence in the criteria does list approval from the Planning Board. Mr. Rogers stated that the Planning Board would have to go based on what was approved for setbacks and lot coverage.

Mr. Gorman referred to the map that referenced the hash marked areas that the Board questioned as potential green space. He asked if that was a place where the owners were intent on putting snow. Ms. Pelletier replied that they did show snow storage on the southerly boundary and that if needed, they would use a non-parking space for snow storage. Mr. Gorman explained that he was asking about snow storage because there was no sense in putting a lot of green space, if the area would get dug up and destroyed, turning the area into mud or dead grass. He noted that the property may even end up looking worse.

Ms. Zerba asked if the applicant would consider a berm similar to what PC Connection installed on Marlboro Street. She noted that PC Connection added greenery to make it

look more attractive. She said that she was willing to support the use as a commercial property lot but could not support the setbacks as requested. Ms. Pelletier asked the Board if she could take a few minutes to converse with the owners of the property. The Board agreed.

Ms. Pelletier reported that after speaking with the owners, they were willing to work with the recommendations of the Board if they can get the Variances approved. Mr. Rab asked where a berm could be placed. Ms. Zerba said that what she would like to see is the flexibility that if it went before the Planning Board in granting the waiver for no setbacks, it would give the Planning Board the ability to try to create something that would be acceptable so that the lot would look nicer compared to what it looks like at the present time. She noted that the Planning Board would have no ability to offer suggestions with zero setbacks.

Chair Pro-Tem Stevens asked Ms. Zerba what she would like to see happen instead of zero setbacks. Ms. Zerba replied that she would like someone with more expertise make that decision. Mr. Rogers referred to Section 102-1229 of the Zoning Code that was specific to parking lots that abut right-of-ways. He explained that within the criteria there are five different criteria that need to be met for landscaping with any commercial lots in any zone. Mr. Rogers said that this Board could determine a certain amount of green space for the lot. He noted that this would give the Planning Board some leeway to create some landscaping within those zones.

Chair Pro-Tem Stevens asked how the ZBA would word that condition. Mr. Schneider said that the Board would refer to the plan that was submitted and make alterations or condition specific numbers. Ms. Zerba stated that she did not feel comfortable putting out numbers and wanted to know if the applicant could work with the Planning Department and try to come up with something that was acceptable. Mr. Rogers said that the Planning Board needs some sort of number or area that this Board puts forth for a Variance for the setback and lot coverage. Mr. Rab asked if the Board could grant the waiver and condition that the Planning Board review the areas where there is parking striping and also where the planting boxes would be located for approved landscaping. Mr. Rogers said that the Zoning Board would want to be clear on what is landscaping and open space. Mr. Rab asked if this Board could leave that decision up to the Planning Board. He noted that the Planning Board has better expertise than the ZBA. Mr. Rogers said that when it comes to landscaping, the Zoning Board was looking at a setback Variance, a use Variance and a lot coverage Variance. He said that if the Variances were approved, the Zoning Board could put a condition to the Planning Board.

Mr. Rogers said that his recommendation to the ZBA, if they want to see some sort of greenspace on the property that the approval be based on those conditions. Ms. Zerba asked if the ZBA could approve one Variance and work on the waiver request for the setbacks. Ms. Pelletier stated that they have been working on this project since June and with change in zone, the owners wanted to get this ready to go before winter. Mr. Gorman said that he thought it was the Board's duty to make a decision and if the green space is a requirement the Board should condition this in the approval.

Chair Pro-Tem Stevens stated that he was in support of the application and that the property has been parking lot for a long time. He noted that this was an area that needs parking. Pro-Tem Chair Stevens did agree that greenery would be nice but that he was not qualified to say how much. Mr. Rab asked if there was any flexibility with the snow storage yard for a rain garden for runoff. Mr. Pelletier said that this could be an option but with the salted snow any greenery placed in that area would not survive. However, she did state that was something they could work on.

Ms. Zerba asked the applicant if they were talking about a 3 foot wide planter that would be in the setback. Ms. Pelletier replied in the affirmative, stating that it would go right to the edge of the property line. Mr. Rab said that he has seen areas near parking lots that had a side rain garden with a deep impression that had a runoff that drains into ground, with high ornamental grasses. He noted that this looked nice and that it looked better than asphalt. In addition, he said that he did not know if that was the call of the ZBA.

Ms. Pelletier said that with all of the department reviews, one of the things that came up was that the Keene police were concerned that the pots and fence would be vandalized. She said that the owners have had several cars towed and that the parking lot was empty. In addition, she said that the parking lot was being used for U-turns to cut across to the intersection. She said even though the improvements they are making may not be perfect, the improvements do increase the safety given the busy corner. Ms. Pelletier said that the plans submitted to the ZBA would improve the situation from what it is today.

With no further comment, Chair Pro-Tem Stevens closed the public meeting.

The Board reviewed the criteria for ZBA 17-15.

Mr. Gorman said that the parking lot has been there forever and that it would be tough to take it away. All members of the Board agreed. Mr. Rab said that the hardship is that the lot cannot be feasibly used for anything else.

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

Chair Pro-Tem Stevens said that it would be unfair to take the Variance away.

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

Pro-Tem Chair Stevens stated that the Board had already discussed in depth how the spirit of the Ordinance would be observed.

*Granting the Variance would do substantial justice:*

All members of the Board agreed that the Variance would do substantial justice.

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

Mr. Gorman stated that the values of the surrounding properties would stay the same. All members of the Board agreed.



*Unnecessary Hardship*

*E. 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:*

*ix. No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property:*

Chair Pro-Tem Stevens stated that it was clear that no fair and substantial relationship existed between the public purpose and application.

*x. The proposed use is a reasonable one*

Chair Pro-Tem Stevens stated the lot has been used as a parking lot for quite some time.

Mr. Rab made motion to approve ZBA 17-15. The motion was seconded by Ms. Zerba, which carried unanimously.

Chair Stout reviewed the Findings of Fact:

*Granting the Variance would not be contrary to public interest: Granted, 4-0*

*If the Variance were granted, the spirit of the Ordinance would be observed: Granted 4-0*

*Granting the Variance would do substantial justice: Granted, 4-0*

*If the Variance were granted, the values of the surrounding properties would not be diminished: Granted, 4-0*

*Unnecessary Hardship*

*E. 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:*

*ix. 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: Granted, 4-0*

*x. The proposed use is a reasonable one: Granted, 4-0*

With a vote of 4-0, the Zoning Board of Adjustment approved ZBA 17-15.

**ZBA 17-17/ Petitioners, Michael Lynch and Jeanette Wright of 150 Meetinghouse Rd., Hinsdale, requests a Variance for property located at Grove and Water St., Tax Map Parcel #028-03-011. Represented by Wendy Pelletier of Cardinal Surveying and Land Planning; the Petitioners requests a Variance to permit parking lot setbacks and lot coverage per Sections 102-1226 and 102-791.**

Chair Pro-Tem Stevens opened the public meeting.

With no further comment, Chair Pro-Tem Stevens closed the public hearing.

Chair Pro-Tem Stevens said that in his personal opinion, he was satisfied with the proposed plan. Mr. Gorman stated that he thought the proposed changes to the property are quite beneficial to situation. He explained that by blocking off one of the entrances would prohibit short cuts and benefit the neighborhood. In addition, he said that the other benefit was that the parking lot would be used properly, adequately and possibly not be a source of vandalism. He also recommended the applicant look into the suggestion made by Mr. Rab for a rain garden for runoff.

Ms. Zerba asked if there would be a recommendation to have the planters reviewed by the Planning Board. Mr. Rogers that condition could be placed on the approval. He noted that this condition would already have to be met based on the Zoning Code 102-1229. Ms. Zerba reiterated that she could not support something with zero setbacks and understood the intent of the planter boxes. Mr. Rab said that the lot cannot be used as anything but a parking lot. He noted that this was a hardship and the small amount of parking space available was also a hardship. Mr. Rab stated that he was in support of the application.

The Board reviewed the criteria for ZBA 17-17.

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

Chair Pro-Tem Stevens stated that the lot was used as a parking lot for as long as anyone can remember and that the only thing changing is that it would be official. Mr. Rab said that the lot would now decrease the access point which is beneficial.

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

Chair Pro-Tem Stevens said that spirit of the Ordinance has been met. Mr. Rab said that it was a continuance of use.

*Granting the Variance would do substantial justice:*

Chair Pro-Tem Stevens stated that the lot has been parking lot for a long time and that it would do more injustice to deny. Mr. Rab stated that he agreed.

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

Mr. Gorman, Mr. Rab and Chair Pro-Tem Stevens stated that the value of the surrounding of the properties would stay the same.

*Unnecessary Hardship*

*E. 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:*  
*ix. No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property:*

Mr. Rab stated that if the Variance was denied it would be a greater hardship.

Mr. Gorman stated that it was an equitable solution given the situation.

*x. The proposed use is a reasonable one:*

Chair Pro-Tem Stevens said that he agreed that the use was a reasonable one.

Chair Stout reviewed the Findings of Fact:

*Granting the Variance would not be contrary to the public interest:* Granted, 4-0

*If the Variance were granted, the spirit of the Ordinance would be observed:* 3-1, Ms. Zerba opposed

*Granting the Variance would do substantial justice:* Granted, 4-0

*If the Variance were granted, the values of the surrounding properties would not be diminished:* Granted, 4-0

*Unnecessary Hardship*

*E. 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:*

*ix. No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property:* Granted, 3-1, Ms. Zerba opposed

*x. The proposed use is a reasonable one:* Granted, 4-0

With a vote of 3-1, The Zoning Board of Adjustment approved ZBA 17-17. Ms. Zerba opposed.

**ZBA 17-16/ Petitioners, Suzanne and David Boisvert of 35 Keene Rd., Winchester, requests a Variance for property located at 361 Court St., Tax Map Parcel #008-02-001, owned by Prospect Hill Home of 361 Court St. the Petitioners requests an Enlargement of a Nonconforming Use to allow double occupancy in rooms that meet state licensing requirements HeP807 Chapter, from 17 to 26 beds.**

Chair Pro-Tem Stevens explained to the applicant that Mr. Rab would recuse himself from the hearing and there would be a three member Board. He stated that all three members would need to vote in favor in order for the application to be approved. Ms. Boisvert requested the hearing be postponed to next scheduled Board meeting.

Mr. Rab made a motion to continue ZBA 17-16 to the next scheduled Board meeting. The motion was seconded by Mr. Gorman, which carried unanimously. The vote was approved by Chair Pro Tem Stevens, Mr. Gorman and Ms. Zerba. Mr. Rab abstained from voting due to his recusal.

Chair Pro-Tem Stevens welcomed public comment.



Loretta Symonds, 79 Woodburn Street, Keene, NH stated that she did not receive a 10 day notice but instead received a 9 day notice. She said that she thought the rule stated a 10 day notice. Ms. Symonds explained that the notice was listed under Patricia Lord, who is deceased. She stated that the property has since gone to her and that it has not been recorded at the Registry of Deeds. Ms. Symonds noted that all of the residents on Woodburn Street received a 9 day notice. Mr. Schneider stated that he would make a note of this and would speak with the City Attorney. Ms. Symonds asked if someone from the City would get back to her. Mr. Schneider asked Ms. Symonds for her contact information to reach out to her once he spoke with the City Attorney. Ms. Symonds provided Mr. Schneider with her contact information.

With no further comment, Chair Stout closed public hearing

**V. New Business:**

None

**VI. Communications and Miscellaneous**

None

**VII. Adjournment**

Hearing no further business, Chair Pro-Tem Stevens adjourned the meeting at 7:44 PM.

Respectfully submitted by,  
Jennifer Clark, Minute Taker

361 Court St.  
ZBA 17-16



Petitioner is requesting an Enlargement of a Non-Conforming Use to allow double occupancy in rooms that meet state licensing requirements HeP807 Chapter, from 17 to 26 beds.



City of Keene  
New Hampshire

**NOTICE OF HEARING**

**ZBA 17-16**

**CORRECTED**

A meeting of the Zoning Board of Adjustment will be held on Monday, November 6, 2017 at 6:30 PM in the City Hall Committee Room, 2<sup>nd</sup> floor, 3 Washington St, Keene, New Hampshire to consider the petition of Suzanne and David Boisvert of 35 Keene Rd., Winchester, requests an Enlargement of a Nonconforming Use for property located at 361 Court St., Tax Map Parcel #008-02-001, which is in the Medium Density District and owned by Prospect Hill Home of 361 Court St. The Petitioners requests an Enlargement of a Nonconforming Use to allow double occupancy in rooms that meet state licensing requirements HeP807 Chapter, from 17 to 26 beds.

ZONING BOARD OF ADJUSTMENT

Corinne Marcou, Clerk

Notice Issuance Date: October 26, 2017



# APPLICATION FOR APPEAL

Zoning Board of Adjustment  
3 Washington Street, Fourth Floor  
Keene, New Hampshire 03431  
Phone: (603) 352-5440

<b>For Office Use Only:</b>	
Case No.	<u>ZBA 17-116</u>
Date Filed	<u>9/15/17</u>
Received By	<u>GM</u>
Page	<u>1</u> of <u>9</u>
Reviewed By	<u>GS</u>

The undersigned hereby applies to the City of Keene Zoning Board of Adjustment for an Appeal in accordance with provisions of the New Hampshire Revised Statutes Annotated 674:33.

## TYPE OF APPEAL

- APPEAL OF AN ADMINISTRATIVE DECISION
- APPLICATION FOR CHANGE OF A NONCONFORMING USE
- APPLICATION FOR ENLARGEMENT OF A NONCONFORMING USE
- APPLICATION FOR A SPECIAL EXCEPTION
- APPLICATION FOR A VARIANCE
- APPLICATION FOR AN EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS

## SECTION I - GENERAL INFORMATION

Name(s) of Applicant(s) Suzanne and David Boisvert Phone: 603-762-0611  
Address 35 Keene Rd Winchester, NH 03470  
Name(s) of Owner(s) Prospect Hill Home  
Address 361 Prospect St Keene NH  
Location of Property 361 Prospect St Keene NH  
Court

## SECTION II - LOT CHARACTERISTICS

Tax Map Parcel Number 8-2-1 Zoning District Medium Density  
Lot Dimensions: Front 150' Rear 150' Side 225' Side 225'  
Lot Area: Acres .78 Square Feet 33979  
% of Lot Covered by Structures (buildings, garages, pools, decks, etc.): Existing 15 1/2 Proposed 15 1/2  
% of Impervious Coverage (structures plus driveways and/or parking areas, etc.): Existing 32 1/2 Proposed 32 1/2  
Present Use Health Care Facility  
Proposed Use Health Care Facility

## SECTION III - AFFIDAVIT

I hereby certify that I am the owner in fee or the authorized agent of the owner in fee of the property upon which this appeal is sought and that all information provided by me is true under penalty of law.

[Signature] Date 9/15/17  
(Signature of Owner or Authorized Agent)

Please Print Name Suzanne Boisvert

PROPERTY ADDRESS

361 Court St

***APPLICATION FOR ENLARGEMENT OF A NONCONFORMING USE***

A nonconforming use may be enlarged and/or expanded, provided such enlargement and/or expansion does not violate any of the basic zone dimensional requirements set forth in the Zoning Ordinance. Such enlargement and/or expansion must receive permission from the Zoning Board of Adjustment, which must find that the enlargement and/or expansion meets the conditions listed below.

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

Allow Double Occupancy in rooms that meet State Licensing Requirements HeP 807 Chapter, from 17 to 26 Beds.

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

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

Since the proposed change is asking for double occupancy, which has to do with the internal use of the facility, we find that there is no adverse effect to the neighborhood that would be injurious, obnoxious, or offensive. This is a common practice for Health Care Facilities in Keene and the State of New Hampshire and our country.

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

Internal Double occupancy in rooms that meet minimum requirements will not be a hazard or nuisance to vehicles or pedestrians.

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

The Health Care Facility has all the needed facilities such as city water and sewer, security, Fire safety suppressant systems and means of egress, and will also be regulated by the State of New Hampshire rules and codes for Residential Treatment and Rehabilitation Facilities. Residents/patients do not generally have or will be allowed vehicles, so there will be no increase in parking needs. We will have a van for transportation purposes.

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STATE OF NEW HAMPSHIRE

CHESHIRE, SS.

KEENE ZONING BOARD  
OF ADJUSTMENT

IN THE MATTER OF: APPLICATION OF  
SUZANNE AND DAVID BOISVERT

ZBA #17-16

MEMORANDUM OF LAW IN OPPOSITION TO THE APPLICATION OF  
SUZANNE AND DAVID BOISVERT FOR EXPANSION OF A NONCONFORMING  
USE AT THE 361 COURT STREET ADDRESS

I. BACKGROUND

Prospect Place was incorporated in 1874 and was known, at the time, as the "Invalids Home." In 1874, the homes' founders were known as the "Ladies of the Sewing Circle of the Unitarian Church." Under the leadership of Margaret E. White (the then pastor's wife), its mission was to offer housing, comfort and aid to "lonely and forlorn women" of the community. In 1974, the name was changed to Prospect Hill Home; in 1993, the facility became known as Prospect Place, a year after opening its doors to men patients in 1992.

