



Zoning Board of Adjustment - Monday, December 7, 2020, 6:30 p.m.

- This meeting will be conducted using the online meeting platform, Zoom. The public may view the meeting online by visiting www.zoom.us/join and enter the Meeting ID: 839 9261 2795.*
- If you are unable to attend the meeting online, you may call the toll-free # (888) 475-4499 and enter Meeting ID: 839 9261 2795 to listen to the meeting.*
- More info on how to access this meeting is available on the Zoning Board of Adjustment webpage at ci.keene.nh.us/zoning-board-adjustment.
- If you encounter any issues accessing this meeting, please call 603-209-4697.

AGENDA

- I. Introduction of Board Members
- II. Minutes of the Previous Meeting – November 2, 2020
- III. Unfinished Business
- IV. Hearings:

Motion to Rehear: A Motion to Rehear petition ZBA 20-24, 850 Marlboro Rd., Petitioner, Rocky Brook Realty, LLC, has been submitted by Andrew Symington of Keene.

ZBA 20-26: Petitioner, Hundred Nights, Inc. of 17 Lamson St., Keene, represented by Jim Phippard, of Brickstone Land Use Consultants, 185 Winchester St., Keene, requests a Change of a Nonconforming Use for property located at 15 King Ct., Tax Map #122-022-000; that is in the Low Density District. The Petitioner requests a Change of a Nonconforming Use from a now vacant fitness center to a lodging house (homeless shelter).

ZBA 20-27: Petitioner, Noyes Volkswagen, Inc. of 18 Production Ave, Keene, represented by Jim Phippard of Brickstone Land Use Consultants of 185 Winchester St., Keene, requests an Enlargement of a Nonconforming Use for property located at 18 Production Ave., Tax Map # 110-004-000; that is in the Industrial District. The Petitioner requests an Enlargement of a Nonconforming Use of the existing motor vehicle dealership by constructing 3,690 sf building addition. The existing Volkswagen building is 10,490 sf plus a 740 sf mezzanine. This proposal will enlarge the existing building by expanding on the south side with a 30' x 123' addition. The addition will be used for storage and additional service bays.

ZBA 20-28: Petitioner, John Pappas of 82 South Lincoln St., Keene, requests a Variance for property located at 18 Woodburn St., Tax Map #548-031-000; that is in the High Density District. The Petitioner requests a Variance to permit the conversion of the current two family into a three family residence- renovate the open space-workshop garage into a one bedroom or studio apartment per Section 102-791 of the Zoning Ordinance.

ZBA 20-29: Petitioner, Knotty Pine Antique Market Inc., of West Swanzey, represented by Jim Phippard, of Brickstone Land Use Consultants, 185 Winchester St., Keene, requests an Enlargement of a Nonconforming Use for property located at 96 Dunbar St., Tax Map #585-007-000; that is in the Central Business District. The Petitioner requests an Enlargement of a Nonconforming Use to expand the existing indoor self-storage space from 1,800 sf to as much as 6,700 sf on the ground floor of the existing building. The second floor of the building is currently 5,955 sf of self-storage. Currently the

Knotty Pine Antiques auction gallery occupies 4,900 sf on the ground floor. Due to COVID-19, the owner wishes to convert the gallery space to self-storage units.

- V. New Business:
2021 Calendar
- VI. Communications and Miscellaneous:
- VII. Non Public Session: (if required)
- VIII. Adjournment:

**In Emergency Order #12, issued by the Governor pursuant to Executive Order #2020-04, which declared a COVID-19 State of Emergency, the requirement that a quorum of a public body be physically present at the meeting location under RSA 91-A:2, III(b), and the requirement that each part of a meeting of a public body be audible or otherwise discernible to the public at the meeting location under RSA 91-A:2, III(c), have been waived. Public participation may be provided through telephonic and other electronic means.*

The Board chair will provide instructions during the meeting for how the public can provide comment.

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1 City of Keene
2 New Hampshire

3
4
5 ZONING BOARD OF ADJUSTMENT
6 MEETING MINUTES
7

8 **Monday, November 2, 2020**

6:30 PM

Remotely via Zoom

Members Present:

Joshua Gorman, Chair
Joseph Hoppock, Vice Chair
Joshua Greenwald
Jane Taylor
Michael Welsh
Arthur Gaudio, Alternate

Staff Present:

John Rogers, Zoning Administrator
Corinne Marcou, Zoning Clerk

Members Not Present:

Louise Zerba, Alternate

9
10
11 Chair Gorman read a prepared statement explaining how the Emergency Order #12, pursuant to
12 Executive Order #2020-04 issued by the Governor of New Hampshire, waives certain provisions
13 of RSA 91-A (which regulates the operation of public body meetings) during the declared State
14 of Emergency. He called the meeting to order at 6:33 PM.
15

16 **I. Introduction of Board Members**

17
18 Roll call was conducted.
19

20 **II. Minutes of the Previous Meeting – September 15, September 22, and October**
21 **5, 2020**
22

23 Ms. Taylor made a motion to adopt the minutes of October 5, September 15, and September 22
24 as presented. Mr. Hoppock seconded the motion, which passed by unanimous vote.
25

26 **III. Unfinished Business**
27

28 Mr. Hoppock asked if they should talk about dates for a possible second meeting as there are
29 many petitions before the Board. Chair Gorman asked for Board members' availability on
30 November 10 and/or 17. Discussion ensued. Chair Gorman stated that Tuesday, November 17,
31 at 6:30 PM, will be the next meeting, if necessary, for continuing any applications from tonight's
32 agenda.

33 Chair Gorman asked Staff is there any other unfinished business. Mr. Rogers replied no.

34
35 **IV. Hearings**

- 36
37 **a. Motion to Rehear: A Motion to Rehear petition ZBA 20-11, 122 & 124**
38 **Water St., Petitioner, Hundred Nights, Inc., has been submitted by**
39 **Stephen Bragdon of 51 Railroad St., Kevin Beal of Dunbar St., and**
40 **John Pappas of 69 Dunbar St.**

41
42 Chair Gorman stated that this Motion to Rehear petition ZBA 20-11 has been submitted by
43 Stephen Bragdon, Kevin Beal, and John Pappas. He continued that this is not a public hearing
44 but Mr. Greenwald needs to recuse himself, since he is an abutter to this property and recused
45 himself during the original hearing. Mr. Gaudio will again be filling in for him.

46
47 Chair Gorman stated that they will have just general deliberation, since this is not a public
48 hearing. He asked for Board comments.

49
50 Ms. Taylor stated that the Motion appears to have been filed in a timely fashion. She continued
51 that what it comes down to is the question of whether the Board, in its decision, committed a
52 technical error, or if there are any new considerations that were presented in the Motion. From
53 her perspective, having gone back and read the application and the meeting minutes, she does not
54 find that there are new considerations. She thinks the question is whether there was a technical
55 error of notice. She spent time going through the Assessor's database and looked at the abutters'
56 notice and there is no requirement to notify each individual owner in a condominium. The
57 governing body, which is the condominium association, was notified, so she does not find that
58 there was a technical error.

59
60 Mr. Gaudio stated that he thinks this is a question for Mr. Rogers as he thinks 51 Railroad St. is
61 the only property for which there is an allegation of lack of notice, and according to Google
62 Maps, it is over 800 feet from the property. If that is true, and Mr. Gaudio stated he believes it
63 is, then there is no requirement for notice to 51 Railroad St.

64
65 Chair Gorman stated that he knows that 51 Railroad St. was noticed as an abutter. He continued
66 that the question is whether each individual occupant of the condominiums needed to be noticed.
67 According to RSA 356-B, XXIII, "*Officer* means any member of the board of directors or
68 *official of the unit owners' association.*" Specifically in the case of abutting property being
69 under a condominium or other collective form of ownership, the term 'abutter' means the
70 officers of the collective or association as defined. From his perspective, he has to assume that
71 the notice sent to 51 Railroad St. was sent to an officer or agent, given that they open the mail.
72 He does not believe they are denying receipt of that individual notice, rather that each member of
73 the condominium was not noticed, but it seems clear in the RSA language that they do not have
74 to be.

75
76 Mr. Rogers stated that along with that RSA, he would reference them to the Board's Rules of
77 Procedures, which state the same thing about condominiums. He continued that to clarify that 51
78 Railroad St. is one building on that large property that includes multiple buildings.

79 Chair Gorman asked if 51 Railroad St. is within 200 feet of the petition property. Mr. Rogers
80 replied that the 51 Railroad St. address/building itself probably is 800 feet; he would not deny
81 that, but the overall condominium property, the land under all those properties, is well within the
82 200 feet.

83
84 Mr. Hoppock stated that he did not hear what Kevin Beal's address was. Chair Gorman replied
85 that Mr. Beal did not list his address as the Motion states "Dunbar St.". Mr. Hoppock stated that
86 he would argue that he has not met his burden of proof as an abutter. Chair Gorman replied in
87 agreement. He continued that John Pappas, of 69 Dunbar St., was noticed; asking for
88 confirmation from Mr. Rogers who replied in the affirmative, that Mr. Pappas was on the
89 abutters list that was provided to Staff by the Applicant.

90
91 Mr. Hoppock stated that as this is not a public hearing, the Board has to take the Motion on its
92 face and ask themselves if the Motion to Rehear points out that the Board did anything unlawful
93 or unreasonable. He agrees with Ms. Taylor that neither the Motion nor the statements contained
94 within demonstrate that there was an error in the decision. He would not support the Motion.

95
96 Ms. Taylor stated that the Motion for Rehearing challenges the notice to individual owners at 51
97 Railroad St.; it does not challenge notice to anyone else. Since the statute requires the Motion to
98 set forth all possible issues with the Board's action, she believes that is the only notice issue they
99 have before them.

100
101 Mr. Hoppock agreed. Chair Gorman agreed. He continued that unless there is further comment
102 on the notice issue, he thinks they are all in agreement that 51 Railroad St. was properly noticed.
103 Mr. Welsh replied that he too agrees. He continued that he appreciates the clarity about the
104 Board's task. He does not feel that there is any description of anything illegal or that there is any
105 reason to grant a new hearing. Chair Gorman stated that generally speaking they are trying to
106 see if the Board overlooked anything or have been presented with something that shows them
107 they made a mistake.

108
109 Mr. Hoppock made the following motion, which was seconded by Ms. Taylor.

110
111 By a vote of 5-0, the Zoning Board of Adjustment denied the motion to approve the Motion for
112 Rehearing that was filed for ZBA 20-11.

113
114 Mr. Hoppock made the following motion, which was seconded by Ms. Taylor.

115
116 By a vote of 5-0, the Zoning Board of Adjustment denied the Motion for Rehearing that was
117 filed for ZBA 20-11.

118
119 **b. Continued: ZBA 20-16:/ Petitioner, Hundred Nights, Inc. of 17**
120 **Lamson St., Keene, represented by Jim Phippard, of Brickstone Land**
121 **Use Consultants, 185 Winchester St., Keene, requests a Change of a**
122 **Nonconforming Use for property located at 15 King Ct., Tax Map**
123 **#122-022-000; that is in the Low Density District. The Petitioner**
124 **requests a Change of a Nonconforming Use from a now vacant fitness**

center to a lodging house (homeless shelter).

Chair Gorman asked Staff if this has been withdrawn. Mr. Rogers replied yes, that is correct. He continued that the Petitioner may bring it back at a later date.

- c. **ZBA 20-20:/ Petitioner, Maureen Baxley Murray Trust of 195 Columbia Turnpike, Suite 125, Florham Park, NJ, represented by Joseph Murray, requests a Variance for property located at 0 Chapman Rd., Tax Map #241-017-000; that is in the Rural District. The Petitioner requests a Variance to permit the construction of a single family residential dwelling and garage on an irregularly shaped lot where lot width at the building line would be less than the required 200 feet in the Rural District per Section 102-791 of the Zoning Ordinance.**

Chair Gorman asked Staff if this has been withdrawn as well. Mr. Rogers replied yes. He continued that this is a request for a Variance and once the Applicant had survey work done to get a rough idea of where the house could be located on the property, they decided to take more time to look. They might seek a second Variance to this property as well and want to just come before the Board once, instead of multiple times for multiple Variances. So the Board might see this at a later date as well.

- d. **ZBA 20-21:/ Petitioner, Timothy Russett of 40 Bryant Rd, Jaffrey, requests an Enlargement of a Nonconforming Use for property located at 686 Court St, Tax Map #228-008-000; that is in the High Density District. The Petitioner requests an Enlargement of a Nonconforming Use in order to increase size of hospital to accommodate growing clients and staff.**

Chair Gorman asked Staff to speak to this. Mr. Rogers stated that this property currently contains a non-conforming use as a veterinary clinic, which the Applicant is looking to increase the size due to growing demand of clients and staff. He continued that this is in the High Density District (HD) on upper Court St. near Genesis Healthcare, with a mixed use occurring on this property. There is a residence in the building on the front of the property, and the building in the back houses the veterinary hospital and other businesses. In 1984 this property received a Change of Nonconforming Use from tree service to the veterinary hospital. In 1989 it received an Enlargement of Nonconforming Use and an addition was built.

Chair Gorman asked if the Board had questions for Mr. Rogers. Hearing none, he opened the public hearing and explained how the public could participate. He asked the Applicant to speak.

Tim Russett, of 40 Bryant Rd., Jaffrey, stated that he is currently located at 686 Court St., Keene. He continued that they have an existing building that was zoned as storage and a closed porch; they are looking to expand the clinic into those areas to have more exam rooms and more facilities for the growing staff and clients. They are seeing an increase because a Veterinarian who was in the area for a long time recently retired and his clients are shifting over. They are not looking for major changes. All of the structures are existing. There would be about two

170 existing walls that go in the back and then they would be pushing back what is currently in the
171 front of the clinic to the back in the existing structures and then renovating inside to
172 accommodate what they have. There would be no new structures, and the water and sewer has
173 been in place for the 30+ years the business has been open.

174
175 Ms. Taylor stated that she could not tell from the application which building is impacted. She
176 continued that there is a dog grooming building behind the veterinary clinic and she cannot tell if
177 they are attached. Mr. Russett referenced the map and replied that the front building is
178 residential, and in the back building, the right side is the veterinary clinic and in between was the
179 open porch area and the dog groomer is the top left corner of the building. Behind that area is
180 the storage space that is not being used.

181
182 Ms. Taylor asked if the plan is to essentially connect the two buildings. Mr. Russett replied no,
183 the back building is one full building already connected. They would not be building anything.
184 It was just that in between one area and another area was a porch, but it is all connected
185 already. Ms. Taylor asked if they would just expand into that area and it will no longer be a
186 porch. Mr. Russett replied yes.

187
188 Mr. Rogers stated that when the Board deliberates and votes on this, they should clarify for the
189 record who the voting members are, and whether Mr. Greenwald is back voting or if Mr. Gaudio
190 is filling in for him. Chair Gorman agreed.

191
192 Mr. Hoppock asked what the projected impact is on parking and traffic, in terms of the expansion
193 of the business as it is pushed back into these new areas. Mr. Russett replied that the parking lot
194 is very large to begin with and would not need to be enlarged. He continued that the driveway
195 goes around both sides of the building in a U shape. Traffic-wise, it would be the same as
196 normal. It is just that they are increasing their ability to see a couple more patients and
197 accommodate the more doctors that they currently have.

198
199 Ms. Taylor stated that “more patients and more doctors” seems to indicate more traffic. She
200 continued that she is not worried about water and sewer, because that is on site, but she is a little
201 concerned about how many additional employees they are going to have and what they anticipate
202 in the business plan will be an increase in patient numbers.

203
204 Mr. Russett replied that currently they do not plan on hiring any more doctors or employees
205 because they are fully staffed. He continued that when his wife bought the business two years
206 ago it was a one- to two-doctor practice and for the past two years they have been operating at
207 four doctors with supporting staff. They have already had the increase in employees and
208 clientele in the past two years. This addition would help when COVID relaxes a bit and people
209 are allowed back into the clinic, so that they can properly accommodate having those doctors on
210 at the same time with exam rooms. Currently they only have two exam rooms and when they
211 expand to four they can hopefully accommodate all of these people at once with exams.

212
213 Ms. Taylor replied that that does not answer her question about what the ‘people load’ is going to
214 be. If there are four doctors, who can see X number of people and animals, does he have a
215 number of spaces or any kind of count. She suspects that Mr. Hoppock is concerned about the

216 left turns out onto Court St. from various businesses, which can be challenging.
217 Mr. Russett replied that it is hard to answer because it depends on the time of year - veterinary
218 clinics have a busy season and a slow season. He can probably pull numbers for her. He asked
219 if she is asking about people in the clinic or car traffic coming out of the clinic. Ms. Taylor
220 replied that she is concerned with the amount of traffic that would be generated. Mr. Russett
221 replied that it would not change from what it is today, because they are already at an increased
222 load from having the doctors. He does not have an actual number.

223
224 Mr. Hoppock stated that he thinks the question is what does Mr. Russett anticipate the doctor
225 load to be, and the patient load to be, after he has completed the enlargement. Mr. Russett
226 replied that he is not explaining this very well, but again, the load is already there. They need the
227 extra room to accommodate for when they open back up after COVID, to accommodate with the
228 schedule and the need for clients to come in, in a timely manner. One doctor sees between 20-30
229 patients a day, depending on the season and the severity of the visit. Mr. Hoppock asked if he
230 does not anticipate any increase in staff or patient levels. Mr. Russett replied no, because
231 currently they are already at that high demand.

232
233 Chair Gorman asked if it is correct that they already have four doctors. Mr. Russett replied yes.
234 Chair Gorman asked, if each doctor sees 20 to 30 patients a day, is it accurate to say they are just
235 not doing that in a manner conducive to how Mr. Russett wants to run the business, thus, the
236 need for the expansion. Mr. Russett replied yes, absolutely. He continued that if COVID were
237 not a problem right now people would be allowed into the clinic and if they had all four doctors
238 working on the same day with half-hour appointments, they would need four exam rooms.

239
240 Ms. Taylor asked for clarification – pre-COVID, did they have four doctors each seeing 20 to 30
241 patients a day and only two exam rooms. Mr. Russett replied that not all four doctors were
242 working at the same time. He continued that three out of the four have young children and were
243 out on maternity leave; more or less one comes back, another goes out. Some of them were
244 working part-time to care for their children, but now the schedules are changing and they need
245 more room. Also there are tech appointments that also need a room, and laser therapy needs its
246 own room. They also need a separate room for euthanasia appointments because they do not
247 want to rush people who are spending time with their pets. Ms. Taylor asked if it is correct that
248 while they have four doctors on staff, the business has not been operating with all four doctors
249 working at the same time. Mr. Russett replied that is correct.

250
251 Chair Gorman asked if he is going to now have four doctors in there at once, for the first time.
252 Mr. Russett replied that when COVID finally breaks and they are allowed to have the owners
253 back in the building with their pets, then ideally yes. Chair Gorman stated, in that case, it is an
254 expansion. He asked how many techs there are. Mr. Russett replied two, plus two tech
255 assistants. Chair Gorman asked how many patients they (the four doctors, and all the techs) can
256 see at once. Mr. Russett replied that he estimates between six and eight. Chair Gorman asked if
257 it is safe to say the business could have eight people coming and going with another eight
258 scheduled right behind them, so at any given time, about 12 or 18 cars coming and going. He
259 asked if that is an accurate estimate, without going into a deep study. Mr. Russett replied yes,
260 that is a very good estimate for the busy times.

261

262 Chair Gorman asked if anyone had more questions. Hearing none, he thanked Mr. Russett for
263 his time. He opened the public hearing and explained how members of the public could speak.
264 Ms. Marcou stated that Staff did not have members of the public calling in. Hearing no public
265 input, Chair Gorman closed the public hearing.

266
267 Mr. Hoppock stated that he was satisfied that the three criteria for enlargement of a non-
268 conforming use have been met.

269
270 Mr. Hoppock made a motion to approve ZBA 20-21. Mr. Welsh seconded the motion.

271
272 Chair Gorman asked if they should discuss each criterion or just vote.

273 Mr. Hoppock stated that regarding the first criterion, no, it would not reduce the value of any
274 property and it is not obnoxious, injurious, or offensive to the neighborhood. He continued that
275 he notes the Applicant will not enlarge the number of doctors or supporting staff; they will try to
276 accommodate their current level of work with more space, albeit there may be four doctors there
277 at a time and in the past there has not been, but he does not think that will be significant enough
278 to affect the first criterion. He continued that regarding the other criteria, he does not see any
279 evidence of any nuisance or hazard to vehicles or pedestrians based on what the Board heard.
280 No one is challenging that there is not adequate water, sewer, or parking. For those reasons he
281 would approve the application.

282
283 Ms. Taylor stated that she agrees with Mr. Hoppock and does not believe it would reduce the
284 value of property or be injurious, offensive, or obnoxious. She continued that the veterinary
285 buildings are at the rear of the property which helps reduce any potential nuisance. She has some
286 concerns about vehicular traffic though they do not rise to the level of her wanting to vote
287 against the application but, if she had any concerns on this, it would be the increased number of
288 vehicles entering and exiting Court St. She believes it has adequate water, sewer, and parking on
289 site.

290
291 Chair Gorman stated that for the record they have five voting members: Josh Greenwald had
292 recused himself from the Motion to Rehear but is back now for this petition, making Mr. Gaudio
293 a participant in the meeting but not a voting member.

294
295 Chair Gorman stated that he is in agreement that generally Mr. Russett is not changing the
296 structure, so it would be difficult to pinpoint any type of devaluation of abutting properties. He
297 continued that water, sewer, and parking all seem to be in place on a fairly good-sized lot. He
298 does not see any real concerns or hazards being created. It is just someone trying to expand his
299 business to better serve his clients, which is a good thing.

300 He asked if there is more input from the Board before they vote on the criteria. Hearing none, he
301 called for a vote.

3021. Such approval would not reduce the value of any property within the district, nor otherwise be
303 injurious, obnoxious, or offensive to the neighborhood.

304 *Granted 5-0.*

3052. There will be no nuisance or serious hazard to vehicles or pedestrians.

306 *Granted 5-0.*

3073. Adequate and appropriate facilities will be provided for the proper operation of the
308 proposed use.

309 *Granted 5-0.*

310

311 The motion to approve ZBA 20-21 passed unanimously.

312

313 e. **ZBA 20-22:/ Petitioner, Monadnock Area Peer Support Agency of**
314 **Keene, represented by Peter Starkey, of Keene, requests a Special**
315 **Exception for property located at 194-202 Court St., Tax Map #554-**
316 **012-000; that is in the Medium Density District. The Petitioner**
317 **requests a Special Exception to permit a group home and wellness**
318 **center per Section 102-392 of the Zoning Ordinance.**

319

320 Chair Gorman asked Staff to speak to the next petition. Mr. Rogers explained the location of the
321 property on Court St., which had been a home for the elderly as a non-conforming use in the
322 Medium Density District. He continued that he assumes it was such for many years, because
323 Staff files do not have a lot of history about this property. The Petitioner is asking for it to be a
324 group home, which would be allowed in the Medium Density District with a Special Exception
325 by the Board. All Staff has currently in the files is that they were licensed through the State with
326 24 beds for this facility when they were operating. It has been empty for quite a while now. It
327 was part of the organization that opened the Hillside property.

328

329 Chair Gorman asked if the Board had any questions for Mr. Rogers. Hearing none, he opened
330 the public hearing. He asked to hear from the Petitioner.

331 Peter Starkey, on behalf of 64 Beaver St., stated that he wants to begin by reading his answers to
332 the criteria into the record. He continued that he knows the Board has received several letters of
333 opposition. He can give verbal testimony after his presentation.

334 Mr. Starkey read:

335 1. *The proposed use is similar to one or more of the uses already authorized in that*
336 *district and is in an appropriate location for such a use.*

337

338 *Although there are no group homes in the district, the proposed use is similar to*
339 *other uses already authorized and by special exception in this area which includes offices*
340 *and institutional use. The property was already classified as an institutional use for elder*
341 *care, in addition to another elder care facility at 361 Court Street (Prospect Home). These*
342 *institutional elder care facilities had 24 and 15-18 residents respectively, which is*
343 *significantly above MPS' proposed uses. MPS is proposing 5 total individuals overnight, 2*
344 *for our week long program and 3 for our 2-month program. There are several multi-family,*
345 *or mixed office/single family use properties in the district, and MPS would be providing*

346 *supportive housing uses at similar or decreased amounts to these properties. The Surry*
347 *Village Charter School operates institutional use in two locations nearby. MPS is also*
348 *currently located in a medium density district. The 194-202 Court St. property also*
349 *neighbors high and low density areas which have a multitude of special exceptions for*
350 *institutional use. As mentioned above, the location is an appropriate one because MPS'*
351 *proposal represents a significant decrease in the amount of people living and interacting*
352 *with the location. The location is appropriate for our programming because it is the same*
353 *distance from necessary facilities and needs of members, staff, and residents as our 64*
354 *Beaver location.*

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

357
358 *MPS has existed at our current 64 Beaver St. property for 21 years, and has not had a*
359 *negative impact on the value of any property in the district. The value of properties on the*
360 *street have increased in value over this time. MPS has made exterior improvements to our*
361 *current property including exterior upgrades, paint, and gardening. The proposed property*
362 *is currently not being used, and maintenance/upkeep has been minimal. MPS' occupancy of*
363 *the facility would add value in our maintenance and upkeep of the building's exterior. MPS*
364 *also is looking to make significant renovations to the interior and exterior of the building in*
365 *the coming years, allowing for increased value to surrounding properties. MPS will be*
366 *ensuring the historic preservation of the building's exterior, which is well regarded*
367 *nationally as a primary way to increase property values. MPS would not increase traffic*
368 *and will not increase noise from the previous use when upwards of 24 residents and*
369 *associated care staff utilized the building.*

370
371 3. *There will be no nuisance or serious hazard to vehicles or pedestrians.*

372
373 *The property at 194-202 Court St. is appealing to MPS because of its ample onsite*
374 *parking. Court St. also has ample street parking and other parking lots within easy walking*
375 *distance. MPS programming is always facilitated on property, and would not pose a hazard*
376 *to vehicles or pedestrians.*

377
378 4. *Adequate and appropriate facilities (i.e., sewer, water, street, parking, etc.) will be*
379 *provided for the proper operation of the proposed use.*

380
381 *MPS would not increase use of facilities from the previous use when upwards of 24*
382 *residents and associated care staff utilized the building daily. The facilities are more than*
383 *necessary.*

384 Mr. Starkey stated that he would like to respond to the people who wrote to the Board in
385 opposition. He continued that the Board's decision needs to be based on fact and law, not
386 prejudice or hysteria. Mental health is a protected class under federal and state law, and the
387 Board should disregard any prejudice to people with mental health issues as being a threat or
388 danger to the neighborhood, as it is not based in fact or law. Opposition has not presented this
389 evidence of a threat to people in the neighborhood and concerns are not based in fact or law.
390 When submitting the application, staff from Monadnock Area Peer Support (MPS) spoke at
391 length with City Staff and MPS's own counsel about the proposed use as a group home, while
392 opposition comments that it be considered an institutional use as a clinic, which is not based in
393 fact or law or an understanding of MPS. MPS is a non-clinical and non-medical program as
394 defined by MPS's mission, state contract, and NH administrative rules. They do not bill to
395 insurance and they do not hold medical records that follow HPPA. They do not offer clinical
396 services that are traditionally sought at places like Monadnock Family Services or MAPS
397 Counseling. MPS provides a safe space and location, not a paid or insurance-based service. To
398 the extent that there is a service, it is to share with each other respectfully, to build each other up
399 and support each other. The opposition saying it is an institutional use is not based in fact or law
400 and contradicts numerous conversations with City Staff and counsel, who were presented with
401 the full picture of what MPS does.

