



City of Keene  
*New Hampshire*

**PLANNING, LICENSES AND  
DEVELOPMENT COMMITTEE  
AGENDA  
Council Chambers A  
September 12, 2018  
7:00 PM**

David C. Richards  
Philip M. Jones  
George S. Hansel  
Bartlomiej K. Sapeta  
Margaret M. Rice

- 
1. Attorney Homer S. Bradley, Jr. - Request to Unmerge Lots - 15 and 19 Giffin Street
  2. Steve Piispanen/Keene Auto Body - Request to Discharge Fireworks
  3. Peg Bruce/Kiwanis Club of Keene - Request to Use City Property - Tree Lighting Event
  4. Daron Friedman - Request to Acquire Property - Washington Street
  5. Annual Fire Prevention Parade - Fire Department

Non Public Session  
Adjournment



City of Keene, N.H.  
*Transmittal Form*

July 31, 2018

**TO:** Mayor and Keene City Council

**FROM:** Attorney Homer S. Bradley, Jr.

**THROUGH:** Patricia A. Little, City Clerk

**ITEM:** 1.

**SUBJECT:** Attorney Homer S. Bradley, Jr. - Request to Unmerge Lots - 15 and 19 Giffin Street

---

**COUNCIL ACTION:**

In City Council September 6, 2018.

Referred to the Planning, Licenses and Development Committee.

**ATTACHMENTS:**

Description

Communication - Bradley

**BACKGROUND:**

Pursuant to NHRSA 674:39-aa; Attorney Bradley is submitting a request to unmerge two lots at 15 and 19 Giffin Street.

# BRADLEY & FAULKNER, PC

ATTORNEYS AT LAW

Homer S. Bradley, Jr.  
Rand S. Burnett  
Gary J. Kinyon  
Douglas F. Green

Kerry K. O'Neill  
Ashley L. Noyes

50 WASHINGTON STREET  
P.O. BOX 666  
KEENE, NEW HAMPSHIRE 03431-0666

(603) 352-2030

FAX  
(603) 357-9334

E-MAIL  
sbradley@bradleyfaulkner.com

WEBSITE  
www.bradleyfaulkner.com

DIRECT DIAL  
(603) 352-2031

July 19, 2018

City of Keene  
Honorable Mayor/Members of the City Council  
3 Washington Street  
Keene, NH 03431

Re: Russell W. Wilber and Patricia A. Wilber – 15 & 19 Giffin Street

Honorable Mayor and Members of the City Council:

I am submitting herewith an Application by Russell W. Wilber and Patricia A. Wilber to unmerge lots identified as 15 Giffin Street and 19 Giffin Street on Tax Map 532 as Lot 68. This request is made pursuant to RSA 674:39-aa.

The land identified as 15 Giffin Street and the land with the buildings thereon at 19 Giffin Street have always been described in the deeds as separate parcels.

I am submitting herewith, in addition to the application, photocopies of all of the deeds in the chain of title. As you will see, the deed which Leslie and Evelyn Wilber (later Evelyn Ruby Dziengowski) received from Charles A. Pierce to the land now identified as 15 Giffin Street was not recorded and is now lost. Nevertheless, Mrs. Dziengowski and her son, Russell Wilber, have paid the taxes on the land identified as 15 Giffin Street since about 1930.

Very truly yours,



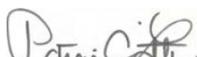
Homer S. Bradley, Jr.

HSB/amp  
cc: Board of Tax Assessors, City of Keene  
Mr. and Mrs. Russell W. Wilber

P.S. I am very embarrassed that, after all these years, I spelled Russell W. Wilber's name incorrectly in the most recent deed.

In City Council September 6, 2018.

Referred to the Planning, Licenses and Development Committee.

  
City Clerk

CITY OF KEENE

APPLICATION FOR RESTORATION OF INVOLUNTARILY MERGED LOTS  
PURSUANT TO RSA 674:39-aa

Name of property owner(s): Russell W. Wilber and Patricia A. Wilber

Mailing Address: 173 Joslin Road, Surry, New Hampshire 03431

Telephone #: 603-352-4466

Email address: [sbradley@bradleyfaulkner.com](mailto:sbradley@bradleyfaulkner.com)

Street Location of Parcels affected by the requested Restoration:

15 Giffin Street  
19 Giffin Street

**Properties Requested to be Restored (attach additional sheet if needed):**

Parcel 1:

Current Deed Reference (book & page):