Prospect Place and the Woodward Home merged their respective operations and their respective locations to the Woodward facility located at 194-202 Court Street, in Keene, in July of 2016, when Prospect Place abandoned its use at the 361 Court Street address.

Suzanne and David Boisvert of 35 Keene Road, Winchester, New Hampshire, 03470, submitted an application for enlargement of a nonconforming use, dated September 15, 2017. The Boisverts have not purchased 361 Court Street as of this date. In their application, the Boisverts asserted the present use of the property was a "healthcare facility" and its proposed use would be a "healthcare facility."<sup>1</sup> In their application for the enlargement of the nonconforming use, the Boisverts assert that expanding the occupancy of the facility from 17 to 26 beds, will allow, "double occupancy in rooms that meet state licensing requirements HEP 807 Chapter, from 17 – 26 beds."

According to the Boisverts, (hereinafter "Applicants"), their Application focuses on the changes to the "internal use" of the facility, noting that since "the proposed change is asking for double occupancy, which has to do with the internal use of the facility, we find there is no adverse effect to the neighborhood that would be injurious, obnoxious or offensive. This is a common practice for healthcare facilities in Keene, in the State of New Hampshire and our country."

The Applicants have the same internal focus with respect to the other criteria under §102-210 of the Keene Zoning Ordinance, (hereinafter "K.Z.O."). The Applicants

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<sup>1</sup> See Code §102-2 which defines a "health care facility" as an "institution such as a nursing home, convalescent home, sanitarium, or house for the aged, in which sick patients or injured person are given chronic medical, recover or surgical care, or an institution for the chronic care of contagious diseases or incurable patients; or an institution which provides home and/or care for the aged."

completely ignore the external impact of their expanded internal occupancy requests. They also ignore the current composition of a very densely populated and congested neighborhood.

The use of 361 Court Street, in one form or another, as an assisted living home, (or nursing home) predates the institution of zoning in Keene.

Any change that is an enlargement of a nonconforming use, must occur only with the approval of the Zoning Board of Adjustment. The first area of inquiry, however, is whether the current owner abandoned the nonconforming use.

## II. Abandonment

K.Z. O. §102-202. – Abandonment, provides that:

A nonconforming use shall be deemed abandoned if the use is discontinued for a period of one year. The building, structure or property in which such use existed thereafter shall be used only in conformity to and with this chapter. A nonconforming use shall be considered abandoned when:

- (1) The intent of the owner to discontinue the use is apparent;
- (2) The characteristic equipment and the furnishings of the nonconforming use have been removed from the premises and have not been replaced by similar equipment within one year;
- (3) A nonconforming use is replaced by a conforming use; *or*

- (4) A nonconforming use has been changed to another use under proper permit from the zoning board of adjustment. (Code 1970, §2339.2)  
*(Emphasis supplied).*

There can be no debate that Prospect Place abandoned its nonconforming use at 361 Court Street when it discontinued its use of the assisted living facility at 361 Court Street and then consolidated its operations at the Woodward Home on Court Street in July of 2016. The intent of the owners could not be more clear.

The four (4) conditions under §102-202 need not be all satisfied. The use of the conjunction "or" suggests that the occurrence of any one of the four criteria supports the conclusion of abandonment. So does our case law.

A nonconforming use is a legal use existing at the time of the enactment of zoning. *New London Land Assoc. v. New London ZBA*, 130 NH 510 (1988).

A nonconforming use is valid only if there is a continuance of the nonconforming use in an *unbroken sequence from the time of the zoning enactment. Id.* If the continuation of the nonconforming use is voluntarily ended by the owner, the right to continue the nonconforming use is lost. *Arsonault v. Keene*, 104 NH 356 (1962).

Without an ordinance defining the circumstances of abandonment, the case law informs on when a nonconforming use may be considered abandoned. Upon the occurrence of 1) the owner demonstrating an intent to abandon or to relinquish the use, and 2) the commission of an act, or a failure to act, that carries the implication that the

owner neither claims nor retains any interest in the nonconforming use, the nonconforming use is then considered abandoned as a matter of law. *Town of Salem v. Wickson*, 146 NH 328 (2001). (landowner's nonconforming use of a pig farm was lost when he sold all of his pigs).

Likewise, when Prospect Place merged with the Woodward Home and closed the facility at 361 Court Street in July 2016, it demonstrated its intent to relinquish its nonconforming use at 361 Court Street and this act of relinquishment carries with it the strong implication of intent to abandon the nonconforming use by the owner at 361 Court Street. This conclusion is buttressed by Keene's specific ordinance on the subject, K.Z.O. §102-202, which also focuses on the intent of the owner to abandon the nonconforming use, as one of four criteria that must be satisfied.

Since, under both New Hampshire common law and the city ordinance §102-202, it is clear that Prospect Place abandoned the nonconforming use at 361 Court Street, the Applicants are not entitled to expand an abandoned nonconforming use; they must seek a variance to proceed. *See*, §102-36, (conditions for authorization a variance). Therefore, the pending Application must be denied.

### III. Expansion Of A Nonconforming Use

Turning to the pending merits of the Application, Article II, §102-210 provides the controlling authority for the Board's action on the Application; it provides:

"A nonconforming use may be expanded and enlarged, provided such enlargement and expansion does not violate any of the basic

zone dimensional requirements set forth in this Chapter. Such expansion must receive permission from the Zoning Board of Adjustment, which must find that the expansion will meet the following conditions:

1. Such approval would not reduce the value of any property within the district, nor otherwise be injurious, obnoxious or offensive to the neighborhood.
2. There will be no nuisance or serious hazard to vehicles or pedestrians.
3. Adequate and appropriate facilities will be provided for the proper operation of the proposed use."

The abutters contend that approval of the pending application will reduce the value of property within the district and approval of the expanded use would otherwise be injurious, obnoxious and offensive to the neighborhood, and such an expanded use will create a nuisance or serious hazard to vehicles and pedestrians in the area, and adequate and appropriate facilities, such as parking, are not available for proper, safe and uncongested operation of the proposed expanded use. There are 12 parking spaces available in the small parking area located on the easterly side of the 361 Court Street lot and these spaces are the only parking spaces available on site for this property. There is inadequate parking at 361 Court Street to support the proposed expanded use. The increased density generated by the proposed use will create a serious hazard to an already densely populated neighborhood.

According to the Application, 361 Court Street is located in the medium density zone. Neither the previous nonconforming use as a 17 bed assisted living facility nor the proposed use as an expanded 26 bed substance abuse facility violate any of the basic zone dimensional requirements set forth in the Zoning Ordinance.

A. Approval Will Reduce Property Values Within the Area by at Least 17%

Approval of the pending Application will reduce property values within the immediate area by at least 17% of current values.

Professors, Claire LaRoche, Bennie Waller and Scott Wentland<sup>2</sup>, conducted a study whereby the authors analyzed the empirical evidence of real estate sales in central Virginia which demonstrate a significant basis in fact to support the conclusion that residential substance abuse treatment facilities, especially if their focal point is treating opiate addiction, located in residential districts, lead to as much as a 17% reduction in overall neighboring property values. Attached is a copy of the academic study by LaRoche, Waller & Wentland, published in the Journal of Sustainable Real Estate, JOSRE, Vol. 6, No. 2 (2014), pp. 63-92.

According to the study, residential treatment centers offer intense forms of treatment for substance abuse and are often embedded in residential neighborhoods. As a result of the Affordable Care Act (ACA), the number of such treatment centers are likely to grow. LaRoche, et al, examined the *external* effect of residential treatment

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<sup>2</sup> Professors of finance and real estate at Longwood University in Farmville, Virginia.

facilities on nearby real estate. Using multiple listing service data (MLS) and actual real estate sales from central Virginia, the authors demonstrated the impact of the placement of a residential substance abuse facility in a residential neighborhood on nearby homes prices are statistically measurable. They found that a neighboring treatment center in a residential neighborhood is associated with an 8% reduction in nearby home prices and that value diminution is steeper for treatment centers that specifically treat for opiate addiction. Using the study's empirical data, the impact on the Prospect Street neighborhood would be a property value diminution of 17% of the surrounding properties.

Taking the property tax cards (and the tax assessment values contained therein as the base value) on the properties within a radius of 1/8 of a mile of 361 Court Street and applying LaRoche's conclusions, the estimated loss of value to the affected properties within the 1/8 mile radius is approximately \$4,400,000.00 in lost value. See Exhibit 1, attached hereto.

The study suggests there are reasons to expect that rehabilitation facilities located in residential neighborhoods will adversely affect neighboring real estate values. First, substance abuse is often a multifaceted health care issue and many patients in residential treatment have a dual diagnosis, namely, one of substance addiction and one of mental health or mental illness. Dual diagnosis patients account for approximately 45% of patients in treatment facilities. LaRoche, p. 64; whereas 18-20% of the patients are



treated only for a substance abuse diagnosis. Second, often times patients are discharged, or simply leave, because their treatment concluded, or they depart prematurely. Third, some patients may be unemployed or have criminal backgrounds. LaRoche, et al, conclude that, as a practical matter, “nearby neighbors may have valid concerns that the presence of a treatment center will be accompanied by additional unemployed or even homeless addicts on the street near the area in which the treatment center is located.” *Id.* p. 64. We understand this may be a perception, and may or may not even be an accurate one; nevertheless, such a perception, according to the study is “then reflected in the market prices of nearby real estate.” *Id.* p. 64. These abutters should not pay that price for whatever social benefits this proposed use may create without a corresponding and equal burden on all others in the community.

The study by LaRoche, Waller and Wentland, concluded that “residential substance abuse treatment centers adversely impact the price of neighboring homes; property within 1/8 of a mile of the treatment center [will] sell for approximately 8% less than otherwise comparable homes that are located further away. Furthermore, we find that the market differentiates between potential risks that nearby treatment centers may carry, as living nearby a methadone clinic that treats opiate addiction, such as heroin or morphine, may be associated with a reduction in home values by as much as 17%. We find little evidence that nearby treatment centers affect a home’s time on the market.” *Id.* p. 63.

Therefore, the Applicants' Application must be denied because this expanded use will reduce property values within the area substantially.

B. Approval of the Application Would be Otherwise Injurious, Obnoxious and Offensive to this Neighborhood.

An understanding of the Prospect Street neighborhood is critical to the Board's assessment of the Application to expand a nonconforming use in that neighborhood.

i. Survey of the Area

361 Court Street has situated on it a 6,809 square foot building on a .78 acre lot (33,973 square feet). Across Prospect Street from from 361 Court is a multifamily residence, located at 347 Court Street, known as the "Minerva Apartments," which consists of a two story, ten living unit structure with only one area 70 feet long, located along the Prospect Street side of the building for parking. If each parking spot should be 8' wide, per K.Z.O. §102-794, there is room for 8.75 vehicles, which is grossly inadequate for the property it serves. This figure is reduce because at present, the owner placed a dumpster in the parking area, which eliminates at least two of the 8.75 spaces. This property is clearly non-conforming. Continuing easterly along the southerly side of Prospect Street, are the following properties and their densities:

- a. 11 Prospect Street is a two family dwelling situated on a 0.13 acre parcel;
- b. 17 Prospect Street is a two family dwelling situated on a 0.22 acre parcel;

- c. 25 Prospect Street is a single family dwelling situated on a 0.5 acre parcel;
- d. 37-39 Prospect Street is another duplex on a 0.57 acre parcel;
- e. 49 Prospect Street is a single family structure on a 0.19 acre parcel; and
- f. 53 Prospect Street is a two family dwelling on a 0.31 acre parcel.

After 53 Prospect Street, the street bisects with Forest Street, which is similarly situated.

On the north side of Prospect Street, again heading east from Court Street, after 361 Court Street, is:

- 1. 26 Prospect Street (the Knight property) which is a single family dwelling on 0.28 acres (Note: The Knight home sits 5' back from the shared boundary with 361 Court Street);
- 2. 32 Prospect Street is a single family dwelling on 0.21 acres of land;
- 3. 36 Prospect Street is a two family structure situated on 0.15 acres;
- 4. 46 Prospect Street is a single family dwelling on 0.26 acres;
- 5. 56 Prospect Street is a single family dwelling on 0.25 acres; and
- 6. 70 Prospect Street is a three family dwelling on 0.58 acres.

In order to place the present level of density of Prospect Place into context, the K.Z.O. provides a minimum lot size of one acre in the rural district for single family residence and duplex units. §102-90. The minimum lot size for the Medium

Density District is 8,000 sq. ft., or 0.18 acres, and the minimum lot area per dwelling unit is 5,400 sq. ft., or 0.12 acres (the minimum lot area per dwelling for medium density, high density and office zones apply only to second and succeeding dwelling units. §102-792). The minimum parking requirements for dwelling and apartments are two per dwelling unit (except one per unit with a special exception, one per two units for elderly or special population housing which can demonstrate a reduced demand for parking). §102-793.

The width of Prospect Street is relatively narrow and some owners park vehicles on the street, adding to the congestion in the area of Prospect Street.

In their application, the Applicants focus solely on the “internal use” of the property. They ignore that increasing the bed capacity of the facility will have a detrimental impact on the external environs of the property and the neighborhood. They ignore the impact of additional patients (from 17 to 26), additional staff to care for the patients, additional visitors and family members who will visit the patients, and additional healthcare personnel who may occasionally be called on to provide care for the patients. This is a critical lapse in judgment, because the Applicant has the burden of proof on each one of the conditions of §102-202. See, *Fisher v. Dover*, 120 NH 187 (1980); *Grey Rocks Land Trust v. Town of Hebron*, 136 NH 239 (1992) (party seeking variance bears burden of establishing the five variance criteria) and *Peabody v. Town of Windham*, 142 NH 488 (1997) (party asserting a proposed use is a valid nonconforming

use has burden of proof). Further, the Applicants have the burden of proof to show that their proposed expansion is not such that it constitutes an entirely new use, thus violating the intent of the Zoning Ordinance. *Devany v. Windham*, 132 NH 302 (1989).

Bearing in mind the Applicant has the burden to prove each of the three criteria of §102-210, this Board should reflect on whether that burden has been met when the Applicants' only focus is on the "internal use of the facility, [because] *we find* there is no adverse effect to the neighborhood..." In light of the above, it is understandable why the Applicants are not interested in looking very hard or deep into the details of the consequences on the neighborhood in which they want to impose a detrimental impact.

Since the Applicants are not looking for adverse effects and, indeed, deny any such adverse effects, they can hardly be said to have carried their burden on property values, or on the other two criteria. Therefore, their Application must be denied.

ii. The Problem of Parking (Inadequate Facilities)

The Application seeks to increase the patient load in the facility from 17 beds to 26 beds. Of obvious import, will be the increased number of visitors to the facility, noted above. All of these people will require parking.

There is, at most, a 12 vehicle parking area for 361 Court Street. There is no parking on Court Street and there is no street parking available on Prospect Street.

The intent of the medium density zone is to provide for medium density/medium intensity residential area for housing units up to a maximum of three

units per structure. There is a very limited number of other uses permitted which are associated with the residential setting. Normal commercial/industrial uses are excluded. All uses in this zone are required to have city sewer and city water service. §102-391.

Permitted uses in a medium density zone are as follows:

- a. Dwelling and multifamily (subject to a maximum of three dwelling units per structure);
- b. Dwelling single family
- c. Duplex dwelling
- d. Group home (by special exception)
- e. Historic site open to the public
- f. Home occupation incidental to main residential use
- g. Institutional use (subject to a special exception; further subject to conditions and limitations as specified in Division 12 of Article 5 of this Chapter pertaining to institutional uses).

According to §102-1111 of the Zoning Ordinance, in addition to permitting institutional uses anywhere in a central business, central business limited or commerce zones, institutional uses permitted in other zones as designated in Divisions 2 through 20 of Article 4 of this Chapter, only on the following streets:

1. Arch Street from Park Avenue to Whitcomb Mill Road;
2. *Court Street, on the west side, from Westview Street to Maple Avenue, and on the east side from Evergreen Avenue to Maple Avenue (both of these locations are beyond Prospect Street) (Emphasis supplied);*
3. The balance of permitted locations are not applicable to this Application.

Therefore, an institutional use is not permitted as a right at 361 Court Street and



the undersigned proffer that this is because the framers of the Ordinance realized such uses impose greater use and density burdens on an area than that intended for the development of the Medium Density Zone.

K.Z.O. §102-793 provides the minimum parking requirements for various types of uses; a health care facility is not listed. Institutional use is not specifically identified in the table of minimum parking requirements. However, dwellings and apartments are treated to require two designated parking spaces per dwelling unit, except that one parking space per unit upon a special exception; a one per unit for elderly or special population housing which can demonstrate a reduced demand for parking.<sup>3</sup> By way of comparison, parking requirements for hotels, motels or tourist homes require one parking space per sleeping room, plus one per five seats in ancillary restaurants and one per 500 square feet of other areas. Should 361 Court Street be considered analogous to a "lodging house," the parking requirement is one parking spot for "every two beds." 26 beds require 13 parking spots; while this doesn't address the patient population, it certainly will not address staff, family, visitors, guests or other professionals.