402
403 He continued that Special Exception means the use has been contemplated for the Zone and just
404 needs to be approved by the Board. Based on fact and law, group homes are permitted by
405 application. MPS has been in a Medium Density District for 21 years and are seeking to locate
406 in a Medium Density District. In their existing location, they have not had an impact that is
407 reflective of the picture the opposition presents. There is no evidence of that impact in the
408 proposed location. Yes, a property owner is permitted to testify on their property value, but the
409 Board gets to decide whether to believe those statements.

410
411 Mr. Starkey continued that the Board should also weigh the fact that the building has been vacant
412 and in a state of disrepair for 2-3 years. There was concern about the property being difficult to
413 heat and the lack of parking. MPS is fully aware of utility costs and he did not understand why
414 that information was needed for the Board. Regarding parking, MPS measured on site with cars,
415 and could fit five cars along the south side, two to three in the rear, and two in the northwest
416 corner. With varying sizes of cars that might go up or down but it is about nine or ten spaces.
417 MPS also spoke with staff about the parking concerns and compared to the parking capacity at
418 their current space, which is eight cars. The move has a net increase in parking availability.
419 There is no basis in fact that MPS poses a hazard or threat to their current neighborhood due to
420 parking and the net increase in available parking supports MPS's proposed use.

421 Mr. Starkey stated that several people in opposition paint Court St. as a small, low-use
422 neighborhood and this is not based in fact. It is a major roadway with a multitude of mixed uses.
423 The fact that people walk or drive there does not make any difference to the current use of the
424 street, which is a high-traffic community with businesses, residential facilities, and close
425 proximity to the hospital, Fire Department, Keene Senior Center, Keene Community Kitchen,
426 and the Keene Serenity Center. The proposed use would be a dramatic decrease from the over
427 two dozen former assisted living residents and associated staff and visitors, as opposed to MPS's
428 five overnight individuals and support groups. At MPS's busiest time and busiest group there
429 are only about 11 people in the building. It could increase or decrease for multiple reasons but

430 the current facility does not accommodate the inflated projections of “dozens of people” as stated
431 by the opposition, nor do they see this as an issue at the proposed facility. MPS does not seek to
432 lose its small community feel that is important to fostering wellness and the opposition’s
433 assertion that they seek to “stuff the building full of people” is not based in fact. The building’s
434 prior use had 20 to 24 people, which is much higher than MPS’s proposed use. There is no
435 evidence that residents would be “hanging out in the front” and opposition letters paint the
436 residents they serve as a danger or threat to neighbors and society – this is based on prejudice,
437 not fact.

438

439 Mr. Starkey continued that he has been talking a lot about fact but also wants to offer a
440 qualitative response to several of the points he has raised. MPS has been in the community for
441 25 years. He questioned the Board as to who knew of its existence before this application. He
442 has lived in Keene his entire life and until he became employed, he did not know MPS existed.
443 Probably most people speaking in opposition were unaware of its existence as well with many
444 people mistakenly thinking he started the organization three years ago. Many of MPS’s current
445 neighbors did not realize MPS was there. He says all this to underscore that the opposition’s
446 claim that MPS will be a nuisance, eyesore, burden, and so on and so forth is not based in fact,
447 but based in prejudice and fear of people with mental health needs and the Board should reject
448 this prejudice.

449

450 Ms. Taylor asked how many staff members there are and what the maximum number of staff
451 members would be. Mr. Starkey replied that usually there are no more than three or four staff
452 members in the building at once. They have 11 staff members total when fully staffed but that
453 represents people who are part-time or supervising overnight. Ms. Taylor asked if MPS is
454 staffed 24 hours a day. Mr. Starkey replied that the proposed model is to have five residents and
455 one Residential Manager who lives on site, similar to a Residence Director of a college. They
456 would also have an additional staff member, so there would be two staff members on site at all
457 times, and at least two staff members on call within a 5- to 10-minute drive.

458

459 Chair Gorman stated that Mr. Starkey mentioned there has been no diminution of property value
460 on Beaver St. where MPS currently is. He continued that the burden of proof falls on Mr.
461 Starkey. He asked if he has anything to back up that statement or if that is just his general
462 assessment. Mr. Starkey stated that he does not have the numbers in front of him but assessed
463 property value has increased from what they paid in 1999 and they expect to sell the building for
464 well above what they paid for it in 1999. He continued that in partnership with their real estate
465 agent, they pulled a lot of property cards in the surrounding area, going about 200 feet like they
466 had to for this application, looking at what people have paid for their houses and the history of
467 the assessments, and there has not been a negative impact with MPS being there. Most people in
468 the neighborhood do not even realize MPS is there.

469

470 Chair Gorman stated that he understands that and appreciates that position. He continued that
471 the question about property value is not about how MPS’s property value has or has not changed,
472 but rather what it has done to properties around it. The fact that they have gone up in value in
473 the last 21 years does not really offer any statistical data as to whether they have gone up and
474 down in value the same as the rest of Keene, or less, or more. One would expect the property to
475 appreciate but it may not appreciate at the same pace as other properties in the city. He asked if

476 Mr. Starkey has any comment relative to that. Mr. Starkey stated that based off of the
477 information they have received from city records, as a whole the properties in the city have gone
478 down in value over the last 20 years. None of the publicly-available evidence he has seen
479 suggested that MPS's presence in the neighborhood has negatively impacted the property value
480 of abutters.

481
482 Mr. Hoppock stated that Mr. Starkey's background materials state that MPS has a daily average
483 attendance of 20 unique individuals. He asked if it is correct that those are not overnight guests.
484 Mr. Starkey replied that the number is inclusive of overnight guests. Mr. Hoppock asked if it is
485 part of the five, two, and three that he mentioned separately. Mr. Starkey replied that the 20
486 represents the two they currently have at the Beaver St. location, two short-term stays they have
487 been operating for three years. This move represents a new program they are starting with
488 financial support to start three longer-term supportive housing beds. Mr. Hoppock stated that if
489 you take those five people out of the 20 that is 15 people who do not stay overnight. Mr. Starkey
490 replied yes.

491
492 Mr. Hoppock asked what those 15 people do during the day. Mr. Starkey replied that MPS,
493 through its state contract, provides peer support groups. He continued that they facilitate an
494 environment where people can exchange what is going on for them in their mental health and
495 give and receive support. There is one-on-one peer support for people who are having a tough
496 day and need someone to talk to. There is also relationship-building and community-building,
497 which is the foundation of everything they do. The two things that really exacerbate mental
498 health challenges are the feeling that you are alone and the feeling that you are rejected by
499 society. MPS tries to combat that in the sense that if they can create connection and foster
500 community they are able to lessen the burden that comes with that. They have support groups,
501 one-to-one peer support, and community-building activities like creative writing and drawing, a
502 weekly community meal, and social activities like a gardening club.

503
504 Mr. Hoppock asked if it is correct that there are more than five employees. Mr. Starkey replied
505 yes.

506
507 Mr. Gaudio stated that a substantial portion of the Brattleboro Retreat will be closing soon. He
508 continued that he is not sure how that will overlap with MPS but asked if Mr. Starkey foresee an
509 increase in demand for MPS's services and an increase in clientele as a result. Mr. Starkey
510 replied no, the Brattleboro Retreat is very different as it is an institutional care that provides
511 clinical and medical services that MPS does not provide. MPS would not be an appropriate
512 place for people who are at the Retreat or need psychiatric hospital evaluation or care. MPS's
513 care is more about preventing that sort of situation from happening or supporting someone after
514 they leave that sort of facility and have reached a state of wellness, not actively in psychiatric
515 crisis.

516
517 Chair Gorman asked if the Board had more questions for Mr. Starkey. Hearing none, he stated
518 that he will open the public hearing after he first asks Staff a question. He asked Mr. Rogers if it
519 is safe to assume that parking requirements in the Zoning Code have been or will be met. Mr.
520 Rogers replied that a group home use is not a use spelled out under the parking table under
521 Section 102-793 so there are a couple avenues for Mr. Starkey to use. One is a permit-type

522 situation, with the allowance of one parking space per unit, but that does not seem to fit this
523 building. Another avenue would be to use the section of the Zoning Code that allows the Zoning
524 Administrator to make the determination of what the requirement would be based off of the uses
525 they are determining. If the Applicant made the argument that they need one parking spot per
526 bed, then parking could address. The parking solution would have to be done prior to a permit
527 being issued for a change of use for this property.

528
529 Chair Gorman stated that just to be clear, that would be handled administratively and would not
530 come back before the Board. Mr. Rogers replied unless they could not make the argument that
531 the parking is not required. He continued that if he, as the Zoning Administrator, made that
532 determination then, the Applicant would go to back to the Board to seek a Variance. For group
533 homes, there has been a reasonable argument that in many cases the clients do not have vehicles.

534
535 Mr. Welsh stated that his curiosity about the origin of the designation of this facility and its
536 proposed use as a group home. He asked if that is determined administratively or if it is a claim
537 made by the Applicant. He is interested in the contrary notion that it may be a clinic and may be
538 an institutional use. Mr. Rogers replied that staff had conversation with Mr. Starkey about this
539 proposed use. The Zoning Code's definition of "group home" fits with what Mr. Starkey was
540 describing. He continued that the definition is "*any premises, privately or publicly sponsored,*
541 *where board and supervision are given to five or more persons not related by blood or marriage*
542 *to the owner or primary occupant thereof, for the purpose of social rehabilitation and/or long*
543 *term sheltered care."* He continued that Mr. Starkey made the argument that they are providing
544 the social rehabilitation as outlined in that definition.

545
546 Chair Gorman asked if the same determination was made for the Beaver St. property that exists.
547 Mr. Rogers replied that he has not made a determination of that property. He continued that he
548 knew it was there but was not aware of its services or how that property was operated.

549
550 Chair Gorman opened the public hearing and gave information about how the public could
551 participate. He asked for comments from those in favor of ZBA 20-22 to speak first.

552
553 Mari Brunner, of 100 Pearl St., stated that she is calling to speak in support of this petition. She
554 continued that she lived on Beaver St. and was a direct abutter to MPS for two years, from 2013
555 to 2014. She continued that MPS was a great neighbor and for the first year, she did not even
556 realize they were there and there were no issues. It was a quiet, clean, well-maintained place. The
557 only reason she ever realized they were there, is because her window overlooks their side yard
558 and she saw people out there gardening. They were a really great neighbor and there were no
559 major issues with parking or traffic; no one ever parked on the street or blocked the sidewalk or
560 anything of that nature.

561
562 Maggie Rice, of 84 Elm St., stated that she lives right around the corner from 194 Court St. and
563 she wants to voice her support for this Special Exception to be granted to MPS. She continued
564 that this is an area of the city that sits right between the Medium Density District and the High
565 Density District. This means that people who live here are right up next to office buildings, yoga
566 studios, and things like that. She feels a little frustrated as an occupant of this neighborhood
567 because there are some folks opposing the petition by claiming that this is a family-centered

568 neighborhood. Nobody's kids are playing ball in the middle of Court St. This is not Maple
569 Acres, and there are cars, and different people coming and going all the time, and that is
570 something she really likes about living here. It is exciting and vibrant. She loves living in a
571 place that she perceives as mixed use and wants to see that trend keep going. Regarding property
572 values and offense to the neighborhood, she is not a property appraiser and cannot speak
573 knowledgably on what causes fluctuations in property values but she imagines that an
574 unoccupied building would cause more devaluation than this specific use. She personally finds
575 nothing injurious, obnoxious, or offensive in helping people who are experiencing mental health
576 challenges. To be blunt, it is not like this is a strip club going into the neighborhood, so she does
577 not feel that it would be disturbing the peace or offending occupants of nearby dwellings. In
578 fact, she thinks it would be a positive change for this neighborhood to host an organization like
579 MPS. She would be very proud to be their neighbor. The last thing she wants to say, although
580 she knows it is not within the four criteria the Board is addressing: there is a sign on Court St.
581 that says "Hate has no home here." She takes that to heart and thinks that the city takes that to
582 heart. She is disappointed in her neighbors who are being so unwelcoming to people who are
583 having a tough time and are seeking help, because hate has no home here. She thinks MPS and
584 all of the people they serve should have a home in her neighborhood.

585
586 John Schuerman, of 189 Court St., stated that he lives right across the street from the property.
587 He continued that he does not have an opinion but would like to ask some questions. This is a
588 fairly large building and accommodates far more than five people. Mr. Schuerman questioned if
589 the anticipated number of overnight residents would increase over five over the next year or five
590 years. He also questioned what the qualifications of the staff are and what education do they
591 have, and what qualifications do they have in dealing with mentally ill individuals. He continued
592 that he is not familiar with MPS and is interested in knowing how they handle crises that come
593 up with mentally ill individuals, which do arise fairly often. He asked what protocols are in
594 place when that occurs. He understands that they are not clinical programs, but asked if there
595 relationships with clinical programs that staff can call upon to deal with problems that arise. He
596 also does not understand what the living arrangements will be and asked if meals will be
597 provided in the facility with these meals being prepared and consumed onsite. He noticed the
598 programs have been going on for quite some time but has no knowledge of them, so he is
599 interested in knowing what the criteria are for someone being in the program, understanding that
600 they cannot be actively psychotic when in the program. He also asked what provisions have
601 been made for COVID-19 and if participants regularly tested and what provisions are in place for
602 taking care of them medically if there are positive cases.

603
604 Chair Gorman stated that they will finish hearing from the public and then have Mr. Starkey
605 address those questions. He continued that they will try and stay on task with the actual criteria
606 of the Zoning Code.

607
608 Chair Gorman asked if there were any more call-ins from people in favor. Ms. Marcou replied
609 no. Chair Gorman opened public comment from those in opposition.

610
611 Patricia Gallup stated that she is speaking on behalf of McLellan and McMahan Holdings, of PO
612 Box 286, Keene. She continued that they are opposed to the issuance of a Special Exception for
613 MPS's proposed use of the property at 194-202 Court St. McLellan and McMahan Holdings

614 owns 217 Court St., considered by the City to be an affected property regarding this proposal.
615 She is a partner and owns and resides in a different neighborhood property less than a block
616 away. She believes properties in the neighborhood will be significantly devalued should the
617 Special Exception be allowed by the Board, both monetarily and in terms of the neighbors' and
618 abutters' "rights of private enjoyment." In addition she has concerns on behalf of the tenant at
619 217 Court St., the Surry Village Charter School, which also has a building on School St. Both
620 buildings are only about a tenth of a mile away from the proposed use of this building. The
621 "clinic and institution" that is being proposed would fall in between the two buildings. MPS's
622 operations, as outlined on their website, particularly the "clinical and institutional" aspects of
623 their services, would not be in keeping with the residential nature of the neighborhood.
624 Although McLellan and McMahan Holdings is supportive of MPS's goals and mission, they do
625 not feel this property is a good place to hold meetings and therapy sessions throughout the day
626 and evening, six days per week. That is not compatible with the surrounding residences. MPS
627 also states on their website that currently in the warmer months these meetings take place
628 outdoors. Certainly the small amount of outdoor space on the property would not allow for
629 much privacy for those participating nor for the neighbors.

630
631 Ms. Gallup continued that a second major concern is that there is very little on-site parking or
632 space to accommodate more. Most of the clients would have to make use of on-street parallel
633 parking and it is already a busy street. Third, the former Woodard Retirement Home was truly a
634 home to its residents. The proposal of MPS to use the property to provide short-term overnight
635 stays for clients in distress is very different. According to what she has heard and understand
636 from the articles in the Keene Sentinel, MPS plans to considerably expand their programs by as
637 much as three times. MPS plans to do that for both the overnight program and the day classes
638 and therapy sessions. That increases McLellan and McMahan Holdings' concerns. She
639 encourages Board members to look at MPS's website and the list of classes and sessions already
640 offered which are quite substantial. If that were to increase by three times and/or the numbers of
641 clients was increased by three times that would be a really heavy usage of that facility. McLellan
642 and McMahan Holdings respectfully requests that the Board not make this Special Exception.

643
644 Judith Putnam, of 168 Court St., stated that MPS seems to be a very successful agency helping
645 the mentally ill in this community and for that everyone is grateful. She continued that because
646 of its success MPS is looking to move to a larger space to increase the services they offer –
647 increase the overnights and lengthy stays and add more help to clients through more peer support
648 groups. They define their request as a "group home and wellness center." The proposal by MPS
649 is not similar to the Woodard Home, which was a permanent residence for elderly people who
650 made connections and hosted activities in the neighborhood. While five people staying a week
651 or two months is where MPS would begin, what would be the limit for the number of people
652 they could house? The facility has 24 bedrooms with bathrooms and MPS has said they want to
653 increase the number of people they serve. Ms. Putnam quested how many more people would
654 stay there. Some of these people could be in crisis and awaiting hospitalization. The Special
655 Exception would put no limit on how many people could be staying at any time and the Special
656 Exception would be permanently on the property so that another owner could continue to use the
657 buildings to house many people. This is to her a cause for concern. She believes MPS functions
658 as a mental healthcare facility, with clients coming at appointed times for specific group work.
659 Although there currently seem to be about 10 to 12 group meetings per week, MPS has stated

660 that they want to increase the number of programs offered. That would certainly fit with their
661 mission, but what does that mean? Would 12 meetings quickly become 20 meetings? Would it
662 be 100 to 200 people coming and going during the week?

663
664 Ms. Putnam continued that parking is very limited on the premises so most clients would need to
665 park on Court St. This is a residential neighborhood and a heavily traveled main street. Adding
666 significant parking adds to the hazards of driving, biking, emerging from a driveway or side
667 street, or even crossing Court St.

668
669 She continued that there are two old single-family homes on either side of MPS's proposed
670 property. Both have had families with children living there over the last ten years. These
671 properties will be much less appealing and therefore of less value to families in the future if this
672 busy social service agency relocates there. For these reasons, it is not similar to the previous use
673 and it is not an appropriate location for a mental healthcare facility. Increased parking and traffic
674 bring increased hazards, and because of the lessening of adjacent property values she strongly
675 urges that the request for the Special Exception be denied.

676
677 Joe Durell stated that he and Beth Durell live at 33 Mayflower Dr., which is about 500 feet
678 directly behind the former Woodard Home. He continued that they have significant concerns,
679 because even though the location is on Court St., they live in a nice residential neighborhood,
680 directly behind the home. They are concerned for the safety of their young child who play in the
681 backyard. He has been in the Woodward Home before, visiting clients, and this would be a
682 significant change in the use of the facility. He supports the goals of the organization but he and
683 his wife have significant concerns about such a facility being directly in front of their home.
684 They are also concerned about MPS's expansion and additional projects and additional clients or
685 patients. The only available parking would be on Court St. and it would cause a significant
686 increase in risk to people pulling out of driveways, traffic, pedestrians, and bicyclists. For those
687 reasons he and his wife respectfully hope the Board would vote against the expanded use of this
688 property.

689
690 Gary Kinyon stated that he is an attorney in Keene and is representing the Surry Charter School.
691 He continued that many of his points were already covered by other abutters' comments and in
692 the letters submitted. He wants to point out a couple of things the Board should be mindful of.
693 The Board has both legal questions to deal with and factual questions. A legal question is
694 whether the application and what is being applied for, a group home, is really what the proposed
695 use is. The intent of the Medium Density District is to "provide for medium density, medium
696 intensity, and residential area." There are a very limited number of other uses permitted, which
697 are associated with a residential setting. Normal commercial, industrial uses are excluded. All
698 uses in this Zone are required to have City water and sewer services. Clearly the intent of this
699 Zone is an emphasis on residential use. It is just not accurate to characterize the prior use of the
700 Woodard Home with the proposed use. He does not think the proposed use fits within the
701 definition of "group home" under the Zoning Code. A group home is designed for long-term
702 shelter care or social rehabilitation. He does not believe "social rehabilitation" is what is being
703 proposed here. As referenced in Attorney Hanna's letter to the Board, it is clear that the primary
704 proposed use will be related to mental health service being provided at the property.

705

706 Mr. Kinyon continued that there is a great deal of potential for expansion, as others stated in their
707 testimony. The facility is much larger than MPS’s current facility on Beaver St. The proposed
708 use is closer in definition to a “lodging house” in the Zoning Code because a lodging house
709 contemplates transient housing. To the extent that housing will be provided here, it is transient,
710 not long-term. The question of law the Board has to determine is first whether the proposed use
711 is in fact a group home, and Mr. Kinyon says no, it is either a lodging house or an institutional
712 use like a clinic. If it does not fall neatly into any definition then it is not a permitted use in the
713 Medium Density District. In that case, what it would need is a Variance, not a Special
714 Exception.

715
716 Mr. Kinyon continued that in terms of the factual decision the Board needs to make, that is
717 addressed by the standards for Special Exception, which are addressed in the application. As
718 already addressed by the abutters and Attorney Hanna, those standards have not been met by the
719 Applicant. It is the Applicant’s burden of proof to meet those standards. If the Applicant has not
720 done that, the application should be denied. Mr. Kinyon continues that the Applicant drew their
721 attention particularly to the issue that the proposed use would not reduce the value of property
722 within the district and otherwise be injurious, obnoxious, or offensive to the neighborhood. Here
723 it is not a strict requirement that the Applicant provide the opinion of an appraiser that property
724 values would not be diminished, but the lack of an expert opinion is very telling here. And
725 merely because the Applicant offers the assurance that it will not happen does not mean that the
726 Board should not and cannot take into account its own experience and judgment in determining
727 that an operation such as the one proposed, in a facility this large, if expanded to take up the
728 whole facility, could very well diminish property values and especially properties directly
729 abutting the properties, such as the people who have spoken already. With respect to the
730 standard that it would create no hazard to vehicles or pedestrians, the Board should think about
731 what a residential use, which is primarily what is intended for this Zone, will produce for traffic,
732 then think about what this proposed use would produce for traffic. The difference is substantial.
733 The Board can take note of the fact that parking is limited on this property and on Court St. and
734 that will create a problem. For those reasons and the reasons given by others, he would
735 respectfully ask on behalf of the Surry Charter School, which is located on both School St. and
736 Court St., that the Board deny the application.

737
738 Next to speak was Attorney Thomas Hanna who stated that he would not go through the criteria
739 because the neighbors and Attorney Kinyon have already, but he wanted to add to the question of
740 whether this is a group home or not. He continued that he thinks the Board needs to focus not so
741 much on the technicalities of the qualifications of the clinicians, for example, or whether this is a
742 clinic in the typical form of that word, but on the real issue of what is happening from a land use
743 perspective. He suggests that a group home is not the primary activity that the Applicant has
744 proposed. He takes that primarily from the Applicant’s own application, which states that MPS
745 has a daily average total of 20 individuals. He took that to mean that is the average now, while
746 the organization has two overnight people, so that would be 18 non-overnight people. The
747 application goes on to state that the closure of the psychiatric unit at Cheshire Medical Center in
748 2017 resulted in the region losing critical mental health services which are now outsourced to a
749 Concord hospital and Brattleboro Retreat in Vermont. Then there is the sentence: “*The primary*
750 *focus of MPS is to provide low-impact mental health services that keep individuals in mental*
751 *health wellness and attempt to reduce the instances of crisis turning to hospitalization.*” It is

752 clear that counseling or group support really is first and housing is second. It does not pass
753 muster to say this is a group home. A group home is what would be allowed at that site by
754 Special Exception but he thinks it is really more akin to a clinic activity, and as his letter
755 indicates, a clinic is an institutional use, which is not allowed at this site, but would be allowed
756 elsewhere on Court St. The threshold issue for the Board is whether or not this is a group home,
757 and as Mr. Kinyon mentioned, if the Board cannot determine what use this is, it really does not
758 have the right to try to fit this square peg into a round hole and has to deny the request.

759
760 Mr. Hoppock asked where in the Zoning Ordinance that an institutional use would not be
761 permitted at this site. Mr. Hanna replied that institutional uses are only allowed under Division
762 12 of the Zoning Ordinance on certain enumerated streets and it indicates that the west side of
763 Court St. institutional uses are only allowed from Westview St. north to Maple Ave. Mr.
764 Hoppock asked if it is correct that this property is well before that. Mr. Hanna replied yes,
765 substantially - Westview St. is close to the hospital.

766
767 Mr. Rogers stated that Section 102-1111 of the Zoning Code gives the permitted locations for
768 institutional uses and states that institutional uses are allowed anywhere in the Central Business,
769 Central Business Limited, and Commerce Districts, and then they are allowed in other districts
770 but there is a street list, and as Mr. Hanna spoke to, on Court St. they are allowed closer to the
771 hospital and heading north from there.

772
773 Mr. Hoppock asked if an institutional use could be permitted at this location by a Variance. Mr.
774 Hoppock replied yes.

