



Town of Hopkinton

Planning Department

330 Main Street, Hopkinton NH 03229-2627 - (603) 746-8243 – planzone@hopkinton-nh.gov

HOPKINTON ZONING BOARD OF ADJUSTMENT PUBLIC NOTICE – AGENDA SEPTEMBER 7, 2021

The **Hopkinton Zoning Board of Adjustment** will meet on Tuesday, September 7, 2021, at 5:30 PM in the Hopkinton Town Hall, 330 Main Street, Hopkinton, to review and take action on the following:

I. Call to Order/Roll Call.

II. Applications.

#2021-9 Baystone Properties, LLC Special Exception to permit one building with twelve (12) dwelling units at 71 Cedar Street, Tax Map 102, Lot 35, VR-1 district, per Zoning Ordinance 3.6.A.3 and 4.4.7.

#2021-10 T. F. Bernier, Inc. Variance from Zoning Ordinance 4.2 to permit one lot having less than the required contiguous frontage. The property is owned by John H. Lynch Irrevocable Trust of 2012, located off Gould Hill Road, Tax Map 240 as Lot 51, R-2, and R-3 districts.

#2021-11 Paula Dow Variance from Zoning Ordinance 3.12.4(I) to permit an additional curb cut to access a future detached Accessory Dwelling Unit. The property is owned by Stephen and Paula Dow, located at 875 East Penacook Road, Tax Map 245, Lot 12, R-3 district, R-3 district.

III. Review of Minutes and Notices of Decisions of June 1, June 8, July 7, and August 3, 2021.

IV. Other Business.

V. Adjournment.

Participation, at appropriate times, via Zoom website: <https://us06web.zoom.us/j/91741198970> or by phone dialing 1-929-205-6099 and using Meeting ID: 917 4119 8970 is available.

Application #2021-9

BAYSTONE PROPERTIES, LLC

Special Exception – Twelve (12) dwelling units.



Town of Hopkinton

330 Main Street • Hopkinton, New Hampshire 03229 • www.hopkinton-nh.gov
Tel: 603-746-3170 Fax: 603-746-3049

HOPKINTON ZONING BOARD OF ADJUSTMENT APPLICATION FOR APPEAL

7/16/21
\$ 255 ✓ 5557

Ten completed copies of the application with all supporting documentation must be submitted.

Name of Applicant: Baystone Properties, LLC
Mailing Address: 44 North Shore Road, Derry, NH 03038
Telephone (days): 774-327-8331
Name of Property Owner: Baystone Properties, LLC (Shaun Geary)
Mailing Address: 44 North Shore Road, Derry, NH 03038
Telephone (days): 774-327-8331
Tax Map: 102 Lot: 35 Location of Property: 71 Cedar Street

Zoning of property in question (circle one): R-1 R-2 R-3 R-4 B-1 M-1 VR-1 VB-1 VM-1

Section of Hopkinton Zoning Ordinance under which your application was denied or you believe your proposal relates to: Section: IV Paragraph/Table: 4.4.7 (3.6.A.3) KR

A copy of your denied Building/Use Application or administrative decision must be attached.

This application is for: ☐ Variance ☒ Special Exception ☐ Equitable Waiver ☐ Administrative Appeal

The undersigned hereby requests a Variance, Special Exception, Equitable Waiver, and Administrative Appeal to permit the following:

To allow one building with 12 dwelling units as permitted by special in zone VR-1.

NOTE: Additional information may be supplied on a separate sheet if the space provided is inadequate.

1. Hearing, Abutter, Notification Fees:

- Variance – \$100.00
- Special Exception – \$100.00
- Equitable Waiver – \$100.00
- Administrative Appeal – \$100.00
- Rehearing – \$100.00
- Notification of each Owner, Applicant, Agent, Abutter – \$5.00
- Published Notice – \$75.00

2. List of names and mailing addresses of all abutters to the property as defined by NH RSA 672:3. Supply information on separate sheet. Abutter is any person whose property adjoins or is directly across the street or stream from the land under consideration.

[Signature] 7/15/21

3. **Attach location map showing exact location of property in relation to at least one prominent landmark (road junction, business, town building, etc.).** Include north arrow and label road names. Indicate with an X the location of the property in question.
4. **Attach site plan of property showing:** Boundaries and area of parcel; north point, scale, legend, and location, size and type of all existing and proposed buildings, uses, parking, signs, roadways, screening, etc. Map submitted to included one full-size and ten 11" x 17" or less.
5. **List provisions to be made for septic disposal, fire protection, water supply, parking, noise, smoke, surface drainage, etc.** Supply information on separate sheet.
6. **Letter of Authorization to allow an Agent or Attorney to represent Applicant, if applicable.**
7. **Copy of property deed of the subject property.**
8. **Any other pertinent information that you feel the Board may need to assist in their decision-making process.**

You must appear at the public hearing or be presented by an authorized agent or attorney for the Board to act on your application. The application will be terminated or tabled for failure to appear at a scheduled public hearing, without first providing written notification to the Planning Department.

You are fully responsible for researching and knowing any and all laws, which may be applicable and affect the outcome of the Board's decision on your application request. The Town of Hopkinton assumes no responsibility or liability relating to your failure to research and know all applicable laws including, but not limited to, state, federal and local laws, codes, land development regulations and comprehensive plan. The Town of Hopkinton strongly encourages all applicants to consider consulting an attorney regarding their application.

You are encouraged to review the attached Rules of Procedures used by the Board of Adjustment at the public hearing.

I/we being duly sworn, depose and say that I am/We are the owner(s)/lessee(s) of land included in the application and that the foregoing statements herein contained and attached, and information or attached exhibits thoroughly to the best of my/our ability represent the arguments on behalf of the application herewith submitted and that the statements and attached exhibits referred to are in all respect true and correct to the best of my/or knowledge and belief.

In addition, I/We understand this application must be filed with all pertinent information as it pertains to the requirements of the Town of Hopkinton Zoning Ordinance and all other information requested or required by the Zoning Board of Adjustment in order to be considered complete. I/We understand that this application will not be filed until all required information has been received, and do further understand that the Town of Hopkinton reserves the right to postpone this request until such time as the requirements are met.

Furthermore, I/We understand that I/We, our representative as stated on the application, should appear at the public hearing. If photographs, documents, maps or other materials are provided to the Board as evidence at the public hearing, said evidence will become property of the Town of Hopkinton and will remain on file for future reference.

Also, I/We recognize and understand that the public hearing before the Board of Adjustment regarding land development is considered quasi-judicial in nature. **State and local law strictly prohibits applicants and/or interested parties from taking part in ex-parte communications with Board members in person, by phone, e-mail, or in writing before the application is discussed at a public hearing.**

 7/15/21

SPECIAL EXCEPTION
(Section XV)

In order to secure a variance, the Zoning Board of Adjustment must determine by law that your Special Exception request satisfies the following criteria of the Zoning Ordinance. **Please provide a written response along with any other supporting documentation for each of the following criteria.** Please note that all criteria must be satisfied and supported by the Zoning Board of Adjustment in order for a Special Exception to be granted. Should the space provided be inadequate, please attach additional pages to this application.

1. **Standards provided by this Ordinance for the particular use permitted by special exception.**
Section III Table 3.6 Section 3, Dwelling, Multi-Family with a maximum of 12 dwelling units per building by Special Exception.