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<sup>3</sup> Noticeably ignored by the Applicants.

The Applicants are required to “demonstrate” a reduced demand for parking in order to lower the parking requirements of two spaces per dwelling unit for special population housing, per K.Z.O. §102-793.

iii. Policies Underlying the Law of Nonconforming Uses

In order to maintain the constitutionality of zoning and to prevent the inadvertent taking of private property without just compensation, framers of zoning enabling legislation incorporated safeguards to address nonconforming uses; uses in place at the time of zoning enactment. RSA 674:19 is such a provision:

A zoning ordinance adopted under RSA 674:16 shall not apply to existing structures or to the existing use of any building. It shall apply to any alteration of a building for use for a purpose or in a manner which is substantially different from the use to which it was put before alteration.

The policy behind the law of nonconforming uses is to a) protect against inadvertent takings and to b) reduce the number of nonconforming uses after zoning ordinances are enacted. The general policy, therefore, on expanding a nonconforming use is to carefully limit the expansion or enlargement of same. *See, Seabrook v. D’Agata*, 116 NH 472 (1976). This policy is premised upon the principle that enlarging nonconforming uses may be more detrimental to zoning than a variance from the zoning ordinances. *Ackley v. Nashua*, 102 NH 551 (1960). Correspondingly, expansions of nonconforming uses are carefully limited under the general policy of the zoning ordinances based on the premise if nonconforming uses are restricted as to changes by way of expansion or alteration, such uses will, over time, lose their vitality and

gradually expire, thereby making more uses in any particular district conform to the overall zoning plan. Granite State Minerals, Inc., v. Portsmouth, 134 NH 408 (1991). A substantial change in the nature and purpose of the original nonconforming use would be prohibited, even if the proposed use is less offensive than the original use. Stevens v. Rye, 122 NH 688 (1982) (change of use from nonconforming auto repair garage to a bath and plumbing showroom represented a substantial change in the nature and purpose of the earlier use; the fact the proposed new use is well-suited or more appropriate to the area is not relevant).

Zoning is a legitimate exercise of a state's police power. Village of Euclid v. Ambler Realty, Co., 272 US 365 (1926). States may utilize the police power, under our federal system, for the purpose of promoting health, safety, or the general welfare of the community. RSA 674:16. The constitutionality of any legislation, ordinance or decision concerning zoning is maintained if it bears a rational relationship to a legitimate governmental interest. Protection of the health safety and general welfare of the community is a recognized, legitimate governmental interest. The zoning principles applicable here,<sup>4</sup> bear a rational relationship to those legitimate governmental interests. See, generally, MacKenzie v. Town of Eaton ZBA, 154 NH 773 (2007).

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<sup>4</sup> To lessen street congestion, to regulate lot size to prevent overcrowding, to prevent overcrowding of the land and undue concentration of population and overcrowding in structures.

#### IV. Application of Anti-Discrimination Law to Disabilities

In that vein, the case of the City of Edmonds v. Oxford House, Inc., 514 US 778; 115 S.Ct. 1776 (1995), does not necessitate, *carte blanche*, approval of the Applicants' request. In the Edmonds case, Oxford House opened a group home in the City of Edmonds, Washington, for ten to twelve adults recovering from alcoholism and drug addiction. The group home, Oxford House-Edmonds, was located in a neighborhood zoned for single family residences, not as here, in a neighborhood zoned middle density. Upon learning Oxford House had leased and was operating in Edmonds, the city issued criminal citations to the owner and residents of the home. The citations charged violations of the zoning code that defines who may live in a single family dwelling. The ordinance limited those who can live in a single family dwelling to people related by blood. The Edmonds case required the United States Supreme Court to interpret the scope of the Fair Housing Act, 42 USC §3604.

The Edmonds Court held that §3607 (b)(1)'s language concerning "restrictions regarding the maximum number of occupants permitted to occupy a dwelling," encompasses maximum occupancy restrictions, but does not fit family composition rules, typically tied to the definition of a family found in land use restrictions. Edmonds, 115 S.Ct. 1780-1782, such as herein ("Family means one or more persons occupying a dwelling unit and living as a single housekeeping unit, provided a group of five or

more persons who are not related within the second degree of kinship shall not be deemed to constitute a family." K.Z.O. §102-2).

The narrow question in *Edmonds* was whether the FHA exemption, exempted certain zoning restrictions from the Fair Housing Act. The Court was asked whether the exemption at issue exempted the application of the FHA from "any reasonable local, state or federal restrictions regarding maximum number of occupants permitted to occupy a dwelling." 42 USC §3607 (b)(1). In the *Edmunds* case, the city attempted to pass off the local ordinance defining "family" as a maximum occupancy restriction exempt from FHA. The Court rejected the city's interpretation of the FHA, and returned the case to the lower court to decide whether the city's actions violated FHA prohibitions against discrimination. *Edmonds*, 115 S.Ct. at 1782-1783.

Zoning Ordinances are regulations that promote public health, public safety and the general welfare of the community, by preventing overcrowding, densely populated areas, or overuse in a district. See, RSA 674:17. These zoning objectives are rationally related to the promotion of legitimate government purposes of promoting and protecting health and safety, and general welfare of the community.

The *Edmonds* decision is not a bar to reasonable governmental restrictions that regulate legitimate zoning concerns that are rationally related to the promotion of health, safety and the general welfare of the community. Such is the case here.

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Keene, NH 03431

Steven Aug  
335 Court Street  
Keene, NH 03431

Eugene Trubiano  
181-183 North Street  
Keene, NH 03431

Matthew & Yvette Axsom  
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Fred Haas  
70 Prospect Street  
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By Their Attorneys,

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Dated: October 25<sup>th</sup>, 2017

  
\_\_\_\_\_  
Joseph S. Hoppock, Esquire (NH Bar #5543)

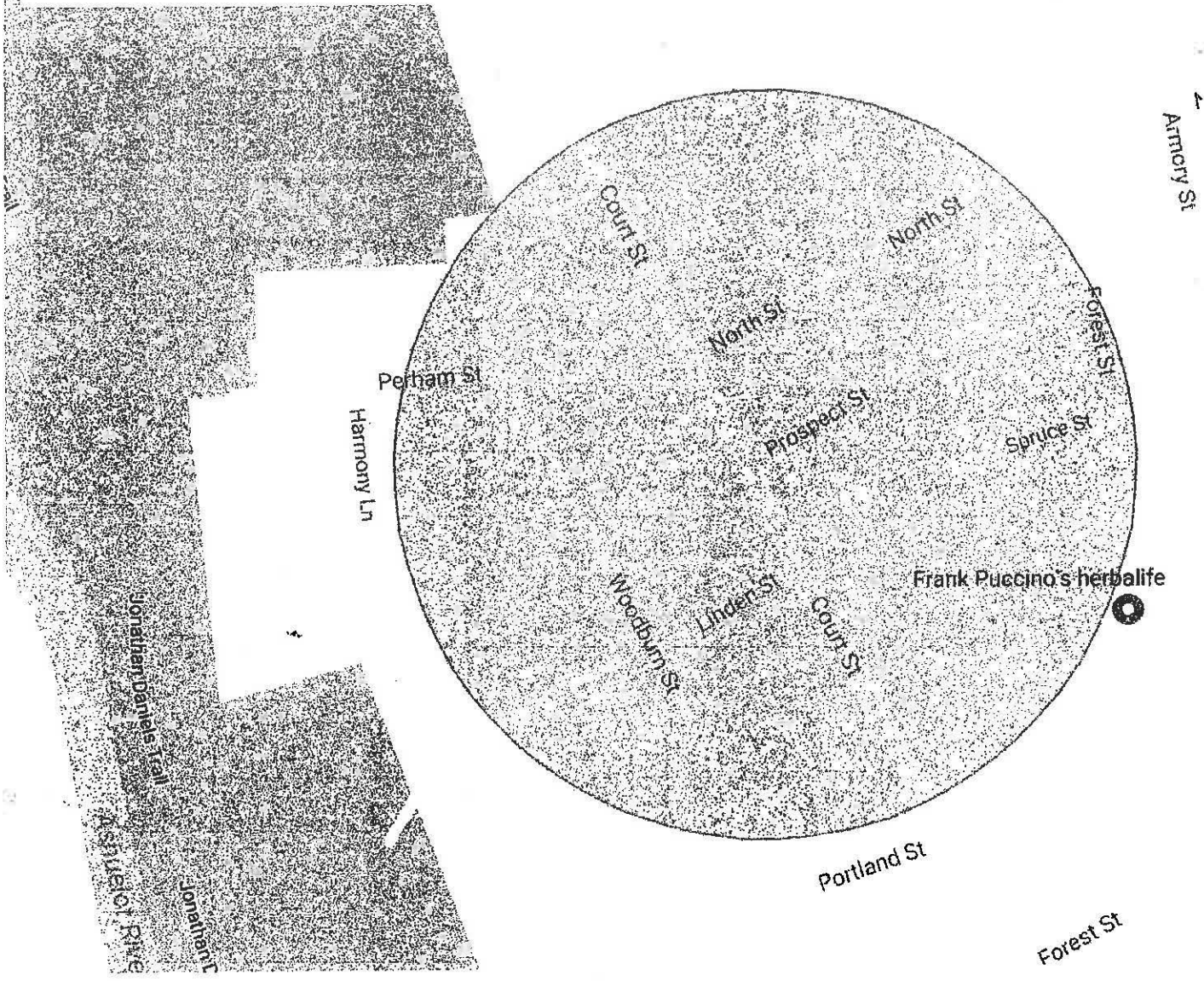


# Exhibit # 1

Address	Occupancy	Assessed Value	Assessed Value Less 17%	Cash Loss of Assessed Value	NOTES
Woodburn, 0	vacant lot	\$36,100.00	\$29,583.00	\$6,157.00	
Woodburn, 8	1	\$187,800.00	\$114,874.00	\$23,428.00	
Woodburn, 12	1	\$189,200.00	\$157,036.00	\$32,164.00	
Woodburn, 16	2	\$161,500.00	\$134,045.00	\$27,455.00	
Woodburn, 18	1	\$123,200.00	\$102,256.00	\$20,944.00	
Woodburn, 21	1	\$100,100.00	\$83,083.00	\$17,017.00	
Woodburn, 24	1	\$89,200.00	\$74,036.00	\$15,164.00	
Woodburn, 25	2	\$156,700.00	\$130,061.00	\$26,639.00	
Woodburn, 28-34	18	\$2,487,200.00	\$2,064,376.00	\$422,824.00	
Woodburn, 37	2	\$167,700.00	\$138,161.00	\$29,539.00	
Woodburn, 43	2	\$152,900.00	\$126,907.00	\$25,993.00	
Woodburn, 61	1	\$154,800.00	\$128,484.00	\$26,316.00	
Woodburn, 66	1	\$130,400.00	\$108,232.00	\$22,168.00	
Woodburn, 67	2	\$142,100.00	\$117,943.00	\$24,157.00	
Woodburn, 70	3	\$184,900.00	\$161,269.00	\$23,631.00	
Woodburn, 73	1	\$168,700.00	\$140,021.00	\$28,679.00	
Woodburn, 74-76	2	\$152,000.00	\$126,160.00	\$25,840.00	
Woodburn, 79	1	\$147,300.00	\$122,259.00	\$25,041.00	
Woodburn, 88	2	\$185,100.00	\$153,833.00	\$31,267.00	
Woodburn, 95	1	\$156,800.00	\$129,978.00	\$26,822.00	
Woodburn, 98	1	\$186,000.00	\$112,680.00	\$23,120.00	
Woodburn, 106	1	\$130,600.00	\$108,306.00	\$22,292.00	
Woodburn, 115	1	\$105,100.00	\$87,233.00	\$17,867.00	
Perham, 0		\$561,100.00	\$465,719.00	\$95,387.00	66 Acres, City of Keewa, Ashuelot Trail
Perham, 3	1	\$128,900.00	\$106,987.00	\$21,913.00	
Perham, 11	1	\$125,900.00	\$104,407.00	\$21,493.00	
Perham, 23	1	\$127,600.00	\$105,608.00	\$21,992.00	
Perham, 38	1	\$164,000.00	\$136,120.00	\$27,880.00	
Perham, 39	1	\$147,800.00	\$122,874.00	\$24,926.00	
Hampden, 5-28	16	\$3,298,500.00	\$2,737,765.00	\$560,735.00	
Court, 272	1	\$322800.00	\$267924.00	\$54876.00	
Court, 275	2	\$317700.00	\$268991.00	\$54009.00	
Court, 284	1	\$234800.00	\$194718.00	\$39882.00	
Court, 288	1	\$328800.00	\$272889.00	\$55911.00	
Court, 296	2	\$171900.00	\$142677.00	\$28223.00	
Court, 302	1	\$182300.00	\$149566.00	\$30634.00	
Court, 303	2	\$665500.00	\$552365.00	\$113135.00	
Court, 306	2	\$167200.00	\$138776.00	\$28424.00	
Court, 314	1	\$267600.00	\$222169.00	\$45432.00	
Court, 317	1	\$315800.00	\$262114.00	\$53686.00	
Court, 326	1	\$159800.00	\$127488.00	\$26112.00	
Court, 327	1	\$305400.00	\$253462.00	\$51918.00	
Court, 336	1	\$204200.00	\$169466.00	\$34714.00	
Court, 338	1	\$272400.00	\$226082.00	\$46308.00	
Court, 341	3	\$183800.00	\$160854.00	\$32946.00	
Court, 344	1	\$140800.00	\$124168.00	\$26432.00	
Court, 357	10	\$269400.00	\$219822.00	\$44778.00	
Court, 360	1	\$171700.00	\$142851.00	\$29189.00	
Court, 354	1	\$220000.00	\$182800.00	\$37400.00	
Court, 361	6	\$623300.00	\$519336.00	\$103961.00	Prospect Hill Place
Court, 362	1	\$179100.00	\$148653.00	\$30447.00	
Court, 369	2	\$115800.00	\$95948.00	\$19852.00	
Court, 374	1	\$159200.00	\$132186.00	\$27064.00	
Court, 377	1	\$228500.00	\$188904.00	\$39696.00	
Court, 382	2	\$153200.00	\$127156.00	\$26044.00	
Court, 383	2	\$227200.00	\$186576.00	\$39624.00	
Court, 391	1	\$284700.00	\$236301.00	\$48399.00	
Court, 394	1	\$180400.00	\$149732.00	\$30668.00	
Court, 397	1	\$166500.00	\$138558.00	\$27962.00	
Court, 401	1	\$294800.00	\$244684.00	\$50116.00	
Court, 406	2	\$298300.00	\$247689.00	\$50711.00	
Court, 411	buildable lot	\$21800.00	\$18064.00	\$3706.00	