775
776 Ms. Taylor asked if the Surry Village Charter School on Court St. is an institutional use. Mr.
777 Rogers replied that he would have to do a little research to properly answer. He continued that
778 he assumes that charter schools are an exception under the RSA, but a private school in a normal
779 situation would qualify as an institutional use. As a charter school, they might fall under the
780 state school system. Ms. Taylor asked for clarification that Mr. Rogers refers as a government
781 use. Mr. Rogers replied that he believes so.

782
783 Mr. Welsh stated that he noted the “institutional use” phrasing used in regards to the Surry
784 Village Charter School in the materials supplied by the Applicant. He continued that if that is
785 the case then presumably the charter school did apply for a Variance and not a Special
786 Exception. He asked if that is a fair assumption. Mr. Rogers replied that he would have to do
787 some research on this, but he thinks the charter school may have received an exemption from the
788 City’s Land Use Code.

789 Chair Gorman asked Mr. Rogers about Mr. Kinyon’s statement that MPS’s use would be more of
790 a lodging house than a group home. He asked Mr. Rogers to speak to the transient nature of one
791 versus the other. Mr. Rogers replied that the “lodging house” definition speaks to transient or
792 permanent housing. He continued that the difference between the two, in his opinion, is that in a
793 group home you receive some sort of services, social rehabilitation, and/or long-term shelter
794 care. The “group home” definition does not necessarily speak to the length of a person’s stay.
795 At a lodging house you are not receiving services like in a group home; you are just renting a
796 room.

797

798 Mr. Welsh stated that he has another question about “group home.” He continued that they heard
799 from the Applicant that about 18 to 20 people would be there on a daily basis but that only
800 between 5-8 would be overnight. It seems like the balance of use is going to be on the daily
801 individuals. Mr. Welsh stated that hypothetically, if a facility was to provide daily use to
802 individuals with no overnight facility that would not be a group home. He continued that it
803 seems like that might be the primary use. Mr. Rogers replied that is the argument the attorneys
804 have been making. He continued that if there is no residence there it would not be a group home,
805 and it would be a different type of use, and at this point in time it is up to the Board to make a
806 determination, based on what they have heard, of what the primary use is. Mr. Welsh asked if
807 Mr. Rogers had any suggestions. Mr. Rogers replied that he would rather the Board make that
808 determination.

809
810 Ms. Taylor asked what the designation of the Beaver St. property is, where MPS is currently
811 operating; is that considered a group home. Mr. Rogers replied that he has not done research on
812 that property and has not made any determination of whether it is a conforming or permitted use.
813 He continued that he has not had the opportunity to pull those property files.

814
815 Returning to public comment, Jim Putnam, of 168 Court. St., stated that he grew up on Court St.
816 and that he owns 180 Court St. which is next door to the former Woodard Home. In doing his
817 own homework about the zoning, he found a definition of “institutional use” in the definitions
818 section, which does not use the words “peer group,” but says that a healthcare facility is an
819 institution, such as a nursing home, convalescent home, sanitarium, and so forth. He thinks the
820 “such as” would include a peer group. He thinks this is further evidence that the Zoning Code
821 would consider this an institutional use, which would not be allowed here. He recognizes the
822 importance of the mental healthcare activities of MPS and he supports it, but sadly, he has had
823 personal experience with a nephew who suffered from mental illness and spent a lot of years in
824 peer support facilities. He wound up in residence in Massachusetts, Colorado, and Texas, and
825 sadly perished at a facility in Texas. These facilities are important but should be located in
826 appropriate districts as the Zoning Code calls for. He does not think it is appropriate for a
827 Special Exception to be granted.

828
829 Mr. Kinyon returned and stated that he represented the charter school years ago when it was
830 approved to operate on Court St. and he can confirm that it did not apply for a Special Exception
831 or a Variance under RSA 674:54, Government Land Uses, because as a charter school it had the
832 same status as a public school in terms of being exempt from local Zoning. That said, the school
833 has shown that it can be an integral and good part of a residential area, since they are educating
834 the children who live in the area.

835 Christine Nowell stated that she is the Chair of the MPS Board of Directors. She continued that
836 she is a social worker in town, a member of MPS as well as a board member, a community
837 member, the President of the Greater Keene Youth Baseball & Softball Association, and the
838 Chair of the Board of Directors for the Membership Committee for the Lions. She is saying all
839 of this because we all have mental health, from one area to the next. We all have a stake in the
840 game, in terms of the location and its purpose. Ms. Nowell continued that she is a normal
841 individual who is married, has children, works full time, and thoroughly enjoys what MPS offers
842 to the community. Oftentimes people have this assumption that there will be 20 to 25 people per
843 day with severe mental health issues and that is not at all the case of what happens at MPS. She

844 continued that she heard someone say there is no guarantee there would not “be an issue,” but
845 there is no guarantee of that anywhere. What MPS guarantees is that they are providing sound,
846 clear instruction and expectations, and a phenomenally safe environment for people to come and
847 feel welcome in the community, and feel wholesome, and feel that they are getting the tools and
848 resources necessary for them to be better citizens and members of society, so that we all, as a
849 whole, can be better. It takes a village. The whole basis of MPS is to create that culture and
850 environment. She is incredibly proud to be the Board Chair, a member, and a community
851 member. Rather than worrying about the assumption that something will go wrong, let’s take a
852 different perspective and look at the beauty that we have and the opportunity they have to bring
853 to the table. This is a phenomenal, beautiful building that will provide MPS to take what they do
854 to the next level. MPS has worked so hard to be able to provide this opportunity for the
855 members and the community. Mr. Putnam’s story is a unique story. Ms. Nowell state that MPS
856 has an opportunity that their help will ensure that whether it is Mr. Putnam’s family, or Mr.
857 Starkey’s family, or so-and-so’s family, or any person who has a mental health issue, whether
858 minor or severe, MPS has the tools, the resources, and the know-how, and the ability to help
859 every single individual rise and be the very best version of themselves.

860
861 Ms. Nowell continued that they all need to take pause and not have a fear-based mentality and
862 look at this for what it is. They have an amazing opportunity to provide a wonderful resource
863 and a wonderful environment for everyone. Certainly, there will be some folks who come in
864 who are in mental health crisis, but MPS has the experts on hand who are able to help guide
865 those individuals. Someone who comes to MPS could be someone like her who, say, needs a
866 respite away from their five children, or it could be Jane Doe up the street who is in the middle
867 of a divorce and needs to get away; it could be somebody who is moving from another town and
868 does not have anywhere else to turn and does not have a counselor. MPS offers a huge variety of
869 services in a very positive environment. She has been on the board a long time and has not seen
870 any issues that raise her eyebrows. It is important to look at what MPS is trying to do in its
871 mission, and how MPS is contributing to society, to every single member in greater Keene. Ms.
872 Nowell concluded by asking how a community could rise above, and not come at this from a
873 fear-based mentality.

874
875 Chair Gorman asked if there was any more public input. Hearing none, he asked Mr. Starkey for
876 his rebuttal.

877
878 Mr. Starkey stated that he appreciates all the testimony given, and even appreciates the
879 opposition for taking an active voice. He continued that he is not angry at anyone or the words
880 that were said. He will reiterate that this is about the facts and the law. A lot of the comments
881 made were based on conjecture and speculation – specifically that MPS offers therapy sessions.
882 He is not a counselor. No one on the staff is a counselor and no one on staff is qualified to offer
883 therapeutic services. It would be a violation of their state contract and a violation of ethics to
884 give therapeutic services. It is not what MPS does.

885
886 Mr. Starkey continued that one person who spoke in opposition was mischaracterizing a Keene
887 Sentinel article and the “three times” aspect. At no time has he or anyone on the staff or board
888 said that they want to increase programming by three times. What that was in reference to is that
889 this space is going to be a considerable amount of increased space, to the tune of three times.

890 They have been in their current location for 21 years and have essentially been on top of each
891 other. They have been doubling up in offices. Their groups are capped at eight people and still
892 do not have enough space to fit everyone comfortably there. In order to bring their groups inside
893 they had to empty out all the furniture in the barn.

894
895 Mr. Starkey continued that Mr. Schuerman had a lot of questions that he is not sure are really on
896 the agenda for this meeting, and it is getting late at night, but he or anyone else who wants the
897 answers to those questions can call, email, or otherwise reach out. One question was about
898 MPS's long range strategic goals, and a lot of people tonight who have no connection to MPS
899 have made assumptions about what their plans are. MPS has no plans to greatly expand and
900 serve 60 people. The building does not have the size for that and MPS does not want to take on
901 having a huge building with 24 residents in it. That is not what they are looking for and not what
902 their intended purpose is. He believes that if they were to increase the amount of people that are
903 there, they would have to come to the Board again.

904
905 Mr. Starkey stated that he spoke with City Staff at length for about three weeks and they went
906 through every single way that this can be characterized. This was not a case of trying to shove a
907 square peg into a round hole. There was considerable effort, research, and understanding that
908 was incredibly thoughtful that went into this. He does not want to give any perception that they
909 are trying to pull the wool over somebody's eyes. That is not the case at all. Ms. Nowell spoke
910 to this. He feels like they have mischaracterized to a dangerous degree that "people with mental
911 health challenges are dangerous" which he stated is really unfortunate. If that is the case, then he
912 is dangerous, and a lot of people in this meeting are dangerous. MPS really strives to provide a
913 community where somebody acknowledging their mental health is not afraid and they do not feel
914 alone. A lot of comments tonight have really demonized people with mental health challenges
915 and that is extremely concerning to the city he has lived in his entire life.

916
917 Chair Gorman stated that a good portion of the public input was relative to future growth, and
918 Mr. Starkey did talk about that a little bit. He continued that it strikes him that in the line of
919 work Mr. Starkey is in, he probably would not want to turn people away. Chair Gorman state
920 that is commendable, but asked if people present themselves, doesn't it seem fit that MPS would
921 serve them in the similar capacity at their current location they've outgrown.

922
923 Mr. Starkey replied that he wants to answer in two different ways. He continued that MPS staff
924 is very committed to the fidelity of their model and to the state contract. They turn people away
925 when it is not a correct fit. If someone comes into the respite program needing acute
926 hospitalization, MPS supports them in seeking acute hospitalization. MPS is not a homeless
927 shelter. If people come to them just needing a place to live, that is not what they are funded for.
928 That is not what MPS does. They work with people who represent what MPS is trying to
929 achieve. Yes, they want to help everyone whom they are able to appropriately support – which
930 might be in that moment, or might be later on. Also, a significant portion of MPS programming
931 does not happen on site. A lot of the natural aspects that happen off site are where staff members
932 are meeting with people out in the community. Currently because of COVID-19 they are doing a
933 lot of remote support groups and a significant amount of telephonic support as well. It is not in
934 the strategic goal to stuff 24 people into the building. They are very Keene-centric. They do not
935 have a presence in Walpole, Peterborough, or Winchester, and that is part of their state contract.

936 MPS is very closely monitored by the State of NH, which is their main funder. That is why MPS
937 practices strong fidelity and very careful accountability to how programs are run and operated to
938 the highest degree.

939
940 Mr. Welsh stated that Mr. Starkey went to some length to distinguish between therapy and other
941 forms of service and to make it clear that staff would not be providing therapy. He asked if Mr.
942 Starkey would characterize the work that the staff does as providing mental health services. Mr.
943 Starkey replied yes, if they were to quantify the service that MPS offers it is that they facilitate
944 an environment. He continued that the primary way that people are getting support is from each
945 other. It is not someone going to a facilitator of a support group and thinking that they are the
946 “bringer of all healing.” It is not a one-way relationship where a therapist is giving you what you
947 need in order to be well. It is about creating relationships and community so people are able to
948 support themselves.

949
950 Mr. Welsh stated that he is also wrestling with the definition of “clinic.” He continued that
951 before, Mr. Starkey was asserting that the facility is not a clinic, saying they do not have billing
952 or transactions like that. He asked if that is an important piece which differentiates a clinic from
953 what Mr. Starkey proposes. Mr. Starkey replied that he thinks it is a big difference. He
954 continued that a group home is distinguished as providing something free of charge to
955 individuals for social rehabilitation and that is what MPS does; they work with people in a social
956 atmosphere. “Clinic” implies that someone presents an insurance card or pays money and
957 receives something in return. MPS does not give people something for their money or insurance.
958 A lot of people misunderstand what they do, and this is where they get into this conundrum –
959 people ask, “Oh, you don’t offer therapy?” and this confusion arises, and he is very used to
960 questions like Mr. Welsh’s.

961
962 Chair Gorman asked if there is a use or definition in the Zoning Ordinance that Mr. Rogers is
963 aware of that would offer an array of support groups. Mr. Rogers replied that many times uses
964 such as that are classified as “office use,” especially if it is an outpatient situation, such as one-
965 to-one counseling or small groups. He continued that this was a use that was brought forth to
966 staff with the main purpose as a group home with a wellness center as part of the use, possibly as
967 an accessory use. That would be something they would discuss such as how much they would
968 use the building for each of those uses and for what amount of time it would be used. If MPS
969 was using the consulting portion of the office for a large chunk of time it might not be considered
970 an accessory use. That is something for the Board to take into consideration.

971
972 Chair Gorman closed the public hearing so the Board could deliberate. He stated that if needed
973 he will reopen the public hearing to ask procedural or technical questions.

974 The Board went through the four Special Exception criteria.

975 *1. The proposed use is similar to one or more of the uses already authorized in*
976 *the district and is in an appropriate location for such a use.*

977 Mr. Hoppock stated that the definition of “institutional use” includes healthcare facilities,
978 hospitals, accessory housing for families of patients at hospitals, and etc. Clinic, nursing home,
979 sanitarium, and so on and so forth. He continued that it goes on to say it may be public or

980 private, for profit or not for profit, and “deals with a service rather than a product.” The
981 testimony is unequivocal that MPS deals with a service, be it peer-to-peer, community, or some
982 other type of counseling. There is no question that the primary use here is institutional instead of
983 a group home. He does not think the definition of “group home” is satisfactory. A “group
984 home” requires that board be paid and it is for purposes of social rehabilitation and/or long-term
985 shelter and with this element not met, this is not a group home. Mr. Hoppock continued that it is
986 an institutional use, and institutional use in this zone is not allowed by the Zoning Code. That is
987 why he asked Mr. Hanna the question that he did. He does not think the first criterion is met, in
988 terms of the proposed use. If the proposed use is not a permitted use then this is not an
989 appropriate application; it should be a Variance.

990
991 Ms. Taylor stated that she partially disagrees with Mr. Hoppock, because they heard testimony
992 that there are weekly community meals and food preparation. She continued that she thinks it is
993 more of a group home than an institutional use. She definitely does not think it fits the definition
994 of “clinic.” The Code is not entirely clear when it says “medical, dental, or mental health
995 service,” but that usually indicates that there is some sort of fee for service paid. The reason that
996 whether the Surry Village Charter School had received any kind of dispensation, and she agrees
997 it is exempt if it is in fact equivalent to a public school, it still is an institutional use. She thinks
998 that MPS fits more closely with the category of “group home” than with any other definition the
999 Code has.

1000
1001 Chair Gorman stated that he agrees with Mr. Hoppock, and what he keeps coming back to is the
1002 20 unique individuals per day while two people live there, so about ten percent is relative to
1003 boarding or lodging, which is what he thinks of with the term “group home” or “lodging house,”
1004 although a lodging house is more transient in nature. When he looks at ten percent of an activity
1005 he has a hard time seeing that as its primary purpose or use.

1006
1007 Mr. Welsh stated that there may be a group home aspect, but he finds Mr. Hoppock’
1008 characterization of it as institutional compelling. He continued that when he looks at the primary
1009 proposed use being discussed, to him it is more clinic than not. He sees the definition includes
1010 outpatient mental health services and he does not see implied in that the acceptance of fee in
1011 return for services and therefore does not see that necessarily as a qualification or non-
1012 qualification for that category. Those would be his two main definitions of the proposed use,
1013 both of which would imply that they are looking at a Variance as opposed to a Special
1014 Exception.

1015
1016 Chair Gorman stated that he agrees that cost of services is fairly arbitrary, at least in his view.
1017 He continued that he does not think anyone is prohibited from providing a service for free or vice
1018 versa. He agrees that the service being provided is for treatment of mental conditions,
1019 irrespective of whether or not they are charging a fee.

1020 2. *Such approval would not reduce the value of any property in the district nor*
1021 *otherwise be injurious, obnoxious, or offensive to the neighborhood.*

1022
1023 Mr. Hoppock stated that he does not think the Applicant has met his burden in terms of whether
1024 or not property values would be reduced by this type of proposed use. He continued that he does
1025 not believe the use would be injurious, obnoxious, or offensive to the neighborhood, so he is

1026 focusing on the value of the properties. He did not see any helpful evidence on that point.

1027
1028 Ms. Taylor stated that she does not see that there would be any negative impact on the values and
1029 does not see that it would be injurious, obnoxious, or offensive to the neighborhood as was
1030 pointed out by one of the people who testified that a large, vacant building is probably worse for
1031 the value of the surrounding properties than a property that is in use.

1032 3. *There will be no nuisance or serious hazard to vehicles or pedestrians.*

1033
1034 Ms. Taylor stated that she does not see this as a potential negative. She continued that she knows
1035 from visiting residents at this building when it had a prior use there were many staff members
1036 and residents with vehicles. There was probably more intense vehicle use previously. If people
1037 are coming and going to support groups, as opposed to parking long-term, she sees MPS's use as
1038 a less intensive vehicle use than what was there previously.

1039 4. *Adequate and appropriate facilities (i.e. sewer, water, street, parking, etc.)*
1040 *will be provided for the proper operation of the proposed use.*

1041 Mr. Hoppock stated that he sees absolutely no issue with this at all. He continued that he thinks
1042 this criterion has been met. Chair Gorman stated that he would agree. He continued that the
1043 only one he maybe questions is parking, but they addressed that through Staff and were assured
1044 that it would be addressed. If Staff cannot appropriately address it, it will come back to the
1045 Board. He agrees that the fourth criterion is met.

1046 Chair Gorman asked if anyone had more comments on the criteria. Hearing none, he asked for a
1047 motion.

1048 Mr. Hoppock made a motion to approve ZBA 20-22, which was seconded by Mr. Greenwald.

1049 1. The proposed use is similar to one or more of the uses already authorized in
1050 the district and is in an appropriate location for such a use.

1051 Denied 4-1. Ms. Taylor was in favor.

1052 2. Such approval would not reduce the value of any property in the district nor
1053 otherwise be injurious, obnoxious, or offensive to the neighborhood.

1054 Denied 4-1. Ms. Taylor was in favor.

1055 3. There will be no nuisance or serious hazard to vehicles or pedestrians.

1056 Granted 5-0.

1057 4. Adequate and appropriate facilities (i.e. sewer, water, street, parking, etc.)
1058 will be provided for the proper operation of the proposed use.

1059 Granted 5-0.

1060 The motion to approve ZBA 20-22 was denied 4-1. Ms. Taylor was in favor.

1061 Mr. Greenwald made a motion to deny ZBA 20-22, which was seconded by Mr. Hoppock. The

1062 motion passed by a vote of 4-1. Ms. Taylor was opposed.

1063 f. **ZBA 20-23:/ Petitioner, Rocky Brook Realty, LLC of 850 Marlboro**
1064 **Road, Keene, represented by Andrew Symington of Keene, requests a**
1065 **Variance for property located at 850 Marlboro Road, Tax Map #240-**
1066 **025-000; that is in the Rural District. The Petitioner requests a**
1067 **Variance to permit a mixed use in the Rural District per Section 102-**
1068 **332 of the Zoning Ordinance.**

1069 Chair Gorman asked Staff to speak to the petition. Mr. Rogers stated that this is in the Rural
1070 District and does already have some mixed uses occurring on the property. He continued that
1071 there is an ice cream establishment in a larger, newer building that the owner built, and a multi-
1072 family building and several single-dwelling cabins. All of those are non-conforming uses for
1073 this property. There is also miniature golf on this property, which is an allowed use in the Rural
1074 District as an outdoor recreational activity. He continued that he encouraged the Applicant to
1075 seek this Variance and the other application the Board will see tonight for an additional use for
1076 this property because what they are requesting is an industrial-type use and because it is an
1077 additional use to the property. That is what is leading the Applicant to seek this mixed-use
1078 Variance and that decision is up to the Board. The Applicant believes he might not need this
1079 Variance.

1080 Ms. Taylor stated that other than the mini golf and ice cream stand, the mixed use and the cabins,
1081 her understanding is that they have been there for a really long time and they would not
1082 necessarily have been governed by things like the Shoreline Protection and all of the modern
1083 requirements that exist. Mr. Rogers replied that is correct; when he looked into the property files
1084 he found correspondence from 1958 addressing the cabins, so they pre-exist that, although he is
1085 not sure when they were built.

1086 Ms. Taylor stated that clearly this property has multiple uses on it – mini golf, ice
1087 cream/restaurant use, an apartment building, and the cabins. She asked how the other buildings
1088 got approved. Mr. Rogers replied yes, the City's records indicate that in 1983 the property
1089 received what was then called an Alteration of a Non-conforming Use to expand what was then a
1090 coffee shop to allow the ice cream to occur at a take-out window. He continued that in 2005 they
1091 received an Enlargement of a Non-conforming Use; that is probably when the current owner
1092 built the new building. That allowed the restaurant-type use to occur, and at the same time, he
1093 received a Variance for the mini golf that was being built, for the setback. The following year
1094 there was a Variance for a sign. Referencing the map, Mr. Rogers showed the floodplain. He
1095 continued that any development that occurred would have to deal with the City's Floodplain
1096 Ordinance and portions of this property would probably have to deal with the Shoreland Impact
1097 permits and the City's Surface Water Ordinance would have to be observed.

1098 Ms. Taylor asked if Mr. Rogers could explain why, after all of these mixed uses have existed on
1099 the property, he is recommending there now be this Variance for mixed use. Mr. Rogers replied
1100 yes, there are some mixed uses occurring; most pre-date any of the City's current ordinances.
1101 Most were enlargements for non-conforming uses that were occurring on the property. Again,
1102 one use that is permitted is mini golf. The fact that this is going into more of an industrial-type

1103 use, with the next Variance the owner has applied for, he (Mr. Rogers) felt the need to make it
1104 clear that multiple uses are occurring on this property and it had not necessarily gone through a
1105 mixed-use Variance in the past, most likely because it pre-dated those determinations.

1106 Ms. Taylor asked if it is correct then that this is a new use. Mr. Rogers replied that his
1107 understanding is that the applicant is not asking to replace the current uses; this would be an
1108 additional use. Ms. Taylor asked if it is correct that it is not related to any of the existing uses. Mr.
1109 Rogers replied that is correct; it is an industrial, manufacturing/processing-type use that the
1110 owner asked for.

1111 Mr. Gaudio asked if the property is currently being used for the pallet processing already. He
1112 continued that a photo included with the application shows pallets. Mr. Rogers replied yes, that
1113 is correct. He continued that this came to Staff's attention and they spoke with the property
1114 owner, and the property owner submitted a letter back to Staff about what was occurring on the
1115 property and that is when Staff made the determination that this is a manufacturing/processing
1116 use occurring. Since the property owner did immediately apply for Variances Staff stepped back
1117 to allow for this process. The Board's decision will dictate what actions Staff takes, whether that
1118 is enforcement of a violation or, if approved, a site plan review.

1119 Chair Gorman stated that there are two Variance requests that are close together, so a question is
1120 whether it makes sense to combine the presentations into one application. Mr. Rogers replied
1121 that from Staff's perspective it is fine to combine them for the presentation and discussion and
1122 then vote on them separately, or the Board has the ability to make the determination that this
1123 mixed use Variance is not needed, but he just wanted it to be very clear, since this is a
1124 completely new use the property owner is asking for.

1125 Ms. Taylor stated that she does not mind having the two presentations combined, but since they
1126 need to be voted on separately, hypothetically, should the Variance request for mixed use on this
1127 property be denied, would there be a need to move forward with the next Variance request,
1128 which was for the actual use. Chair Gorman replied that is a legitimate question. He continued
1129 that if the Board, Staff, and Applicant agree, what he would be comfortable doing is, if there is
1130 any duplicate information in the second application he can include that in his first presentation
1131 and not the second. Then procedurally, they can handle the two separately, because Ms. Taylor
1132 made a good point that if the Applicant does not get the mixed use Variance there is no sense
1133 hearing the second one. He does not know how the Board feels about Staff's comments about
1134 the necessary of a mixed use application.

1135 Ms. Taylor stated that she thinks it is a good idea to move forward with the mixed use Variance
1136 application because if for whatever reason this proposed use were denied, then at least the status
1137 of the property would be cleaned up for the owner to potentially have a different use on the
1138 property. She sees the two as connected but disconnected at the same time.

1139 Chair Gorman asked if there was any other comments from the Board. Hearing none, he opened
1140 the public hearing and gave information about how the public could participate. He asked the
1141 Petitioner to speak.

1142 Andrew Symington stated that he is the Manager of Rocky Brook Realty, LLC, 850 Marlboro
1143 Rd., which is where he is speaking from. He continued that to answer some of their questions,
1144 the buildings were built in the 1950's and is a 7.12 acre parcel of land situated in the southeast
1145 corner of the city. The property has over 1,450 feet of frontage on Rt. 101 and is located next to
1146 the Cheshire County House of Corrections. The property is situated within the Rural District;
1147 however, the following non-conforming businesses already exist on the property: the Rocky
1148 Brook Motel, which consists of an apartment building, motel building, four small cabins and two
1149 large cabins, which are primarily rented year round to low-income families; and the Humdinger's
1150 Grill, which has a shared structure with the mini golf concession. There was an Enlargement of
1151 Non-Conforming Use, ZBA 05-05, and an Area Variance, ZBA 05-06. It is important to note
1152 that the activity conducted at the mini golf is different in nature compared to the snack bar
1153 business, which sells ice cream and hot food, which in turn is different in nature than the motel
1154 business, rental of living space. Consequently, the property can by default already be classified
1155 as a mixed use property. The property owner, Rocky Brook Realty, LLC is the Applicant and
1156 the parent company and is in the real estate rental business and the Applicant is proposing
1157 renting the field or a portion thereof, on the westerly end of the property, to persons or
1158 businesses that might be engaged in light manufacturing of products and subsequent retail sales
1159 of those or other products.