2. **No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials.**
The proposed dwellings will be residential dwelling with no increase for the potential for fire, explosion or release of toxic materials than any other residential dwelling with the town.

3. **No detriment to property values in the vicinity or change in the essential characteristics of a residential neighborhood on account of the location or scale of buildings and other structures, parking areas, access ways, odor(s), smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials.**
The development will not be detrimental to the property values within the vicinity as the development is located within a village area that includes many commercial, multi-family and residential uses. The proposed use of 12 residential dwellings will add new housing stock within the village area.

4. **No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity.**
The proposed 12 residential units are not expected to produce any traffic safety hazards. The proposed site will have one access point to Cedar Street, controlling all traffic coming and going from the site. A 1 car garage is proposed with each unit, as well as, 1 space per unit provided on site at the rear of the building, giving each unit 2 parking spaces.

5. **No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection, and schools.**
The Department of Public Works has confirm the availability of water and sewer capacity. In reference to waste disposal there will be a dumpster available on the adjacent site for the use by all unit owners. The building will be built to current building codes and requirements by the town. There is a fire hydrant located on River Street within 400' of the site which provide sufficient fire protection. The schools will see very little impact from this development with average of children per household is less than 1 child per household in the latest Census.

6. **No significant increase of storm water runoff onto adjacent property or streets.**
There will be no increase of storm water runoff onto adjacent property or streets. We are proposing a drainage system that includes a ADS infiltration system under the proposed parking along with a series of catch basins to collect all stormwater run off to include roof and impervious areas.

7. **An appropriate location for the proposed use.**
The location of the proposed 12 dwelling units is in an area of commercial, multi-family and residential uses. We have confirmed with the Department of Public works that there is sufficient sewer and water capacity to service these units.


 7/15/21

8. **Not affect adversely the health and safety of the residents and others in the area and not be detrimental to the use or development of adjacent or neighboring properties.**

The proposed 12 dwelling units will have no health or safety adverse effects on the residents and others in the area as the number of proposed units, 12, meet the density requirements, stormwater control requirements and municipal sewer and water capacity has been confirmed.

9. **In the public interest and in the spirit of the ordinance.**

The 12 dwelling units are below the allowed density on the property. 13 are allowed and conforms with the requirement of having one principal building on the property.

1  7/15/21

Town of Hopkinton, NH List of Abutters					
Map	Lot(s)	Property Owner(s) Name	Mailing Address	Office Use Only	
101	15	Ernest and Matthew Thibodeau	35 Cedar Street, Contoocook, NH 03229		
101	14.1 & 14.2	Cedar Street Properties, LLC	P.O. Box 1253, Grantham, NH 03753		
101	13	Scott & Brett Crantherm	163 Gould Hill Road, Contoocook, NH 03229		
102	46	United Methodist Church	P.O. Box 356, Contoocook, NH 03229		
104	45	Joshua Smith	115 North Main Street, Boscawen, NH 03303		
102	36	Glenn Melissa Smart	81 Cedar Street, Contoocook, NH 03229		
102	29	David Fisk	88 Cedar Street, Contoocook, NH 03229		
102	30	Daniel & Janice Aranki	70 Cedar Street, Contoocook, NH 03229		
102	31	Andris & Florence Serzans	60 Cedar Street, Contoocook, NH 03229		
102	32	Charles & Anne Rotondi	54 Cedar Street, Contoocook, NH 03229		
102	33	Robert MacNeil	50 Cedar Street, Contoocook, NH 03229		
101	16	O'Rourke & Greenblott Holding, LLC	P.O. Box 465, Hopkinton, NH 03229		
101	17	Town of Hopkinton	330 Main Street, Hopkinton, NH 03229		
Survey		New Hampshire Land Consultants	683C First NH Turnpike, Northwood, NH 03261		
Engineer		Bernie Temple	P.O. Box 7, Gilmanton, NH 03837		

1. List names and mailing addresses of applicant(s), property owner(s), and abutters.
2. List names and mailing addresses of all professionals whose seal appears on any plan.
3. For condominium associations and property owner association, the officers of the association are the abutters to be notified.
4. List names and mailing addresses of any holder of conservation, preservation or agricultural preservation easements or restrictions on any parcels included in the proposed project or subdivision.

 7/15/21

Return to:
Baystone Properties, LLC
162 Barton Corner Road
Hopkinton, NH 03229

\$40

WARRANTY DEED

Anne R. Rotondi and Charles S. Rotondi, wife and husband, of 6 Franklin Place, Stoneham, MA 02180, for consideration paid grant to Baystone Properties, LLC, a New Hampshire Limited Liability Company, of 162 Barton Corner Road, Hopkinton, NH 03229, with warranty covenants;

A certain parcel of land with the improvements situated thereon located on Cedar Street, Contoocook, Town of Hopkinton, County of Merrimack, State of New Hampshire more particularly bounded and described as follows:

Beginning at a stone bound on the southerly side of River Street in the Village of Contoocook at land formerly of Jonathon Morrill now owned by the H.J. Davis heirs;

1. Southerly by said Davis heirs land 98 feet;
2. Easterly by the said Davis heirs land 60 feet to bound and land of John C. Burnham;
3. Southerly by said Burnham land to a bound at land formerly of H. Pauline Courser now Murray R. George;
4. Westerly by the said George land to a fence on the line of Cedar Street;
5. Northerly by said Cedar Street to River Street;
6. Continuing on the line of said River Street to a stone bound and land of the said Davis heirs, same being the point of beginning.

Subject to any and all matters as shown on Plan No. 15959 and 14322.

Subject to an easement to Charles S. Rotondi dated July 27, 2012 and recorded in Book 3328, Page 844.

LLO

For Title Reference, see conveyance to Anne R. Rotondi and Charles S. Rotondi by Warranty Deed from Anne R. Rotondi, dated October 14, 2005 and recorded in Book 2832, Page 1530 of the Merrimack County Registry of Deeds.


The property is not the residence of the grantors and is not subject to homestead rights.

49 Cedar Street, Hopkinton, NH 03229

Executed this 14th day of August, 2020.



Anne R. Rotondi



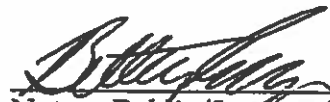
Charles S. Rotondi

STATE OF NEW HAMPSHIRE

Merrimack, SS

Then personally appeared before me on this 14th day of August, 2020, the said Anne R. Rotondi and Charles S. Rotondi and acknowledged the foregoing to be their voluntary act and deed.





Notary Public/Justice of the Peace

My commission expires: 8/28/2024



Town of Hopkinton Planning Department

330 Main Street, Hopkinton NH 03229-2627 - (603) 746-8243 - planzone@hopkinton-nh.gov

BUILDING/USE APPLICATION

Completed application **must be returned to the Planning Office by 12 Noon on Friday**. The application must be accompanied by a check payable to the Town of Hopkinton. No refund will be made if the application is denied. More than one permit may be applied for using the same form; however, the permits being sought must apply to the same piece of property. For questions, please contact the Planning Department at (603) 746-8243 or email planzone@hopkinton-nh.gov.