Address	Occupancy	Assessed Value	Assessed Value Less 17%	Cash Loss of Assessed Value	NOTES
Court, 416	2	\$169300.00	\$140781.00	\$28519.00	
Court, 421	buildable lot	\$21400.00	\$17762.00	\$3638.00	
Court, 422	1	\$139000.00	\$115970.00	\$23030.00	
Court, 428	3	\$164900.00	\$136967.00	\$27933.00	
Court, 431	buildable lot	\$21300.00	\$17679.00	\$3621.00	
Court, 440	1	\$160600.00	\$132915.00	\$27685.00	
Court, 441	buildable lot	\$17000.00	\$14110.00	\$2890.00	
Court, 448	1	\$109500.00	\$90985.00	\$18515.00	
Court, 451	buildable lot	\$12800.00	\$10624.00	\$2176.00	
Court, 460	1	\$155000.00	\$128650.00	\$26350.00	
Court, 461	buildable lot	\$8700.00	\$7221.00	\$1479.00	
Forest, 80	1	\$121,900.00	\$101,177.00	\$20,723.00	
Forest, 88-94	4	\$459,000.00	\$384,370.00	\$74,630.00	
Forest, 89	1	\$126,200.00	\$104,746.00	\$21,454.00	
Forest, 87	1	\$151,200.00	\$125,486.00	\$25,714.00	
Forest, 100	2	\$168,000.00	\$139,440.00	\$28,560.00	
Forest, 103	1	\$141,000.00	\$117,080.00	\$23,920.00	
Forest, 106	2	\$157,500.00	\$130,725.00	\$26,775.00	
Forest, 108	1	\$156,400.00	\$129,812.00	\$26,588.00	
Forest, 115	1	\$140,200.00	\$116,566.00	\$23,634.00	
Forest, 126	1	\$188,300.00	\$154,789.00	\$33,511.00	
Forest, 136	1	\$158,100.00	\$131,223.00	\$26,877.00	
North, 124	1	\$196,000.00	\$161,540.00	\$34,460.00	
North, 143	1	\$148,000.00	\$122,360.00	\$25,640.00	
North, 157	1	\$176,600.00	\$146,885.00	\$29,715.00	
North, 173	1	\$216,500.00	\$180,185.00	\$36,315.00	
North, 181-183	2	\$184,800.00	\$153,384.00	\$31,416.00	
North, 185	1	\$142,800.00	\$118,524.00	\$24,276.00	
North, 188	1	\$111,800.00	\$92,794.00	\$19,006.00	
North, 187	1	\$171,200.00	\$142,066.00	\$29,134.00	
North, 181	1	\$242,500.00	\$201,275.00	\$41,225.00	
North, 203	2	\$200,700.00	\$168,581.00	\$32,119.00	
Spruce, 110	6	\$286,300.00	\$237,629.00	\$48,671.00	
Spruce, 133	2	\$112,300.00	\$93,209.00	\$19,091.00	
Spruce, 141	2	\$187,600.00	\$155,874.00	\$31,726.00	
Spruce, 155	2	\$145,400.00	\$120,682.00	\$24,718.00	
Spruce, 156	1	\$119,300.00	\$99,019.00	\$20,281.00	
Spruce, 164-166	2	\$211,800.00	\$175,794.00	\$36,006.00	
Prospect, 11	2	\$140,300.00	\$116,449.00	\$23,851.00	
Prospect, 17	2	\$152,400.00	\$126,492.00	\$25,908.00	
Prospect, 25	1	\$181,900.00	\$150,479.00	\$31,421.00	
Prospect, 29	1	\$203,200.00	\$168,556.00	\$34,644.00	
Prospect, 32	1	\$166,000.00	\$137,880.00	\$28,120.00	
Prospect, 38	2	\$149,400.00	\$123,172.00	\$26,228.00	
Prospect, 37-39	2	\$143,500.00	\$119,105.00	\$24,395.00	
Prospect, 48	1	\$181,600.00	\$150,728.00	\$30,872.00	
Prospect, 49	1	\$150,600.00	\$124,815.00	\$25,785.00	
Prospect, 53	2	\$155,800.00	\$128,314.00	\$27,486.00	
<b>Totals</b>	<b>165</b>	<b>\$26,581,800.00</b>	<b>\$21,832,845.00</b>	<b>\$4,748,955.00</b>	
	<b>Total Occupied Units</b>	<b>Total Assessed Value</b>	<b>Total Assessed Value Minus 17%</b>	<b>Total Projected Value Loss to Properties</b>	

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# **“Not in My Backyard”: The Effect of Substance Abuse Treatment Centers on Property Values**

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**Authors** Claire R. La Roche, Bennie D. Waller, and Scott A. Wentland

**Abstract** Residential treatment centers offer the most intense form of treatment for substance abuse and are often embedded in residential neighborhoods. As a result of the Patient Protection and Affordable Care Act, the number of treatment centers has been forecasted to burgeon. We examine the external effect of residential rehab centers on nearby real estate. As addiction treatment centers are planned, a common response of nearby property owners is “not in my backyard” (NIMBY). Using a large MLS dataset from central Virginia, we estimate the impact of substance abuse treatment centers on nearby home prices and liquidity (as measured by time on market). We find that a neighboring treatment center is associated with an 8% reduction in nearby home prices, and that this discount is magnified for treatment centers that specifically treat opiate addiction (as much as 17%).

The primary residence is perhaps the greatest single investment made by an individual and the mantra “location, location, location” is an ever-present concern of a prospective buyer. Before purchasing a home, a savvy buyer will frequently research the community and the school system, as well as the crime statistics. When homeowners are made aware of an application for a special use permit for the possibility of an addiction treatment center being located in their neighborhood, initial concern for personal and household safety, followed by the stark realization that home values in their neighborhood may be adversely affected, almost always lead homeowners to the universal response of “not in my backyard” (NIMBY). The typical opposition to a proposed substance abuse treatment facility is based on two visceral concerns: an increase in crime risk and a related decrease in property values. The primary purpose of this paper is to examine the latter claim empirically, determining whether there is significant evidence that treatment centers have a negative impact on nearby real estate.

Ex ante, it is not clear that substance abuse treatment centers will adversely impact neighboring real estate, which motivates our empirical examination of this externality. On one hand, there may be a priori reasons to suspect that treatment facilities will not have much of an impact on neighboring real estate. Locating addiction treatment centers in residential areas has become commonplace.



Treatment centers tend to be inconspicuous and may have blackout curtains and minimal signage (or no sign). The housing is often gated and locked at a certain time of the day. Generally, clients enrolled in residential treatment programs are not allowed to interact with the “locals” of the neighborhood or leave the premises. Under current law (discussed in the next section), despite their challenges, residential treatment centers have relatively few limitations on where they are sited.

On the other hand, like many negative externalities or NIMBY issues, there are reasons to suspect that rehab facilities may adversely impact neighboring real estate. Substance abuse is a multifaceted health issue and many patients in residential treatment have a dual diagnosis: a mental health issue and an addiction (Connery, 2011). The Substance Abuse Mental Health Services Administration (SAMHSA, 2008) surveyed 14,423 facilities in 2008 and had a response rate of 94.1%. The SAMHSA survey indicated that 39% of the clients in treatment centers had a dual diagnosis. In addition, concurrent alcohol and drug addiction accounted for approximately 45%, while clients in treatment solely for drug abuse accounted for 34%–36% and 18%–20% of the patients only abused alcohol (SAMHSA, 2008).

One consequence of locating drug and alcohol rehabilitation centers in residential areas is that patients in substance abuse treatment programs frequently leave or are administratively discharged before successful completion. At some point, experts say that, “relapse is an almost unavoidable—and potentially useful—step in recovery” (Shaffer, 2012). For many, intensive residential treatment is a “last resort.” A healthy family of an addict will decline to “enable” negative behavior and, instead, will insist that the alcoholic/addict experience the “consequence” of the decision to use again and refuse treatment. In other words, the family will often not offer any form of financial support and the addict will have to fend for himself or herself. In addition to having a substance abuse disorder and possibly a dual diagnosis, those who relapse and leave treatment prior to completion often have limited job skills and perhaps even a criminal record—factors that make employment a challenge. Thus, as a practical matter, nearby neighbors may have valid concerns that the presence of a treatment center will be accompanied by additional unemployed or even homeless addicts on the street near the area in which the treatment center is located. This perception of elevated risk in these areas may then be reflected in the market prices of nearby real estate.

The likely occurrence of relapse combined with the probability of criminal charges and/or convictions associated with substance abuse corroborates the argument that the presence of a treatment center may bring objectionable consequences into a community. The purpose of this paper is to use market data to assess whether there is substantial evidence of nearby real estate being adversely impacted by the presence of treatment centers, consistent with the potential risks that proximity to these facilities may bring. As a clear-cut NIMBY issue, this paper contributes to the broader literature of examining the market effects of specific externalities or environmental factors in real estate. Our study contributes to the literature by being the first to examine the effect of substance abuse treatment centers on the

surrounding real estate market and, more generally, adding to our understanding of external factors that impact home prices.

### **Substance Abuse Treatment: Salient Issues, Recent Trends, and Related Literature**

It is anticipated that the impact of the July 1, 2014 changes to insurance coverage under the Affordable Care Act (ACA) will cause the number of treatment centers to burgeon and thus, a study of the effect of nearby addiction treatment centers on real estate is timely. Prior to investigating treatment centers' effects on nearby real estate, it is crucial to understand the background of substance abuse treatment and why the current issues motivate the examination of potential real estate externalities.

Although accurate statistics of drug or alcohol disorders are difficult to obtain, according to a Harvard Medical School Special Health Report, between 15% and 28% of Americans will have a substance use disorder sometime during their lifetime and this estimate does not include addiction to nicotine (Shaffer, 2012). Residential treatment has become a more common way to treat addiction and, like many areas in healthcare services, residential rehabilitation has become a growth industry.

Broadly speaking, there are three types of treatment centers: intensive outpatient program (IOP), inpatient treatment, and partial hospitalization program (PHP). Typically, IOP treatment centers offer each client nine hours of group therapy, one hour of individual therapy, and one hour of case management (managing auxiliary services) per week. IOP clients either live in a halfway house or at home with strict guidelines established by their primary therapist. Although halfway houses can vary greatly, they generally have full-time house managers and mandatory, random urinalysis. Inpatient programs require clients to live at the facility in which all treatment takes place and may either be freestanding or hospital-based. PHP, also known as the "Florida model," is a hybrid version of inpatient treatment and intensive outpatient treatment: individuals go to a counseling center during the day, and after a full day of therapy sessions return to off-site housing located in a neighborhood. Behavioral health technicians work at the off-site facilities around the clock.

Mandatory addiction treatment (commitment) does not exist under the law. An addict must choose to be in a recovery program. It is interesting to note that all three of the substance abuse treatment models include the possibility of group housing in neighborhood settings.

### **Projected Increase in SUD Treatment Facilities: MHPAEA and the ACA**

The Patient Protection and Affordable Care Act (PPACA), also known as Obama Care, made sweeping changes to Mental Health/Substance Use Disorder



(MH/SUD) insurance coverage that went into effect on July 1, 2014. To understand the ramifications for residential treatment centers, it is necessary to briefly examine the legislative history of MH/SUD insurance coverage. Prior to July 1, 2014, the high cost of MH/SUD treatment meant that it was only available to patients with (or whose families have) considerable means, or those whose health insurance provided coverage. The Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) attempted to address the unequal treatment of MH/SUD health insurance coverage and legislated equal treatment between MH/SUD benefits and medical/surgical benefits. If a plan had MH/SUD coverage, then it must be on par with the medical/surgical benefits offered under that policy. The MHPAEA did not mandate that an insurance policy must cover MH/SUD and only applied to group health plans sponsored by employers with 50 or more employees. Both individual and small employer group policies were specifically exempted from coverage (MHPAEA Fact Sheet).

The PPACA mandates that MH/SUD coverage be included in marketplace health insurance policies as an "essential health benefit" as of July 1, 2014 (MHPAEA Fact Sheet). The effect of inclusion of MH/SUD coverage as an essential health benefit is that the MH/SUD parity rules now apply to non-grandfathered individual and small group plans (Beronio, Po, Skopec, and Glied, 2013). With expansion of the "parity rules" and inclusion of MH/SUD coverage as an essential health benefit under the ACA, it is anticipated that the number of patients having access to expensive addiction treatment options will grow exponentially, as will the number of treatment centers.

### ***Antidiscrimination Housing Laws***

When a proposed treatment center is sited, concerned members of the community frequently pressure lawmakers or hire attorneys, causing treatment centers to fight protracted legal battles that attempt to prevent the opening of the center. However, numerous laws hinder such NIMBY efforts, providing legal basis for treatment centers to be located just about anywhere. There are several federal laws that prohibit discrimination in housing based on a "disability" and define disability as: "Any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such impairment" (HUD).

Substance abuse disorders are clearly recognized disabilities and thus are covered under fair housing laws. Federal housing laws that prohibit disability-based discrimination and ensure equal housing opportunities are briefly discussed below.

***Fair Housing Act.*** The Fair Housing Act (FHA) was designed to prohibit discrimination in housing. In 1988, the FHA was amended to include persons with handicaps to the protected classes under the FHA, 42 U.S.C. §3604(f)(3)(B). The definition of "handicap" under the FHA is very broad, and drug addiction and alcoholism are considered to be disabilities that are covered. The FHA also has a provision (42 U.S.C. §3604(f)(9)) that permits the exclusion of those "whose tenancy would constitute a direct threat to the health or safety of other individuals or ... would result in substantial physical damage to the property of others." Thus,

the FHA does not protect an individual currently using illegal drugs or a person with a conviction of distributing or illegally manufacturing a controlled substance.

The FHA covers almost every aspect of a real estate transaction. According to the Act, it is illegal to discriminate in the sale or rental of a dwelling against a person with a disability. Thus, an alcoholic/addict cannot be denied housing based solely on his or her addiction. The Act does permit "reasonable local, State or Federal restriction regarding the maximum number of occupants permitted to occupy a dwelling" 42 U.S.C. §3607(b)(1). This exemption is for living space per occupant and is intended to promote health and safety, not exclude group homes from residential areas.

Although a person with a conviction for dealing or illegally manufacturing a controlled substance is not protected under the FHA, a drug distribution conviction does not automatically exclude a person from invoking the Rehabilitation Act or the Americans with Disabilities Act.

**Rehabilitation Act.** §504 (45 CFR Part 84) of the Rehabilitation Act of 1973 prohibits any entity from receiving federal funds from discriminating on the basis of a disability. Drug addiction and alcoholism are covered under this act as well. Communities have attempted to use zoning laws to exclude treatment centers. Under §504, if a community's zoning regulation excludes substance abuse treatment centers, that community risks losing its federal funds.

**Americans with Disabilities Act.** Among other things, the purpose of Title II of the Americans with Disabilities Act (ADA) is to eliminate discrimination in housing against people with disabilities. This Act has further reach than §504 of the Rehabilitation Act because the receipt of federal funds is not required for Title II of the ADA to apply.

**Zoning and Case Law.** Zoning regulations create perhaps the biggest barrier to entry for a substance abuse center. As a practical matter, when considering a proposed site for a treatment center, the owners prefer to avoid spending a lot of time and money fighting a protracted court battle associated with a zoning ordinance. This mindset, however, did not stop a significant case from being appealed to the United States Supreme Court by Oxford House, a self-supporting, resident-run, residential treatment program. In the landmark case of *City of Edmonds v. Oxford House, Inc., et al.*, 514 U.S. 725 (1995), the City of Edmonds attempted to use an occupancy restriction in a zoning ordinance to exclude treatment centers from residential areas. The zoning ordinance in question allowed an unlimited number of related persons to live in a home and attempted to restrict the number of unrelated persons living in a single-family dwelling to five. The City of Edmonds claimed that the §3607(b)(1) exemption to the FHA applied to the city's zoning ordinance. In a 5-4 decision, the Supreme Court held that a zoning ordinance that defined a family in such a way as to exclude treatment centers was unlawful. The ordinance was not a maximum occupancy provision but a provision describing who may compose a "family" and, thus, it violated the FHA. This case was a critical victory for the "Oxford House Model" because this community-based treatment program leases houses located in upscale neighborhoods across the U.S.

The bottom line is that there must be a “rational basis” for zoning regulation to be valid and localities have consistently been prohibited from discriminating against substance abuse treatment centers. Absent drastic changes to the laws outlined above, it is clear that residential centers are here to stay, and that if challenged in court, NIMBY proponents will have an uphill battle. Thus, given the growth trends in this industry, the potential risks posed to neighbors, and the laws that protect the treatment centers’ rights to locate almost anywhere, what is the consequence for real estate when a treatment center is located in one’s “backyard,” so to speak?

### ***Related Literature in Real Estate***

Researchers have long recognized that numerous externalities impact the marketing outcomes of residential real estate. These externalities may include, for example, neighboring pollution,<sup>1</sup> or even the condition of adjoining or nearby properties and/or the tenant’s behavior living in such properties. Real property has intangible benefits or disamenities, which are determined largely by public perception and capitalized into the pricing and marketing duration of residential properties. Furthermore, negative externalities are likely to significantly impact the marketing outcomes of properties in close proximity to the properties being marketed for sale, as well as impact the desirability of the overall neighborhood. Such “stigma” events are likely to be correlated with an exodus of higher income residents causing a “snowball” effect in declining property values (McCluskey and Rausser, 2003).

There are a number of researchers who analyze the degree to which external or neighborhood factors, both positive and negative, are capitalized in residential real estate marketing outcomes. For example, Thaler (1978) finds a negative relationship between neighborhood crime rates and property values. Gibbons (2004) finds an inverse relationship between vandalism and property values in London. As one would expect, robbery and aggravated assault rates have a significant and negative impact on property values (Ihanfeldt and Mayock, 2010). Pope (2012) found that decrease in crime rates had a positive effect on property values, particularly in those cities with substantial decreases in crime rates. Using a microspatial approach, Rosiers (2002) examined the impact of the visual encumbrance of power lines on property value and finds that on average it negatively impacts value by approximately 10%, but increases to 14% in areas where setback in property lines are less.

As a result of the recent economic and housing collapse, there are several studies that have examined the impact of foreclosed properties. Foreclosed properties may present a variety of negative effects on neighboring properties, including (but not limited to) the “eyesore effect” where neighboring foreclosures that have long been vacant adversely impact the aesthetic appeal of the neighborhood. Such studies include Harding, Rosenblatt, and Yao (2009), Lin, Rosenblatt, and Yao (2009), Daneshvary, Claurette, and Kader (2011), Daneshvary and Claurette (2012), and Agarwal, Ambrose, Chomsisengphet, and Sanders (2013). Generally, these studies find negative neighborhood spillovers from foreclosed or distressed properties.