1160 Mr. Symington continued that the following is a description of the current business candidate
1161 who operates a wood pallet reclamation business. This person obtains used pallets off site,
1162 repairs the broken portions of pallets on site, using cannibalized pieces of usable pallets, then
1163 sells the repaired pallets to local industries and businesses. This operation can be classified as a
1164 retail sales business due to the resale of the product but it can also be classified as a light
1165 manufacturing operation because the pallets are physically repaired on site using typical
1166 activities associated with manufacturing, such as sawing and hammering. Most of the work is
1167 performed using hand tools. The broken or unusable pieces of wood are carried off site and
1168 properly disposed of. This business only operates during daylight hours and does not require
1169 electrical, water, or sewer hookups. The only vehicle allowed in the field is a pick-up truck and
1170 small trailer, used to transport the pallets back and forth. Access to the property is via the State-
1171 approved curb cut for the existing Rocky Brook Realty, LLC businesses. Pallet customers can
1172 conduct business over the phone and there is no need for customers to visit the 850 Marlboro Rd.
1173 campus.

1174 Mr. Symington continued that the following is an overview of the business owner himself who is
1175 disabled. This individual was involved in an automobile accident as a young adult and suffered
1176 severe brain trauma as a result and has limited cognitive function. Allowing this person to
1177 conduct this type of business facilitates his independence and allows him the opportunity to be a
1178 productive member of society. He is also a tenant, living in the motel unit, with his 80-year-old
1179 mother.

1180 Mr. Symington stated that he will go through the criteria.

1181 *1. Granting the Variance would not be contrary to the public interest because:*

1182 Mr. Symington stated that granting the Variance would not be contrary to the public interest

1183 because 850 Marlboro Rd. is physically a mixed-use property. The following businesses are
1184 currently located on this property: The Rocky Brook Motel, Humdingers Grille, and Humdingers
1185 Mini-golf. Granting the Variance is an administrative action; that is, amending the paperwork to
1186 more accurately reflect the physical reality that currently exists. Granting the Variance will also
1187 allow a commercial retail sales/light manufacturing business to also operate on the property.

1188 2. *If the Variance were granted, the spirit of the Ordinance would be observed because:*

1189 Mr. Symington stated that if the Variance were granted, the spirit of the Ordinance would be
1190 observed because essentially it is an administrative action. The same reasoning applies here.
1191 Amending the paperwork will accurately reflect the physical reality of what currently exists.

1192 3. *Granting the Variance would do substantial justice because:*

1193 Mr. Symington stated that again, granting the Variance is an administrative action to amend the
1194 paperwork to accurately reflect the physical reality of what currently exists.

1195 4. *If the Variance were granted, the values of the surrounding properties would not be
1196 diminished because:*

1197 Mr. Symington stated that essentially it is already a mixed-use property so there will not be any
1198 change. He continued that granting the Variance is an administrative change that would amend
1199 the paperwork to accurately reflect the physical reality of what currently exists.

1200 5. *Unnecessary Hardship*

1201 A. *Owing to special conditions of the property that distinguish it from other properties
1202 in the area, denial of the Variance would result in unnecessary hardship because:*

1203 i. *No fair and substantial relationship exists between the general public
1204 purposes of the Ordinance provision and the specific application of that
1205 provision to the property.*

1206 *and*

1207 ii. *The proposed use is a reasonable one.*

1208 Mr. Symington stated that granting the Variance is an administrative change that would amend
1209 the paperwork to accurately reflect the physical reality of what currently exists. He continued
1210 that he will not read the rest of his responses to the criteria because it is basically that same
1211 statement over and over.

1212 Mr. Symington stated that he will move on to ZBA 20-24. Chair Gorman stated that from a
1213 procedural standpoint, they need to go through the whole public hearing for ZBA 20-23 for
1214 everyone's benefit and so that the record is accurate. He asked the Board if they have questions.

1215 Ms. Taylor stated that she appreciates them being separated out because she has questions about
1216 ZBA 20-24 that are not pertinent to ZBA 20-23; this will make it more clear for the record.

1217 Chair Gorman asked if the Board has questions. Hearing none, he asked for public comment.
1218 He asked Staff if there was anyone wishing to participate via telephone. Ms. Marcou replied no.
1219 Chair Gorman closed the public hearing. He stated that he will reopen the public hearing if
1220 necessary to ask procedural or technical questions.

1221 The Board discussed the five criteria.

- 1222 1. *Granting the Variance would not be contrary to the public interest.*
1223 2. *If the Variance were granted, the spirit of the Ordinance would be observed.*
1224 3. *Granting the Variance would do substantial justice.*

1225 Ms. Taylor stated that her comments apply to criteria 1, 2, 3, and possibly 4. She continued that
1226 she thinks granting the Variance will actually do a service, to get all of these bits and pieces of
1227 non-conforming use into one bucket so that non-conforming uses one, two, and three will have a
1228 place in the Zoning universe if they are all classified as mixed use, so if there are further
1229 improvements to be made they can be made under one umbrella.

1230 Mr. Greenwald stated that he agrees with Ms. Taylor. Chair Gorman replied that he does, too.
1231 He asked if anyone had further comments on criteria 1, 2, or 3. Mr. Hoppock stated that he
1232 agrees with the analysis, too.

- 1233 4. *If the Variance were granted, the values of the surrounding properties would not be*
1234 *diminished.*

1235 Chair Gorman stated that he does not think the property values would diminish because the
1236 mixed use is already happening. He does not think that calling it what it already is would have
1237 any impact on the value.

- 1238 5. *Unnecessary Hardship*

1239 A. *Owing to special conditions of the property that distinguish it from other properties*
1240 *in the area, denial of the Variance would result in unnecessary hardship because:*

- 1241 i. *No fair and substantial relationship exists between the general public*
1242 *purposes of the Ordinance provision and the specific application of that*
1243 *provision to the property.*

1244 *and*

- 1245 ii. *The proposed use is a reasonable one.*

1246 B. *Explain how, if the criteria in subparagraph (A) are not established, an unnecessary*
1247 *hardship will be deemed to exist if, and only if, owing to special conditions of the*

1248 *property that distinguish it from other properties in the area, the property cannot be*
1249 *reasonably used in strict conformance with the ordinance, and a variance is therefore*
1250 *necessary to enable a reasonable use of it.*

1251 Ms. Taylor stated that she thinks this falls under A, and not B. She continued that this a strange
1252 situation where the property has grown and she thinks the application may have come later.
1253 There is clearly no substantial relationship between the purpose of the ordinance to this particular
1254 parcel and how it has been applied, in large part because of the preexisting use and the continued
1255 expansion of the non-conformance.

1256 Chair Gorman asked if anyone else had anything to add. Hearing none, he asked for a motion.

1257 Mr. Hoppock made a motion to approve ZBA 20-23. Chair Gorman seconded the motion.

1258 1. Granting the Variance would not be contrary to the public interest.

1259 Granted 5-0.

1260 2. If the Variance were granted, the spirit of the Ordinance would be observed.

1261 Granted 5-0.

1262 3. Granting the Variance would do substantial justice.

1263 Granted 5-0.

1264 4. If the Variance were granted, the values of the surrounding properties would not be
1265 diminished.

1266 Granted 5-0.

1267 5. Unnecessary Hardship

1268 A. Owing to special conditions of the property that distinguish it from other properties in
1269 the area, denial of the Variance would result in unnecessary hardship because

1270 i. No fair and substantial relationship exists between the general public purposes
1271 of the Ordinance provision and the specific application of that provision to the
1272 property.

1273 and

1274 ii. The proposed use is a reasonable one.

1275 Granted 5-0.

1276 The motion to approve ZBA 20-23 passed unanimously.

1277 g. **ZBA 20-24: Petitioner, Rocky Brook Realty, LLC of 850 Marlboro**
1278 **Road, Keene, represented by Andrew Symington of Keene, requests a**
1279 **Variance for property located at 850 Marlboro Road, Tax Map # 240-**
1280 **025-000; that is in the Rural District. The Petitioner requests a**
1281 **Variance to permit a commercial retail business and/or light**
1282 **manufacturing business in a Rural District per Section 102-332 of the**
1283 **Zoning Ordinance.**

1284 Chair Gorman asked to hear from Staff. Mr. Rogers stated that this is a property that already
1285 currently has multiple uses, some conforming and some non-conforming. The Applicant is
1286 asking to add another use, which was determined to be a manufacturing/processing use, as the
1287 Applicant described – the person would be fixing up pallets and selling them to businesses. If
1288 this Variance were to be granted there are other processes that Mr. Symington would have to go
1289 through, like he spoke to before, such as the Shoreland Impact and the Surface Water Overlay
1290 District requirements and Floodplain Ordinance.

1291 Ms. Taylor stated that she has a procedural question. She continued that this Variance is for this
1292 specific use. Ms. Taylor asked that if for some reason this particular use does not last or decides
1293 not to continue or does not get approved, is granting this Variance then approving an additional
1294 use on this parcel for another commercial retail or light manufacturing business. Mr. Rogers
1295 replied yes, he believes that is correct - unless the Board was trying to condition this in some
1296 way, another commercial retail or light manufacturing business could operate there as long as it
1297 met the criteria that he spoke to before. Ms. Taylor asked if it would have to go to the Planning
1298 Board for site plan review. Mr. Rogers replied that it would at least have to go to the
1299 Community Development Director, whether or not it meets the criteria of going to the Planning
1300 Board. It might be able to be done with just Community Development Director approval,
1301 depending on certain criteria such as size.

1302 Ms. Taylor stated that her last question might be for the Applicant to answer, but regarding the
1303 picture of the pallets, it does not appear that there is any type of building. Mr. Rogers replied
1304 that is a question the Applicant can answer.

1305 Chair Gorman opened the public hearing and explained how members of the public could
1306 participate. He asked to hear from the Petitioner. He stated that Mr. Symington does not need to
1307 repeat any information that he feels is redundant.

1308 Mr. Symington stated that all of the background information from ZBA 20-23 applies to this one
1309 as well. He continued that he will go through the criteria.

1310 *1. Granting the Variance would not be contrary to the public interest because:*

1311 Mr. Symington stated that the proposed business is similar to the ones currently permitted in the
1312 same Rural District and in the same neighborhood. He will list the retail sales and/or light
1313 manufacturing businesses permitted to operate in the same district in the same neighborhood.

1314 Something to keep in mind is that cord wood; that is, chopped up wood that is used for building a
1315 fire with, is not something that occurs in nature; it is something that has to be manufactured.
1316 Cord wood manufacturing is permitted to occur at 717 Marlboro Rd. (reference ZBA 13-08).
1317 Cord wood manufacturing consists of cutting logs to length, splitting the cut log pieces, loading
1318 the split pieces onto a conveyer belt, sizing the load, and transporting the finished product to
1319 customers. All of these activities can be called “light manufacturing operations” and all occur on
1320 the 717 Marlboro Rd. property.

1321 He continued that an important note is as follows from the Zoning Board meeting minutes of
1322 April 1, 2013, paragraph 4, line 3: “*The applicant also clarified that there is no harvesting done*
1323 *on this property. The firewood is trucked into the property.*” The City’s Code Enforcement staff
1324 determined that that statement means the following; trees are felled/physically harvested off site.
1325 In this instance, “firewood” means the actual, bulk logs. The logs are transported to the 717
1326 Marlboro Rd. property, and then cord wood is manufactured on site which are cut, split, placed
1327 onto a conveyer belt, loaded onto a truck of appropriate size, and transported. All of these
1328 activities can be classified as “light manufacturing operations.” The applicant, MSP Industries,
1329 Mr. Patnaude (ZBA 13-08) has been allowed to produce cord wood (perform light
1330 manufacturing) at this site unmolested since April 2013. Consequently, other potential
1331 applications should also be allowed to conduct similar light manufacturing operations within the
1332 same district in accordance with the Doctrine of Administrative Gloss. Code Enforcement has
1333 interpreted the Zoning a certain way and he is hoping they interpret this the same way and allow
1334 this light manufacturing under this Variance as well.

1335 Mr. Symington continued that cord wood retail sales are permitted to occur at 717 Marlboro Rd.,
1336 as are landscaping material retail sales. At 850 Marlboro Rd., fast food, ice cream, and retail
1337 sales of other products (Humdingers Jail Ale beverages, boxed campfire wood, etc.) occur
1338 (reference: Rocky Brook Realty, LLC, ZBA 05-05 and ZBA 05-06). Also, radiator and radiator
1339 component retail sales occur at 711 Marlboro Rd. (reference: Radiator Express).

1340 Mr. Symington continued that he also wants to point out that he does not know the exact time
1341 frame, but there used to be a gift shop at Rocky Brook as well. The people who owned the ice
1342 cream business, which used to have a different name, also had a gift shop on the property which
1343 is obviously retail sales. There is currently a viable market for these wood pallets, which support
1344 local businesses or industries. Consequently, there is a substantial public interest or need for
1345 these products.

1346 2. *If the Variance were granted, the spirit of the Ordinance would be observed because:*

1347 Mr. Symington stated that on April 1, 2013, the Zoning Board approved ZBA 13-08, meaning,
1348 the Board has already determined that light manufacturing of cord wood and retail sales of cord
1349 wood are in accordance with the spirit of the ordinance as written and therefore have granted a
1350 Variance. The mechanical principles employed by the Skilling’s Pallets business is similar in
1351 nature to that employed by MPS Industries. Following is a comparison of the mechanical
1352 principles governing each operation: At MSP Industries, at 717 Marlboro Rd., manufacturing
1353 activities that already occur at this location include cutting the wood and splitting the wood with
1354 a wedge (that is, piercing the wood with a piece of metal). At Skilling’s Pallets at 850 Marlboro

1355 Rd., light manufacturing (cutting wood and hammering in nails, which is also piercing the wood
1356 with a piece of metal) and retail sales (re-sale of refurbished wood pallets) is consistent with the
1357 types of light manufacturing and retail sales already occurring and approved in the same zoning
1358 district and in the same neighborhood. Because both operations work with the same base
1359 material (wood) and both operations use the same mechanical principles, both operations must
1360 therefore be consistent with the spirit of the ordinance as written.

1361 3. *Granting the Variance would do substantial justice because:*

1362 Mr. Symington stated that the property in question has limited commercial/manufacturing/retail
1363 potential because of its size, proximity to the highway, proximity to the Minnewawa Brook,
1364 overhead utility lines, and so on and so forth. The property is, however, ideal for a certain type
1365 of small, craft-like light manufacturing and/or commercial retail applications. From Rocky
1366 Brook, LLC's perspective, granting the Variance will allow the Applicant to utilize the property
1367 in a manner consistent with its current commercial application. Potential income from this lot
1368 rental will help stabilize rent prices for a poor, disadvantaged tenant community (Rocky Brook
1369 Motel). He continued that from Skilling Pallet's perspective, as previously stated, the proprietor
1370 of the proposed business suffered traumatic brain injury in an automobile accident and has
1371 limited cognitive function. Allowing this person or persons like him to start and maintain their
1372 own business is in the public's interest. We, as a society need to facilitate the success and self-
1373 reliance of those less fortunate.

1374 He continued that granting the Variance will do substantial justice because it will allow this
1375 person to be a productive and self-reliant member of our society. Furthermore, it will potentially
1376 allow others with the same challenges to do the same, should the lot or portion of it become
1377 available to another similarly situated individual or business.

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

1380 Mr. Symington stated that the value of the surrounding properties would not be diminished
1381 because the proposed business has no physical structure or permanent features. Everything is
1382 transportable or removable. If the proposed pallet business is not successful, the stack of pallets
1383 can be easily removed thereby returning the property to its previous vacant condition. The pallet
1384 reclamation business requires no chemicals and does not produce any waste products harmful to
1385 the environment.

1386 5. *Unnecessary Hardship*

1387 A. *Owing to special conditions of the property that distinguish it from other*
1388 *properties in the area, denial of the Variance would result in unnecessary*
1389 *hardship because:*

1390 i. *No fair and substantial relationship exists between the general public*
1391 *purposes of the Ordinance provision and the specific application of that*
1392 *provision to the property because:*

1393 Mr. Symington stated that the current zoning designation is completely arbitrary and not
1394 representative of the type of structures and businesses currently located within the area.
1395 Following is a list of businesses and institutions located in the immediate vicinity: Cheshire
1396 County House of Corrections, Second Chance for Success, PB&J (automobile
1397 garage/sales/junkyard), Rocky Brook Motel, Humdingers Grille, Humdingers Mini-golf, City of
1398 Keene Water Pumping Station, Glad Wags, and Radiator Express.

1399 *and*

1400 *ii. The proposed use is a reasonable one.*

1401 Mr. Symington stated that from Rocky Brook Realty, LLC's perspective, the proposed use is a
1402 reasonable one because it is an extension of the existing real estate business. He continued that
1403 from Skilling's Pallets perspective, the proposed use is reasonable because the lot is ideally
1404 suited for the type of proposed business. The lot is flat, and there is high visibility on Rt. 101,
1405 and there is plenty of workable area, away from any residential area. The hours of operation do
1406 not interfere with the quiet enjoyment of surrounding tenancies, and there is an existing curb cut,
1407 and so on and so forth.

1408 *B. Explain how, if the criteria in subparagraph (A) are not*
1409 *established, an unnecessary hardship will be deemed to exist if,*
1410 *and only if, owing to special conditions of the property that*
1411 *distinguish it from other properties in the area, the property*
1412 *cannot be reasonably used in strict conformance with the*
1413 *ordinance, and a variance is therefore necessary to enable a*
1414 *reasonable use of it.*

1415 Mr. Symington stated that although 850 Marlboro Rd. is in a Rural District, it is almost
1416 exclusively used for business purposes. He continued that it currently hosts a miniature golf
1417 course, a seasonal restaurant/snack bar, an apartment building, a motel building, and several
1418 cabins. The owner of the property, the Applicant, is predominantly in the real estate business.
1419 The existing field/vacant lot is unproductive from a revenue-generating standpoint. The existing
1420 business (Rocky Brook Realty, LLC) is under constant economic pressure. Business expenses
1421 such as insurance premiums, electricity, and fuel costs continually increase year-to-year. The
1422 business must develop a new income stream to remain viable.

1423 He continued that Rocky Brook Realty, LLC currently provides affordable housing to an
1424 economically disadvantaged market segment. Not allowing a Variance will create an
1425 unnecessary financial hardship for the low income residents since their rents will most likely
1426 need to be increased to make up for anticipated shortfalls.

1427 Chair Gorman asked if anyone had questions for Mr. Symington. Ms. Taylor asked if there is a
1428 building related to this business or a plan for that. Mr. Symington replied no, there is no
1429 permanent structure at all. He continued that the individual has an awning out for when it is
1430 raining to keep him dry while he is working. Ms. Taylor asked if the business operate year-
1431 round. Mr. Symington replied yes, and the individual bundles up, and the work is physical
1432 exercise. Pounding nails with a hammer tends to generate a little internal heat.

1433 Ms. Taylor stated that it was hard to figure out exactly, from the information they were given,
1434 where on the property this is going to be, although Mr. Symington referenced a field. She
1435 continued that it appears that on that end of the property there is a 250-foot-wide easement that
1436 National Grid has that goes across the property. She asked if that creates any issues. Would
1437 someone be allowed to operate within the confines of that easement?

1438 Mr. Symington replied that this proposed use would not be within the easement – it is on the
1439 perimeter of the easement, between the last cabin and the easement of the overhead utility line.
1440 It is a small area, only 50’ x 50’, a total of 2,500 square feet.

1441 Chair Gorman asked if anyone else had questions. Hearing none, he thanked Mr. Symington and
1442 stated that they will call on him if needed. He asked if there was any public comment. Ms.
1443 Marcou stated that she sees no callers or people with their hands raised. Chair Gorman closed
1444 the public hearing. He stated that he will reopen it if needed to ask procedural or technical
1445 questions.

1446 The Board discussed the five criteria.

1447 *1. Granting the Variance would not be contrary to the public interest.*

1448 Ms. Taylor stated that she is not sure if her comment is regarding the first criterion, but, the area
1449 of this proposed business use is not really delineated. The way the application reads to her is that
1450 it essentially applies to the entire property. She continued that she knows that does not appear to
1451 be the intent, but, her concern is that if you grant a Variance to permit a commercial retail and/or
1452 light manufacturing business on the property, you could locate it anywhere. She is a little
1453 concerned about the breadth of it and does not know if there is a way to condition the Variance. .
1454 This is what is giving her concern with this criterion and the next two criteria.

1455 Chair Gorman stated that he agrees and he has several questions about the scope of this
1456 operation. While it is at this point one person who seems to be not harming anyone and just
1457 trying to rebuild old pallets, a Variance goes with a property, and this is for manufacturing and
1458 retail use, not specifically for a 50’x50’ outdoor area where one person is putting together
1459 pallets, so he shares Ms. Taylor’s concerns.

1460 Mr. Hoppock stated that what he suggests is that if there is an inclination to approve the
1461 Variance, they could condition it defining the area to the south of the utility right-of-way and the
1462 cabin that Mr. Symington mentioned.

1463 Chair Gorman stated that he is reopening the public hearing in case Mr. Symington has
1464 something relevant to say. Mr. Symington stated that he has a commercial rental agreement with
1465 the individual and he has a definition of the property that is in the agreement. It starts at a large
1466 pine tree located on the bank of the Minnewawa River, situated approximately 50 feet west of
1467 Cabin 18, and proceeds in a westerly direction along the bank of said river to 50 feet to a marker
1468 then in the northerly direction for 50 feet to a marker and in the easterly direction for 50 feet to a
1469 marker and in a southerly direction for 50 feet to the place at the beginning. It is approximately
1470 2,500 square feet. It is anchored to a position.

1471 Chair Gorman thanked Mr. Symington and closed the public hearing.

1472 Ms. Taylor stated that if they are going to move forward and approve the Variance she would
1473 like to condition it on that 50'x50' description to specify the location.

1474 Chair Gorman stated that he agrees that there should be conditions. He continued that he
1475 personally is not opposed to conditioning for this specific use, if that is something the Board can
1476 do.

1477 Mr. Rogers stated that if the Board approves this and conditions it, he asks that they include
1478 requirements for it to meet the Shoreland Protection Act, and the Surface Water Ordinance.
1479 Chair Gorman replied that that is a good point.

1480 Mr. Hoppock asked if the Surface Water Ordinance and Shoreland Protection Act compliance
1481 would be separately enforceable by another Board. Mr. Rogers replied that Community
1482 Development Department staff would look at surface water issues as part of a site plan review,
1483 and the Shoreland Protection Act as well. If the Board were to condition the Variance to be that
1484 specific 50'x50' area and it turns out that the 50'x50' location could not be in that place because
1485 of that Act or that Ordinance there would be an issue with that condition. Mr. Hoppock stated
1486 that Mr. Symington would have to meet those conditions anyway. He questioned as to why the
1487 Board would have to condition those two items.

1488 Chair Gorman stated that he does see what Mr. Rogers is saying, and also sees what Mr.
1489 Hoppock is saying. He continued that the condition perhaps is just that it is a 50'x50' area not in
1490 the easement. Chair Gorman asked, that in other words, if the Applicant could not meet those
1491 criteria specifically, where Mr. Symington has currently drafted his rental agreement, if he had to
1492 move it five feet but it was still the same size, would the Board be satisfied.

1493 *2. If the Variance were granted, the spirit of the Ordinance would be observed.*

1494 Mr. Hoppock stated that he does not see any evidence or information in the packet that would
1495 lead him to believe that the essential character of the neighborhood would be altered by allowing
1496 this narrow type of use. He continued that he does not think this is any threat to public health,
1497 safety, or welfare by allowing it.

1498 Ms. Taylor stated that she would add that variances have to be taken on their own merit. She
1499 continued that she agrees with Mr. Hoppock but it is not necessarily relevant what another parcel
1500 in the vicinity has been approved for or not approved for.

1501 Chair Gorman stated that he agrees, especially in light of the other properties. He continued that
1502 he does not know that they have a multitude of uses, he does not know that they are not screened
1503 from the street; there are so many variables that come into play on a specific property that can
1504 certainly segregate it from past Board decisions. With that said, he does not think this specific
1505 application is contrary to the spirit of the ordinance, in this scope and size.

1506 *3. Granting the Variance would do substantial justice.*

1507 Ms. Taylor stated that this is about the balancing act of whether or not the benefit to the
1508 Applicant outweighs the detriment to the public or the opposite, and it is a situation where it is
1509 pretty level. She continued that she does not think the pendulum swings in one direction or
1510 another on this.

1511 *4. If the Variance were granted, the values of the surrounding properties*
1512 *would not be diminished.*

1513 Chair Gorman stated that he does not believe there would be a diminishing effect relative to this
1514 small operation. He continued that he is speaking as if they were going to put conditions on this.

1515 Ms. Taylor stated that without conditions she thinks this might be of concern, because of
1516 maintenance of the site because it is totally out in the open and nothing is stored inside, so it has
1517 the potential of being a negative visually. There is that potential, but they do not know enough
1518 details about how it would operate and they have not added any conditions. Chair Gorman stated
1519 that he agrees, and he thinks that there would not be a diminishing effect if the business was
1520 small and conditioned. He continued that he does not know if the Board would contemplate
1521 some sort of screening as a measure.

1522 *5. Unnecessary Hardship*

1523 *A. Owing to special conditions of the property that distinguish it from other properties*
1524 *in the area, denial of the Variance would result in unnecessary hardship because:*

1525 *i. No fair and substantial relationship exists between the general public*
1526 *purposes of the Ordinance provision and the specific application of that*
1527 *provision to the property.*

1528 *and*

1529 *ii. The proposed use is a reasonable one.*

1530 *B. Explain how, if the criteria in subparagraph (A) are not established, an unnecessary*
1531 *hardship will be deemed to exist if, and only if, owing to special conditions of the*
1532 *property that distinguish it from other properties in the area, the property cannot be*
1533 *reasonably used in strict conformance with the ordinance, and a variance is therefore*
1534 *necessary to enable a reasonable use of it.*

1535 Mr. Hoppock stated that he is having a hard time seeing the special conditions of the property.
1536 He continued that maybe there are special conditions in criteria three. Mr. Symington talks
1537 about proximity to the highway and proximity to the brook and overhead utility lines. He does
1538 not know what else he could point to which would help the Board identify special conditions of
1539 the property. He is not convinced about the ones that have been identified, not even in criteria
1540 five.