Permit No. _____	Phasing Applicability: Permit _____ of _____ Subdivision: _____
Application Received <u>7/16/21</u>	<input type="checkbox"/> Driveway Permit <input type="checkbox"/> PUC Approval <input type="checkbox"/> Shoreland Protection
By: <u>KR</u> Fee: <u>USC only</u>	<input type="checkbox"/> Septic Approval <input type="checkbox"/> Floodplain <input type="checkbox"/> Code Enforcement
	<input type="checkbox"/> Fire/Life Safety <input type="checkbox"/> ZBA/PB <input type="checkbox"/> CVP Water Commission

Street Address <u>71 Cedar Street</u>	Tax Map <u>102</u>	Tax Lot <u>35</u>	Zoning District <u>VR1</u>
<input type="checkbox"/> Demolition <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Accessory <input type="checkbox"/> Other _____			
Is Lot located in 100-year Flood Plain Area (Special Flood Hazard)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
What is the Flood Insurance Rate Map (FIRM) Community Panel #: _____			
Is the <u>portion</u> of the property to be developed under a Current Land Use (CLU) Assessment? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
If yes, a new CLU map must be submitted to the Assessing Department (603-746-8258).			

Applicant's Name: <u>Baystone Properties, LLC</u>	Owner's Name: <u>Same as Applicant</u>
Mailing Address: <u>44 North Shore Rd</u>	Mailing Address: _____
City/State/Zip: <u>Derry, NH 03038</u>	City/State/Zip: _____
Phone (days): <u>774-327-8331</u>	Phone (days): _____
Email: _____	Email: _____
Note: Please indicate whether you would prefer your PERMIT emailed or mailed (circle one).	

	Name of Contractor/License #	Address/City/State/Zip	Telephone
Architect			
General Contractor			
Electrical			
Plumbing			
Sewer/Septic			
Mechanical			
Sprinkler			
Fire Alarm			

DESCRIPTION

To allow one building with 12 dwelling units as permitted by special exception in the VR1 district.

Value of Work: \$ _____



Town of Hopkinton Planning Department

330 Main Street, Hopkinton NH 03229-2627 - (603) 746-8243 - planzone@hopkinton-nh.gov

BUILDING/USE PERMIT DENIAL

Permit: 2021-_____ Name of Applicant/Owner: Baystone Properties, LLC
Tax Map/Lot: 102/35 Street Address: 71 Cedar Street District: VR1

Denied: Special Exception required – Table of Uses 3.6.A.3 Multi-Family Dwelling with a maximum of twelve (12) dwelling units per building.

Karen Robertson
Karen Robertson
Planning Director

Date: 7/16/21

**SECTION III
ESTABLISHMENT OF DISTRICTS AND USES**

3.6 TABLE OF USES	R-4	R-3	R-2	R-1	B-1	M-1	VR-1	VB-1	VM-1
A. Residential Uses – Principal Uses									
1. Affordable Housing Option, Section XVI	X	P	P	P	P	X	P	X	X
2. Congregate Care Housing	X	X	S	S	P	X	S	S	X
3. Dwelling, Multi-Family with a maximum of 12 dwelling units per building	X	X	S	S	P	X	S	S	X
4. Dwelling, Multi-Family with a maximum of 24 dwelling units per building	X	X	X	X	P	X	X	X	X
5. Dwelling, Single-Family Detached	P	P	P	P	X	S	P	S	S
6. Dwelling, Two-Family	S	S	P	P	X	S	P	S	S
7. Manufactured Housing on individual lots	X	X	X	X	X	X	X	X	X
8. Manufactured Housing Park, Section IX	X	S	S	S	X	X	S	X	X
9. Manufactured Housing Subdivision, Section IX	P	P	P	P	X	X	S	X	X
B. Temporary Residential Uses – Principal Uses									
1. Bed and Breakfast Inn, Section III	S	S	S	S	P	X	S	P	X
2. Camps, Non-Profit (overnight and/or day)	S	S	S	S	S	S	S	S	S
3. Commercial Lodging	X	X	X	X	P	S	X	P	S
C. Outdoor/Recreational Uses – Principal Uses									
1. Commercial Riding Stables and Riding Trails	S	S	S	X	P	X	X	X	X
2. Public Parks and Playgrounds, Forestry, Wildlife, Timber Preserves, reservoirs, and Nature Study Areas, Conservation Areas and Preserved or Protected Open Space	P	P	P	P	P	P	P	P	P
3. Recreational Camping/Tenting Parks and Recreational Camping Vehicles, Section X	S	S	S	X	S	X	X	X	X
D. Agricultural Uses – Principal Uses									
1. Agriculture, Horticulture, and Floriculture except a greenhouse or stand for retail sale, including customary accessory structures and uses.	P	P	P	S	S	P	S	S	P
2. Farming including dairying, livestock, animal, and poultry raising, and crop production, including customary accessory structures and uses.	P	P	P	S	S	P	S	S	P
3. Greenhouse or Farm Stand	S	S	S	S	S	P	S	P	P
4. Primary Agriculture Solar Energy System, Section III	C	C	C	C	C	C	C	C	C
E. Institutional Uses/Community Facilities – Principal Uses									
1. Buildings necessary for the furnishing of Non-Essential Services by such public utility for the public health, safety, and general welfare.	X	X	X	S	P	P	S	P	P

SECTION IV DIMENSIONAL AND DENSITY REQUIREMENTS

construed to preclude compliance with the requirements set forth in Section 15.8.2, Special Exceptions, of this Ordinance.

4.4.4 Corner Lot: A corner lot shall have minimum street yards and depths, which shall be the same as the required front yard depths for the adjoining lots.

4.4.5 Through Lot: At each end of a through lot, there shall be a setback depth required, which is equal to the front yard depth required for the district in which each street frontage is located.

4.4.6 Projections: Projections are not permitted into required yards or other required open spaces except steps or stoops, eaves, or bay windows.

4.4.7 Maximum Number of Dwelling Units: The maximum number of dwelling units permitted in any multi-family dwelling shall be eight (8).

4.4.8 Additions: Additions which fail to meet the dimensional and density regulations contained in Table 4.2 to an existing, non-conforming structure may be permitted by special exception provided that the setback of the addition is no less than the setback of the existing structure.

4.5 MAXIMUM UNITS PER DEVELOPMENT The total number of dwelling units created by any one development shall not exceed fifty (50).

4.6 WAIVER OF DIMENSIONAL REQUIREMENTS BY THE PLANNING BOARD The Planning Board, during subdivision review process, is hereby given the authority to approve new non-conforming lots, provided that the applicant submits evidence that such non-conforming lots will be donated to, and accepted by the Town or Conservation Commission as open space, conservation land, or recreational land.