A review of the literature does not reveal any specific examples of residential drug rehabilitation centers and their impact on neighboring property values. However, there is analogous literature of undesirable neighbors impacting property values. For example, Congdon-Hohman (2013) finds a significant and negative effect on home values located within one-eighth of a mile of a methamphetamine lab. The effect dissipates both as time passes after the discovery of and distance from a meth lab. Reichert, Small, and Mohanty (1992) estimate the impact of landfills on nearby real estate, finding a negative impact when located within several blocks of an expensive housing area. They find an effect that ranges from 5.5% to 7.3%, depending on the distance from the landfill. Indeed, the authors find that the percentage impact on older, less expensive properties to be significantly less (3%–4%) relative to the more expensive properties. Similarly, Hite, Chern, Hitzusen, and Randall (2001) find significant differences in property values located within 3.25 miles of a landfill.

Other studies have shown that a variety of other external factors affect real estate market outcomes. Coulson and Leichenko (2001) find that designated properties, as well as neighboring properties, are significantly impacted by historical designations. Other examples include the impact of registered sex offenders on the marketing outcomes of neighboring properties. Three recent studies have examined the impact as to the proximity of registered sex offenders. Most recently, Wentland, Waller, and Brastow (2014) found that close proximity to sex offenders rendered large price and liquidity effects, declining but significant out to one mile. The authors also found amplified effects for homes with more bedrooms, a proxy for children, and whether the nearby offender was convicted of a violent sex offense. Linden and Rockoff (2008) found significant reductions in home prices across radii of less than 0.1 miles and 0.1 to 0.3 miles when an offender moves in. Pope (2008) found properties located within 0.1 miles of a sex offender significantly reduced home values.

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## Data

We use residential real estate data from a multiple listing service (MLS) located in central Virginia, including Richmond and other surrounding areas. MLS data are critical for any externality study, particularly those that analyze both time on market and price, because it contains both the list date and sell date (or withdraw date) of residential properties, while tax data and other publically available data usually only include the property's date of sale. This is critical because nearby amenities or disamenities may be capitalized into a home's price, liquidity, or some combination of the two. In this study, we examine both. While the expected sign of living near a potential disamenity is likely negative for the price estimates, the estimated impact on liquidity is theoretically ambiguous. While the disamenity may lower the arrival rate of potential buyers, lengthening the time on market, the seller may be willing to discount the home in part to counteract this effect.

The sample is composed of listings in the residential real estate market over approximately a decade, between 2001 and 2011. The initial housing data contains 207,793 observations (including both sold and unsold properties). Among others,



Levitt and Syverson (2008) point out that MLS data are entered by real estate agents and can be incorrect or incomplete. The data were carefully examined in light of common issues prevalent in the data. After culling for incomplete, missing or illogical data that suggest data entry errors or extravagant outliers, the final data set consists of approximately 194,983 homes on the market, with approximately 111,580 that eventually sold.<sup>2</sup> The MLS data include numerous property characteristics (square footage, bedrooms, baths, age, acreage, etc.) and, of course, each property's location.

Our MLS data are a fairly representative housing market in the U.S., which includes urban, suburban, and rural sales. Richmond is a medium-sized city located in the eastern part of central Virginia and the MLS covers much of the "Greater Richmond" area (or Richmond MSA). The average property in this MLS has a listing and selling price of \$263,641 and \$242,116, respectively. The average listed property was 25 years of age, with 2,143 square feet, 3.6 bedrooms, and 2.4 bathrooms with an average time on market of 85 days. During this time period, there were 36 substance abuse treatment centers located within the broader region encompassing the listings in our data, and nine were located within the city limits of Richmond specifically.<sup>3</sup> See Exhibit 1 for additional descriptive statistics.

The primary source of the treatment center externality is its proximity to a given home on the market. Intuitively, there is likely an increasing NIMBY sentiment as the proximity to the center is closer in distance. Thus, we compute the distance from a given home in the MLS and each treatment center, using address data to code the longitude and latitude from which the straight-line distance is calculated using the great-circle formula. While NIMBY does not literally refer to one's "backyard," it is usually taken to mean very close proximity, but the definition of what qualifies as "very close proximity" may be different depending on the person and the issue. Below we examine the effect of nearby substance abuse treatment centers on nearby real estate, using different spatial proximities (e.g., 0.175 miles, 0.15 miles, and 0.125 miles) as a robustness check.<sup>4</sup>

### ***Empirical Methodology***

Our primary goal is to isolate the effect of a treatment center on neighborhood real estate outcomes. Numerous studies have examined other neighborhood externalities, using a variety of empirical approaches.<sup>5</sup> Initially, we focus on a treatment center's effect on the sale price and liquidity of a home, utilizing a cross-sectional OLS hedonic pricing model as the baseline. While hedonic pricing models are commonly used to determine the value of specific property attributes and surrounding (dis)amenities by estimating marginal effects on the sale price of the property,<sup>6</sup> we also explore a simultaneous equation model to account for the joint determination of both price and liquidity. The purpose of exploring multiple approaches is to demonstrate that the results are not particularly sensitive to the choice of modeling technique.

### ***Baseline OLS Hedonic Models***

Beginning with a simple cross-sectional approach, we provide a baseline estimate of the effect of a nearby substance abuse treatment center, employing a traditional

Exhibit 1 | Summary Statistics

Variable	Mean	Std. Dev.
List Price (\$)	263,641	142,300
Sale Price (\$)	242,116	127,608
Time on Market (in Days)	85.45	79.99
Rehab Center (Dummy Var. = 1 if the home is near a rehab center (distance specified in each table), 0 otherwise)	0.0003	0.02
Age (in Years)	24.99	26.16
Acreage	0.79	1.91
Square Feet	2,143.29	889.25
Bedrooms	3.60	0.77
Bathrooms	2.38	0.82
Foreclosure (Dummy Var. = 1 if foreclosure, 0 otherwise)	0.02	0.12
Number of levels	1.83	0.65
Pool (Dummy Var. = 1 if the home has a pool, 0 otherwise)	0.05	0.23
Basement (Dummy Var. = 1 if they have a basement, 0 otherwise)	0.17	0.38
Short Sale (Dummy Var. = 1 if short sale, 0 otherwise)	0.02	0.13
Tenant (Dummy Var. = 1 if it has a tenant at listing, 0 otherwise)	0.03	0.16
Vacant (Dummy Var. = 1 if the home is vacant, 0 otherwise)	0.36	0.48
Taxes	1,779.95	1,311.74
HOA Fees (Dummy Var. = 1 if it has HOA fees, 0 otherwise)	0.32	0.47
Listing Density	64.41	577.40
Competition	582.22	1,062.08

Note: Location and year fixed effects summary stats omitted.

hedonic model that accounts for heterogeneous characteristics of both homes and their locations. We estimate the following functional forms:

$$SP_i = \varphi_p(X_i, LOC_i, T_i, TOM_i) + \varepsilon \quad (1)$$

and

$$TOM_i = \varphi_T(X_i, LOC_i, T_i, LP_i) + \varepsilon \quad (2)$$

where  $SP_i$  is a vector for property selling price,<sup>7</sup>  $LP_i$  is a vector for property listing price  $X_i$  is a vector of property specific characteristics,<sup>8</sup>  $LOC_i$  is a vector for location control using ZIP Codes (see below),  $T_i$ , the variable of interest, equals



1 if a treatment center is located nearby of a given home, and is 0 otherwise,  $TOM_i$  is the time on market (in days), which the literature also calls marketing duration or a measure of liquidity, and  $\varepsilon$  is an error term that is heteroskedastic-consistent and clustered by ZIP Code.<sup>9</sup>

Hedonic analysis of the housing market requires some control for spatial heterogeneity because location itself is a key source of differences in housing prices. The goal is to disentangle specific proximity to a treatment center from broader location differences that explain real estate prices. Following numerous studies in the real estate and urban economics literature, we chose ZIP Code fixed effects to control for unobserved heterogeneity *across* these areas so that the explanatory variables' effects are identified from variation *within* a given area (or even in a given year, as is the case for time fixed effects). In effect, our results may then be interpreted as the treatment center's effect on home prices given comparable homes within the same ZIP Code, but located further away. In this sense, we are attempting to disentangle the broader location effect from the proximity to a treatment center by essentially comparing homes within a certain ZIP Code. Further, we explore alternative location controls (census tracts, block groups, and blocks) in a similar vein, as well as altering the control group itself by confining it to narrow bands around a rehab facility. Appropriate location controls can disentangle the negative externality effect from simply a "bad neighborhood" or "bad part of town" effect.

### ***Simultaneous Equations Approach: System Identification***

Numerous studies in real estate and urban economics model price and time on market in a simultaneous system (like 2SLS or 3SLS) given likely joint determination of these factors. A seller can always lower price to increase liquidity, and vice versa. Yet, a home's sale price and time on market are determined by virtually identical factors. Econometrically, this creates an identification problem because if one wants to model this simultaneity with a system of equations, then, by definition, such a system could not be identified using identical exogenous variables. While a number of empirical studies acknowledge this simultaneity,<sup>10</sup> Turnbull and Dombrow (2006) and Zahirovic-Herbert and Turnbull (2008) have identified a novel way of overcoming this identification problem through their incorporation of variables that represent market conditions from other listings on the market. Below we summarize a solution to this identification issue, as we utilize an adapted form of this approach to model price and liquidity in a simultaneous system.

Following Krainer's (2001) search market model, one can model a home's expected liquidity,  $E[TOM]$ , (measured as a home's marketing duration or time on market) and expected house sale price,  $E[SP]$ , as simultaneously determined and implicitly defined as:

$$F(E[SP], E[TOM], T, X, LOC, C) = 0, \quad (3)$$

where  $T$  is an indicator of whether a home is near a rehab treatment center,  $X$  is a vector of house (and market) characteristics,  $LOC$  is location controls, and  $C$  are neighborhood market conditions. The latter variable,  $C$ , represents neighborhood market conditions that have an ambiguous external effect on local properties. On one hand, when the number of nearby homes that go on the market increases, the supply of additional homes on the market ought to negatively impact the price and liquidity of a nearby home (i.e., "a competition effect"). On the other hand, the increased traffic generated from additional nearby homes on the market could actually positively impact a home's price and liquidity, which is termed "a shopping externality effect." Empirically, the sales price and time on market can be represented as separate functions with jointly distributed stochastic errors  $\varepsilon_p$  and  $\varepsilon_T$ :

$$SP = \varphi_p(TOM, T, LOC, X, C) + \varepsilon_p \tag{4}$$

and

$$TOM = \varphi_T(SP, T, LOC, X, C) + \varepsilon_T \tag{5}$$

The vector  $C$  (i.e., market conditions or neighborhood competition) and another vector,  $L$  (i.e., listing density), are the keys to Turnbull and Dombrow's (2006) solution to over-identifying this system of equations (since equations 3 and 4 are not yet identified). Neighborhood competition,  $C$ , is a measure that accounts for "nearby houses for sale as long as each competing listed house overlaps with the period that this house is on the market, inversely weighted by the distance between the houses to reflect the assumption that nearby houses will have stronger effects on the sale of this house than houses that are farther away" (Zahirovic-Herbert and Turnbull, 2008).<sup>11</sup> Listing density,  $L$ , is similarly defined as "the measure of competing overlapping listings per day on the market" (Zahirovic-Herbert and Turnbull, 2008), where:  $L(i) = \sum_j (1 - D(i, j))^2 \{ \min[s(i), s(j)] - \max[l(i), l(j)] \} / s(i) - l(i) + 1$ . Essentially, both measures capture neighborhood market conditions by quantifying the marketing overlap of nearby homes on the market simultaneously, however, listing density is weighted by time on market. Turnbull and Dombrow (2006) point out that a change in competition while holding selling time constant is also the partial derivative with respect to listing density (and it is easy to see that  $\partial \varphi_p / \partial C \equiv \partial \varphi_p / \partial L$ ). Therefore, we can rewrite our system of equations to reflect:

$$SP = \varphi_p(TOM, T, LOC, X, L) + \varepsilon_p \tag{6}$$

and

$$TOM = \varphi_T(SP, T, LOC, X, C) + \varepsilon_T \quad (7)$$

Both  $L$  and  $C$  vectors uniquely identify the simultaneous system. Further, we supplement this approach by using different location controls across equations.<sup>12</sup> We estimate the system of equations (5) and (6) using three-stage least squares (3SLS) in the next section to generate a coefficient estimate of the effect of a nearby treatment center on price and time on market. We model simultaneity using a 3SLS approach because it incorporates an additional step with seemingly unrelated regression (SUR) estimation to control for correlations between error terms.<sup>13</sup>

### **Alternative Specifications and Robustness**

While the baseline results include location controls, an additional way to isolate the treatment effect of a rehab facility is by limiting the control group to homes closer to rehab facilities more generally (i.e., omitting observations sufficiently far from any rehab facility). Methodologically, the comparison is then between homes that are near a rehab treatment facility and homes just outside a given range. Specifically, we explore the effect of a rehab center (within 1/8 mile) on nearby real estate as compared to similar homes further out (i.e., within 1.5 miles, 1 mile, and 2/3 mile, respectively). This approach allows us to further homogenize location as a robustness check, and to provide additional evidence that the external effect is specific to the rehab facility, and not simply the part of town in which it is located.

We also examine whether facilities that only treat opiate addicts (commonly known as methadone clinics) have a larger impact on nearby real estate. Clinics that treat heroin or prescription addicts, for example, often use buprenorphine or methadone as part of the rehabilitation process. Nearby residents may perceive patients who are still intoxicated, albeit at a lower dose, as an elevated crime risk. Approximately half of the 36 treatment centers in our sample only treat opiate addiction (hereinafter referred to as methadone clinics). We examine whether nearby real estate is more affected by methadone clinics specifically.

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## **Results**

### **Baseline OLS Results**

The baseline OLS results provide evidence that nearby treatment centers adversely impact surrounding home values, but have little if any impact on property liquidity. Estimating equations (1) and (2), Exhibit 2 shows that this adverse effect is not qualitatively sensitive to the choice of the definition of "nearby." Column 1 shows that the presence of a rehab center within 0.125 (1/8) miles is associated with

**Exhibit 2** | Effect of a Nearby Rehab Center on a Home's Price and Liquidity: Baseline OLS Results

	Dependent Variable: <i>ln(Sale Price)</i>			Dependent Variable: <i>ln(Days on Market)</i>		
	(1)	(2)	(3)	(4)	(5)	(6)
<i>Rehab Center ≤ 0.125 Mile</i>	-0.0796** (-1.97)			-0.0513 (-0.28)		
<i>Rehab Center ≤ 0.15 Mile</i>		-0.0623** (-2.20)			0.1101 (0.76)	
<i>Rehab Center ≤ 0.175 Mile</i>			-0.0517** (-2.49)			0.1190 (1.10)
<i>ln(Age of Home)</i>	-0.0649*** (-19.07)	-0.0649*** (-19.07)	-0.0649*** (-19.08)	0.0213*** (2.71)	0.0213*** (2.71)	0.0213*** (2.71)
<i>Acreage</i>	0.0206*** (13.39)	0.0206*** (13.39)	0.0206*** (13.39)	0.0203*** (4.47)	0.0203*** (4.46)	0.0203*** (4.46)
<i>Sq. Ft.</i>	0.0003*** (15.38)	0.0003*** (15.38)	0.0003*** (15.38)	-0.0000 (-0.50)	-0.0000 (-0.50)	-0.0000 (-0.50)
<i>Bedrooms</i>	-0.0075 (-0.99)	-0.0075 (-0.99)	-0.0075 (-0.99)	0.0441*** (5.06)	0.0441*** (5.07)	0.0441*** (5.06)
<i>Bathrooms</i>	0.0390*** (6.30)	0.0390*** (6.30)	0.0390*** (6.30)	-0.0517*** (-5.34)	-0.0517*** (-5.34)	-0.0517*** (-5.33)
<i>Foreclosure</i>	-0.1691*** (-20.60)	-0.1691*** (-20.60)	-0.1691*** (-20.60)	-0.3936*** (-15.90)	-0.3938*** (-15.91)	-0.3939*** (-15.93)
<i>Number of Levels</i>	-0.0055 (-1.17)	-0.0055 (-1.17)	-0.0055 (-1.17)	0.0419*** (4.93)	0.0418*** (4.93)	0.0418*** (4.93)
<i>Fool</i>	0.0334*** (3.61)	0.0334*** (3.61)	0.0334*** (3.60)	0.0060 (0.18)	0.0060 (0.18)	0.0060 (0.18)
<i>Basement</i>	0.0418*** (3.15)	0.0418*** (3.15)	0.0418*** (3.15)	0.0045 (0.23)	0.0046 (0.23)	0.0046 (0.23)

**Exhibit 2 | (continued)**  
 Effect of a Nearby Rehab Center on a Home's Price and Liquidity: Baseline OLS Results

	Dependent Variable: <i>ln(Sale Price)</i>			Dependent Variable: <i>ln(Days on Market)</i>		
	(1)	(2)	(3)	(4)	(5)	(6)
<i>Short Sale</i>	-0.0935*** (-12.68)	-0.0935*** (-12.68)	-0.0935*** (-12.67)	0.3775*** (18.07)	0.3775*** (18.08)	0.3775*** (18.07)
<i>Tenant</i>	-0.0815*** (-10.10)	-0.0815*** (-10.10)	-0.0815*** (-10.10)	0.2479*** (11.82)	0.2479*** (11.81)	0.2479*** (11.81)
<i>Vacant</i>	-0.0279*** (-6.56)	-0.0279*** (-6.56)	-0.0279*** (-6.57)	0.1207*** (7.44)	0.1207*** (7.43)	0.1207*** (7.43)
<i>Taxes (\$)</i>	0.0001*** (6.81)	0.0001*** (6.81)	0.0001*** (6.81)	-0.0000 (-1.23)	-0.0000 (-1.23)	-0.0000 (-1.23)
<i>HOA Fee</i>	0.0715*** (7.11)	0.0715*** (7.11)	0.0715*** (7.11)	-0.0690*** (-3.26)	-0.0691*** (-3.26)	-0.0690*** (-3.26)
<i>ln(Days on Market)</i>	0.0003 (0.21)	0.0003 (0.21)	0.0003 (0.21)			
<i>ln(List Price)</i>				0.6486*** (9.34)	0.6487*** (9.34)	0.6487*** (9.34)
<i>Constant</i>	11.4723*** (171.71)	11.4723*** (171.70)	11.6581 (0.07)	-5.6213*** (-6.69)	-5.6222*** (-6.69)	-5.6225*** (-6.69)
<i>Location Controls (ZIP Code)</i>	✓	✓	✓	✓	✓	✓
<i>Year Fixed Effects</i>	✓	✓	✓	✓	✓	✓

*Notes:* This table presents results of hedonic OLS models showing the effect of a nearby (i.e., within 0.125 mile, 0.15 mile, and 0.175 mile) rehab facility on a property's sale price and time on market (errors clustered by ZIP Code). *T*-statistics are in parentheses. The number of observation in columns 1-3 is 117,187; the number of observation in columns 4-6 is 206,420.