1541 Ms. Taylor stated that she agrees and is having a bit of a struggle with this as well. She
1542 continued that part of the concern is whether or not Mr. Symington is being deprived of his use

1543 of his property, and she does not see that as an issue. Financial issues certainly can be a
1544 consideration but they are not determinative.

1545 Mr. Hoppock stated that financial hardship is not a hardship under this criteria. He continued
1546 that there is a case on that but he cannot tell them the name of it. Chair Gorman stated that he
1547 agrees that financial hardship is not something he can get his head around here either. Further
1548 than it not being a reasonable hardship under case law, he also believes that the mini golf,
1549 multitude of rentals, and restaurant are certainly indicative of adequate and ample use of
1550 property. He is not sure the notion of the Board being responsible for his choices of rent prices is
1551 relevant.

1552 Mr. Hoppock made a motion to approve ZBA 20-24, with the following conditions: 1. That any
1553 use be restricted to light manufacturing use involving refurbishing or refinishing of used or
1554 discarded wooden pallets for resale off premises, and further conditioned on a 50'x50'
1555 description as described by Mr. Symington that is not located within the parameters of any
1556 easement, and 2. That it comply with the Shoreland Protection Act and the City of Keene's
1557 Surface Water requirements. Ms. Taylor seconded the motion.

1558 1. Granting the Variance would not be contrary to the public interest.

1559 Granted 5-0.

1560 2. If the Variance were granted, the spirit of the Ordinance would be observed.

1561 Granted 4-1. *Ms. Taylor was opposed.*

1562 3. Granting the Variance would do substantial justice.

1563 Granted 5-0.

1564 4. If the Variance were granted, the values of the surrounding properties would not be
1565 diminished.

1566 Granted 5-0.

1567 5. Unnecessary Hardship

1568 A. Owing to special conditions of the property that distinguish it from other properties in
1569 the area, denial of the Variance would result in unnecessary hardship because:

1570 i. No fair and substantial relationship exists between the general public
1571 purposes of the Ordinance provision and the specific application of that
1572 provision to the property because:

1573 and

1574 ii. The proposed use is a reasonable one.

1575 Denied 5-0.

1576 B. Explain how, if the criteria in subparagraph (A) are not established, an unnecessary
1577 hardship will be deemed to exist if, and only if, owing to special conditions of the
1578 property that distinguish it from other properties in the area, the property cannot be
1579 reasonably used in strict conformance with the ordinance, and a variance is therefore
1580 necessary to enable a reasonable use of it.

1581 Denied 5-0.

1582 The motion to approve ZBA 20-24 was denied 5-0.

1583 Chair Gorman made a motion to deny ZBA 20-24. Mr. Hoppock seconded the motion, which
1584 passed by unanimous vote.

1585

1586 h. **ZBA 20-25:/ Petitioner, Rocky Brook Realty, LLC of 850 Marlboro
1587 Road, Keene, represented by Andrew Symington of Keene,
1588 requests a Variance for property located at 850 Marlboro Road, Tax
1589 Map #240-025-000; that is in the Rural District. The Petitioner
1590 requests a Variance to permit a free standing sign for a
1591 retail/manufacturing business where free standing signs are not listed
1592 as a permitted use in a Rural District per Article VIII. Sign
1593 Regulations, Division 7, District Regulations of the Zoning Ordinance.**

1594 Mr. Hoppock asked if this application is now moot. Mr. Rogers stated that the Applicant can
1595 choose to withdraw this. Chair Gorman asked Mr. Symington what he wants to do. Mr.
1596 Symington stated that he will withdraw ZBA 20-25.

1597 V. **New Business**

1598 Chair Gorman asked Mr. Rogers if there is any new business. Mr. Rogers replied no.

1599 VI. **Communications and Miscellaneous**

1600 VII. **Non-Public Session (if required)**

1601 VIII. **Adjournment**

1602 There being no further business, Chair Gorman adjourned the meeting at 10:32 PM.

1603

1604 Respectfully submitted by,
1605 Britta Reid, Minute Taker
1606 Edits submitted by
1607 Corinne Marcou, Zoning Clerk

MOTION FOR A REHEARING (ZBA 20-24)

Now comes the Applicant, Rocky Brook Realty LLC who asks the ZBA to reconsider application ZBA 20-24 based on the following information:

The board had approved questions 1 thru 4 of the original application during the deliberative session; however, the board disapproved question number 5 because it had determined that the applicant failed to show that a hardship existed-implying that the land could in fact be used for the permitted purposes enumerated within the zoning ordinance.

The applicant contests this finding. The relevant information was already before the board and in plain view-the board however did not fully or adequately appreciate or evaluate the available information before it during its closed deliberations.

We attribute this error to the following circumstances:

- The time was getting late (well after 10:00 PM); the board members and the applicant were sufficiently fatigued and tired
- Procedurally, the board failed to consider the appropriateness of each allowable permitted use before making a determination based on the merits
- The meeting was closed to the public when this issue came up for discussion before the board; the board failed to ask the applicant for a rebuttal of the boards findings and conclusions during the deliberative session.

Following is a brief overview of the information that the board had access to and a discussion relating to each subject:

Flood Zone

During the initial presentation, the Zoning administrator presented a slide depicting the flood zone or 100 year flood plain. As could be seen from the slide- the field in question lies within a flood zone.

What does being within a flood zone mean in this particular case? -

During months where the temperature is above freezing... the field is susceptible to **flooding** if the river overflows its banks due to excessive rain and run off.

During months where the temperature is below freezing... the field is susceptible to **ice flows** if the river freezes due to the cold weather-if the ice begins to thaw and break away due to a period of warmer weather-if ice dams instantaneously form-if the ice dams subsequently break away and the river (ice and water) overflows its banks.

Important Supplemental Information Not Previously Presented

1. Upon information and belief, the Army Corp of Engineers, City of Keene, or the State of New Hampshire constructed earthen berms along the edge of the Minnewawa river which prevents ice flow damage (date of construction unknown). See attached drawing for approximate berm locations and dimensions.

2. The Applicant has owned the property since 2002. Since that time, the field has never flooded; however, several ice flows have entered the field during the winter month in the area depicted. **No ice flows have occurred in the area under consideration.**
3. The force generated by a typical ice flow is strong enough to snap or bend trees 6 inches in diameter or less.

Because the field is within a flood zone, it is not suitable location for the permitted uses enumerated in Sec 102-332. Following is a discussion of each permitted uses within the rural district:

Accessory Dwelling Unit

There is no dwelling unit within the field in question. A newly constructed dwelling unit is not appropriate or permitted in a flood zone

Bed & Breakfast Inn

There is no structure within the field which could host a Bed & Breakfast Inn. Building a new Bed & Breakfast Inn is not appropriate or permitted within a flood zone.

Cemetery

It would be inappropriate to locate a cemetery within a flood zone. Some of the bodies may buoy up over time and potentially float down the river. Ice flows have the potential to topple grave stones. Part of the property in question is forested-cutting down the forest may be a violation of the shoreline protection act. Erecting headstones in the utility right of way would limit the utility company's access and is therefore inappropriate.

Dwelling, Single Family

There is no dwelling structure within the field. Building a new dwelling structure is inappropriate or not permitted within a flood zone.

Gravel Pit.

An excavated gravel pit would quickly fill with water. In essence, we would be creating Minnewawa Lake. This is an inappropriate choice for obvious reasons.

Green Houses or Nurseries

There is no structure within the field that could serve as a greenhouse or nursery. Building a greenhouse or nursery would be inappropriate or not permitted within a flood zone.

Other considerations:

- Part of the undeveloped land in question is forested
- A significant portion of undeveloped land that is cleared is within the utility right of way-any type of permanent obstacle-plant, shrub, or building will interfere with the utility right of way

Group Home

There is no structure that could host a group home. Building a new group home would be inappropriate or not permitted within a flood zone.

Harvesting of Forestry Products

There is a small forested area of the field; however, the area is not sufficient enough to support a sustained forestry operation.

Upon information and belief, harvesting the trees close to the river may be a violation of the shoreline protection act.

Historic Site Opened to the Public.

Upon information and belief, the site is not of a historic nature sufficient enough to warrant conversion into an attraction

Home Occupation Incidental to Main Residential Use

There is no building (home) which could host a home occupation business within the field. Building a new building within the field would be inappropriate or not permitted with a flood zone.

Kennel

There is no structure that could be used as a kennel. Building a new structure is inappropriate or not permitted within a flood zone.

Manufactured Housing Park and Manufactured Housing Subdivisions

There is no manufactured housing located within the field. Erecting manufactured housing is inappropriate or not permitted within a flood zone.

Non-commercial Outdoor Recreation Activity

Following is a list of imposed restrictions:

Noise: **Cannot exceed 65 dBA measured at the property line.**

Fumes/odors: **No dust, odors, and/or fumes may escape the boundaries of the property**

The property under consideration is approximately 80-150 feet wide at its widest point. Noise, dust, odors of fumes will most likely cross the boundaries of the property. For example, if a camp fire is permitted-the smoke from the fire will most assuredly cross the highway boundary which is not permitted.

Following is a list of typical outdoor recreation activities that are not appropriate in this location:

- Baseball or softball: A foul ball or home run could easily land in the highway creating a safety concern
- Golf: a shank ball or long drive could easily fall into the highway causing a safety concern
- Frisbee: An errant throw could easily land in the highway creating a safety concern.

- Fetch: An errant throw or a rebound could easily end up in the highway creating a safety concern.
- Football: An errant throw could easily end up in the highway causing a safety concern.
- Discharge of a firearm: The projectile could easily escape the boundaries of the property if fired in any direction.
- Archery: An arrow inadvertently aimed in the wrong direction could easily end up in the highway causing a safety concern.
- Etc.

Orchards and Vineyards

Part of the field is already forested and is therefore unusable as a site for any type of orchard or vineyard. Cutting the trees may violate the shoreline protection act.

New trees and or bushes would need to be planted below the electric transmission lines thereby interfering with the utility companies' right of way. Furthermore, trees and or bushes located in this area will most likely be subject to ice flow damage making it an economically untenable choice.

Outdoor Recreation Activity as a Business

Any type of outdoor recreational activity would be subject to performance standards per Article VI, Division III-Outdoor Recreation (Golf courses). Following is a typical example of the type of performance standards that may be applicable:

Sec. 102-1201. - Golf courses.

(3) Potential contaminant management plan. Anyone proposing to construct or expand a golf course within the primary or secondary zone of any municipal wellfield shall provide a contaminant management plan which is acceptable to the planning board. **This plan shall at a minimum indicate the types of chemicals to be used; the rates, locations, methods and frequency of application; where chemicals will be stored; safety procedures to avoid spillage or contamination of groundwater, surface water or wetlands; and what steps will be taken if an accidental spill or discharge occurs.**

Chemical storage requires an enclosure (building). There are no enclosures currently located in the area in question. Building an enclosure within a flood zone is inappropriate or not permitted.

(4) Groundwater monitoring. Any construction or expansion of a golf course within the primary or secondary zone of any municipal wellfield must include a groundwater monitoring plan acceptable to the planning board. **This must include an indication of the location and design of monitoring wells, the provision of access to those wells, and when they will be installed, if not already in place.** Unless otherwise specified, the city shall undertake the actual monitoring (taking of samples, obtaining laboratory results, etc.).

No monitoring wells currently exist. It would be inappropriate or not permitted to drill a monitoring well in a flood zone.

Any type of outdoor recreation as a business would most likely require some type of support building or concession structure-the building would be used to house items such as a cash register, credit card machine, cash box (collection of admission fees, i.e. cash sales), storage of recreational equipment, etc. There is no building in the area under consideration. Constructing a new building would be inappropriate or not permitted in a flood zone.

Motel guests would be subject to interruption of their quiet enjoyment... additional traffic, noise, etc.

The same argument introduced during the discussion of a Non-commercial Outdoor Recreation Activity relating to the inappropriateness of certain permitted activities is also applicable to this category as well.

Raising and Selling of Farm Animals or Products

Raising farm animals requires a barn to shelter the animals. There are no barns currently located within the field. Erecting a new barn within a flood zone is inappropriate or not permitted.

Animal waste products have the potential to leach into the river making this an undesirable option.

Raising farm animals requires fencing-fencing is susceptible to ice flow damage, etc.

Towers for Transmission, Communication, and/or Cellular Telephone Transmission

Any type of tower would require a special exception.

Any tower would be in close proximity to overhead transmission lines as well as electrical lines running parallel with Route 101 and would be subject to electrical interference and or arcing during electrical storms, etc.

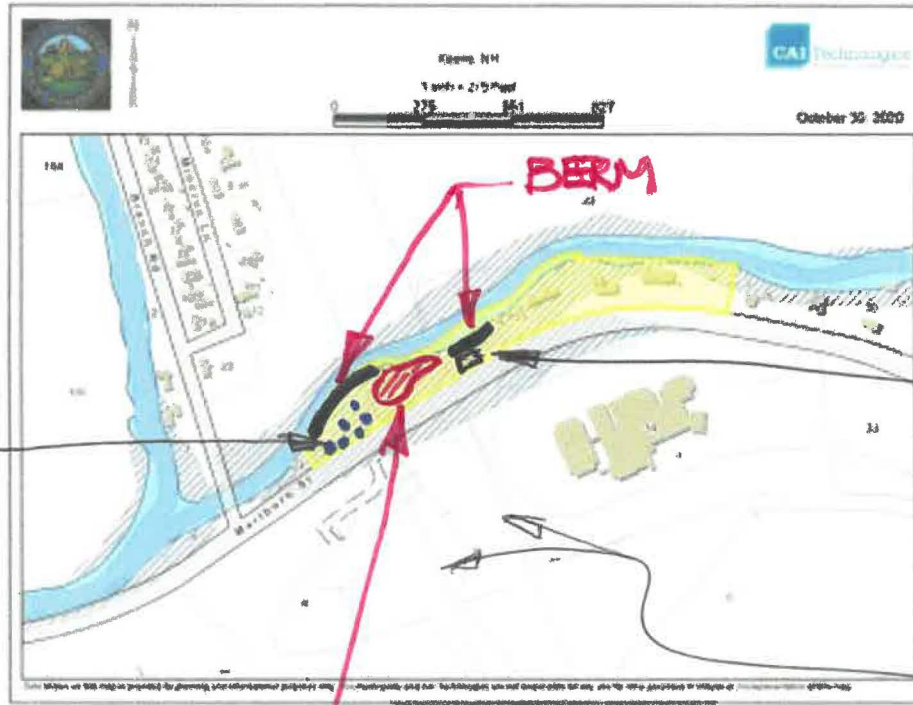
Any tower would be susceptible to potential damage from ice flows. Constructing a transmission tower in a flood zone is inappropriate or not permitted.

Veterinary Establishment

There are no buildings that could be used for a veterinary establishment located in the field, Building a new building within a flood zone is inappropriate or not permitted.

In conclusion, none of the permitted uses are a viable option. Therefore, the applicant will in fact suffer a hardship because the applicant will not be able to use the land in any meaningful way.

VI. Hearings - Chair Gorman



FORRESTED AREA

PROPOSED SITE LOCATION

UTILITY CORRIDOR

TYPICAL ICE FLOW LOCATION

850 MARLBORO RD
FLOOD ZONE

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15 KINGS CT.
ZBA 20-26



Petitioner requests a Change of a Nonconforming Use from a now vacant fitness center to a lodging house (homeless shelter)



NOTICE OF HEARING

ZBA 20-26

A meeting of the Zoning Board of Adjustment will be held on Monday, December 7, 2020 at 6:30 PM to consider the petition of Hundred Nights, Inc., of 17 Lamson St., Keene, represented by Jim Phippard of Brickstone Land Use Consultants, LLC of 185 Winchester St., Keene. Due to the COVID-19 State of Emergency, this meeting will be held using the web-based platform, Zoom. The public may access/view the meeting online by visiting www.zoom.us/join or may listen to the meeting by calling (888) 475-4499. The Meeting ID is 839 9261 2795. To notify the public body of any access issues, call (603) 209-4697. More information is available at the City's Zoning Board of Adjustment webpage at www.ci.keene.nh.us/zoning-board-adjustment and on the enclosed document

ZBA 20-26: The Petitioner requests a Change of a Nonconforming Use for property located at 15 King Ct., owned by Raette F. Trombly Living Trust, of Keene, Tax Map #122-022-000 that is in the Low Density District. The Petitioner requests a Change of a Nonconforming Use from a now vacant fitness center to a lodging house (homeless shelter).

This application is available for public review in the Community Development Department at City Hall, 3 Washington Street, Keene, NH 03431 between the hours of 8:00 am and 4:30 pm by appointment only or online at <https://ci.keene.nh.us/zoning-board-adjustment>. Please call (603) 352-5440 to make an appointment or to speak with a staff person.

ZONING BOARD OF ADJUSTMENT

Corinne Marcou, Clerk

Notice issuance date November 23, 2020

APPLICATION FOR APPEAL

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

For Office Use Only:	
Case No.	<u>ZBA 20-26</u>
Date Filed	<u>11/12/2020</u>
Received By	<u>CM</u>
Page	<u>1</u> of <u>7</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) HUNDRED NIGHTS INC Phone: 603-352-51
 Address PO BOX 833 KEENE NH
 Name(s) of Owner(s) RAETTE F TROMBLEY LIVING TRUST
 Address PO BOX 1117 KEENE NH 03431
 Location of Property 15 KING CT

SECTION II - LOT CHARACTERISTICS

Tax Map Parcel Number 122-022-000 Zoning District LD
 Lot Dimensions: Front 124.13' Rear 106.55' Side 218.00' Side 218.00'
 Lot Area: Acres 0.28 Square Feet 12,268
 % of Lot Covered by Structures (buildings, garages, pools, decks, etc.): Existing 20.1 Proposed 20.1%
 % of Impervious Coverage (structures plus driveways and/or parking areas, etc.): Existing 59 Proposed 59%
 Present Use FITNESS CENTER NOW VACANT
 Proposed Use LODGING HOUSE (HOMELESS SHELTER)

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.

Raette F Trombly Date 11-19-20
 (Signature of Owner or Authorized Agent)

Please Print Name RAETTE TROMBLY

PROPERTY ADDRESS 15 KING CT

APPLICATION FOR CHANGE OF A NONCONFORMING USE

The Zoning Board of Adjustment may, in appropriate circumstances and with appropriate safeguards, permit a nonconforming use to be changed to another nonconforming use provided that the following criteria are met.

DESCRIBE BRIEFLY YOUR RESPONSE TO EACH CONDITION:

1. The changed use will be more in the spirit and intent of the Zoning Ordinance.

SEE ATTACHED

2. The changed use will not be more injurious, obnoxious or offensive to the neighborhood.

PROPERTY ADDRESS 15 King Court

APPLICATION FOR CHANGE OF A NONCONFORMING USE

The Zoning Board of Adjustment may, in appropriate circumstances and with appropriate safeguards, permit a nonconforming use to be changed to another nonconforming use provided that the following criteria are met:

DESCRIBE BRIEFLY YOUR RESPONSE TO EACH CONDITION:

1. The changed use will be more in the spirit and intent of the Zoning Ordinance.

The existing building is currently a vacant building which was previously used as a commercial fitness center and prior to that it was used as Indian King Framery, a retail use. To the west and north of the property are dormitories at Keene State College; also to the north are a mix of single family homes and rental properties on Appleton Street; to the east are office buildings; and to the south is Rt. 101. The proposed use as a homeless shelter (lodging house) is a residential use.

The existing building will be used as sleeping quarters. It will be open at 6:30 PM every evening and closed at 7:00 AM. Guests will be shuttled to this facility from Lamson Street, and then shuttled back to Lamson Street every morning. The facility will be closed during the day other than workers performing cleaning and maintenance.

The spirit and intent of the zoning ordinance is to protect the health, safety and general welfare of the public. In the Low Density district, the intent is to primarily allow single family residences. However, the LD district also allows Group Homes and Institutional uses by Special Exception. This location on King Court is a mix of business uses and housing adjacent to the State highway. It is not a good location for a single family house.

The proposed use will not generate significant traffic; it will not generate excessive noise. The use as a residential sleeping quarters for homeless individuals and families will help to protect the health, safety and general welfare for these people.

It is in the public interest to allow a change in use which is more compatible with the existing residential uses in the LD district than the previous business uses.

2. The changed use will not be more injurious, obnoxious, or offensive to the neighborhood.

The use as sleeping quarters for homeless individuals and families is a benign use which will not be injurious, obnoxious, or offensive to the neighborhood. The facility will operate only at night, opening at 6:30 PM and closing at 7:00 AM. Guests will be shuttled to this facility from the homeless shelter at Lamson Street and then shuttled back to Lamson Street every morning. The only activity at this facility during the day will be cleaning and maintenance activities. There will be less traffic from the proposed use than the prior use as a fitness center. There will be no significant noise generated by this proposed use. The site is served by city water and city sewer. There is on-site parking for the support staff. Granting this application will not result in excess traffic, will not reduce the safety or the capacity of Main Street, and will not pose a threat to public health, safety or welfare.