4.7 INCREASED SHORELAND PROTECTION STANDARD FOR CERTAIN FACILITIES The State Shoreland Protection laws (NH RSA 483-B:8) permit a Town to adopt land-use control ordinances relative to all protected shorelands, which are more stringent than the minimum State standards. As indicated in the Master Plan, the Town's lakes, rivers, ponds and streams are a primary resource and asset for the Town. The Contoocook River also serves as a drinking water sources and, as such, requires special consideration. Non-Conforming solid waste facilities and any proposed or existing solid waste facilities as well as non-conforming facilities and any existing facilities which store, or incinerate (or propose to store or incinerate) solid waste, or construction and demolition debris in close proximity to lakes rivers, ponds or streams, or artificial impoundment areas which connect to lakes, rivers, ponds or streams represent an unacceptable risk to these resources and the public health, safety and welfare of the citizens of the Town. The Town hereby adopts a more stringent shoreland protection standard for such uses. No existing, non-conforming, solid waste facility, or facility which stores, or incinerates solid waste, or construction or demolition debris nor any such facility allowed by variance, (except for a facility which has, and maintains in good standing a permit which predates this ordinance, permitting the placement of solid waste in accord with RSA 483-B:9 (IV-d)) shall be allowed to place solid waste or construction and demolition debris within 300 feet of the reference line of public waters or within 300 feet of the ordinary high water mark of a river, pond, stream or artificial impoundment area, nor shall the edge of any impervious surface on which such solid waste is located be within 300 feet of the reference line of public waters or within 300 feet of the ordinary high water mark of a pond, river, stream or artificial impoundment area. In the event a pre-existing facility has its permit revoked by the State,



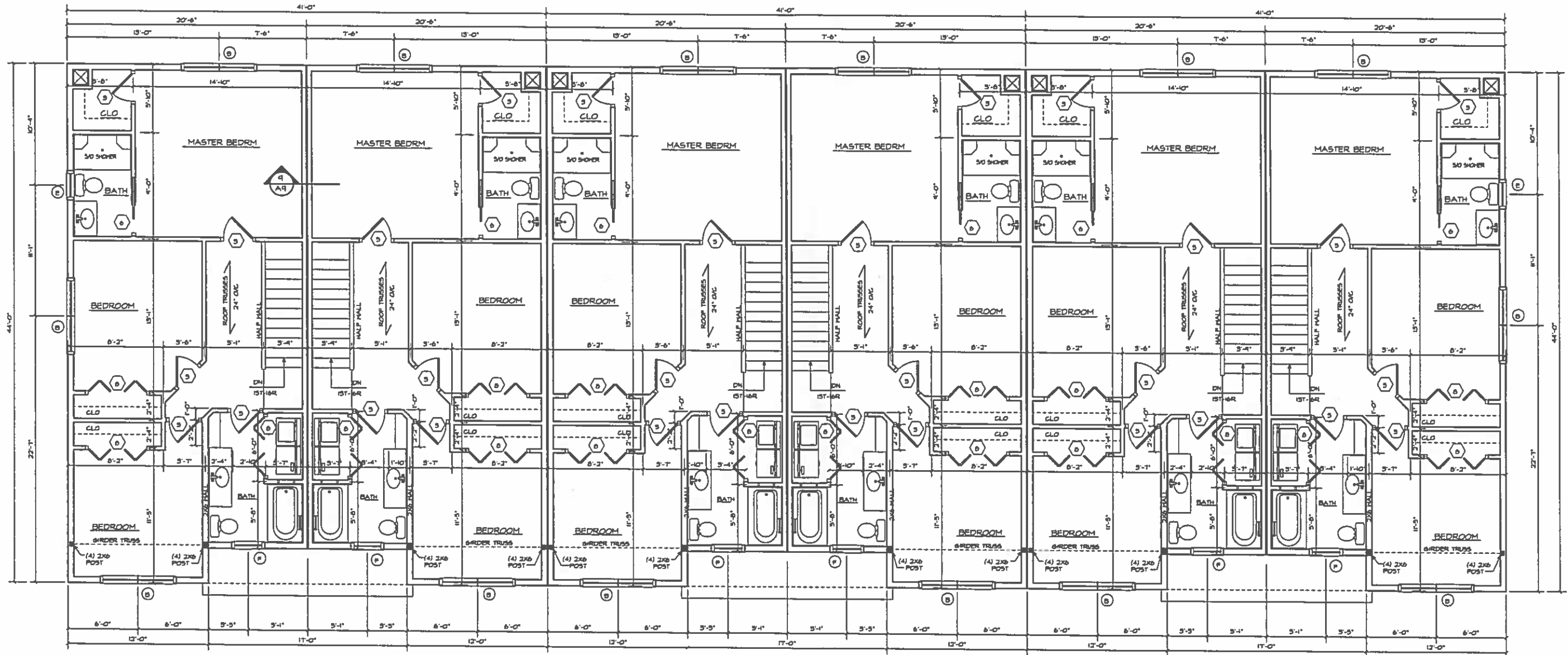
Alternative
Designs Inc.

21-256

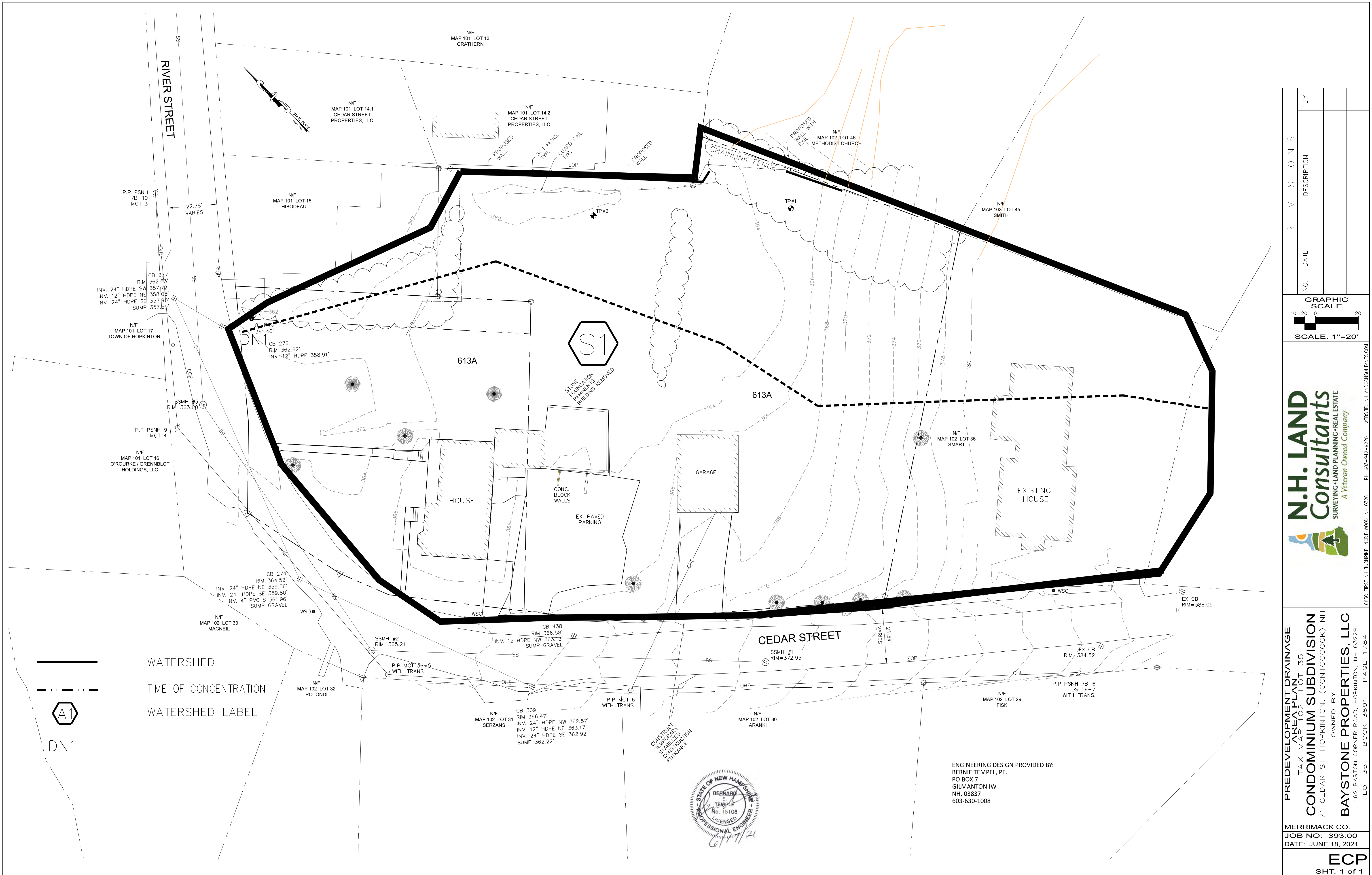
RIGHT UNIT	
FIRST FLOOR	656 S.F.
SECOND FLOOR	876 S.F.
TOTAL	1532 S.F.