\*Significant at the 10% level.

\*\*Significant at the 5% level.

\*\*\*Significant at the 1% level.



approximately an 8% reduction in home values. The corresponding impact on time on market is not statistically significant at any conventional level, providing initial evidence that the externality is primarily capitalized into home prices, rather than liquidity. Indeed, columns 2 and 3 show that homes sold for approximately 6% or 5% less if they were located within 0.15 miles or 0.175 miles of a rehab center, respectively. While qualitatively similar, these coefficient estimates also provide some evidence that the externality may be diminishing in distance, as additional, further properties are included in the latter estimates. The regressions tabulated in columns 5 and 6 tell approximately the same story as column 4, in that there is little evidence that rehab centers have a statistically significant impact on a home's liquidity.

The real estate literature has not adopted a single way to control for spatial heterogeneity. In Exhibit 3 we examine a few common alternatives to controlling for location. The initial estimates in Exhibit 2 use ZIP Codes to control for spatial heterogeneity. In Exhibit 3, we use census tract fixed effects (columns 1 and 4), block group fixed effect (columns 2 and 5), and block fixed effects (columns 3 and 6). Census tracts, according to the U.S. Census, are "small, relatively permanent statistical subdivisions of a county ... designed to be homogenous with respect to population characteristics, economic status, and living conditions."<sup>14</sup> Census block groups are subsets of census tracts; and, blocks are further subsets of block groups. One can think of these as different measures of "neighborhoods," broadly to more narrowly defined. The results from the price regressions in Exhibit 3 are consistent with Exhibit 2, falling within a fraction of a percentage point of one another, with an effect of approximately 7.2% to 7.9%. Columns 4-6 in Exhibit 3 also show that substance abuse treatment centers are not associated with a statistically significant impact on nearby property liquidity. Overall, it is clear that the estimates of the effect of a substance abuse treatment center on nearby real estate is not particularly sensitive to the choice of location controls, providing evidence that the external effect of substance abuse treatment centers is robust.

### **Simultaneous Equation Results**

When price and time on market are modeled within a simultaneous 3SLS system of equations, the estimated effect of a nearby substance abuse treatment center on home price and liquidity are similar to the OLS results, finding that nearby substance abuse treatment centers are associated with an approximately 8% drop in home values (within 1/8 mile). Column 1 in Exhibit 4 displays this result. Like the initial OLS results, the 3SLS estimations also show that substance abuse treatment centers have little impact on nearby property liquidity, as the externality appears to be capitalized into price exclusively. Exhibit 4 provides additional evidence that the external impact of substance abuse treatment centers is robust to multiple modeling approaches that are common in empirical real estate studies.

Exhibit 4 also provides evidence that not all substance abuse treatment centers may be perceived by nearby residents as presenting equal risk. It is possible that methadone clinics have a greater NIMBY sentiment from the broader community. We test this proposition empirically by exclusively examining the effect of



**Exhibit 3** | Effect of a Nearby Rehab Center on a Home's Price and Liquidity with Different Location Controls

	Dependent Variable: <i>ln(Sale Price)</i>			Dependent Variable: <i>ln(Days on Market)</i>		
	(1)	(2)	(3)	(4)	(5)	(6)
<i>Rehab Center ≤ 1/8 Mile</i>	-0.0720** (-2.01)	-0.0787** (-2.16)	-0.0744** (-2.25)	-0.0695 (-0.41)	-0.0919 (-0.55)	-0.0520 (-0.32)
<i>ln(Age of Home)</i>	-0.0683*** (-36.51)	-0.0668*** (-39.52)	-0.0650*** (-48.49)	0.0066 (0.87)	-0.0111 (-1.50)	-0.0110** (-2.39)
<i>Acreage</i>	0.0200*** (17.12)	0.0209*** (20.28)	0.0201*** (24.52)	0.0372*** (9.82)	0.0589*** (12.25)	0.0552*** (23.18)
<i>Sq. Ft.</i>	0.0002*** (14.20)	0.0002*** (13.45)	0.0002*** (14.30)	0.0000** (1.96)	0.0001*** (4.91)	0.0001*** (7.83)
<i>Bedrooms</i>	0.0004 (0.08)	0.0038 (0.71)	0.0046 (1.12)	0.0356*** (3.56)	0.0148 (1.34)	0.0202*** (2.81)
<i>Bathrooms</i>	0.0404*** (7.09)	0.0394*** (7.06)	0.0383*** (7.96)	-0.0495*** (-5.08)	-0.0441*** (-4.00)	-0.0463*** (-5.91)
<i>Foreclosure</i>	-0.1546*** (-24.91)	-0.1482*** (-27.52)	-0.1401*** (-32.23)	-0.4062*** (-19.06)	-0.4258*** (-18.46)	-0.4239*** (-21.16)
<i>Number of Levels</i>	-0.0032 (-1.08)	-0.0012 (-0.46)	0.0022 (0.96)	0.0202*** (2.65)	-0.0078 (-0.78)	0.0010 (0.16)
<i>Pool</i>	0.0355*** (4.99)	0.0333*** (5.69)	0.0289*** (8.30)	0.0126 (0.43)	0.0159 (0.48)	0.0219 (1.07)
<i>Basement</i>	0.0231*** (3.52)	0.0193*** (3.89)	0.0152*** (4.88)	0.0400*** (2.77)	0.1021*** (6.03)	0.0865*** (8.86)
<i>Short Sale</i>	-0.0822*** (-14.38)	-0.0818*** (-14.82)	-0.0817*** (-14.83)	0.3531*** (18.52)	0.3422*** (17.81)	0.3410*** (18.39)
<i>Tenant</i>	-0.0729*** (-14.28)	-0.0721*** (-16.27)	-0.0702*** (-18.31)	0.2570*** (13.10)	0.2966*** (14.02)	0.2882*** (15.87)

**Exhibit 3 | (continued)**

Effect of a Nearby Rehab Center on a Home's Price and Liquidity with Different Location Controls

	Dependent Variable: $\ln(\text{Sale Price})$			Dependent Variable: $\ln(\text{Days on Market})$		
	(1)	(2)	(3)	(4)	(5)	(6)
<i>Vacant</i>	-0.0309*** (-9.74)	-0.0326*** (-12.22)	-0.0345*** (-20.51)	0.1171*** (7.81)	0.1393*** (8.97)	0.1301*** (12.79)
<i>Taxes (\$)</i>	0.0001*** (10.40)	0.0001*** (10.45)	0.0001*** (13.13)	-0.0001** (-2.17)	-0.0001*** (-3.20)	-0.0001*** (-6.69)
<i>HOA Fees</i>	0.0660*** (9.93)	0.0681*** (11.85)	0.0635*** (16.69)	-0.0847*** (-4.25)	-0.1136*** (-5.04)	-0.1100*** (-8.49)
<i>ln(Time on Market)</i>	0.0014* (1.67)	0.0016** (2.40)	0.0015*** (2.79)			
<i>ln(List Price)</i>				0.5101*** (11.71)	0.2620*** (5.67)	0.2991*** (11.74)
<i>Constant</i>	11.4958*** (156.44)	11.4429*** (260.80)	11.5281*** (259.87)	-4.1742*** (-7.64)	-1.1906** (-2.12)	-1.6416*** (-4.76)
<i>Location Controls (Census Tracts)</i>	✓			✓		
<i>Location Controls (Blocks Groups)</i>		✓			✓	
<i>Location Controls (Blocks)</i>			✓			✓
<i>Year Fixed Effects</i>	✓	✓	✓	✓	✓	✓

Notes: This table presents results of hedonic OLS models showing the effect of a nearby (i.e. within 0.125 mile) rehab facility on a property's sale price and time on market, while controlling for different spatial/area fixed effects. Errors are clustered by spatial area in each regression respectively. T-statistics are in parentheses. The number of observation in columns 1-3 is 116,663; the number of observation in columns 4-6 is 205,281.

\* Significant at the 10% level.

\*\* Significant at the 5% level.

\*\*\* Significant at the 1% level.

**Exhibit 4** | Effect of a Nearby Rehab and Methadone Treatment Center on a Home's Price and Liquidity

	Dependent Variable: ln(Sale Price)	Dependent Variable: ln(Days on Market)	Dependent Variable: ln(Sale Price)	Dependent Variable: ln(Days on Market)
	(1)	(2)	(3)	(4)
Rehab Center $\leq$ 1/8 Mile	-0.077** (-2.44)	-0.009 (-0.04)		
Meth. Center $\leq$ 1/8 Mile			-0.174** (-2.35)	0.192 (0.33)
ln(Age of Home)	-0.063*** (-118.93)	0.125*** (10.89)	-0.063*** (-118.92)	0.125*** (10.86)
Acres	0.019*** (42.37)	0.026*** (5.22)	0.019*** (42.38)	0.027*** (5.24)
Sq. Ft.	0.000*** (232.99)	-0.000*** (-7.14)	0.000*** (233.00)	-0.000*** (-7.10)
Bedrooms	-0.023*** (-23.53)	0.093*** (11.70)	-0.023*** (-23.52)	0.093*** (11.69)
Bathrooms	0.024*** (22.80)	-0.054*** (-5.75)	0.024*** (22.80)	-0.053*** (-5.73)
Foreclosure	-0.153*** (-36.57)	-0.025 (-0.62)	-0.153*** (-36.60)	-0.026 (-0.64)
Number of Levels	-0.018*** (-18.27)	0.077*** (9.51)	-0.018*** (-18.27)	0.077*** (9.51)
Pool	0.027*** (11.63)	-0.038** (-2.04)	0.027*** (11.62)	-0.038** (-2.03)
Basement	0.039*** (24.13)	-0.062*** (-4.68)	0.039*** (24.13)	-0.061*** (-4.67)
Short Sale	-0.115*** (-20.08)	0.529*** (11.42)	-0.115*** (-20.07)	0.528*** (11.41)
Tenant	-0.080*** (-21.18)	0.078** (2.46)	-0.080*** (-21.19)	0.078** (2.45)
Vacant	-0.041*** (-34.67)	0.240*** (22.44)	-0.041*** (-34.66)	0.240*** (22.42)
Taxes (\$)	0.000*** (91.96)	0.000* (1.82)	0.000*** (91.95)	0.000* (1.86)
HOA Fees	0.059*** (41.51)	-0.076*** (-5.07)	0.059*** (41.50)	-0.076*** (-5.05)
ln(Time on Market)	0.050*** (45.52)		0.050*** (45.45)	
ln(Sale Price)		1.254*** (7.48)		1.248*** (7.44)

**Exhibit 4** | (continued)

Effect of a Nearby Rehab and Methadone Treatment Center on a Home's Price and Liquidity

	Dependent Variable: <i>ln(Sale Price)</i>	Dependent Variable: <i>ln(Days on Market)</i>	Dependent Variable: <i>ln(Sale Price)</i>	Dependent Variable: <i>ln(Days on Market)</i>
	(1)	(2)	(3)	(4)
<i>Listing Density</i>	0.000*** (21.93)		0.000*** (21.95)	
<i>Competition</i>		0.000*** (21.48)		0.000*** (21.50)
<i>Location Controls</i>	✓	✓	✓	✓
<i>Year Fixed Effects</i>	✓	✓	✓	✓

Notes: This table presents the results of hedonic 3SLS models showing the effect of a nearby (i.e., within 0.125 mile) rehab facility, and a rehab facility that treats methadone addiction specifically, on a property's sale price and time on market; constant omitted here for brevity. Z-statistics are in parentheses. The number of observations in columns 1-4 is 110,361.

- \*Significant at the 10% level.
- \*\*Significant at the 5% level.
- \*\*\*Significant at the 1% level.

methadone clinics. Columns 3 and 4 in Exhibit 4 display the results of the same 3SLS estimations as columns 1 and 2, but confining the treatment variable to a dummy variable that equals one if the home is within 0.125 mile of a methadone clinic. The coefficient estimates in Exhibit 4 indicate that homes within 0.125 miles of a methadone clinic sell for approximately a 17% discount relative to homes that are located further away, holding other factors constant. There is little evidence, however, that these clinics affect nearby home liquidity. Overall, Exhibit 4 provides evidence that the market differentiates among risks generated by these potential externalities, and the treatment centers that may be perceived as having a higher risk to their neighbors have a much greater impact on the surrounding real estate market.

As a robustness check, in Exhibit 5 we explore the extent to which the control groups matter, finding results generally consistent with those in Exhibit 4. A critique of hedonic models for estimating any externality might be that the interpretation of the dummy variable essentially defines the control group as homes not located near (within 0.125 miles) the potential externality. Defining the control group in this way may present some unobserved spatial heterogeneity issues. To address this issue, in Exhibits 5 and 6 we estimate the same regressions as Exhibit 4, but confine the sample to homes that are located within 1.5 miles, 1 mile, and 0.6 miles of a rehab facility respectively. The results are consistent with the initial 3SLS estimates in Exhibit 4, and by extension, the initial OLS estimates in Exhibits 2 and 3. Both exhibits show that homes near substance abuse

**Exhibit 5** | Effect of a Nearby Rehab Facility on a Home's Sale Price and Days on Market

	Dependent Variable: <i>ln(Sale Price)</i>	Dependent Variable: <i>ln(Days on Market)</i>	Dependent Variable: <i>ln(Sale Price)</i>	Dependent Variable: <i>ln(Days on Market)</i>	Dependent Variable: <i>ln(Sale Price)</i>	Dependent Variable: <i>ln(Days on Market)</i>
	Within 1.5 Miles of a Rehab Facility		Within 1 Mile of a Rehab Facility		Within 0.6 Miles of a Rehab Facility	
	(1a)	(1b)	(2a)	(2b)	(3a)	(3b)
<i>Rehab Center</i> ≤ 1/8 Mile	-0.076** (-2.34)	-0.008 (-0.03)	-0.077** (-2.42)	-0.083 (-0.34)	-0.075** (-2.27)	-0.331 (-1.34)
<i>ln(Age of Home)</i>	-0.063*** (-30.75)	0.133*** (3.60)	-0.059*** (-20.19)	0.060 (1.34)	-0.063*** (-12.40)	0.102 (1.60)
<i>Acreage</i>	0.022*** (12.14)	0.017 (0.91)	0.020*** (7.61)	0.045* (1.85)	0.028*** (5.83)	0.015 (0.35)
<i>Sq. Ft.</i>	0.000*** (57.61)	-0.000** (-2.31)	0.000*** (42.39)	-0.000 (-0.59)	0.000*** (25.45)	-0.000 (-1.08)
<i>Bedrooms</i>	-0.023*** (-5.92)	0.123*** (4.30)	-0.025*** (-4.44)	0.144*** (3.42)	-0.026*** (-2.96)	0.211*** (3.21)
<i>Bathrooms</i>	0.028*** (6.69)	-0.018 (-0.51)	0.018*** (2.88)	0.040 (0.81)	0.027*** (2.58)	-0.048 (-0.60)
<i>Foreclosure</i>	-0.147*** (-9.84)	0.014 (0.11)	-0.171*** (-7.62)	-0.195 (-1.00)	-0.188*** (-4.93)	-0.628** (-2.11)
<i>Number of Levels</i>	-0.025*** (-6.57)	0.079*** (2.64)	-0.021*** (-3.81)	0.046 (1.05)	-0.018** (-1.99)	0.110 (1.64)
<i>Pool</i>	0.021** (2.17)	0.034 (0.48)	0.016 (1.16)	-0.103 (-0.97)	0.027 (1.12)	-0.134 (-0.77)