Book 3031, Page 987

Date Recorded: July 10, 2018

Book 2692, Page 619

Date Recorded: May 9, 2011

Tax Map: 532

Lot Number: 68

Please state when you believe the involuntary merger took place: Unknown

19 Giffin Street and 15 Giffin Street have always been described as separate lots.

Signature: Russell W. Wilber Name: Russell W. Wilber Date: 7-20-18

Signature: Patricia A. Wilber Name: Patricia A. Wilber Date: 7-20-18

# TITLE LXIV PLANNING AND ZONING

## CHAPTER 674 LOCAL LAND USE PLANNING AND REGULATORY POWERS

### Regulation of Subdivision of Land

#### Section 674:39-aa

#### 674:39-aa Restoration of Involuntarily Merged Lots. –

- I. In this section:
  - a. "Involuntary merger" and "involuntarily merged" mean lots merged by municipal action for zoning, assessing, or taxation purposes without the consent of the owner.
  - b. "Owner" means the person or entity that holds legal title to the lots in question, even if such person or entity did not hold legal title at the time of the involuntary merger.
  - c. "Voluntary merger" and "voluntarily merged" mean a merger under RSA 674:39-a, or any overt action or conduct that indicates an owner regarded said lots as merged such as, but not limited to, abandoning a lot line.
- II. Lots or parcels that were involuntarily merged prior to September 18, 2010 by a city, town, county, village district, or any other municipality, shall at the request of the owner, be restored to their premerger status and all zoning and tax maps shall be updated to identify the premerger boundaries of said lots or parcels as recorded at the appropriate registry of deeds, provided:
  - a. The request is submitted to the governing body prior to December 31, 2021.
  - b. No owner in the chain of title voluntarily merged his or her lots. If any owner in the chain of title voluntarily merged his or her lots, then all subsequent owners shall be estopped from requesting restoration. The municipality shall have the burden of proof to show that any previous owner voluntarily merged his or her lots.
- III. All decisions of the governing body may be appealed in accordance with the provisions of RSA 676.
- IV. Any municipality may adopt local ordinances, including ordinances enacted prior to the effective date of this section, to restore previously merged properties that are less restrictive than the provisions in paragraph I and II.
- V. The restoration of the lots to their premerger status shall not be deemed to cure any non-conformity with existing local land use ordinances.



City of Keene, N.H.  
*Transmittal Form*

September 4, 2018

**TO:** Mayor and Keene City Council

**FROM:** Steven Piispanen, Owner - Keene Auto Body

**THROUGH:** Patricia A. Little, City Clerk

**ITEM:** 2.

**SUBJECT:** Steve Piispanen/Keene Auto Body - Request to Discharge Fireworks

---

**COUNCIL ACTION:**

In City Council September 6, 2018.

Referred to the Planning, Licenses and Development Committee.

**ATTACHMENTS:**

Description

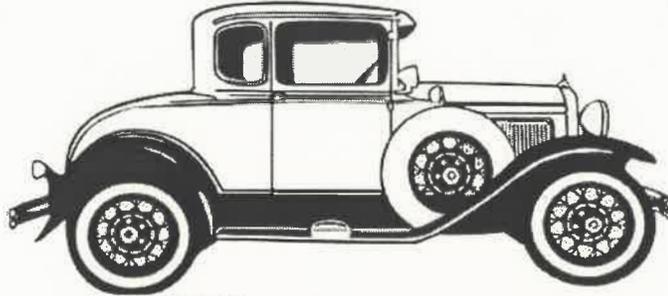
Communication - Piispanen

Property Owner's Permission

Certificate of Insurance

**BACKGROUND:**

Keene Auto Body is celebrating their 90th anniversary on September 29 and would like to have a fireworks display as part of the celebration.



**KEENE AUTO BODY INC.**

**543 MAIN STREET**

**KEENE, NH 03431**

**(603) 352-3103**

**FAX (603) 352-9130**

August 28, 2018

City of Keene  
Keene City Council  
3 Washington St  
Keene, NH 03431

City Council Members:

Per this letter, Keene Auto Body, Inc request our approval to host a Class B Fireworks display on September 29<sup>th</sup>. The fireworks will be at the end of our 90<sup>th</sup> Anniversary Celebration, taking place at approximately 9pm.

The fireworks will be set up at 80 Silent Way, property is owned by Steven Walsh. I have attached a letter of approval from Mr. Walsh and also an Insurance Rider naming the City of Keene as a co-insured. Thank you in advance for your consideration

Sincerely,

A handwritten signature in black ink, appearing to read "Steven Piispanen". The signature is fluid and extends across the width of the page.

Steven Piispanen  
Owner/President  
Keene Auto Body, Inc.

In City Council September 6, 2018.  
Referred to the Planning, Licenses  
and Development Committee.

A handwritten signature in black ink, appearing to read "Patricia Cottle". The signature is written in a cursive style.