LEFT UNIT	
FIRST FLOOR	656 S.F.
SECOND FLOOR	876 S.F.
TOTAL	1532 S.F.

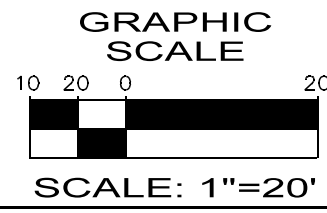




1 SECOND FLOOR PLAN
A3 SCALE: 1/4" = 1'-0"



REVISIONS			
NO.	DATE	DESCRIPTION	BY



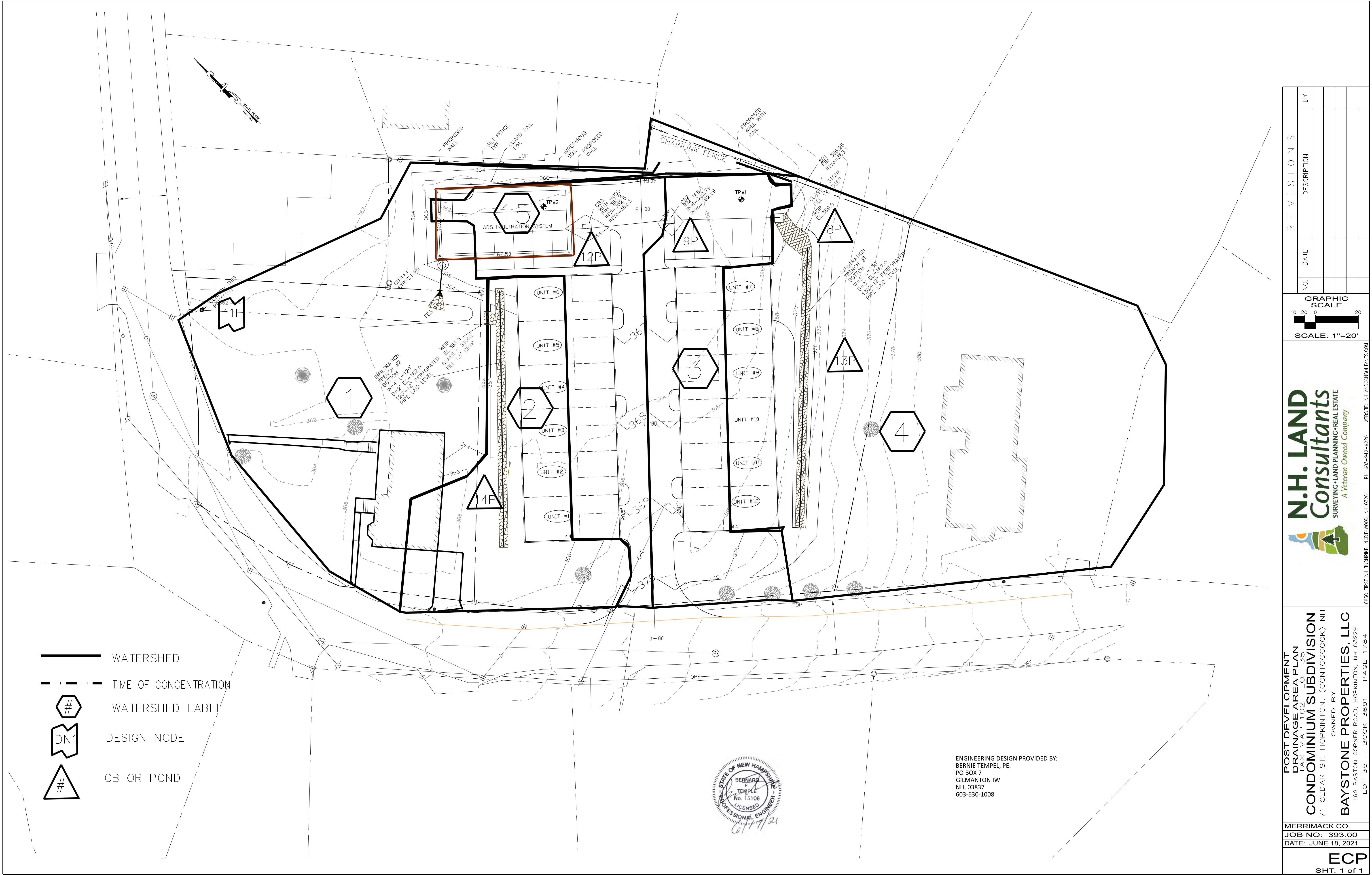
N.H. LAND Consultants
SURVEYING • LAND PLANNING • REAL ESTATE
A Veteran Owned Company

PREDEVELOPMENT DRAINAGE
AREA PLAN
TAX MAP 102 LOT 35
CONDOMINIUM SUBDIVISION
71 CEDAR ST. HOPKINTON, (CONTOOCOOK) NH
OWNED BY
BAYSTONE PROPERTIES, LLC
162 BARTON CORNER ROAD, HOPKINTON, NH 03229
LOT 35 — BOOK 3691 PAGE 1784

MERRIMACK CO.
JOB NO: 393.00
DATE: JUNE 18, 2021

ENGINEERING DESIGN PROVIDED BY:
BERNIE TEMPEL, PE.
PO BOX 7
GILMANTON IW
NH, 03837
603-630-1008





Application #2021-10

T. F. BERNIER, INC.

Variance – Contiguous Frontage.



T.F. BERNIER, INC.
Land Surveyors~Designers~Consultants

50 Pleasant Street, P.O. Box 3464
Concord, NH 03302-3464

#2021-10
Environmental Permitting
State and Local Permitting
Land Surveying
Aerial Mapping
Aerial Photography

Tel. (603) 224-4148
Fax (603) 224-0507

August 19, 2021

Dan Rinden, Chair
Hopkinton Zoning Board of Adjustment
330 Main Street
Hopkinton, NH 03229

RE: Application for Variance
Map 240 Lot 51
Gould Hill Road & Briar Hill Road
John H. Lynch Irrevocable Trust of 2012

#265. CK13117

RECEIVED

AUG 19 2021

**FINANCE DEPT.
HOPKINTON**

Dear Chair Rinden and Members of the Board:

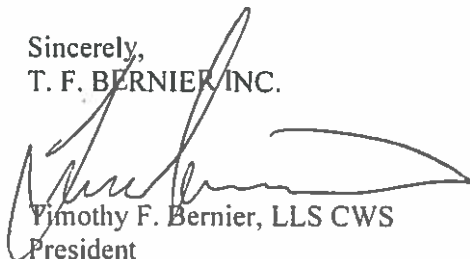
Please find enclosed the application for a Variance to allow a lot in the R-2 zoning district with 236.39 feet of frontage in the R-2 district and 45.39 feet in the R-4 district for a total of 281.78 feet of non-contiguous frontage where 250 feet of contiguous frontage is required in the R-2 district and 300 feet is required in the R-4 district. The lot will be 147.59 acres in size.