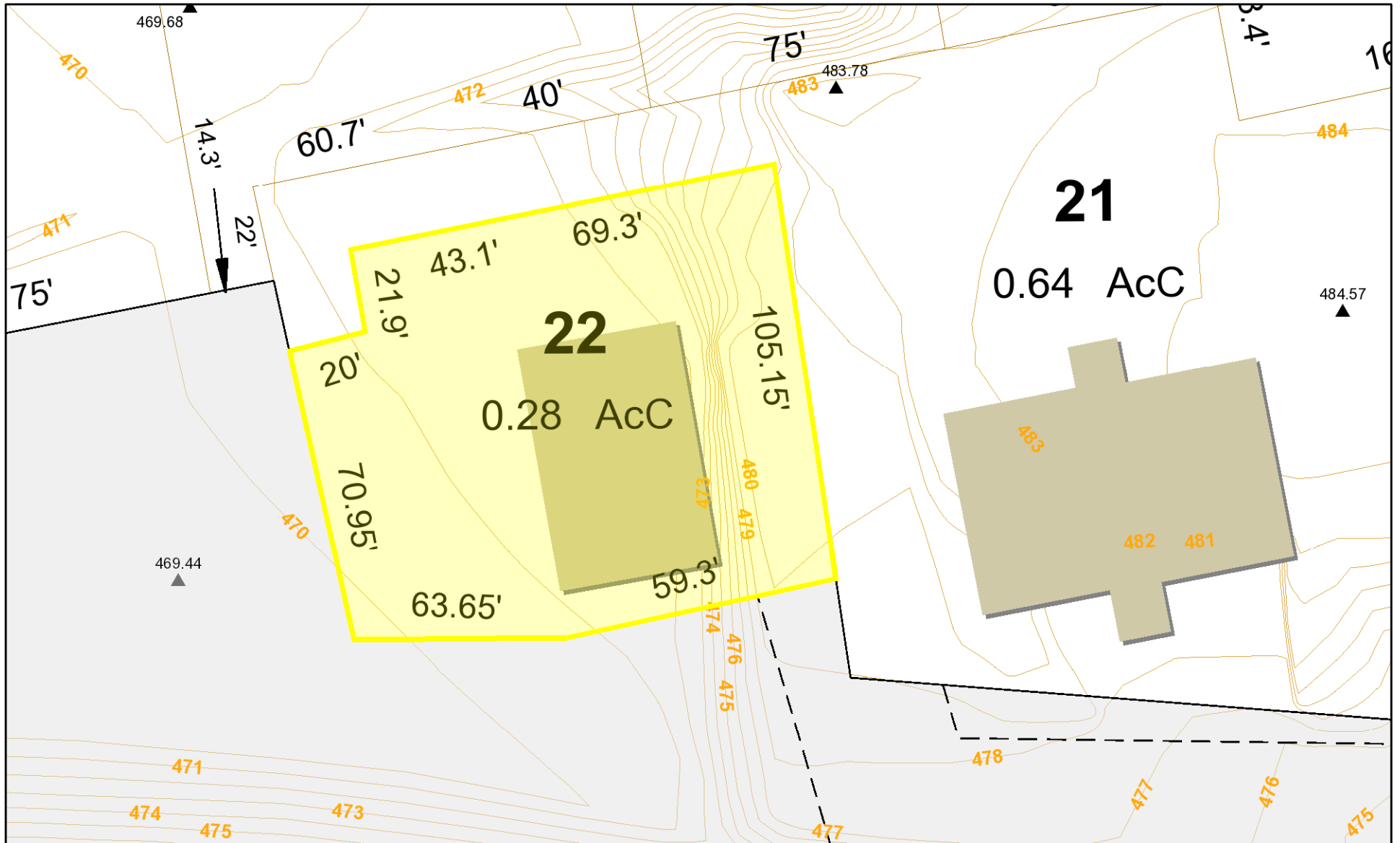


Keene, NH

1 inch = 34 Feet



August 28, 2020



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

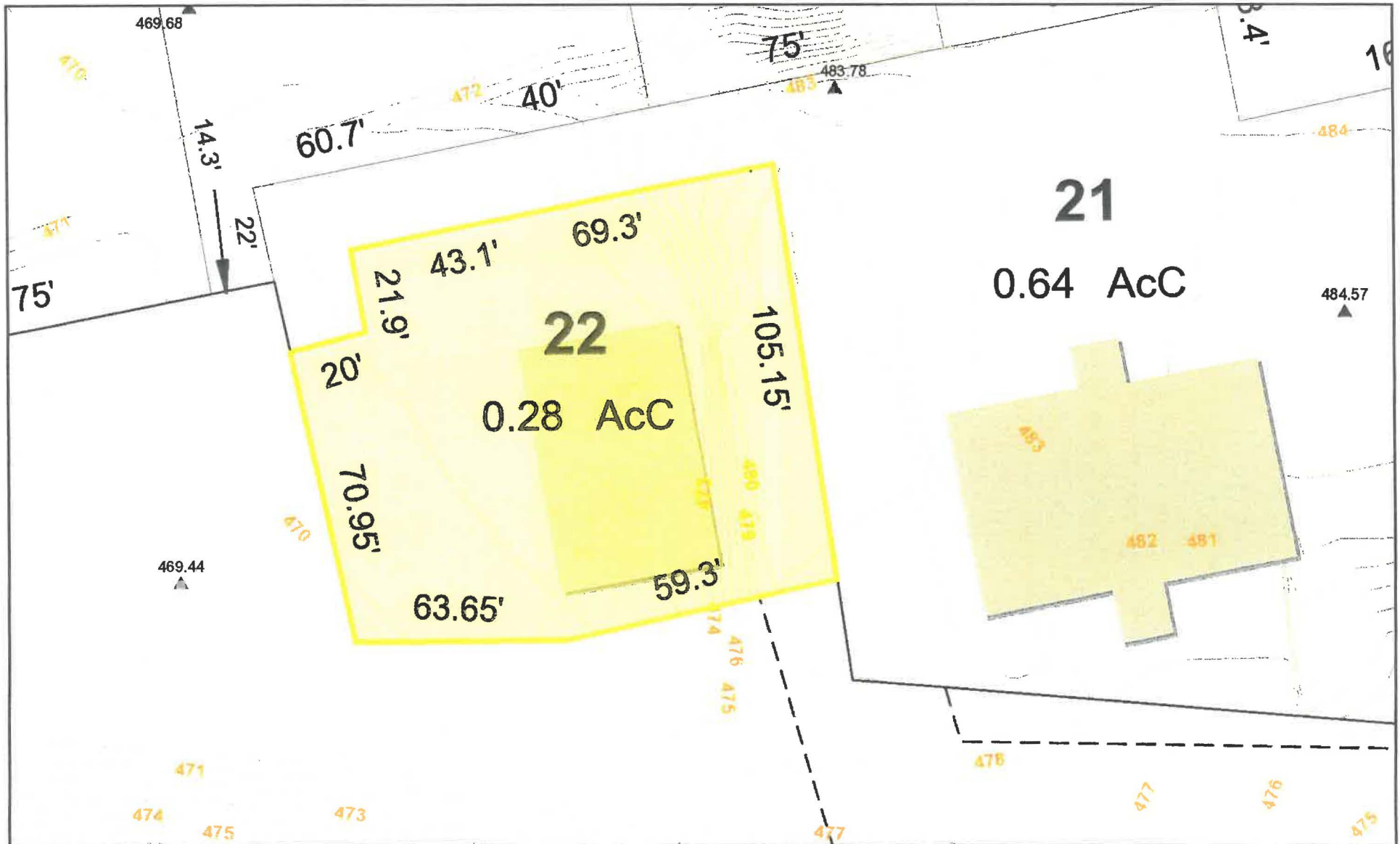


Keene, NH

1 inch = 34 Feet



August 28, 2020



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

Abutters to TMP 112-022-000

112-022-000

**RAETTE F TROMBLY LIVING TRUST
PO BOX 1117
KEENE NH 03431**

112-020-000

**WHITE HOUSE GROUP
441 MAIN STREET
KEENE NH 03431**

112-021-000

**BAKKE REALTY & MANAGEMENT CO
6 PROSPECT HILL ROAD
SPOFFORD NH 03462**

112-023-000

**SELMA XANTHOPOULOS LIVING TRUST
297 MARLBORO STREET
KEENE NH 03431**

112-024-000

**STEPHEN L ROGERS
LYNDA L ROGERS
425 MAIN STREET
KEENE NH 03431**

112-025-000

**JANICE R D'ALESSIO LIVING TRUST
PO BOX 1806
KEENE NH 03431**

112-026-000

**JOHN PAPPAS
PO BOX 96
WEST SWNZEY NH 03469**

112-027-000

**EDWARD H LETOURNEAU JR
22 APPLETON ST
KEENE NH 03431**

112-028-000, 112-029-000

**UNIVERSITY SYSTEM OF NH
Keene State College
229 Main St.
Keene NH 03431**

594-081-000

**DAVID MCQUAID HINDERAKER
ANNA CARMELA HINDERAKER
409 MAIN STREET
KEENE NH 03431-4181**

HUNDRED NIGHTS INC

**PO BOX 833
17 LAMSON STREET
KEENE NH 03431**

BRICKSTONE LAND USE

**CONSULTANTS LLC
185 WINCHESTER STREET
KEENE NH 03431**

112-011-000

**JOHN E CLARK II
PATRICIA L CLARK
59 DICKINSON RD
KEENE NH 03431**

112-012-000

**GEORGE P ACHILLE JR
PO BOX 87
PETERBOROUGH NH 03458**

Subscribed and sworn to me by
James P Phippard this 12th day of November
2020



James P Phippard



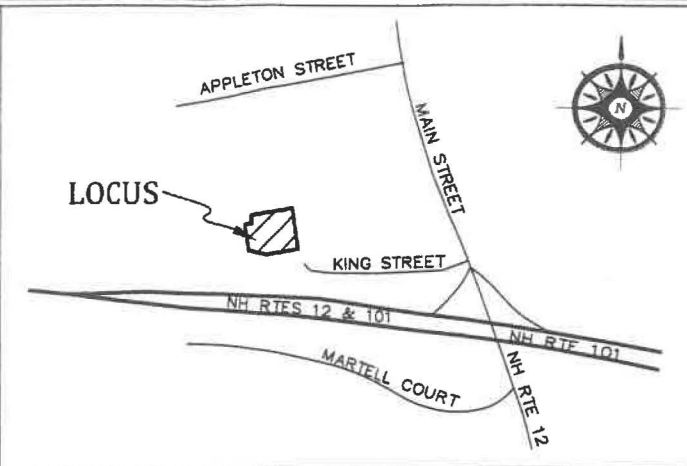
Ann E Quirk, Notary Public

My Commission Expires 03/07/2023

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REFERENCE PLANS

- 1) "BUILDING & LAND OFF KING COURT, OWNED BY HARRY E. KENNEY, UNDER PURCHASE AGREEMENT TO WILLIAM A. STRETCH, JR. DBA INDIAN KING FRAMERY/NEW ENGLAND FRAME CRAFTERS"; DATED 6-22-81; SCALE 1"=20'; ON FILE AT THE CITY OF KEENE DEPARTMENT OF PUBLIC WORKS.
- 2) "STATE OF NEW HAMPSHIRE, DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS, PLAN OF PROPOSED FEDERAL AID URBAN PROJECT, U 013-1(14), N.H. PROJECT NO. P-3435-A, CITY OF KEENE, COUNTY OF CHESHIRE"; SHEET NUMBER 19; DATED 12/13/60; ON FILE AT NH DEPARTMENT OF TRANSPORTATION.



NOTES

- 1) THE PURPOSE OF THIS PLAN IS TO DEFINE THE BOUNDARY OF LOT 112-022-000.
 - 2) OWNER OF RECORD:
WILLIAM A. STRETCH JR
485 COLUMBUS ROAD
WEST RR #1
OSHAWA, ON L1H7K-4
VOLUME 2082 PAGE 1
 - 3) AREA OF LOT 112-022-000: 12,268 SF OR 0.28 ACRES
 - 4) LOT NUMBERS REFER TO THE CITY OF KEENE PROPERTY MAPS.
 - 5) CURRENT ZONING: LOW DENSITY

MIN. LOT AREA - 10,000 SF
MIN. FRONTAGE - 60 FEET
MIN. WIDTH AT BUILDING LINE - 70 FEET

SETBACKS:
FRONT - 15 FEET
SIDE - 10 FEET
REAR - 20 FEET
 - 6) KING COURT IS WITHIN THE BY-PASS RIGHT OF WAY. SEE REFERENCE PLAN 2.
 - 7) LOT 112-022-000 IS WITHIN THE 100 YEAR FLOOD PLAIN.
 - 8) EASEMENTS
A. LOT 112-022-000 BENEFITS FROM A 16' WIDE RIGHT OF WAY RUNNING NORTHERLY FROM THE NORTHERLY BOUND OF KING COURT. SEE VOLUME 2082 PAGE 1.
B. LOT 112-022-000 BENEFITS FROM A 20' WIDE RIGHT OF WAY RUNNING WESTERLY FROM AN EXTENSION OF THE 16' RIGHT OF WAY. SEE VOLUME 2082 PAGE 1.
C. LOT 112-022-000 BENEFITS FROM EASEMENTS FOR WATER, SEWER AND UTILITY LINES. SEE VOLUME 620 PAGE 281, VOLUME 620 PAGE 286 AND VOLUME 620 PAGE 309.
- THE PARCEL MAY BE SUBJECT TO OTHER EASEMENTS AS THEY EXIST OF RECORD OR IN FACT. CARDINAL SURVEYING AND LAND PLANNING DOES NOT INTEND OR REPRESENT THAT ALL RIGHTS AND EASEMENTS AFFECTING THE SUBJECT PROPERTY ARE SHOWN. A SPECIFIC TITLE EXAMINATION IS SUGGESTED TO DETERMINE THE NATURE AND EXTENT OF RIGHTS AND EASEMENTS AFFECTING THE SUBJECT PROPERTY.
- 9) THE LOCATION OF ANY UTILITY INFORMATION SHOWN ON THIS PLAN IS APPROXIMATE. CARDINAL SURVEYING & LAND PLANNING MAKES NO CLAIMS TO THE ACCURACY OR COMPLETENESS OF THE UTILITIES SHOWN. FIELD VERIFICATION IS REQUIRED PRIOR TO ANY EXCAVATION ON THE SITE.

112-028-000

UNIVERSITY SYSTEM OF NH
KEENE STATE COLLEGE
C/O JAY KAHN
229 MAIN STREET
KEENE, NH 03431
VOL 1762 PG 289

112-027-000

EDWARD H. LETOURNEAU JR
22 APPLETON STREET
KEENE, NH 03431
VOL 3032 PG 424

122-022-000

BAKKE REALTY & MANAGEMENT CO
8 PROSPECT HILL ROAD
SPOFFORD, NH 03462
VOL 1726 PG 762

NH ROUTES 12 & 101

KING COURT

112-022-000
12,268 SF
0.28 ACRES

EXISTING
RETAIL/COMMERCIAL
BUILDING

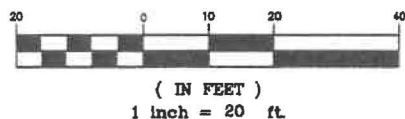
SURVEYOR'S CERTIFICATION

THIS SURVEY IS THE RESULT OF A RANDOM TRAVERSE USING AN ELECTRONIC TOTAL STATION AND MEETS THE MINIMUM REQUIREMENTS OF AN URBAN SURVEY AS SPECIFIED IN NH LAN 500.1.

PURSUANT TO RSA 676:18

I CERTIFY THAT THIS SURVEY PLAT IS NOT A SUBDIVISION PURSUANT TO THIS TITLE AND THAT THE LINES OF STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED AND THAT NO NEW WAYS ARE SHOWN.