City Clerk

August 28, 2018

City of Keene  
Keene City Council  
3 Washington St  
Keene, NH 03431

City Council Members:

I give permission for Keene Auto Body to use 80 Silent Way, Keene NH for their Class B Fireworks display on September 29<sup>th</sup>. The fireworks will be at the end of their 90<sup>th</sup> Anniversary Celebration, taking place at approximately 9pm.

Sincerely,

Steven Walsh  
Owner  
80 Silent Way

A handwritten signature in cursive script that reads "Steven Walsh". The signature is written in black ink and is positioned below the typed name and address.





City of Keene, N.H.  
*Transmittal Form*

July 25, 2018

**TO:** Mayor and Keene City Council

**FROM:** Planning, Licenses and Development Committee

**ITEM:** 3.

**SUBJECT:** Peg Bruce/Kiwanis Club of Keene - Request to Use City Property - Tree Lighting Event

---

**COUNCIL ACTION:**

In City Council August 2, 2018.

More time granted.

**RECOMMENDATION:**

On a vote of 5-0, the Planning, Licenses and Development Committee recommends the request from the Keene Kiwanis Club to use downtown City rights-of-way for the Annual Tree Lighting Ceremony be placed on more time to allow City staff to hold protocol meeting(s) with the petitioner.

**BACKGROUND:**

Peg Bruce, of 15L Windsor Court reported that their license request is pretty much the same as last year. She continued this year the license for the event also includes their request to install holiday lights in October and remove them in April. Chair Richards confirmed the motion is to place this item on more time to allow protocol meetings to take place.

Chair Richards asked for Committee questions or comments.

There being no questions or comments from the Committee, Chair Richards asked for a motion.

Councilor Hansel made the following motion which was seconded by Councilor Sapeta.

On a vote of 5-0, the Planning, Licenses and Development Committee recommends the request from the Keene Kiwanis Club to use downtown City rights-of-way for the Annual Tree Lighting Ceremony be placed on more time to allow City staff to hold protocol meeting(s) with the petitioner.



City of Keene, N.H.  
*Transmittal Form*

August 29, 2018

**TO:** Mayor and Keene City Council

**FROM:** Planning, Licenses and Development Committee

**ITEM:** 4.

**SUBJECT:** Daron Friedman - Request to Acquire Property - Washington Street

---

**COUNCIL ACTION:**

In City Council September 6, 2018.

Referred back to the Planning, Licenses and Development Committee.

**RECOMMENDATION:**

On a vote of 5-0, the Planning, Licenses and Development Committee recommends that the portion of City owned property located to the rear of 527 and 529 Washington Street, and to the West of Beaver Brook, being an unused part of Ellis-Harrison Park, be declared surplus property for purposes of Resolution R-2010-31, and that the request to purchase the property be referred to the Finance, Organization and Personnel Committee for further recommendation.

**BACKGROUND:**

Rhett Lamb, ACM/Community Development Director introduced the applicant Daron Friedman. Mr. Friedman explained he acquired the 529 Washington Street property last year and discovered he only owns about eight feet past his building. The abutting property is a City park. Mr. Lamb referred to the slide depicting the properties. Mr. Lamb confirmed for Chair Richards the property under discussion is a designated City Park. He continued the park property is to the east side of Beaver Brook with a park facility and access off of 93rd Street. The area Mr. Friedman is interested in is the back of the two properties which is mainly floodplain, steep slope, and undeveloped treed area. It is not accessed for park purposes in any way. Mr. Lamb noted the City acquired the property in the 1960's through a tax deed process.

Mr. Lamb referred to Resolution R-2010-31 Relating to the Sale of City owned Real Property and explained the two step process:

- Council determines whether or not the property is surplus
- If Council determines the property is surplus a report/appraisal/evaluation of special circumstances is prepared and sent through the City Manager to the FOP Committee. The FOP Committee would determine if the property could be sold and under what circumstances.

Mr. Lamb advised we are here tonight to discuss the first step; to determine whether or not the property is surplus. Chair Richards asked what could be built there. Mr. Lamb indicated the location is not something the City would consider for development. He pulled up the slide depicting the floodplain layer in the area. Andy Bohannon, Parks & Recreation Director concurred with Mr. Lamb's comments adding we stay in the maintained area (George Street side) and do not go on the other side of the Brook at all. Mr. Lamb commented there are four to five abutters to this property and the City has no access to this land from Washington Street.

Chair Richards asked the City Attorney about the rules when something is dedicated as a park. Attorney Mullins noted the research he did and that he prepared an internal memo today for staff. Attorney Mullins reported there is an applicable State Statute which he explained for those present. He continued the process is the same as a discontinuance of a highway. This is a process Council is aware of and will have to run if the property is determined to be surplus. Attorney Mullins also noted this would be only a partial discontinuance of the Park. He also explained a public hearing is part of the process.