Attached is a plan prepared by this office showing the field surveyed frontage and proposed configuration of the new lot.

This parcel was reviewed for a variance earlier this year to allow a lot with 45.39 feet of frontage where 300 feet is required. The Board denied that request at least in part on the basis that the Board determined the lot had access and frontage on Gould Hill Road and the significant reduction in frontage was not warranted as a result. We believe the proposed change is a substantial revision to the previous request and does address the concerns raised by the Board previously.

Thank you for your time and consideration on this request. If you have any questions or need additional information, please give us a call.

Sincerely,
T. F. BERNIER, INC.



Timothy F. Bernier, LLS CWS
President

enclosure

cc: file 663-01



#2021-10

Town of Hopkinton

330 Main Street • Hopkinton, New Hampshire 03229 • www.hopkinton-nh.gov

Tel: 603-746-3170

Fax: 603-746-3049

HOPKINTON ZONING BOARD OF ADJUSTMENT APPLICATION FOR APPEAL

Ten completed copies of the application with all supporting documentation must be submitted.

Name of Applicant: T. F. Bernier, Inc. - Timothy BernierMailing Address: PO Box 3464 Concord NH 03302Telephone (days): 603-224-4148Name of Property Owner: John H. Lynch Irrevocable Trust of 2012Mailing Address: 2 Watchtower Road Hopkinton NH 03229Telephone (days): 603-219-1347Tax Map: 240 Lot: 51 Location of Property: Gould Hill & Briar Hill RoadsZoning of property in question (circle one): R-1 **(R-2)** R-3 R-4 B-1 M-1 VR-1 VB-1 VM-1

Section of Hopkinton Zoning Ordinance under which your application was denied or you believe your proposal relates to: Section: IV Paragraph/Table: 4.2 Table of Dimensional Requirements

A copy of your denied Building/Use Application or administrative decision must be attached.

This application is for: ☒ Variance ☐ Special Exception ☐ Equitable Waiver ☐ Administrative Appeal

The undersigned hereby requests a Variance, Special Exception, Equitable Waiver, and Administrative Appeal to permit the following:

To allow a lot in the R-2 district where 13.61' of its required 250' frontage is not "Continuous" and is located in the R-4 district. The resulting lot will have a total of 236.39' of continuous frontage on Gould Hill Road and 45.39' on Briar Hill Road for a total of 281.78'. The lot will be 147 acres in size.

NOTE: Additional information may be supplied on a separate sheet if the space provided is inadequate.

1. Hearing, Abutter, Notification Fees:

- Variance – \$100.00
- Special Exception – \$100.00
- Equitable Waiver – \$100.00
- Administrative Appeal – \$100.00
- Rehearing – \$100.00
- Notification of each Owner, Applicant, Agent, Abutter – \$5.00
- Published Notice – \$75.00

2. List of names and mailing addresses of all abutters to the property as defined by NH RSA 672:3. Supply information on separate sheet. Abutter is any person whose property adjoins or is directly across the street or stream from the land under consideration.

VARIANCE
(Section XV)

In order to secure a variance, the Zoning Board of Adjustment must determine by law that your variance request satisfies the following criteria of the Zoning Ordinance. **Please provide a written response along with any other supporting documentation for each of the following criteria.** Please note that all criteria must be satisfied and supported by the Zoning Board of Adjustment in order for a variance to be granted. Should the space provided be inadequate, please attach additional pages to this application.

1. The proposed use would not diminish surrounding property values because:

The resulting lot will be 147 acres in size and any building will occur 300 feet from the road.
There are several other lots in the neighborhood with non-continuous frontage. The lot is
250' wide 35' back from the existing right-of-way and 413'+ wide at the building site.

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

The lot is 147 acres and is 413'+ wide at the building envelope. There is nothing about the lot
that would be visually different than any other lot in the neighborhood.

3. By granting the variance substantial justice would be done because:

The lot has the required frontage on a town road however it is not "continuous" Therefore
no single home would be built on a lot with less then the specified equivalent length on a
town maintained road. Due to the lot line geometry the lot has the width 35' back from the
existing right-of-way line.

4. The spirit and intent of the Ordinance will not be broken by granting the variance because:

The intent of a frontage requirement is to establish neighborhood density. For example one
house every 250' more or less. Due to the lot geometry the width of the building site is
over 413' wide and the lot is 250' wide just 35' from the road.

5. Literal enforcement of the ordinance results in unnecessary hardship.

(a) For purposes of this subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:

(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.

As noted above the lot is 250' wide just 35' from the road and 413' or more at the
building site. The lot has the required frontage on a town maintained road and is 147
acres in size. This clearly distinguishes it from other lots while presenting a clear
adherence to the spirit, intent and general public purpose of the ordinance.

(ii) The proposed use is a reasonable one.

The lot will be 147 or more acres in size and will have more than 281 feet of frontage
on a town road. The lot will be 250' wide just 35' from the existing right-of-way and
413' wide or more at the building site. In addition there are several other lots in the
neighbor with non-continuous frontage that are not 250' wide.

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

The applicant believes that the unnecessary hardship is clearly established in subparagraph
(a) and additional evidence is unnecessary.

KP

SECTION IV DIMENSIONAL AND DENSITY REQUIREMENTS

4.1 GENERAL REQUIREMENTS No building or structure shall be erected, enlarged or moved nor shall any use be authorized or extended nor shall any existing lot be changed as to size except in accordance with the Table of Dimensional Requirements, Section 4.2, or in accordance with Section VIII for subdivisions of land for residential uses, as applicable, unless modified elsewhere in this Ordinance.

4.2 TABLE OF DIMENSIONAL REQUIREMENTS The TABLE OF DIMENSIONAL REQUIREMENTS shall apply for all lots, uses of land, and developments within the various districts, except for subdivisions of land for residential uses subject to the provisions specified in Section VIII, unless modified by other Sections of this Ordinance.

TABLE OF DIMENSIONAL REQUIREMENTS									
Districts	Minimum Lot Dimensions ^a			Minimum Setback Dimensions ^a (ft)					
	Area (sf)	Continuous Frontage ^g	Depth	Front	Side	Rear	Max. Height of Structure	Max. % Bldg. Cvg/Lot	Min.% Open Space/Lot
R-4 ^b	120,000	300	200	60	30	60	35	20	70
R-3 ^b	120,000	300	200	60	30	60	35	20	70
R-2 ^b	80,000 ^d	250	140	40	20	40	35	30	30
R-1 ^b	60,000 ^e	160	120	30	15	40	35	30	30
R-1 (other than residential)	15,000	100	100	25	15	40	35	30	50
B-1 ^{c k}	15,000 ^f	80	80	30	15	40	35	40	30
M-1 ^{c k}	110,000	250	300	50	40 ^h	50	45	40	30
VR-1 ^l	15,000 ⁱ	80	80	30	15	40	35	40	30
VB-1 ^l	7,500 ⁱ	50	100	0	10	10	35	60	20
VM-1 ^{l j}	55,000	150	200	25	25	25	35	50	30

See Explanatory Notes in Section 4.3 for footnoted items.