GRAPHIC SCALE



LEGEND

- - PIN FOUND
- - REBAR SET (RBS) / SPIKE SET (SS)
- _{311/3-2} - UTILITY POLE
- * - LIGHT POLE
- * - SPOT LIGHT
- ▣ - CATCH BASIN
- _{MH} - MANHOLE
- ⊕ - SEWER CLEAN OUT
- ~~~~~ - TREE LINE
- - - - - EASEMENT LINE
- - - - - APPROXIMATE ABUTTER LINE
- (N 85°15'39" W 16.00') - EASEMENT DIMENSION

NO.	DATE	REVISION	BY

BOUNDARY PLAN

LOT 112-022-000
15 KING COURT
KEENE, NH 03431

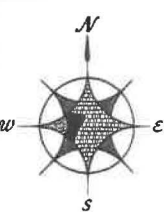
DATE: AUGUST 20, 2018 SCALE: 1"=20'

PREPARED FOR:

WILLIAM A. STRETCH JR
485 COLUMBUS ROAD
WEST RR#1
OSHAWA, ON L1H7K-4

CARDINAL SURVEYING & LAND PLANNING
Keene, New Hampshire 03431
Tel. (603) 499-6151 SHT 1/1

JOB NO: 461 SURVEY DATE: 7/25/18 FB: 7/1



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18 Production Ave. ZBA 20-27



Petitioner requests an Enlargement of a Nonconforming Use to enlarge an existing motor vehicle dealership by constructing a 3,690 sf building addition.



NOTICE OF HEARING

ZBA 20-27

A meeting of the Zoning Board of Adjustment will be held on Monday, December 7, 2020 at 6:30 PM to consider the petition of Noyes Volkswagen, of 18 Production Ave., Keene, NH, represented by Jim Phippard of Brickstone Land Use Consultant of 185 Winchester St. Due to the COVID-19 State of Emergency, this meeting will be held using the web-based platform, Zoom. The public may access/view the meeting online by visiting www.zoom.us/join or may listen to the meeting by calling (888) 475-4499. The Meeting ID is 839 9261 2795. To notify the public body of any access issues, call (603) 209-4697. More information is available at the City's Zoning Board of Adjustment webpage at www.ci.keene.nh.us/zoning-board-adjustment and on the enclosed document

ZBA 20-27: The Petitioner requests an Enlargement of a Nonconforming Use for property located at 18 Production Ave., of Keene, Tax Map #110-004-000 that is in the Industrial District. The Petitioner requests an Enlargement of a Nonconforming Use to enlarge the existing motor vehicle dealership by constructing a 3,690 sf building addition. The existing Volkswagen building is 10,490 sf plus a 740 sf mezzanine. This proposal will enlarge the existing building by expanding on the south side with a 30' x 123' addition. The addition will be used for storage and additional service bays.

This application is available for public review in the Community Development Department at City Hall, 3 Washington Street, Keene, NH 03431 between the hours of 8:00 am and 4:30 pm by appointment only or online at <https://ci.keene.nh.us/zoning-board-adjustment>. Please call (603) 352-5440 to make an appointment or to speak with a staff person.

ZONING BOARD OF ADJUSTMENT

Corinne Marcou, Clerk

Notice issuance date November 23, 2020

APPLICATION FOR APPEAL

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

For Office Use Only:	
Case No.	<u>ZBA 20-27</u>
Date Filed	<u>11/12/2020</u>
Received By	<u>CSM</u>
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

- 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

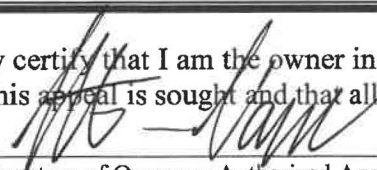
Name(s) of Applicant(s) Noyes Volkswagen Inc Phone: c/o 357-0116
Address 18 Production Ave Keene NH
Name(s) of Owner(s) 18 Production Ave LLC
Address 18 Production Ave Keene NH 03431
Location of Property 18 Production Ave Keene NH 03431

SECTION II - LOT CHARACTERISTICS

Tax Map Parcel Number 110-004-000 Zoning District Industrial
Lot Dimensions: Front 300+/- Rear 234.5+/- Side 343+/- Side 369 +/-
Lot Area: Acres 2.14 Square Feet 93,218 +/-
% of Lot Covered by Structures (buildings, garages, pools, decks, etc.): Existing 11.2% Proposed 15.2%
% of Impervious Coverage (structures plus driveways and/or parking areas, etc.): Existing 74.5% Proposed 74.5%
Present Use Motor Vehicle Dealership
Proposed Use Motor Vehicle Dealership

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 of Owner or Authorized Agent)

Date 11/11/20

Please Print Name Robert Noyes

PROPERTY ADDRESS 18 Production Avenue

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:

Enlarge the existing motor vehicle dealership by constructing a 3690 sf building addition. The existing Volkswagen building is 10,490 sf plus a 740 sf mezzanine. This proposal will enlarge the existing building by expanding on the south side with a 30' x 123' addition. The addition will be used for storage and additional service bays.

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.**

There are three existing motor vehicle dealerships on Production Ave. This area has been used for motor vehicle dealerships since the late 1970's. Subaru recently completed an expansion to their dealership on Production Ave. Enlarging the existing Volkswagen dealership will have no negative effect on any other nearby properties. The use is consistent with the character of the adjacent uses. The new construction and renovations will add value to the property.

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

Production Avenue is a signalized intersection at Rt. 9 with dedicated turn lanes and turn signal phases. Adequate capacity exists for this small expansion. There are no sidewalks in this area and therefore, no hazard to pedestrians will be created. The addition will result in adding only three employees and the hours of operation will remain the same. There will not be a significant increase in traffic and therefore will not result in a nuisance or serious hazard.

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

City water and city sewer serve this property and the existing building. Adequate capacity exists to support this small expansion. No new bathrooms are proposed. Zoning requires 75 parking spaces on this lot. 132 parking spaces will be provided.

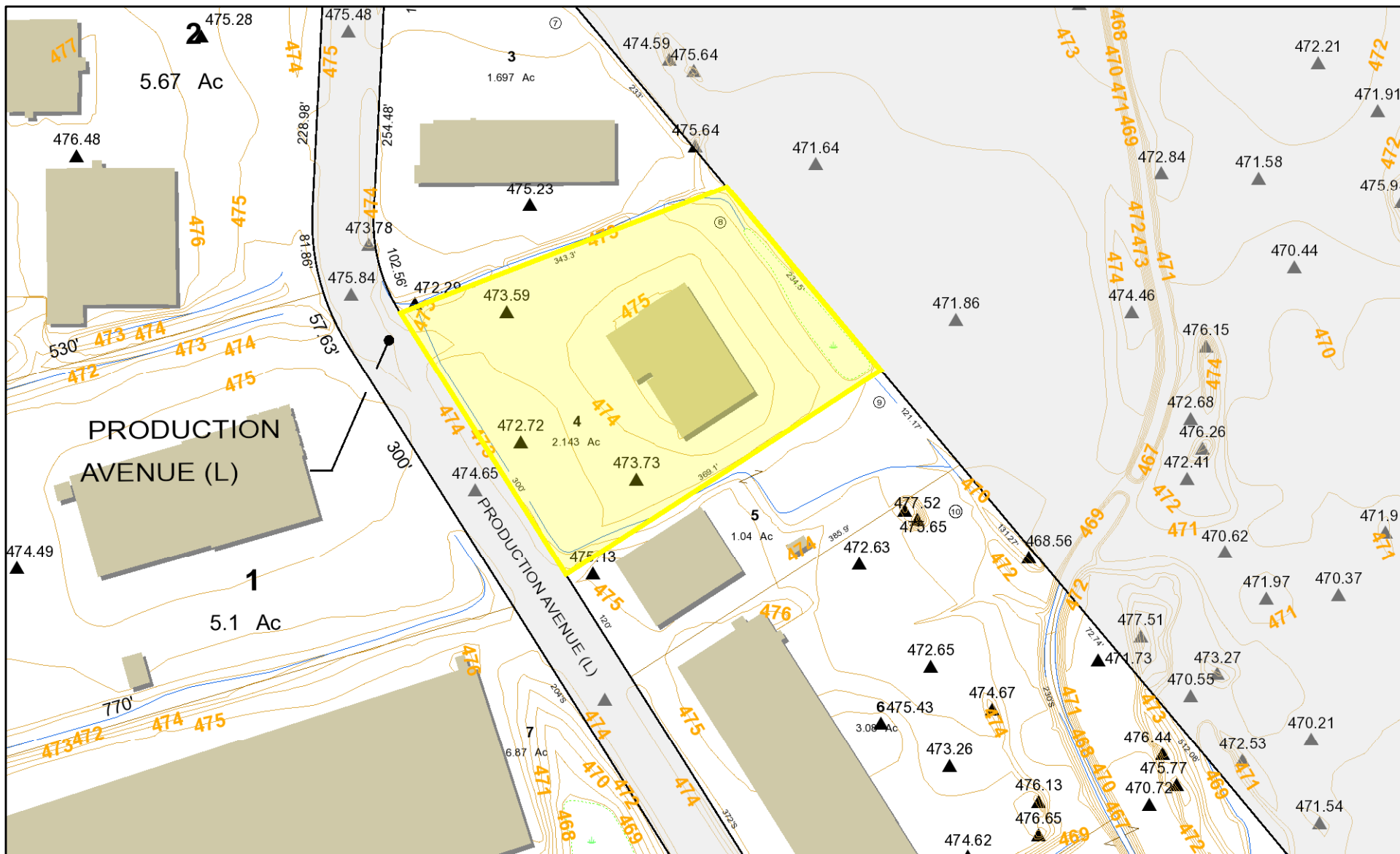


Keene, NH

1 inch = 137 Feet



November 23, 2020



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

ABUTTERS TO TMP 110-004-000

110-005-000-000-000
AR-GE PROPERTIES
117 WEST ST.
KEENE, NH 03431

109-027-000-007-008
KEENE MZL LLC
254 WEST 31ST ST. 4TH FLOOR
NEW YORK, NY 10001

109-027-000-005-013
KEENE MZL LLC
254 WEST 31ST ST. 4TH FLOOR
NEW YORK, NY 10001

110-020-000-000-000
AURORA HOLDINGS KEENE LLC
148 KEY RD.
KEENE, NH 03431

109-027-000-007-009
KEENE MZL LLC
254 WEST 31ST ST. 4TH FLOOR
NEW YORK, NY 10001

109-027-000-009-010
KEENE MZL LLC
254 WEST 31ST ST. 4TH FLOOR
NEW YORK, NY 10001

242-007-000-000-000
CITY OF KEENE
3 WASHINGTON ST.
KEENE, NH 03431

109-027-000-010-012
KEENE MZL LLC
254 WEST 31ST ST. 4TH FLOOR
NEW YORK, NY 10001

109-027-000-005-014
KEENE MZL LLC
254 WEST 31ST ST. 4TH FLOOR
NEW YORK, NY 10001

110-006-000-000-000
CURRAN A. RANGER JR.
117 WEST ST.
KEENE, NH 03431

109-027-000-003-02B
KEENE MZL LLC
254 WEST 31ST ST. 4TH FLOOR
NEW YORK, NY 10001

110-007-000-000-000
MEDC PRODUCTION AVE. LLC
51 RAILROAD ST. SUITE 101
KEENE, NH 03431

110-003-000-000-000
FENTCO REALTY CORP
591 MONADNOCK HWY.
EAST SWANZEY, NH 03446

109-027-000-003-02A
KEENE MZL LLC
254 WEST 31ST ST. 4TH FLOOR
NEW YORK, NY 10001

109-007-000-000-000
MONADNOCK AFFORDABLE HOUS
831 COURT ST.
KEENE, NH 03431

109-027-000-006-001
HOME DEPOT USA INC
2455 PACES FERRY RD.
ATLANTA, GA 30339

109-027-000-003-003
KEENE MZL LLC
254 WEST 31ST ST. 4TH FLOOR
NEW YORK, NY 10001

110-022-000-000-000
NORTHAMPTONBOYS3 LLC
70 BEMIS RD.
HOLYOKE, MA 01040

110-019-000-000-000
JAZZLYN HOSPITALITY II LL
440 BEDFORD ST.
LEXINGTON, MA 02420-1547

109-027-000-003-04A
KEENE MZL LLC
254 WEST 31ST ST. 4TH FLOOR
NEW YORK, NY 10001

109-009-000-000-000
PRINCETON KEENE LLC
1115 WESTFORD ST.
LOWELL, MA 01851

110-021-000-000-000
JHM HIX KEENE LLC
175 KEY RD.
KEENE, NH 03431

109-027-000-003-04B
KEENE MZL LLC
254 WEST 31ST ST. 4TH FLOOR
NEW YORK, NY 10001

242-001-000-000-000
PSNH
780 NORTH COMMERCIAL ST.
MANCHESTER, NH 03101

109-027-000-002-006
KEENE HOLDINGS-T LLC
2 INTERNATIONAL PL. 25TH FLR.
BOSTON, MA 02110

109-027-000-011-011
KEENE MZL LLC
254 WEST 31ST ST. 4TH FLOOR
NEW YORK, NY 10001

110-002-000-000-000
SAI JALA LLC
3 ASH BROOK RD.
KEENE, NH 03431

109-027-000-000-000
KEENE MZL LLC
254 WEST 31ST ST. 4TH FLOOR
NEW YORK, NY 10001

109-027-000-004-007
KEENE MZL LLC
254 WEST 31ST ST. 4TH FLOOR
NEW YORK, NY 10001

109-008-000-000-000
SCHARMETT ROBERT B.
7 COUNTRY LN.
LEOMINSTER, MA 01453

110-001-000-000-000
STATE OF NH
PO BOX 483
CONCORD, NH 03301

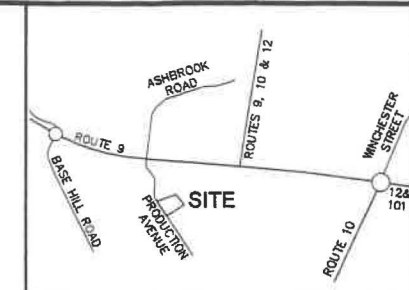
BRICKSTONE LAND USE CONSULTANTS LLC
185 WINCHESTER STREET
KEENE NH 03431

109-027-000-001-005
TARGET CORPORATION
PO BOX 9456
MINNEAPOLIS, MN 55440-9456

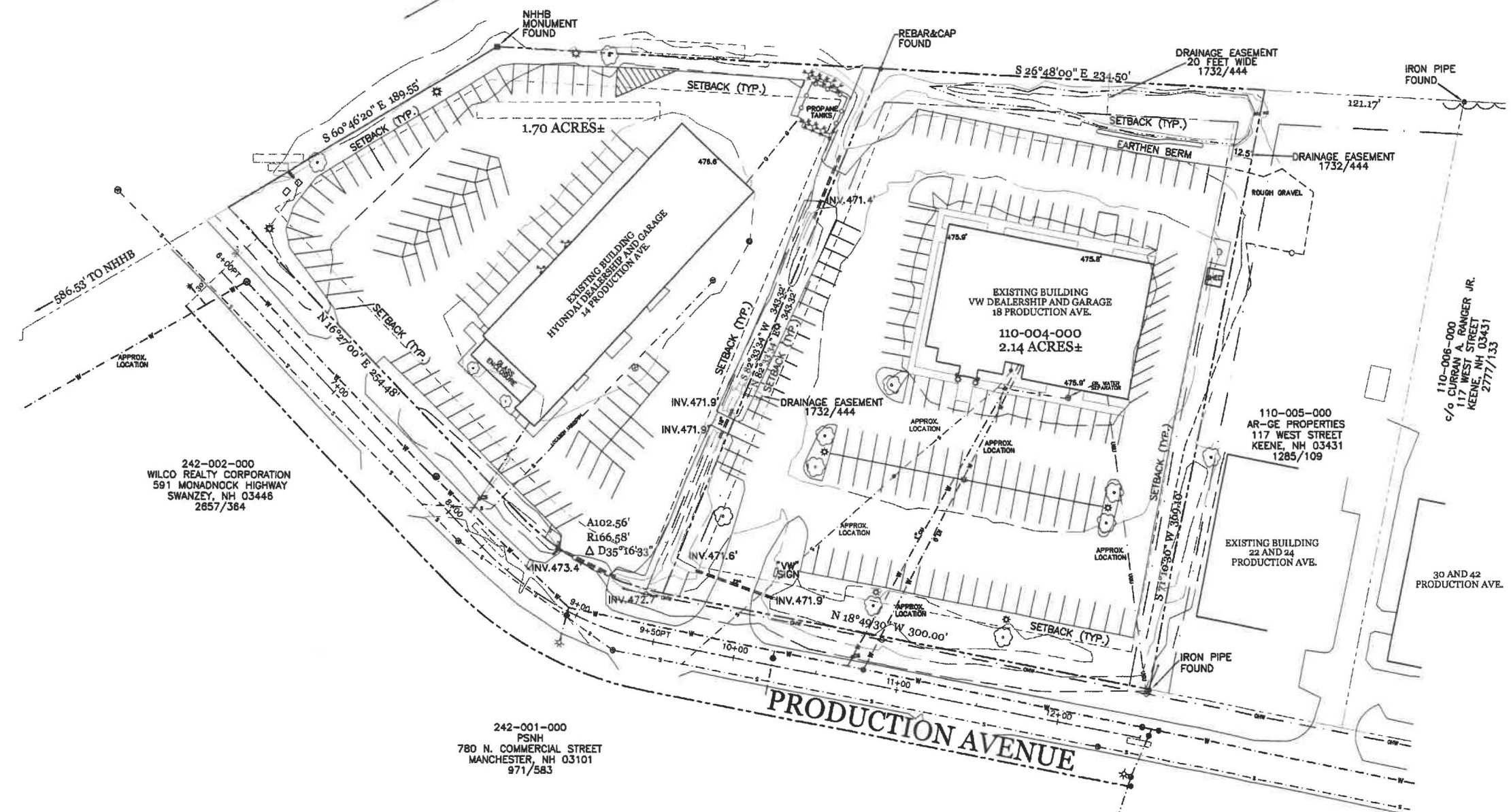
242-002-000-000-000
WILLCO REALTY CORPORATION
591 MONADNOCK HWY.
SWANZEY, NH 03446

110-004-000-000-000
18 PRODUCTION AVE LLC
KEENE NH 03431

REVISIONS:



STATE OF NEW HAMPSHIRE
HIGHWAY RIGHT OF WAY



242-002-000
WILCO REALTY CORPORATION
591 MONADNOCK HIGHWAY
SWANZEY, NH 03448
2657/364

242-001-000
PSNH
780 N. COMMERCIAL STREET
MANCHESTER, NH 03101
971/583

110-007-000
MEDC PRODUCTION AVE, LLC
51 RAILROAD STREET, SUITE 101
KEENE, NH 03431
2984/542

OWNER/DEVELOPER:
18 PRODUCTION
AVE. LLC
18 PRODUCTION AVE.
KEENE, NH 03431

ENGINEER:
SCT ENGINEERING
189 JORDON ROAD
KEENE, NH 03431

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

ADDITION TO NOYES
VOLKSWAGEN, INC.
18 PRODUCTIVE AVENUE
KEENE, NH 03431

LEGEND

- IRON PIN TO BE SET
- IRON PIN FOUND
- ⋄ HYDRANT
- ⊠ SIGN
- UTILITY POLE
- + GUY
- ⊞ CATCH BASIN
- ⊞ WATER VALVE
- ⊞ SEWER MANHOLE
- ⊞ SEWER CLEANOUT
- ⊞ CURB STOP
- WATER LINE
- SEWER LINE
- UNDERGROUND UTILITY LINE

OWNERS CERTIFICATION:

I CERTIFY THAT I AM THE OWNER OF THIS PROPERTY
AND THAT I APPROVE OF THIS SITE PLAN.

[Signature]
OWNER: _____
DATED: 11/11/20



EXISTING
PLAN

SCALE: 1"=40'

DATE: NOV. 9, 2020



PHOTO 1



PHOTO 2



PHOTO 3

PICTURES TAKEN
NOVEMBER 2020

LEGEND

- IRON PIN TO BE SET
- IRON PIN FOUND
- * HYDRANT
- 4 SIGN
- UTILITY POLE
- GUY
- EB CATCH BASIN
- WATER VALVE
- SEWER MANHOLE
- SEWER CLEANOUT
- CURB STOP
- WATER LINE
- SEWER LINE
- UNDERGROUND UTILITY LINE
- PROPOSED WALL MOUNTED LIGHT
- DUMPSTER WITH 6' SOLID FENCING

OWNERS CERTIFICATION:

I CERTIFY THAT I AM THE OWNER OF THIS PROPERTY AND THAT I APPROVE OF THIS SITE PLAN.

OWNER: *[Signature]*

DATED: 11/11/20

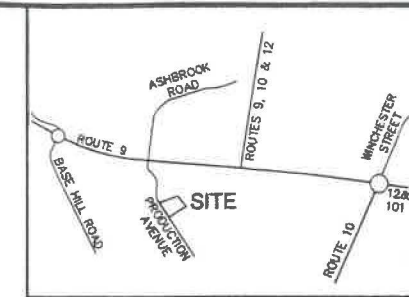
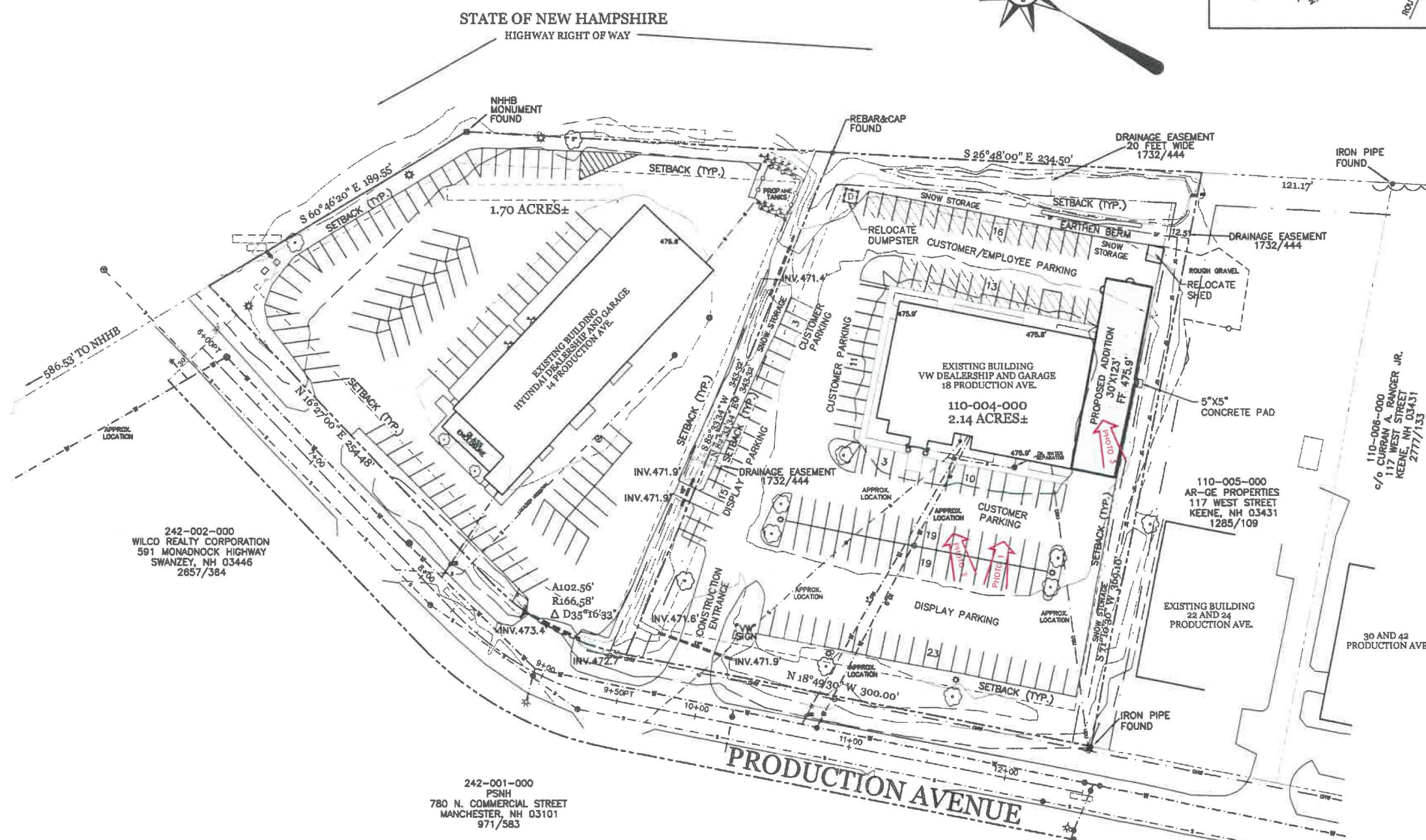


PARKING

- CUSTOMER/EMPLOYEE PARKING
- CUSTOMER PARKING
- DISPLAY PARKING

LOT DATA

ZONING	INDUSTRIAL DISTRICT
TAX MAP #	110-004-000
LOT SIZE	93,343 SF - 2.14 AC±
EXISTING LOT COVERAGE	
BUILDINGS/DECKS	10,489 SF - 11.2%
PAVING/GRAVEL/WALK	59,082 SF - 63.3%
TOTAL	69,571 SF - 74.5%
PROPOSED LOT COVERAGE	
BUILDINGS/DECKS	14,179 SF - 15.2%
PAVING/GRAVEL/WALK	55,392 SF - 59.3%
TOTAL	69,571 SF - 74.5%
PARKING	
EXISTING	11,230 SF @ 1/200 SF = 56 SPACES REQUIRED
PROPOSED	14,920 SF @ 1/200 SF = 75 SPACES REQUIRED
	132 SPACES PROVIDED



REVISIONS:

OWNER/DEVELOPER:
18 PRODUCTION AVE. LLC
18 PRODUCTION AVE.
KEENE, NH 03431

ENGINEER:
SCT ENGINEERING
189 JORDON ROAD
KEENE, NH 03431

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

ADDITION TO NOYES VOLKSWAGEN, INC.
18 PRODUCTIVE AVENUE
KEENE, NH 03431

PROPOSED PLAN

SCALE: 1"=40'

DATE: NOV. 9, 2020

18 Woodburn St.
ZBA 20-28



Petitioner requests a Variance to permit the conversion of the current two family into a three family residence per Section 102-791 of the Zoning Ordinance.



NOTICE OF HEARING

ZBA 20-28

A meeting of the Zoning Board of Adjustment will be held on Monday, December 7, 2020 at 6:30 PM to consider the petition of John Pappas, of 82 South Lincoln St., Keene, NH. Due to the COVID-19 State of Emergency, this meeting will be held using the web-based platform, Zoom. The public may access/view the meeting online by visiting www.zoom.us/join or may listen to the meeting by calling (888) 475-4499. The Meeting ID is 839 9261 2795. To notify the public body of any access issues, call (603) 209-4697. More information is available at the City's Zoning Board of Adjustment webpage at www.ci.keene.nh.us/zoning-board-adjustment and on the enclosed document

ZBA 20-28: The Petitioner requests a Variance for property located at 18 Woodburn St., of Keene, Tax Map #548-031-000 that is in the High Density District. The Petitioner requests a Variance to permit the conversion of the current two family into three family residence-renovate the open space-workshop garage into a one bedroom or studio apartment per Section 102-791 of the Zoning Ordinance.

This application is available for public review in the Community Development Department at City Hall, 3 Washington Street, Keene, NH 03431 between the hours of 8:00 am and 4:30 pm by appointment only or online at <https://ci.keene.nh.us/zoning-board-adjustment>. Please call (603) 352-5440 to make an appointment or to speak with a staff person.

ZONING BOARD OF ADJUSTMENT

Corinne Marcou, Clerk

Notice issuance date November 23, 2020

APPLICATION FOR APPEAL

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

For Office Use Only:	
Case No.	<u>ZBA 20-28</u>
Date Filed	<u>11/20/20</u>
Received By	<u>CM</u>
Page	<u>1</u> of <u>13</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) John Pappas Phone: 617-803-5329
 Address 82 S. LINCOLN ST Keene NH 03431
 Name(s) of Owner(s) John Pappas
 Address 82 S. LINCOLN ST Keene NH 03431
 Location of Property 18 Woodburn St Keene NH

SECTION II - LOT CHARACTERISTICS

Tax Map Parcel Number 548/031/000 000/000 Zoning District MD
 Lot Dimensions: Front 57' Rear 57' Side 132' Side 133.92'
 Lot Area: Acres 0.17 Square Feet 7570 APPROX
 % of Lot Covered by Structures (buildings, garages, pools, decks, etc.): Existing 73% Proposed SAME No Charge
 % of Impervious Coverage (structures plus driveways and/or parking areas, etc.): Existing 23% Proposed SAME NO CHANGE
 Present Use Currently 2 Family w/ Woodshop ~~1776 SAFT~~
 Proposed Use Convert to 3 Family - Convert Woodshop to Studio Apt

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.

 Date 11-19-20
 (Signature of Owner or Authorized Agent)

Please Print Name John Pappas

PROPERTY ADDRESS 18 Woodburn St. Keeve Ntt

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 STREET & Neighborhood is mostly comprised of Duplexes, Triplexes & Apt Complexes - Its in keeping w/ surrounding Neighborhood
- It will not affect the value of surrounding Houses & Apt Buildings
- It would not expand the footprint of the existing structure
- It is consistent with surrounding lot sizes for other Duplexes, Triplexes & Apt Complexes thru-out City

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

- It would be in keeping with other duplexes, Triplexes condos & Apt Complexes in surrounding Neighborhood & City overall
- Fits other variances given thru-out City & is conforming to the zoning (Medium Density) on Woodburn St

3. Granting the variance would do substantial justice because:

- Fits other variances given thru-out City & is conforming to the zoning (Med. Density) on Woodburn St & surrounding Streets
- It would utilize the existing structure to its full capacity
- It would be in keeping with the Neighborhood & Streets surrounding the property

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

- It would be in keeping with the Neighborhood & surrounding area that is comprised of many Duplexes, Triplexes, condos & Apt Buildings
- Does not encroach on existing Neighbors as the footprint would not be expanded. It would use only the existing STRUCTURE

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:

- It utilizes the entire structure that currently exists & puts no undue burden on the property or properties that about it
- It does not change the size of the structure or outside appearance of the existing structure
- It is NOT FEASIBLE NOT TO utilize 1,000+ or - sq ft in the middle and of the current structure
- It is much more conducive to the neighbors, current tenants

ii. The proposed use is a reasonable one because:

- To be used as a residential unit than a woodworking shop/garage as previously used & allowed
- It is in keeping with other properties on Woodburn St & the other surrounding streets & neighborhood
- Fits other variances given not only on Woodburn St & surrounding neighborhood but thru-out the city for many multi-family units, Condo's & Apt. Buildings

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.

- It is perfectly reasonable to use the space as a 3rd Apartment & utilize the current space as a 1 bdrm or studio apt. ~~It's currently used~~
Its previous use was a woodworking shop or garage.
- It is in keeping with the surrounding neighborhood
- It fits other variances given thru-out the city & st for many multi-family units, Condo's & Apt Buildings

- It does not affect values or any properties in the surrounding area.

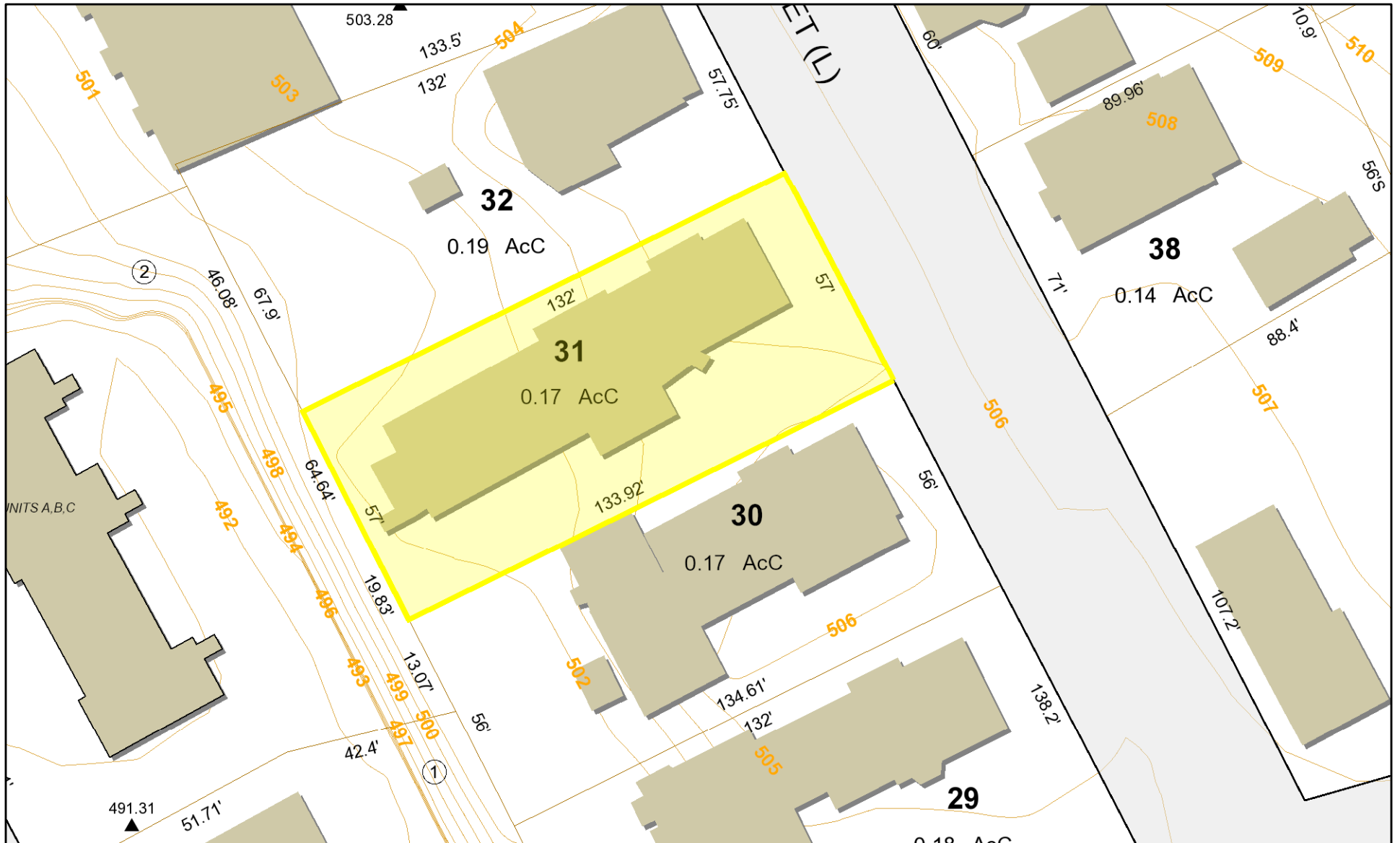


Keene, NH

1 inch = 34 Feet



November 23, 2020



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133.5'

132'

57.75'

(L)

32

0.19 AcC

132'

31

0.17 AcC

57'

164'

57'

133.92'

30

0.17 AcC

19.83'

13.07'

134.61'

132'

56'





Keene, NH



1 inch = 34 Feet



November 19, 202



133.5'
132'

57.75'

32

0.19 AcC

AS it stands Now
SECOND Egress
THRU Basement into front
APT! w/o Front
Furnace/Boiler

UPSTAIRS 1 Bedroom
APT
Install window or door
Approx 36" L.
over space

132'
31

0.17 AcC

Garage

FRONT APT
2 STORY
4 Bedroom
stairs
Front of APT
Porch

Front Apt
Front door

TO upstairs
APT
Back
57'

Space
DOWNSTAIRS
IN GUEST ROOM
Wood shop
Converted to
studio
window enter

Like to install
Another window

133.92'

30

0.17 AcC

19.83'

13.07'

56'

134.61'

132'



200 foot Abutters List Report

Keene, NH
November 19, 2020

Subject Property:

Parcel Number: 548-031-000