**Exhibit 5** | (continued)

Effect of a Nearby Rehab Facility on a Home's Sale Price and Days on Market

	Dependent Variable: <i>ln</i> (Sale Price)	Dependent Variable: <i>ln</i> (Days on Market)	Dependent Variable: <i>ln</i> (Sale Price)	Dependent Variable: <i>ln</i> (Days on Market)	Dependent Variable: <i>ln</i> (Sale Price)	Dependent Variable: <i>ln</i> (Days on Market)
	Within 1.5 Miles of a Rehab Facility		Within 1 Mile of a Rehab Facility		Within 0.6 Miles of a Rehab Facility	
	(1a)	(1b)	(2a)	(2b)	(3a)	(3b)
<i>Encasement</i>	0.040*** (6.44)	0.004 (0.08)	0.034*** (3.71)	0.052 (0.71)	0.029* (1.91)	-0.105 (-0.89)
<i>Short Sale</i>	-0.122*** (-6.04)	0.389** (2.56)	-0.106*** (-3.23)	0.315 (1.25)	-0.166*** (-3.06)	0.006 (0.02)
<i>Tenant</i>	-0.099*** (-6.82)	0.038 (0.32)	-0.114*** (-5.82)	0.018 (0.11)	-0.140*** (-4.47)	0.161 (0.65)
<i>Vacant</i>	-0.044*** (-9.59)	0.218*** (5.59)	-0.046*** (-7.05)	0.254*** (4.66)	-0.034*** (-2.97)	0.304*** (3.68)
<i>Taxes (\$)</i>	0.000*** (23.21)	0.000 (1.13)	0.000*** (15.54)	0.000*** (3.58)	0.000*** (11.40)	0.000** (2.22)
<i>HOA Fees</i>	0.068*** (11.98)	-0.104** (-1.98)	0.078*** (9.59)	-0.128* (-1.72)	0.079*** (5.73)	-0.151 (-1.36)
<i>ln</i> (Time on Market)	0.043*** (10.91)		0.019*** (3.80)		0.010 (1.50)	
<i>ln</i> (Sale Price)		1.023** (1.98)		0.071 (0.12)		0.295 (0.39)
<i>Listing Density</i>	0.000*** (6.30)		0.000*** (4.33)		0.000** (2.35)	



**Exhibit 5 | (continued)**  
 Effect of a Nearby Rehab Facility on a Home's Sale Price and Days on Market

	Dependent Variable: <i>ln(Sale Price)</i>	Dependent Variable: <i>ln(Days on Market)</i>	Dependent Variable: <i>ln(Sale Price)</i>	Dependent Variable: <i>ln(Days on Market)</i>	Dependent Variable: <i>ln(Sale Price)</i>	Dependent Variable: <i>ln(Days on Market)</i>
	Within 1.5 Miles of a Rehab Facility		Within 1 Mile of a Rehab Facility		Within 0.6 Miles of a Rehab Facility	
	(1a)	(1b)	(2a)	(2b)	(3a)	(3b)
<i>Competition</i>		0.000*** (8.80)		0.000*** (6.26)		0.000*** (5.95)
<i>Location Controls</i>	✓	✓	✓	✓	✓	✓
<i>Year Fixed Effects</i>	✓	✓	✓	✓	✓	✓

*Notes:* This table presents the 3SLS results of simultaneous estimation of the effect of a nearby rehab facility on a home's selling price and liquidity (time on market), changing the sample to vary the control groups by smaller radii from a rehab center. Z-statistics are in parentheses. The number of observations in columns 1–2 is 7,711; the number of observations in columns 3–4 is 3,589; the number of observations in columns 5–6 is 1,324.

\* Significant at the 10% level.  
 \*\* Significant at the 5% level.  
 \*\*\* Significant at the 1% level.

**Exhibit 6 | Effect of a Nearby Rehab Facility that Treats Methadone Addiction**

	Dependent Variable: <i>ln(Sale Price)</i>	Dependent Variable: <i>ln(Days on Market)</i>	Dependent Variable: <i>ln(Sale Price)</i>	Dependent Variable: <i>ln(Days on Market)</i>	Dependent Variable: <i>ln(Sale Price)</i>	Dependent Variable: <i>ln(Days on Market)</i>
	Within 1.5 Miles of a Rehab Facility		Within 1 Mile of a Rehab Facility		Within 0.6 Miles of a Rehab Facility	
	(1a)	(1b)	(2a)	(2b)	(3a)	(3b)
<i>Meth. Center ≤ 1/8 Mile</i>	-0.169** (-2.21)	-0.020 (-0.04)	-0.179** (-2.37)	-0.086 (-0.15)	-0.168** (-2.17)	-0.289 (-0.52)
<i>ln(Age of Home)</i>	-0.063*** (-30.70)	0.129*** (3.49)	-0.059*** (-20.14)	0.061 (1.35)	-0.063*** (-12.30)	0.104 (1.64)
<i>Acreage</i>	0.022*** (12.17)	0.018 (0.99)	0.020*** (7.62)	0.045* (1.84)	0.028*** (5.83)	0.014 (0.33)
<i>Sq. Ft.</i>	0.000*** (57.63)	-0.000** (-2.17)	0.000*** (42.43)	-0.000 (-0.61)	0.000*** (25.54)	-0.000 (-1.10)
<i>Bedrooms</i>	-0.023*** (-5.88)	0.122*** (4.26)	-0.024*** (-4.42)	0.145*** (3.45)	-0.026*** (-2.91)	0.216*** (3.29)
<i>Bathrooms</i>	0.028*** (6.70)	-0.016 (-0.45)	0.018*** (2.89)	0.040 (0.81)	0.027*** (2.59)	-0.047 (-0.59)
<i>Foreclosure</i>	-0.148*** (-9.90)	0.004 (0.03)	-0.173*** (-7.71)	-0.196 (-1.00)	-0.193*** (-5.06)	-0.653** (-2.19)
<i>Number of Levels</i>	-0.025*** (-6.58)	0.078*** (2.60)	-0.021*** (-3.84)	0.047 (1.05)	-0.018** (-2.04)	0.109 (1.62)
<i>Pool</i>	0.021** (2.16)	0.035 (0.50)	0.016 (1.15)	-0.103 (-0.97)	0.026 (1.10)	-0.135 (-0.78)

**Exhibit 6** | (continued)  
Effect of a Nearby Rehab Facility that Treats Methadone Addiction

	Dependent Variable: <i>ln(Sale Price)</i>	Dependent Variable: <i>ln(Days on Market)</i>	Dependent Variable: <i>ln(Sale Price)</i>	Dependent Variable: <i>ln(Days on Market)</i>	Dependent Variable: <i>ln(Sale Price)</i>	Dependent Variable: <i>ln(Days on Market)</i>
	Within 1.5 Miles of a Rehab Facility		Within 1 Mile of a Rehab Facility		Within 0.6 Miles of a Rehab Facility	
	(1a)	(1b)	(2a)	(2b)	(3a)	(3b)
<i>Basement</i>	0.040*** (6.44)	0.006 (0.13)	0.035*** (3.72)	0.051 (0.70)	0.030* (1.94)	-0.104 (-0.89)
<i>Short Sale</i>	-0.121*** (-6.02)	0.383** (2.52)	-0.106*** (-3.21)	0.318 (1.26)	-0.165*** (-3.03)	0.029 (0.07)
<i>Tenant</i>	-0.099*** (-6.84)	0.031 (0.26)	-0.114*** (-5.84)	0.019 (0.12)	-0.142*** (-4.52)	0.158 (0.64)
<i>Vacant</i>	-0.044*** (-9.58)	0.216*** (5.52)	-0.047*** (-7.08)	0.254*** (4.67)	-0.034*** (-3.03)	0.303*** (3.66)
<i>Taxes (\$)</i>	0.000*** (23.18)	0.000 (1.26)	0.000*** (15.44)	0.000*** (3.56)	0.000*** (11.24)	0.000** (2.16)
<i>HOA Fees</i>	0.068*** (11.94)	-0.100* (-1.90)	0.077*** (9.53)	-0.130* (-1.75)	0.078*** (5.65)	-0.159 (-1.43)
<i>ln(Time on Market)</i>	0.042*** (10.81)		0.020*** (3.93)		0.012* (1.67)	
<i>ln(Sale Price)</i>		0.955* (1.85)		0.082 (0.14)		0.322 (0.43)
<i>Listing Density</i>	0.000*** (6.42)		0.000*** (4.40)		0.000** (2.48)	

**Exhibit 6** | (continued)  
Effect of a Nearby Rehab Facility that Treats Methadone Addiction

	Dependent Variable: <i>ln(Sale Price)</i>	Dependent Variable: <i>ln(Days on Market)</i>	Dependent Variable: <i>ln(Sale Price)</i>	Dependent Variable: <i>ln(Days on Market)</i>	Dependent Variable: <i>ln(Sale Price)</i>	Dependent Variable: <i>ln(Days on Market)</i>
	Within 1.5 Miles of a Rehab Facility		Within 1 Mile of a Rehab Facility		Within 0.6 Miles of a Rehab Facility	
	(1a)	(1b)	(2a)	(2b)	(3a)	(3b)
<i>Competition</i>		0.000*** (8.86)		0.000*** (6.25)		0.000*** (5.89)
<i>Location Controls</i>	✓	✓	✓	✓	✓	✓
<i>Year Fixed Effects</i>	✓	✓	✓	✓	✓	✓

Notes: This table presents 3SLS results of simultaneous estimation of the effect of a nearby rehab facility that treats methadone addiction on a home's selling price and liquidity (time on market), changing the sample to vary the control groups by smaller radii from a rehab center. Z-statistics are in parentheses. The number of observations in column 1 is 7,711; the number of observations in column 2 is 3,589; the number of observations in column 3 is 1,324.  
\*Significant at the 10% level.  
\*\*Significant at the 5% level.  
\*\*\*Significant at the 1% level.

treatment centers are still negatively impacted, and by approximately the same magnitudes. Indeed, the last two columns are particularly striking. Given that this is already a "within neighborhood" estimation, by controlling for location, the fact that the substance abuse treatment center result is robust when the control group is reduced to 1 mile and 0.6 miles indicates that unobserved spatial heterogeneity is not likely driving the core results of this paper. More intuitively, this provides strong evidence that the substance abuse treatment center effect is not simply a "bad part of town effect," in that we are comparing "apples with apples" across the dimension of location; and, the principle characteristic distinguishing the variation in prices in these areas is the presence of a nearby substance abuse treatment center. Based on these results, we cannot conclude that there is a robust impact on property liquidity, but there appears to be a robust negative relationship between the presence of a substance abuse treatment center and nearby home values.

### Conclusion

In this study, we find evidence that residential substance abuse treatment centers adversely impact the price of neighboring homes. We find that homes within 1/8 mile of a treatment center sell for approximately 8% less than otherwise comparable homes that are located further away. Furthermore, we find that the market differentiates between potential risks that nearby treatment centers may carry, as living near a methadone clinic that treats opiate addictions such as heroin or morphine may be associated with a reduction in home values by as much as 17%. We find little evidence that nearby treatment centers affect a home's time on market.

Examining this particular externality is important to the broader literature on neighborhood externalities and environmental factors, as well as the specific literature on the issue of residential treatment centers. The PPACA has expanded MH/SUD coverage and made intensive treatment options affordable, and as a result, demand for effective substance abuse treatment is increasing. Operating a treatment center is a growing industry and it is reasonable to assume that new centers will be built nationally, many of which will be sited near or within residential communities. Indeed, there is very little that individuals and localities can do to prohibit a substance abuse treatment center from locating in a residential area because alcohol and drug addiction is considered to be a handicap and thus alcoholic/addicts in recovery are members of a protected class under the federal anti-discrimination housing laws. Hence, as residential treatment centers become more common, it is important to understand all their effects, including the effects they may have on nearby real estate and how markets price the potential risk of nearby externalities.

### Endnotes

<sup>1</sup> For a more complete review on the impact of environmental externalities, see Boyle and Kiel (2001).

- <sup>2</sup> Consistent with other real estate studies, we culled outliers from our data set, confining our data to more "typical" range of homes listed at less than \$1,000,000, fewer than 10 bedrooms, fewer than 16 acres (99% of observations), property taxes paid that were less \$10,000 (99% of observations), and younger than 150 years old (99% of observations). For our other dependent variable of interest, time on market, we similarly trim the 1% extremes. Generally, the findings are not sensitive to dropping these observations. Further, important to disclose how our data has been trimmed for transparency and replicability. As an additional quality check, a sample of the MLS data was compared to county tax records, which contain data on price and housing characteristics.
- <sup>3</sup> There were approximately 153, 96, and 60 properties listed within 0.175 miles, 0.15 miles, and 0.125 miles of a rehab treatment facility respectively, over the time period of our study. Given the very recent and projected growth of rehab centers nationally, future research will be able to take advantage of additional homes (data points) being bought and sold near rehab facilities.
- <sup>4</sup> The choice of this radius does not fundamentally alter the qualitative conclusions of this study. The definition of one's "backyard" is somewhat ambiguous, and may differ depending on an individual's perception. Some externality studies use 0.1 mile, 0.2 mile, or 0.3 mile as a radius to examine a given externality. While similar results are obtained looking at bands slightly larger and slightly smaller, we follow Congdon-Hohman (2013) and use 1/8 mile in most of our tabulated regression results. An easy way to think of 0.125 miles, 0.15 miles, and 0.175 miles is that these are 2.5 minute, 3 minute, and 3.5 minute walks respectively (assuming a pace of 3 miles per hour).
- <sup>5</sup> For recent examples of amenity or disamenity studies of externality effects, see Asabere and Huffman (1991), Gibbons (2004), Linden and Rockoff (2008), Pope (2008), Rossi-Hansberg, Sarte, and Owens (2010), Campbell, Giglio, and Pathek (2011), Hoen, Wiser, Cappers, Thayer, and Sethi (2011), Daneshvary, Claretie, and Kader (2011), Grout, Jaeger, and Plantinga (2011), Daneshvary and Claretie (2012), Congdon-Hohman (2013), Guignet (2013), Linn (2013), Munneke, Sirmans, Slade, and Turnbull (2013), and Wentland, Waller, and Brastow (2014).
- <sup>6</sup> Recent examples include neighborhood foreclosure effects (Harding, Rosenblatt, and Yao, 2009; Lin, Rosenblatt, and Yao, 2009; Agarwal, Ambrose, Chomsisengphet, and Sanders, 2010).
- <sup>7</sup> Kuminoff, Parmeter, and Pope (2010) survey 69 hedonic studies and found that 80% rely on linear, semi-log, or log-log functional form. We have explored a number of non-linear functional forms and our results remain robust. Rather than repeat all of the above models with various non-linear explanatory variables, the authors will produce results of alternative specifications upon request.
- <sup>8</sup> For example, we use the following property specific variables: square footage, age, acreage, number of bedrooms, bathrooms, number of stories, new, vacant, HOA fees, whether it has a pool, a tenant, a basement, and whether it is a short sale or foreclosure. We also include year fixed effects to control for variation over time.
- <sup>9</sup> When we explore different location controls later, we will cluster by location (e.g., census tract, block group, or block).
- <sup>10</sup> For example, see Yavas and Yang (1995), Knight (2002), and Turnbull and Dombrow (2006).
- <sup>11</sup> Specifically, both our paper and Zahirovic-Herbert and Turnbull (2008) calculate  $C$  in the following way: "The days-on-market or selling time is  $s(i) - l(i) + 1$ , where  $l(i)$  and  $s(i)$  are the listing date and sales date for house  $i$ . Denoting the listing date and



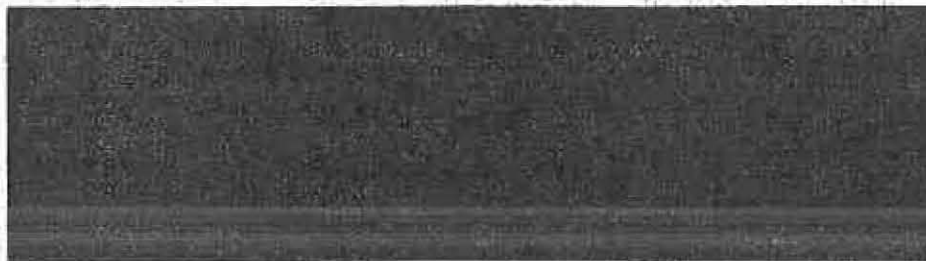
sales date for house  $j$  by  $l(j)$  and  $s(j)$ , the overlapping time on the market for these two houses is  $\min[s(i), s(j)] - \max[l(i), l(j)]$ . The straight-line distance in miles between houses  $i$  and  $j$  is  $D(i, j)$ . The measured competition for house  $i$  is:  $C(i) = \sum_j (1 - D(i, j))^2 \{\min[s(i), s(j)] - \max[l(i), l(j)]\}$  where the summation is taken over all competing houses  $j$ , that is, houses for sale within one mile and 20% larger or smaller in living area of house  $i$ " (Zahirovic-Herbert and Turnbull, 2008).