4.3 EXPLANATORY NOTES The following explanatory notes shall provide further definitions for the footnoted items in Table 4.2.

- (a) All measurements are in feet unless otherwise noted.
- (b) These dimensions shall not apply to Conservation Subdivisions. See Section VIII, Conservation Subdivisions, for applicable dimensional requirements.
- (c) When the footnoted commercial or industrial uses abut residential uses or a residential district, the minimum front and rear setbacks shall be 100 feet from and the side setback shall be 50 feet from a property line abutting a residential use or district.
- (d) 80,000 sq. ft. + 16,000 sq. ft. for each dwelling unit more than one on a lot.
- (e) 60,000 sq. ft. + 8,000 sq. ft. for each dwelling unit more than one on a lot.

Return to:
McLane Middleton, Professional Association
RAW/ cem 59370
P.O. Box 326
Manchester, NH 03105

WARRANTY DEED

I, **JOHN H. LYNCH**, a married individual with a mailing address of 2 Watchtower Road, Hopkinton, New Hampshire 03229, grant to **SUSAN E. UPTON LYNCH and WILLIAM G. STEELE, JR., CPA, Trustees of THE JOHN H. LYNCH IRREVOCABLE TRUST OF 2012**, a New Hampshire trust u/d/t dated December 15, 2012, with a mailing address of 2 Watchtower Road, Hopkinton, New Hampshire 03229, with **WARRANTY COVENANTS**:

A certain parcel, with the improvements thereon, located in The Town of Hopkinton, County of Merrimack, State of New Hampshire, described as follows:

Tract I:

That portion of a certain property, located in The Town of Hopkinton, County of Merrimack, State of New Hampshire, and known as the Gage Place, which is situated westerly of the highway leading from Hopkinton Village to Tyler Station, but

EXCEPTING from the said Premises conveyed a parcel of land situated on said highway surrounding the buildings which are situated thereon, being ten (10) acres, more or less, which ten acre parcel is bounded and described as follows:

Beginning on the southerly side of the lane leading to the woodland on the westerly side of the road from Hopkinton Village to Tyler Station at the corner of the wall on the south side of said lane; westerly along this wall about five hundred and fifty (550) feet to the easterly side of an opening in that wall; thence southerly in a straight line to a point in the south line of said property at a point approximately five hundred four (504) feet west of the above-mentioned highway; easterly along said wall about five hundred four (504) feet to the highway; northerly along said highway to the point of beginning.

Said premises are shown on a plan entitled, "TYPE MAP OF THE BRIER HILL FARM WOODLOT, JULY, 1916," filed in the Registry of Deeds as Map #750, the said granted premises being bounded and hatched in red on said plan.

The above parcel is believed but not warranted to be further described as follows:

A certain tract or parcel of land with all improvements and appurtenances situate on the east side of Gould Hill Road and westerly of Briar Hill Road in the Town of Hopkinton, County of Merrimack, and State of New Hampshire, as shown on a plan entitled, "THE GOULD HILL TRUST, WILLIAM G. STEELE, JR., TRUSTEE", prepared by Bristol, Sweet & Associates, Inc., dated September 22, 1999, recorded as Plan #14886 in the Merrimack County Registry of Deeds (the "Plan"), which tract or parcel is more particularly bounded and described as follows:

Beginning at an intersection of two stone walls at an iron rod on the easterly sideline of Gould Hill Road at the westernmost corner of the within premises and the northwesterly corner of land now or formerly of Philip C. and Gloria F. Martin;

running in a northerly directly along a stone wall and the easterly sideline of Gould Hill Road a distance of 986.5 feet, more or less, to an iron pipe at an intersection of stone walls at land now or formerly of Arnold C. & Alice R. Coda, (shown as Tax Lot #240-50 on the Plan), which iron pipe is North 11° 33' 55" East a distance of 983.17 feet from the previously mentioned iron rod;

turning and running in an easterly direction along a stone wall and said Coda land a distance of 431.0 feet, more or less, to an iron pipe at an intersection of stone walls and a barbed wire fence, which iron pipe is North 87° 44' 23" East a distance of 430.88 feet from the previously mentioned iron pipe;

turning and running along land now or formerly of Erik Leadbeater, (shown as Tax Lot #240-49 on the Plan), North 88° 00' 35" East a distance of 1071.76 feet to a 1" iron rod at the beginning of a barbed wire fence;

turning and running still along said Leadbeater land North 07° 11' 20" West a distance of 713.15 feet to an iron rod set in a drill hole at the end of a stone wall at the end of the barbed wire fence;

continuing along the stone wall and land of Leadbeater North 09° 22' 17" West a distance of 153.76 feet to an iron rod set in a drill hole in the stone wall at land now or formerly of Walter W. Dwyer Jr. 1998 Trust, (shown as Tax Lot #241-43 on the Plan);

turning and running along said Dwyer Trust land North 49° 02' 30" East a distance of 448.94 feet to an iron rod at a bend in a barbed wire fence;

turning and running still along said Dwyer Trust land, North $80^{\circ} 55' 36''$ East a distance of 757.50 feet to a drill hole at the end of a stone wall near a corner of barbed wire fences, at land now or formerly of Mary H. Small, (shown as Tax Lot #241-38.2 on the Plan);

turning and running along said Small land South $16^{\circ} 39' 06''$ East a distance of 898.18 feet to a drill hole at the end of a stone wall;

continuing along the stone wall and said Small land a distance of 469.60 feet to a drill hole in the stone wall, which drill hole is South $16^{\circ} 40' 35''$ East, and a distance of 469.60 feet from the next previously mentioned drill hole;

continuing along the stone wall and land now or formerly of David L. & Judith Poole, (shown as Tax Lot #241-38.1 on the Plan) a distance of 541.50 feet to a drill hole at the end of the stone wall, which drill hole is South $16^{\circ} 24' 19''$ East, and a distance of 541.46 feet from the next previously mentioned drill hole;

continuing in a southeasterly direction along said Poole land South $16^{\circ} 36' 36''$ East, a distance of 82.47 feet to a drill hole at the end of a stone wall;

continuing in a southeasterly direction along the stone wall and said Poole land a distance of 257.10 feet, more or less, to a drill hole in the stone wall, which drill hole is South $16^{\circ} 20' 41''$ East, a distance of 256.98 feet from the next previously mentioned drill hole;

continuing in a southeasterly direction along the stone wall and said Poole land a distance of 288.90 feet, more or less, to a drill hole at an intersection of stone walls, which drill hole is South $16^{\circ} 40' 26''$ East, a distance of 287.63 feet from the next previously mentioned drill hole;

turning and running in an easterly direction along a stone wall and said Poole land a distance of 392.30 feet, more or less, to a drill hole 3.85 feet easterly of a corner of stone walls at the westerly sideline of Briar Hill Road, which drill hole is North $83^{\circ} 41' 42''$ East, a distance of 392.31 feet from the next previously mentioned drill hole;

turning and running South $01^{\circ} 05' 05''$ West, a distance of 45.39 feet along the westerly sideline of Briar Hill Road to a disk set in a drill hole at an intersection of stone walls at land now or formerly of Sandra Schneider, (shown as Tax Lot #249-5 on the Plan);

turning and running in a westerly direction along a stone wall and said Schneider land a distance of 558.50 feet, more or less, to an iron pipe in a gap in the stone wall 1.86 feet westerly of the end of the stone wall, which iron pipe is