CAMA Number: 548-031-000-000-000
Property Address: 18 WOODBURN ST.

Mailing Address: PAPPAS JOHN S.
PO BOX 96
WEST SWANZEY, NH 03469

Abutters:

Parcel Number: 548-012-000
CAMA Number: 548-012-000-000-000
Property Address: 16 PORTLAND ST.

Mailing Address: WARD, GREER S. WARD, AUSTIN J.
16 PORTLAND ST.
KEENE, NH 03431-2514

Parcel Number: 548-013-000
CAMA Number: 548-013-000-000-000
Property Address: 30 PORTLAND ST.

Mailing Address: GILROY-MOSLEY REV. TRUST
26 WILDER ST.
KEENE, NH 03431

Parcel Number: 548-014-000
CAMA Number: 548-014-000-000-000
Property Address: 36 PORTLAND ST.

Mailing Address: ETHIER PAUL D. ETHIER KIMBERLY K.
36 PORTLAND ST.
KEENE, NH 03431

Parcel Number: 548-015-000
CAMA Number: 548-015-000-000-000
Property Address: 42 PORTLAND ST.

Mailing Address: COHEN, PAUL
42 PORTLAND ST.
KEENE, NH 03431-2511

Parcel Number: 548-016-000
CAMA Number: 548-016-000-000-000
Property Address: 163 RIVER ST.

Mailing Address: BILODEAU WILFRED J. RUETER SUSAN
163 RIVER ST.
KEENE, NH 03431

Parcel Number: 548-023-000
CAMA Number: 548-023-000-000-000
Property Address: 168 RIVER ST.

Mailing Address: 168 RIVER STREET PROPERTIES LLC
PO BOX 323
KEENE, NH 03431

Parcel Number: 548-024-000
CAMA Number: 548-024-000-000-000
Property Address: 174-176 RIVER ST.

Mailing Address: 174-176 RIVER STREET ASSOCIATION
160 EMERALD ST.
KEENE, NH 03431

Parcel Number: 548-024-000
CAMA Number: 548-024-000-001-00A
Property Address: 174 RIVER ST.

Mailing Address: GRUBB, PAUL L. GRUBB, CAROL A.
174 RIVER ST.
KEENE, NH 03431

Parcel Number: 548-024-000
CAMA Number: 548-024-000-001-00B
Property Address: 176 RIVER ST.

Mailing Address: KESIREDDY, PRANITHA
740 WEST SWANZEY RD. APT. 208
SWANZEY, NH 03446

Parcel Number: 548-025-000
CAMA Number: 548-025-000-000-000
Property Address: 180-182 RIVER ST.

Mailing Address: 180-182 RIVER STREET ASSOCIATION
160 EMERALD ST.
KEENE, NH 03431



www.cai-tech.com

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200 foot Abutters List Report

Keene, NH
November 19, 2020

Parcel Number: 548-025-000
CAMA Number: 548-025-000-001-00A
Property Address: 180 RIVER ST.

Mailing Address: FAMOLARE, HAZEL A. FAMOLARE,
CHARLES C. JR.
180 RIVER ST.
KEENE, NH 03431-2454

Parcel Number: 548-025-000
CAMA Number: 548-025-000-001-00B
Property Address: 182 RIVER ST.

Mailing Address: MOTUKUPALLY, KOUSHIK
182 RIVER ST.
KEENE, NH 03431-2454

Parcel Number: 548-026-000
CAMA Number: 548-026-000-000-000
Property Address: 188-190 RIVER ST.

Mailing Address: 188-190 RIVER STREET ASSOCIATION
160 EMERALD ST.
KEENE, NH 03431

Parcel Number: 548-026-000
CAMA Number: 548-026-000-001-00A
Property Address: 188 RIVER ST.

Mailing Address: DEDEKAM ANDRE T. DEDEKAM SUSAN
E.
1147 KING ST.
GREENWICH, CT 06831-3246

Parcel Number: 548-026-000
CAMA Number: 548-026-000-001-00B
Property Address: 190 RIVER ST.

Mailing Address: HALPIN, NANCY
190 RIVER ST.
KEENE, NH 03431-2454

Parcel Number: 548-027-000
CAMA Number: 548-027-000-000-000
Property Address: 183-189 RIVER ST.

Mailing Address: ASHER CONSTRUCTION LLC
77 NASHUA RD.
SHARON, NH 03458

Parcel Number: 548-027-000
CAMA Number: 548-027-000-001-00A
Property Address: 183 RIVER ST.

Mailing Address: NEUMANN JENNIFER-LYNN
183 RIVER ST.
KEENE, NH 03431

Parcel Number: 548-027-000
CAMA Number: 548-027-000-001-00B
Property Address: 185 RIVER ST.

Mailing Address: BRANDLEY FAMILY REV. TRUST
80 KATIE LN.
SWANZEY, NH 03446

Parcel Number: 548-027-000
CAMA Number: 548-027-000-001-00C
Property Address: 189 RIVER ST.

Mailing Address: BRANDLEY WILLIAM M.
80 KATIE LN.
SWANZEY, NH 03446

Parcel Number: 548-028-000
CAMA Number: 548-028-000-000-000
Property Address: 175 RIVER ST.

Mailing Address: NICHOLAS CLAUDETTE D. REV. TRUST
175 RIVER ST.
KEENE, NH 03431-2433

Parcel Number: 548-029-000
CAMA Number: 548-029-000-000-000
Property Address: 6 WOODBURN ST.

Mailing Address: TAYLOR, ALI J.
59 ARROWCREST DR.
SWANZEY, NH 03446

Parcel Number: 548-030-000
CAMA Number: 548-030-000-000-000
Property Address: 12 WOODBURN ST.

Mailing Address: BELANGER NORBERT C. BELANGER
MARIA O.
12 WOODBURN ST.
KEENE, NH 03431



www.cai-tech.com

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200 foot Abutters List Report

Keene, NH
November 19, 2020

Parcel Number: 548-032-000 CAMA Number: 548-032-000-000-000 Property Address: 24 WOODBURN ST.	Mailing Address: COLEMAN THERESA J. 24 WOODBURN ST. KEENE, NH 03431-2527
Parcel Number: 548-033-000 CAMA Number: 548-033-000-000-000 Property Address: 28-34 WOODBURN ST.	Mailing Address: WOODBURN ASSOCIATES 48 WHITTEMORE FARM RD. SWANZEY, NH 03446-3416
Parcel Number: 548-035-000 CAMA Number: 548-035-000-000-000 Property Address: 37 WOODBURN ST.	Mailing Address: BOWER, DANIEL R. 37 WOODBURN ST. #1 KEENE, NH 03431-2528
Parcel Number: 548-036-000 CAMA Number: 548-036-000-000-000 Property Address: 25 WOODBURN ST.	Mailing Address: PAPPAS JOHN S. PO BOX 96 WEST SWANZEY, NH 03469
Parcel Number: 548-037-000 CAMA Number: 548-037-000-000-000 Property Address: 21 WOODBURN ST.	Mailing Address: MCCARROLL MARC JOSEPH 21 WOODBURN ST. KEENE, NH 03431
Parcel Number: 548-038-000 CAMA Number: 548-038-000-000-000 Property Address: 19 WOODBURN ST.	Mailing Address: BEDAW, ERIC ROBERT DILLON BEDAW, ALEX JAMES 19 WOODBURN ST. KEENE, NH 03431
Parcel Number: 548-039-000 CAMA Number: 548-039-000-000-000 Property Address: 25 PORTLAND ST.	Mailing Address: JOHNSON HARRY H. JR. 25 PORTLAND ST. KEENE, NH 03431
Parcel Number: 548-040-000 CAMA Number: 548-040-000-000-000 Property Address: 15-17 PORTLAND ST.	Mailing Address: GEORGAKOPOULOS COSTAS GEORGAKOPOULOS JOYCE A. 4 ANGELO LN. LONDONDERRY, NH 03053
Parcel Number: 548-042-000 CAMA Number: 548-042-000-000-000 Property Address: 296 COURT ST.	Mailing Address: HAGAN, MICHAEL E. HAGAN, TARYN L. 296 COURT ST. KEENE, NH 03431
Parcel Number: 548-043-000 CAMA Number: 548-043-000-000-000 Property Address: 302 COURT ST.	Mailing Address: FISHER, TARYN 302 COURT ST. KEENE, NH 03431-2504
Parcel Number: 548-044-000 CAMA Number: 548-044-000-000-000 Property Address: 306 COURT ST.	Mailing Address: JG PROPERTIES LLC 55 MAIN ST. KEENE, NH 03431
Parcel Number: 548-045-000 CAMA Number: 548-045-000-000-000 Property Address: 314 COURT ST.	Mailing Address: BUSSIÈRE, MICHAEL BUSSIÈRE, MARJORIE 314 COURT ST. KEENE, NH 03431-2504



www.cai-tech.com

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96 Dunbar St.
ZBA 20-29



Petitioner requests an Enlargement of a Nonconforming Use to expand the existing indoor self-storage space from 1,800 sf to as much as 6,700 sf on the ground floor of the existing building.



NOTICE OF HEARING

ZBA 20-29

A meeting of the Zoning Board of Adjustment will be held on Monday, December 7, 2020 at 6:30 PM to consider the petition of Knotty Pine Antique Market Inc., of 96 Dunbar St., Keene, NH, represented by Jim Phippard of Brickstone Land Use Consultant of 185 Winchester St., Keene. Due to the COVID-19 State of Emergency, this meeting will be held using the web-based platform, Zoom. The public may access/view the meeting online by visiting www.zoom.us/join or may listen to the meeting by calling (888) 475-4499. The Meeting ID is 839 9261 2795. To notify the public body of any access issues, call (603) 209-4697. More information is available at the City's Zoning Board of Adjustment webpage at www.ci.keene.nh.us/zoning-board-adjustment and on the enclosed document

ZBA 20-29: The Petitioner requests an Enlargement of a Nonconforming Use for property located at 96 Dunbar St., of Keene, Tax Map #585-007-000 that is in the Central Business District. The Petitioner requests an Enlargement of a Nonconforming Use to expand the existing indoor self-storage space from 1,800 sf to as much as 6,700 sf on the ground floor of the existing building. The second floor of the building is currently 5,955 sf of self-storage. Currently the Knotty Pine Antiques auction gallery occupies 4,900 sf on the ground floor. Due to COVID-19, the owner wishes to convert the gallery space to self-storage units.

This application is available for public review in the Community Development Department at City Hall, 3 Washington Street, Keene, NH 03431 between the hours of 8:00 am and 4:30 pm by appointment only or online at <https://ci.keene.nh.us/zoning-board-adjustment>. Please call (603) 352-5440 to make an appointment or to speak with a staff person.

ZONING BOARD OF ADJUSTMENT

Corinne Marcou, Clerk

Notice issuance date November 23, 2020

APPLICATION FOR APPEAL

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

For Office Use Only:	
Case No.	<u>ZBA 20-29</u>
Date Filed	<u>11/20/2020</u>
Received By	<u>CSM</u>
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

- 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) Knotty Pine Antique Market Inc Phone: 9/0 357-0116
Address PO Box 96 West Swanzey NH 03469
Name(s) of Owner(s) Knotty Pine Antique Market Inc
Address PO Box 96 West Swanzey NH 03469
Location of Property 96 Dunbar Street

SECTION II - LOT CHARACTERISTICS

Tax Map Parcel Number 585-007-000 Zoning District Central Business
Lot Dimensions: Front 119.27 +/- Rear 121 +/- Side 136 +/- Side 144 +/-
Lot Area: Acres 0.38 Square Feet 16553 +/-
% of Lot Covered by Structures (buildings, garages, pools, decks, etc.): Existing 39 % Proposed 39%
% of Impervious Coverage (structures plus driveways and/or parking areas, etc.): Existing 100 % Proposed 100%
Present Use Retail Sales & Self Storage
Proposed Use Retail Sales & Self Storage

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 11-16-20
(Signature of Owner or Authorized Agent)

Please Print Name John Pappas

PROPERTY ADDRESS 96 Dunbar Street

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:

Expand the existing indoor self-storage space from 1800 sf to as much as 6700 sf on the ground floor of the existing building. The second floor of the building is currently 5955 sf of self-storage. Currently the Knotty Pine Antiques auction gallery occupies 4900 sf on the ground floor. Due to COVID-19, the owner wishes to convert the gallery space to self-storage units.

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.**

The existing building contains 7,555 sf of self storage space which was approved by variance on June 04, 2018. The remaining 4900 sf of the building is currently used for the Knotty Pine Antiques auction gallery. Due to COVID-19 the auction gallery cannot have a large group in attendance at auctions, which has made the auctions unfeasible to continue. The existing self-storage units have not resulted in any problems with noise, traffic, or other issues which have been injurious, obnoxious or offensive to the neighborhood. They typically average 4-6 visitors per day for the self-storage units. All of the storage is inside the building with no outside storage. Granting this request will have no effect on property values within the district.

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

There are 13 on-site parking spaces existing at 96 Dunbar Street which provides adequate parking for the visitors to the site. There is also a sidewalk along the north side of Dunbar Street which extends from Main Street to the site. The small amount of traffic generated by the self storage use will not create a nuisance or hazard for 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 site is serviced with city sewer and city water and the building is sprinklered for fire protection. No additional city services are required for the proposed additional storage spaces. On-site parking is provided for 13 cars where zoning requires only 5 spaces. The traffic resulting from the additional storage space will be far less than the previous auction gallery traffic.



City of Keene
New Hampshire

NOTICE OF DECISION

ZONING BOARD OF ADJUSTMENT

CASE NUMBER: ZBA 18-11
Property Address: 96 Dunbar St.
Zone: Central Business District
Owner: Dunbar Opportunity, LLC
Petitioner: Jim Phippard, Brickstone Land Use Consultants, LLC
Date of Decision: June 4, 2018

Notification of Decision:

Petitioner, Jim Phippard, of Brickstone Land Use Consultants, LLC, requested a Variance for property located at 96 Dunbar St. which is in the Central Business District and owned by Dunbar Opportunity, LLC. This request was to permit self-storage units inside an existing warehouse building where a self-storage facility is not a permitted use in the Central Business District per Section 102-482, Central Business District, Permitted Uses, has been approved 3-1 with conditions.

Conditions: 1. The approval is to allow a 7,555 square foot self-storage facility with the condition to stay within the existing building footprint.


Corinne Marcou, Clerk

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

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

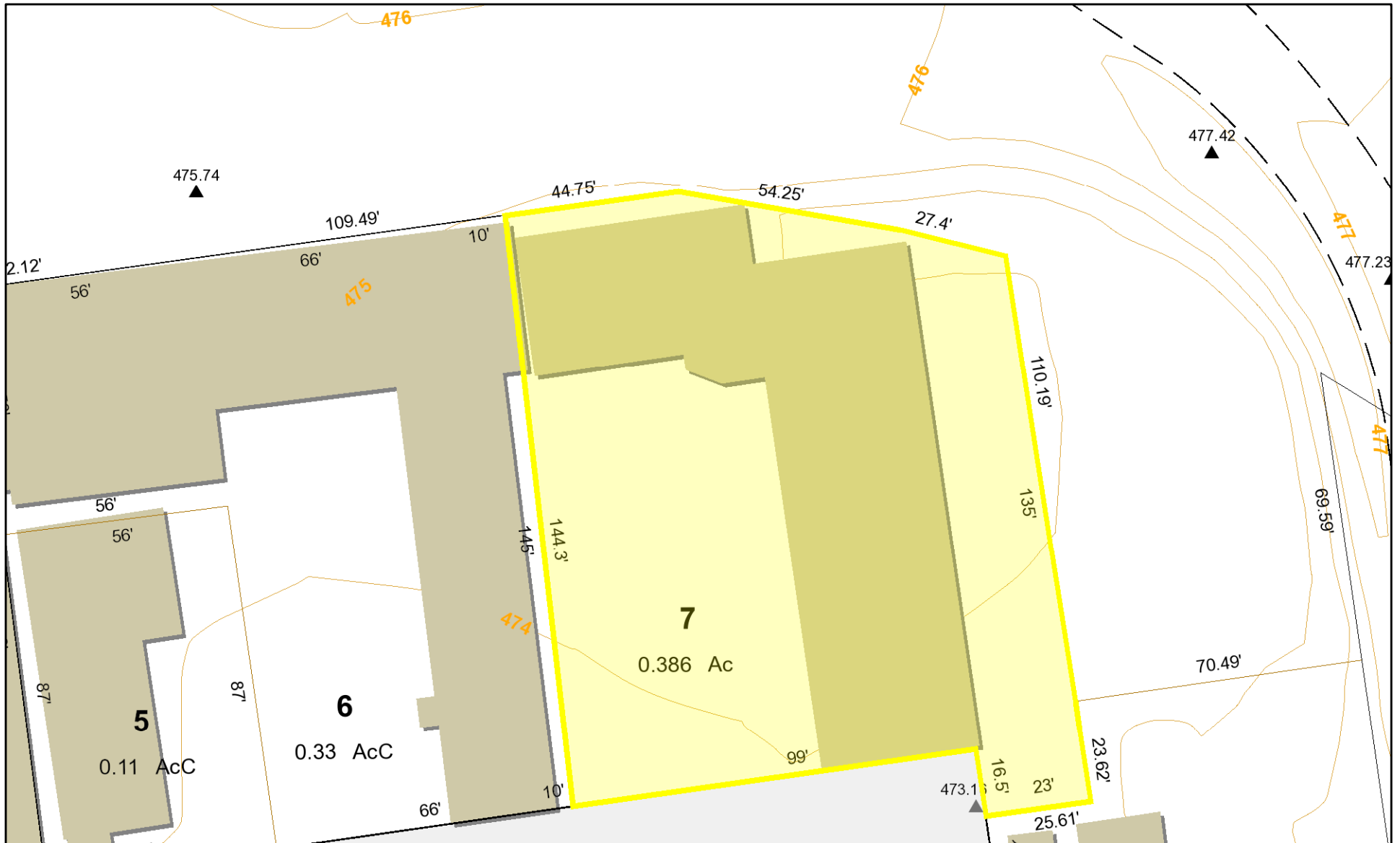


Keene, NH

1 inch = 34 Feet



November 23, 2020



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

ABUTTERS TO 96 DUNBAR STREET

585007000000

KNOTTY PINE ANTIQUE MARKET INC
PO BOX 96
WEST SWNZEY NH 03469

585006000000

KEVIN R BEAL
303 COURT STREET
KEENE NH 03431

585005000000

GOOD OL DAVES LLC
10 GATEHOUSE ROAD STE 125
AMHERST MA 01002

585025000000

CITYSIDE HOUSING ASSC LP
63 COMMUNITY WAY
KEENE NH 03431

Brickstone Land Use Consultants LLC

185 Winchester Street
Keene NH 03431

585027000000,585028000000

GREEN DIAMOND GROUP LLC
143 CENTRE ST
EAST SULLIVAN NH 03445

585008000000,585023000000ETC

WENDI HULSLANDER
20 VINE STREET
KEENE NH 03431

585026000000

CITY OF KEENE
3 WASHINGTON STREET
KEENE NH 03431

585022000000

Daisy Properties LLC
PO BOX 427
KEENE NH 03431

585009000000

TWO YELLOW DOGS TRUST
33 HILLVIEW TERRACE
LITTLETON NH 03561-4807

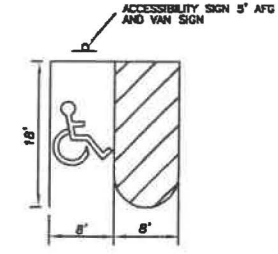
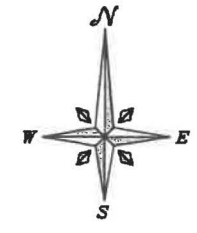
574041000000

RAILROAD STREET CONDOMINIUM
ASSC
PO BOX 603
KEENE NH 03431-0603

574038000

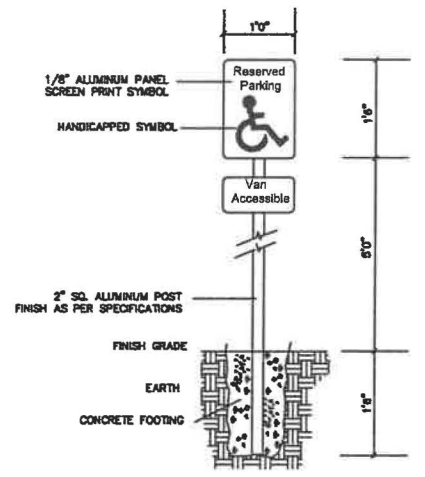
FINDINGS REALTY INC
97 EASTSIDE ROAD
HARRISVILLE NH 03450

REVISIONS: DATE:
 OCTOBER 4, 2018
 PLANNING STAFF COMMENTS
 ADD EXIST. UTILITIES
 ADD ZBA APPROVAL NOTE
 APRIL 9, 2019
 ADD TREES TO EAST SIDE
 REVISE PARKING



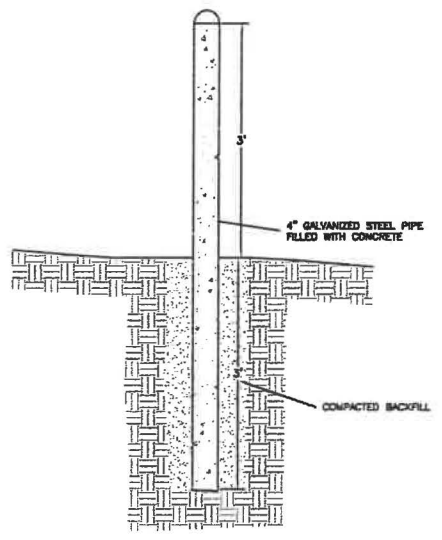
VAN ACCESSIBLE SPACE

- NTS
1. ACCESS ISLE SHALL HAVE A FIRM NON SLIP SURFACE
 2. ACCESS ISLE AND PARKING SPACE MAX SLOPE OF 2%
 3. IF ACCESSIBLE ROUTE IS LOCATED IN FRONT OF THE PARKING SPACE, WHEELSTOPS MAY BE REQUIRED TO KEEP VEHICLE OVERHANG FROM REDUCING WIDTH BELOW 36 INCHES.



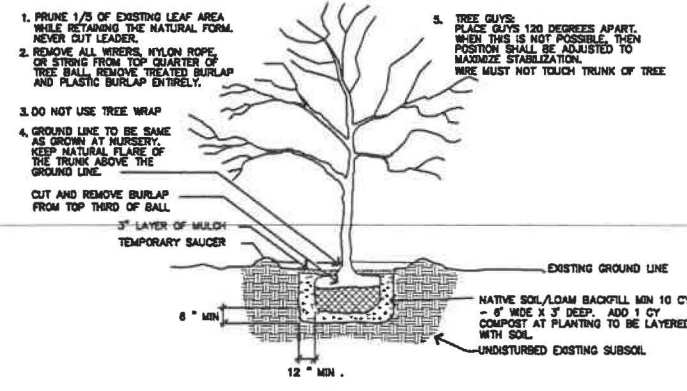
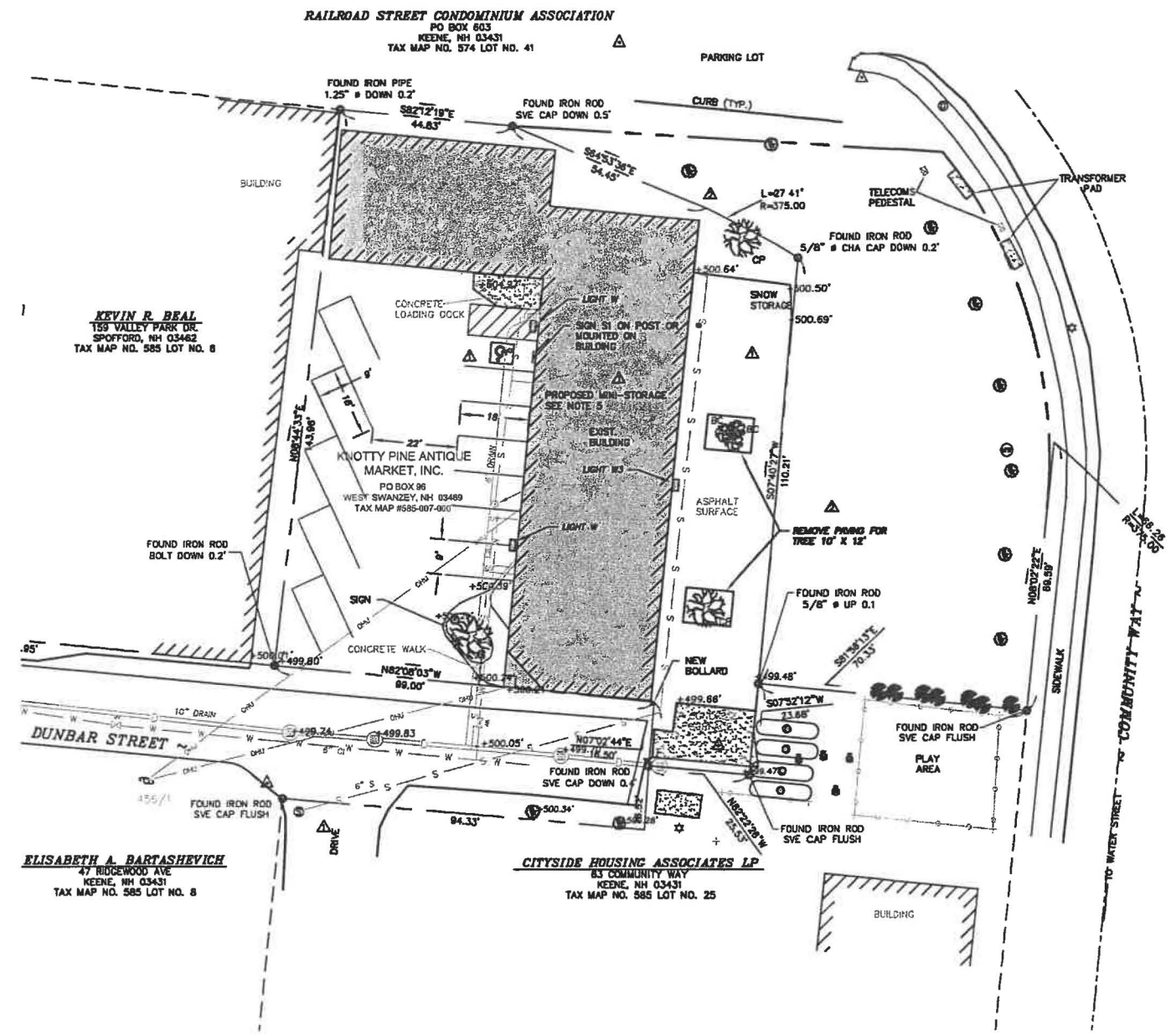
SIGN S1 - HANDICAPPED PARKING SIGN

SCALE: NOT TO SCALE



BOLLARD DETAIL

(NTS)
 OTHER SUITABLE MATERIAL ACCEPTED SUCH AS 3" STEEL BEAMS, RAILROAD RAILS, ETC. PENDING APPROVAL BY OWNER.



DETAIL OF TREE PLANTING AND GUYING

NOT TO SCALE

LANDSCAPE LEGEND

	GOLD TIP JUNIPER	2 EA	18"- 24"	4 FEET
	SARGENT FLOWERING CRAB	1 EA	1 1/2- 2' CAL.8" HEIGHT 6' WIDTH	18 FEET
	3 STEM PAPER BIRCH	1 EA	1 1/2- 2' CAL.8" HEIGHT 6' WIDTH	45 FEET
	CHANTICLEER PEAR	2 EA	3 - 3 1/2' CAL.8" HEIGHT 6' WIDTH	25 FEET

LOT DATA

ZONING	CENTRAL BUSINESS
TAX MAP #	585-007-000
LOT SIZE	17,234 SF - 0.39 AC±
BUILDING	6,884 SF - 32%
PAVING	9,590 SF - 55%
TOTAL	16,274 SF - 94%

PARKING PROVIDED - 11 SPACES
 PARKING REQUIRED - NONE (CENTRAL BUSINESS DIST.)

GENERAL NOTES

1. THIS PLAN IS BASED ON A SURVEY BY DIBERHARDO ASSOCIATES SUPPLIED TO THIS OFFICE IN DIGITAL FORM. THIS PLAN IS NOT INTENDED TO REPRESENT A BOUNDARY SURVEY OF THIS PROPERTY. LOCATION OF UTILITIES IS FROM THE CITY OF KEENE ENGINEERING DEPARTMENT RECORDS AND THE ABOVE PLAN. LOCATIONS ARE APPROXIMATE. CONTRACTOR TO VERIFY LOCATIONS OF ALL UTILITIES PRIOR TO EXCAVATION.
2. CONTRACTOR TO NOTIFY "DIG SAFE" AT 811 A MIN. OF 72 HOURS PRIOR TO THE START OF EXCAVATION.
3. THIS PROPERTY IS NOT LOCATED WITHIN THE 100 YEAR FLOODPLAIN FOR THE CITY OF KEENE.
4. PROPOSED MINI-STORAGE USE APPROVED BY THE KEENE ZONING BOARD APPLICATION #18-11 ON JUNE 4, 2018. TOTAL MINI-STORAGE SQUARE FOOTAGE NOT TO EXCEED 7,555 SF IN THE EXISTING BUILDING PER ZBA APPROVAL.

LEGEND

	CATCH BASIN		PROPANE TANK
	CLEAN OUT		SILT FENCE, HAYBALES
	WET LAND FLAG		WETLAND BUFFER
	GUY ANCHOR		PROPERTY LINE
	HYDRANT		STONE WALL
	IRON PIN FOUND		TREELINE
	MONUMENT FOUND		VERTICAL GRANITE CURB
	SIGN		SLOPED GRANITE CURB
	TEST PIT		TIP DOWN CURB
	UTILITY POLE		CORRUGATED PLASTIC PIPE
	WATER VALVE		PERFORATED CORRUGATED PLASTIC PIPE
	EDGE OF WATER		SINGLE SOLID WHITE LINE
	WATER LINE		WELL
	SEWER LINE		CURB STOP
	ELECTRIC, TV, TELEPHONE		GATE VALVE
	GAS LINE		DRAINAGE VECTOR
	EXISTING GRADE		SOILS TEST PIT
	PROPOSED GRADE		
	DRAIN LINE		
	STONE CHECK DAM		

ENGINEER:
 THAYER FELLOWS, PE
 COUNTY ROAD
 P. O. BOX 428
 WALPOLE, NH
 03608-0428

OWNER:
 KNOTTY PINE ANTIQUE MARKET, INC.
 PO BOX 96
 WEST SWANZEY, NH 03469
 TAX MAP #585-007-000

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

KNOTTY PINE ANTIQUES & SELF STORAGE
 96 DUNBAR STREET
 KEENE, NEW HAMPSHIRE, 03431

ZBA PLAN

SCALE: 1"=20'

DATE: SEPT. 18, 2018

SHEET 2



ZONING BOARD OF ADJUSTMENT 2021 SCHEDULE

<u>Deadline</u>	<u>Meeting**</u>
December 18, 2020	January 4, 2021
January 15, 2021	February 1, 2021
February 12, 2021	March 1, 2021
March 19, 2021	April 5, 2021
April 16, 2021	May 3, 2021
May 21, 2021	June 7, 2021
June 18, 2021	July 6, 2021*
July 16, 2021	August 2, 2021
August 20, 2021	September 7, 2021*
September 17, 2021	October 4, 2021
October 15, 2021	November 1, 2021
November 19, 2021	December 6, 2021
December 17, 2021	January 10, 2022

* July and September meeting is scheduled for Tuesday due to the holiday

**All meetings begin at 6:30 PM and are held on the first Monday of each month in the Council Chambers, 2nd fl, City Hall unless stated otherwise