Chair Richards asked for Committee questions or comments.

Councilor Rice asked if the public hearing had to happen first. Attorney Mullins indicated Council could make the determination but the public hearing would have to happen before the transfer.

Councilor Hansel asked if the section of the stream was in a natural state and is there any reason the City would have to go in there, in the future, to make improvements. Mr. Lamb replied he is not aware of any improvements in this section like there are further downstream. He continued in this area it would be easy to conclude it is a natural stream.

Councilor Jones asked if we can consider it parkland if we do not have access to it. Attorney Mullins replied in the affirmative. He pointed out there is a 15-foot reserved Right-of-Way and we are researching its underlying intent and who has access to it. The City does have some drainage issues with this property so we would want to retain some kind of right of access or easement. There are still things we need to look at he added. Councilor Jones asked about Planning Board steps. Mr. Lamb indicated one part of the process would be approval of a subdivision plan or boundary line adjustment. He also noted the importance of having the survey information prepared before the transfer. Councilor Jones asked if this is where the public would weigh-in on flooding. Mr. Lamb suggested the flooding issue would probably come up at the public hearing prior to the Planning Board step(s). Attorney Mullins confirmed the discontinuance notice would include abutters.

Councilor Hansel commented in most cases the property would be put on the open market. He then asked if that would be the case here. The City Manager commented in this case, because of the location restrictions it is really only valuable to the abutters. One of the things we were looking at doing in the future is an amendment to the Resolution for Tax Deeded Property. There is some language not yet adopted locally that would make the process easier to go through. For this instance we were talking about making sure the abutters were notified and that they have the opportunity to weigh-in if they have interest in the property. Because of the restrictions and access this was not something we were recommending to be open to the general public. Taking it a little further Attorney Mullins commented this is going to be interesting; all three Committees of the City Council will be taking a look at this thing. You are here tonight to make a recommendation on whether or not it should be surplus property. He reiterated the process that would take place after the determination. He also noted because this property has been in the City's possession for over 10 years it is not subject to any of the other rules otherwise associated with tax deeded property. Mr. Lamb also pointed out if and when this portion of the property is severed it would no longer have frontage on a Class V highway so arguably it would not comply with the zoning ordinance as a free-standing lot. This goes to the City Manager's comment that it is only really usable by abutters.

Councilor Sapeta asked if it would be possible to sell it to a non-profit entity that wants to preserve it forever. Mr. Lamb replied he believes that would be possible if it complied with the zoning ordinance unless it was established as purely conservation use. Councilor Sapeta said he is looking at it from the perspective is it fair to open this for only one person to buy. He does concur with the environmental issues. Mr. Lamb noted these things can be part of the report provided to the City Manager and then onto the appropriate Committees. Chair Richards noted we will be doing a site visit for this thing to move forward. Attorney Mullins reiterated the steps in the process and confirmed the land would stay as a park if it fails at any one of the steps. Chair Richards commented he is in favor as far as let's see what else happens. Councilor Jones asked if step three would be the

discontinuance, site visit by City Council, and a public hearing. Attorney Mullins replied in the affirmative.

There being no further questions from the Committee or public Chair Richards asked for a motion.

Councilor Hansel made the following motion which was seconded by Councilor Jones.

On a vote of 5-0, the Planning, Licenses and Development Committee recommends that the portion of City owned property located to the rear of 527 and 529 Washington Street, and to the West of Beaver Brook, being an unused part of Ellis-Harrison Park, be declared surplus property for purposes of Resolution R-2010-31, and that the request to purchase the property be referred to the Finance, Organization and Personnel Committee for further recommendation.



City of Keene, N.H.  
*Transmittal Form*

September 5, 2018

**TO:** Planning, Licenses and Development Committee

**FROM:** Mark Howard, Fire Chief

**THROUGH:** Elizabeth A. Dragon, City Manager

**ITEM:** 5.

**SUBJECT:** Annual Fire Prevention Parade - Fire Department

---

**RECOMMENDATION:**

Move that the Planning, Licensing and Development Committee recommend that the Fire Department be granted permission to use City property for the 2018 Annual Fire Prevention Parade to be held on Sunday, October 7, 2018.

**BACKGROUND:**

Annually, the fire department requests permission for use of City property and City streets for the Fire Prevention Parade. The parade kicks off Fire Prevention Week activities. This year we are requesting the use of the parking lot in the area of Fleet Services located at 350 Marlboro Street for the parade line-up. The parade will start at 1:00 pm at 350 Marlboro Street and proceed westerly along Marlboro Street to North on Main Street to Washington Street where it will disperse at Vernon Street. Following the parade there will be an awards ceremony at the Central Fire Station on Vernon Street