- <sup>12</sup> At the suggestion of a reviewer, we also identify the system by using different control variables. A simple way to do this is to use different location controls. We use ZIP Code fixed effects in the price equation, and census tract fixed effects in the time on market equation. Generally, the results are not very sensitive to which location controls are used in each equation. Further, the results are similar when we use the Turnbull and Dombrow (2006) method alone to identify the system.
- <sup>13</sup> According to Belsley (1988), when there are strong interrelations among error terms, 3SLS is used instead of 2SLS in estimating systems of equations because it is more efficient. Specifically, one would expect unobservables that contribute to error in estimating price to be also correlated the error in liquidity.
- <sup>14</sup> See [www.census.gov](http://www.census.gov) for more detail, specifically: [http://www.census.gov/geo/www/cob/tr\\_metadata.html#gad](http://www.census.gov/geo/www/cob/tr_metadata.html#gad).

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# 64 Peg Shop Road ZBA 17-18



**Petitioner requests a Variance from the 50 foot front setback to 45 feet per Section 102-791 of the Zoning Ordinance.**



City of Keene  
*New Hampshire*

**NOTICE OF HEARING**

**ZBA 17-18**

A meeting of the Zoning Board of Adjustment will be held on Monday, November 6, 2017 at 6:30 PM in the City Hall Committee Room, 2<sup>nd</sup> floor, 3 Washington St, Keene, New Hampshire to consider the petition of Henry and Carol Spindler of 64 Peg Shop Rd., requests a Variance for property located at 64 Peg Shop Rd., Tax Map Parcel #908-19-029, which is in the Rural District and owned by the Petitioners. The Petitioners requests a Variance from 50 foot front setback to 45 feet per Section 102-791 of the Zoning Ordinance.

ZONING BOARD OF ADJUSTMENT

Corinne Marcou, Clerk

Notice Issuance Date: October 26, 2017



# APPLICATION FOR APPEAL

Zoning Board of Adjustment  
3 Washington Street, Fourth Floor  
Keene, New Hampshire 03431  
Phone: (603) 352-5440

<b>For Office Use Only:</b>	
Case No.	<u>ZBA 17-18</u>
Date Filed	<u>10/20/21</u>
Received By	_____
Page	<u>1</u> of <u>10</u>
Reviewed By	_____

The undersigned hereby applies to the City of Keene Zoning Board of Adjustment for an Appeal in accordance with provisions of the New Hampshire Revised Statutes Annotated 674:33.

## TYPE OF APPEAL - MARK AS MANY AS NECESSARY

- APPEAL OF AN ADMINISTRATIVE DECISION
- APPLICATION FOR CHANGE OF A NONCONFORMING USE
- APPLICATION FOR ENLARGEMENT OF A NONCONFORMING USE
- APPLICATION FOR A SPECIAL EXCEPTION
- APPLICATION FOR A VARIANCE
- APPLICATION FOR AN EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS

## **SECTION I - GENERAL INFORMATION**

Name(s) of Applicant(s) Wendy Pelletier, Cardinal Surveying & Land Planning Phone: 499-6151  
Address 463 Washington Street, Keene  
Name(s) of Owner(s) Henry & Carol Spindler  
Address 64 Peg Shop Road, Keene  
Location of Property Same

## **SECTION II - LOT CHARACTERISTICS**

Tax Map Parcel Number 908-19-029-0000 Zoning District Rural  
Lot Dimensions: Front 384+- Rear see plan Side \_\_\_\_\_ Side \_\_\_\_\_  
Lot Area: Acres 26+- Square Feet \_\_\_\_\_  
% of Lot Covered by Structures (buildings, garages, pools, decks, etc.): Existing .5% Proposed .5%  
% of Impervious Coverage (structures plus driveways and/or parking areas, etc.): Existing .5% Proposed .5%  
Present Use Residential w/accessory dwelling  
Proposed Use no change

## **SECTION III - AFFIDAVIT**

I hereby certify that I am the owner 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.

Henry C. Spindler  
(Signature of Owner or Authorized Agent)

Date 10/18/21

Please Print Name Henry C. Spindler



PROPERTY ADDRESS 64 Peg Shop Road

*APPLICATION FOR A VARIANCE*

- A Variance is requested from Section (s) 102-791 of the Zoning Ordinance to permit:
- Variance from 50' front setback to 45'

DESCRIBE BRIEFLY YOUR RESPONSE TO EACH VARIANCE CRITERIA:

1. Granting the variance would not be contrary to the public interest because: The proposed garage will be approximately 22' behind the existing accessory building that it will serve. The original structures on the lot date to 1778 and are situated very close to the road. The design and location of the garage will be in keeping with other structures on the lot and in the neighborhood.
2. If the variance were granted, the spirit of the ordinance would be observed because: The rural character of the neighborhood will not be affected. There are several very old homes on this road that sit close to road.
3. Granting the variance would do substantial justice because: Because of other structures and wetlands on the lot, there is no other suitable location for the garage. Every effort has been made to preserve the physical features of the site and to adhere as closely as possible to the zoning ordinance.
4. If the variance were granted, the values of the surrounding properties would not be diminished because: The position and design of the proposed garage will be in keeping with the architecture of the existing buildings and rural character of the neighborhood. The garage will give extra storage for yard equipment and additional parking, therefore eliminating vehicles and equipment being stored outside.

PROPERTY ADDRESS 64 Peg Shop Road

*APPLICATION FOR A VARIANCE*

- A Variance is requested from Section (s) 102-791 of the Zoning Ordinance to permit:

DESCRIBE BRIEFLY YOUR RESPONSE TO EACH VARIANCE CRITERIA:

1. Granting the variance would not be contrary to the public interest because: The proposed garage will be approximately 22' behind the existing accessory building that it will serve. The original structures on the lot date to 1778 and are situated very close to the road. The design and location of the garage will be in keeping with other structures on the lot and in the neighborhood.
2. If the variance were granted, the spirit of the ordinance would be observed because: The rural character of the neighborhood will not be affected. There are several very old homes on this road that sit close to road.
3. Granting the variance would do substantial justice because: Because of other structures and wetlands on the lot, there is no other suitable location for the garage. Every effort has been made to preserve the physical features of the site and to adhere as closely as possible to the zoning ordinance.
4. If the variance were granted, the values of the surrounding properties would not be diminished because: The position and design of the proposed garage will be in keeping with the architecture of the existing buildings and rural character of the neighborhood. The garage will give extra storage for yard equipment and additional parking, therefore eliminating vehicles and equipment being stored outside.

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 garage will be setback as far as possible, leaving existing vegetation surrounding it to screen it from the road. The character of the neighborhood will not be impacted by the placement of the garage.

and

ii. The proposed use is a reasonable one because: Being that this is a rural area, detached out buildings to support the main dwelling are no unusual.

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

The existing buildings on the lot date back to 1778 and are located very close to the road. The lot has a lot of wetlands and ledge. Adhering to both the wetland buffer and the front setback leaves a very small area to place the garage which will house a vehicle and lawn equipment.

AD, BEECH  
CALHOUN.

nbok 50.

EN M. GREEN  
STUART  
BY DOUGHTY

DATE: 1986

AD, DATED  
Cob. 10 Dr. 4

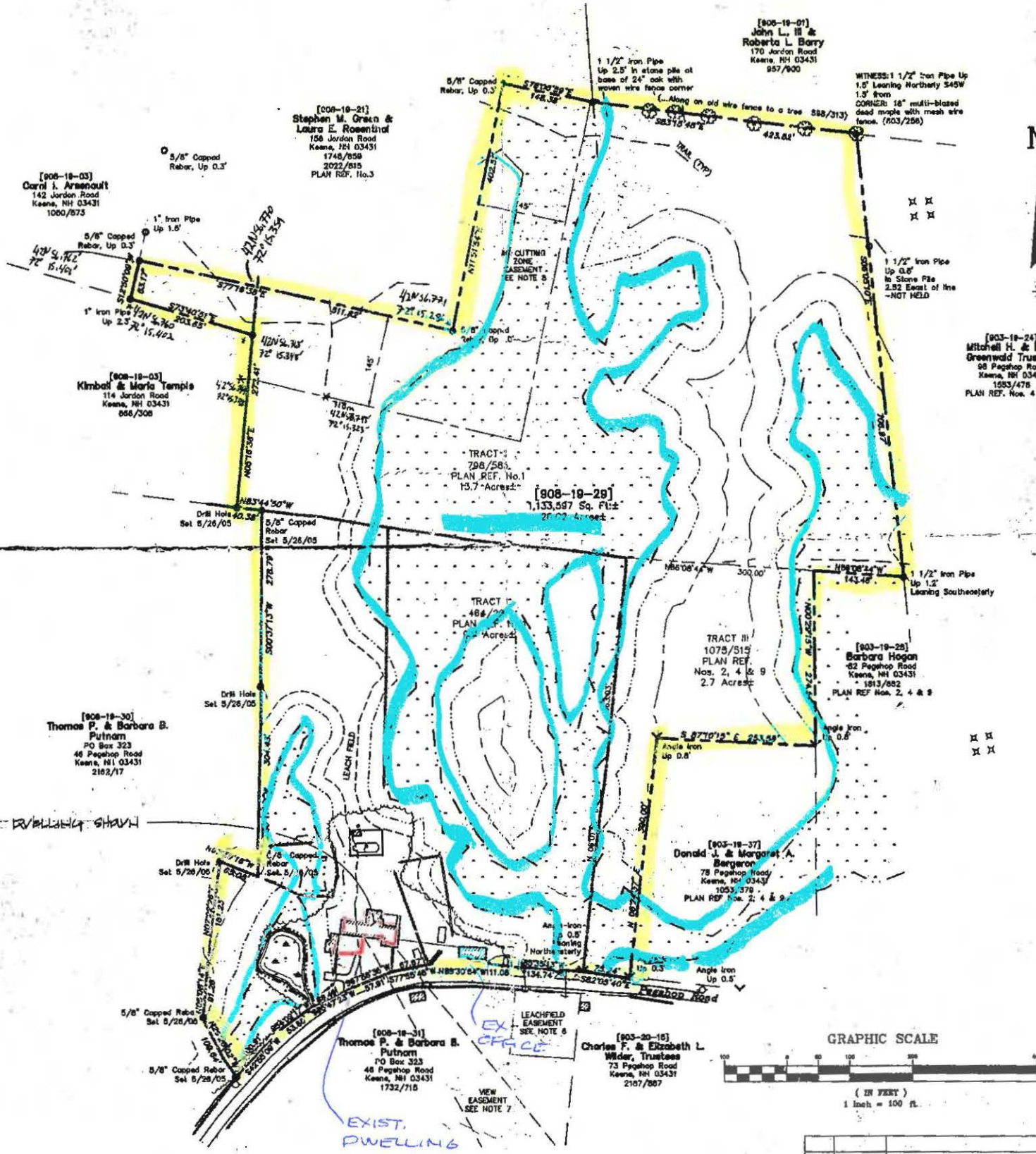
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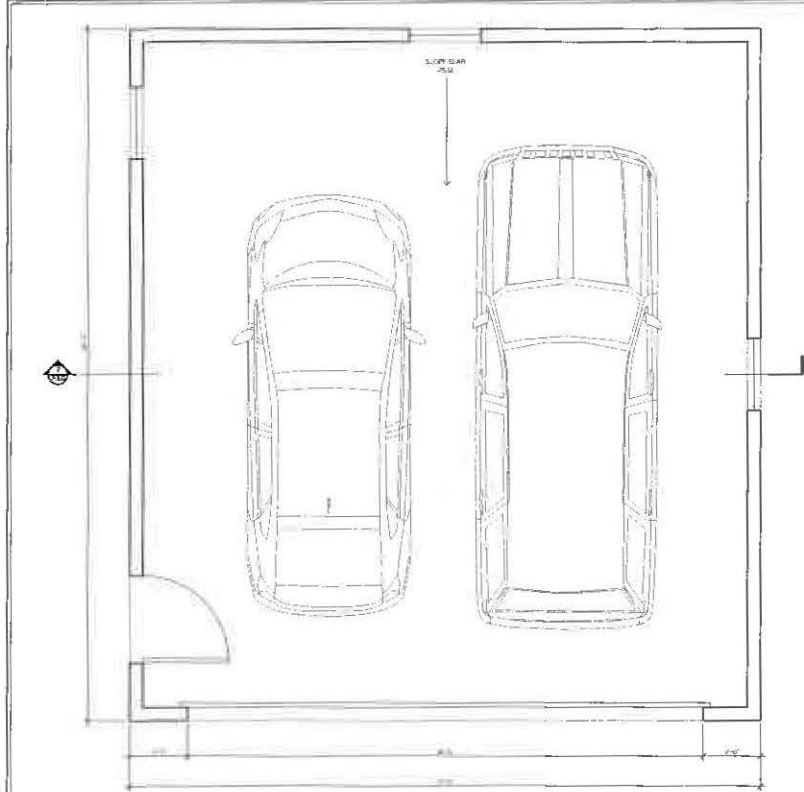
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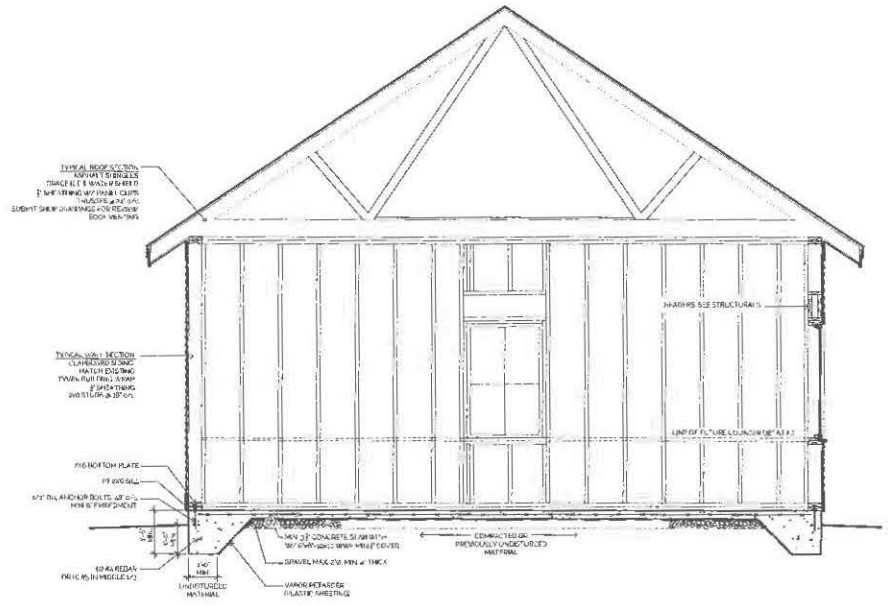
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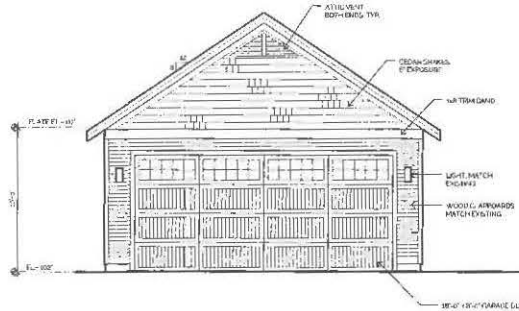




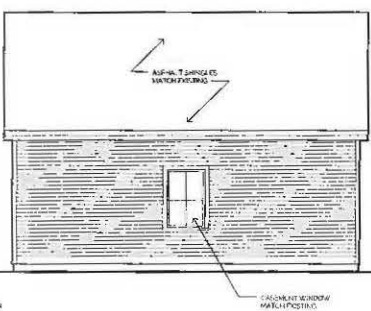
1 GARAGE PLAN SCALE 1/4" = 1'-0"



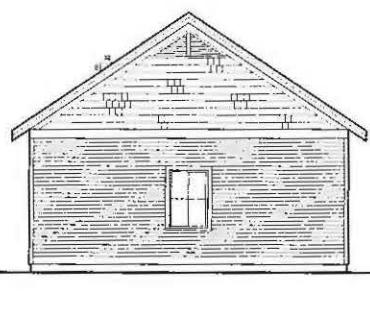
2 SECTION SCALE 1/4" = 1'-0"



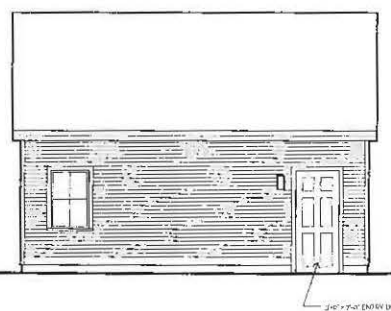
3 SOUTH ELEVATION SCALE 1/4" = 1'-0"



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



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



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



PRELIMINARY - NOT FOR CONSTRUCTION