South 83° 26' 17" West, a distance of 557.61 feet from the disk referred to in the previous course;

turning and running still along said Schneider land South 06° 37' 11" East, a distance of 1123.91 feet to an iron rod in a stone pile on a stone wall at land now or formerly of Donald & Sandra P. Saxon, (shown as Tax Lot #249-4 on the Plan);

turning and running along a stone wall and said Saxon land North 63° 16' 34" West, a distance of 225.14 feet to a point at an intersection of stone walls at land now or formerly of Robert A. & Nancy N. Sweatt, (shown as Tax Lot #239-22 on the Plan);

turning and running in a westerly direction along the stone wall and said Robert Sweatt land a distance of 559.60 feet, more or less, to a drill hole at an intersection of stone walls at land now or formerly of Dana L. & Alice Sweatt, (shown as Tax Lot #239-21 on the Plan), which drill hole is North 86° 26' 54" West, a distance of 559.33 feet from the next previously mentioned point of intersection of stone walls;

turning and running along said Dana Sweatt land North 65° 05' 14" West, a distance of 690.41 feet to an iron rod in a drill hole at the end of a stone wall at land now or formerly of Martha Houston Jones Revocable Trust of 1997, (shown as Tax Lot #240-54 on the Plan);

continuing in a northwesterly direction along the stone wall and said Jones Trust land a distance of 323.80 feet, more or less, to a drill hole at an intersection of the stone wall and a row of stones, which drill hole is North 66° 21' 18" West, a distance of 319.37 feet from the last mentioned iron rod;

continuing in a northwesterly direction along the stone wall and said Jones Trust land a distance of 909.90 feet, more or less, to a drill hole at the end of the stone wall, which drill hole is North 64° 01' 06" West, a distance of 901.84 feet from the next previously mentioned drill hole;

continuing in a northwesterly direction along said Jones Trust land a distance of 300.40 feet, more or less, to an iron pipe at the end of a stone wall at land now or formerly of Philip C. & Gloria F. Martin, (shown as Tax Lot #240-52 on the Plan), which iron pipe is North 63° 47' 13" West, a distance of 300.30 feet from the last mentioned drill hole;

continuing in a northwesterly direction along the stone wall and said Martin land a distance of 648.20 feet, more or less, to the point of beginning, which point is North 68° 12' 49" West, a distance of 647.78 feet from the last mentioned iron pipe.

Tract II:

A certain tract of land with the improvements situated thereon located on the northeasterly side of Gould Hill Road, in the Town of Hopkinton, County of Merrimack, State of New Hampshire, and more particularly bounded and described as follows:

Commencing at a point marking the intersection of stone walls, which said point is 323 feet, more or less, northeasterly from the northeasterly line of the Gould Hill Road, so-called;

running northeasterly along a stone wall and the southeasterly line of land now or formerly of Concord Kitchen Corporation (said land being formerly owned by one Shreve and by one Sweatt) and by land formerly of one Loverin, to a stake and stones marking the line of land now or formerly of one Hopkins, of one Sanborn and of one Loverin;

running southeasterly along line of land now or formerly of Hopkins, Sanborn and Loverin and land now or formerly of the Gage heirs (said latter land being formerly owned by the Stephen Sibley heirs) to a stake and stones at corner of land of said Gage heirs (formerly Sibley heirs);

running southwesterly along line of said land of said Gage heirs to an intersection of stone walls which said intersection is 439 feet, more or less, northeasterly from the northeasterly line of said Gould Hill Road;

running northwesterly along land now or formerly of George L. Butterfield, Jr. and Ann S. Butterfield, 475 feet, 4 inches, more or less, to an iron pipe driven in the ground, said iron pipe lying within the right of way hereinafter described;

continuing in the same direction 40 feet, more or less, to another iron pin driven in the ground, said iron pin marking the northeasterly corner of said right of way hereinafter described;

continuing in the same direction along other land of said Butterfields 580 feet, 8 inches, more or less to the point of beginning.

TOGETHER WITH a RIGHT OF WAY 50 feet in width leading from Gould Hill Road to the above described land, said right of way being bounded and described as follows:

Commencing at an iron pipe driven into the ground on the northeasterly line of Gould Hill Road, which said iron pin is 540 feet, 8 inches southeasterly from the northwesterly corner of land of said Butterfields and the southwesterly corner of land of Concord Kitchen Corporation, said corners joining on the northeasterly line of said Gould Hill Road;

running northeasterly through said Butterfields land to an iron pipe driven in the ground and referred to as the northeasterly corner of said right of way in the above described land;

running southeasterly 40 feet to an iron pipe driven in the ground; and referred to as lying within said right of way in the above described land;

continuing southeasterly an additional ten feet (10') to a point which is the southeasterly corner of said right of way;

running southwesterly 50 feet from and parallel to the first line described in this right of way, to the northeasterly line of Gould Hill Road;

running northwesterly along said Gould Hill Road 10 feet to an iron pipe;

continuing northwesterly along said Gould Hill Road 40 feet to the point of beginning.

The Premises are conveyed together with all appurtenant rights and easements.

These premises are conveyed subject to the restriction that only a single-family residence may be constructed on the premises conveyed herein. This restriction shall run with the land and bind future grantees or successors in interest.

SUBJECT TO and TOGETHER WITH all reservations, restrictions and/or covenants, easements, liens, encumbrances and mortgages of record, if any, insofar as the same may now be in force and applicable.

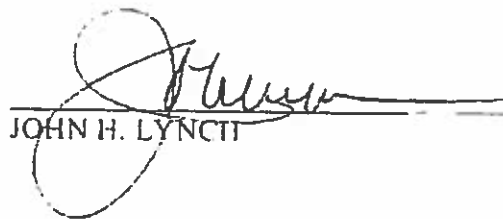
MEANING AND INTENDING to describe and convey the same property conveyed to John H. Lynch by deed of John H. Lynch and Susan E. Upton Lynch as Trustees of The John H. Lynch Trust, of near or even date and recorded herewith.

This instrument was prepared from information supplied by the Grantor herein and no independent title search has been conducted.

This transfer is exempt from transfer tax pursuant to RSA 78-B:2, IX.

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Signed this 31st day of August, 2020.


JOHN H. LYNCH

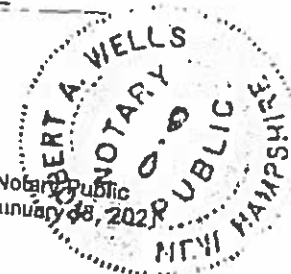
STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK

This instrument was acknowledged before me on the 31st day of August, 2020, by
John H. Lynch.

(seal)


Notary Public/Justice of the Peace
Printed Name:
My Commission Expires:

ROBERT A. WELLS, Notary Public
My Commission Expires January 28, 2021



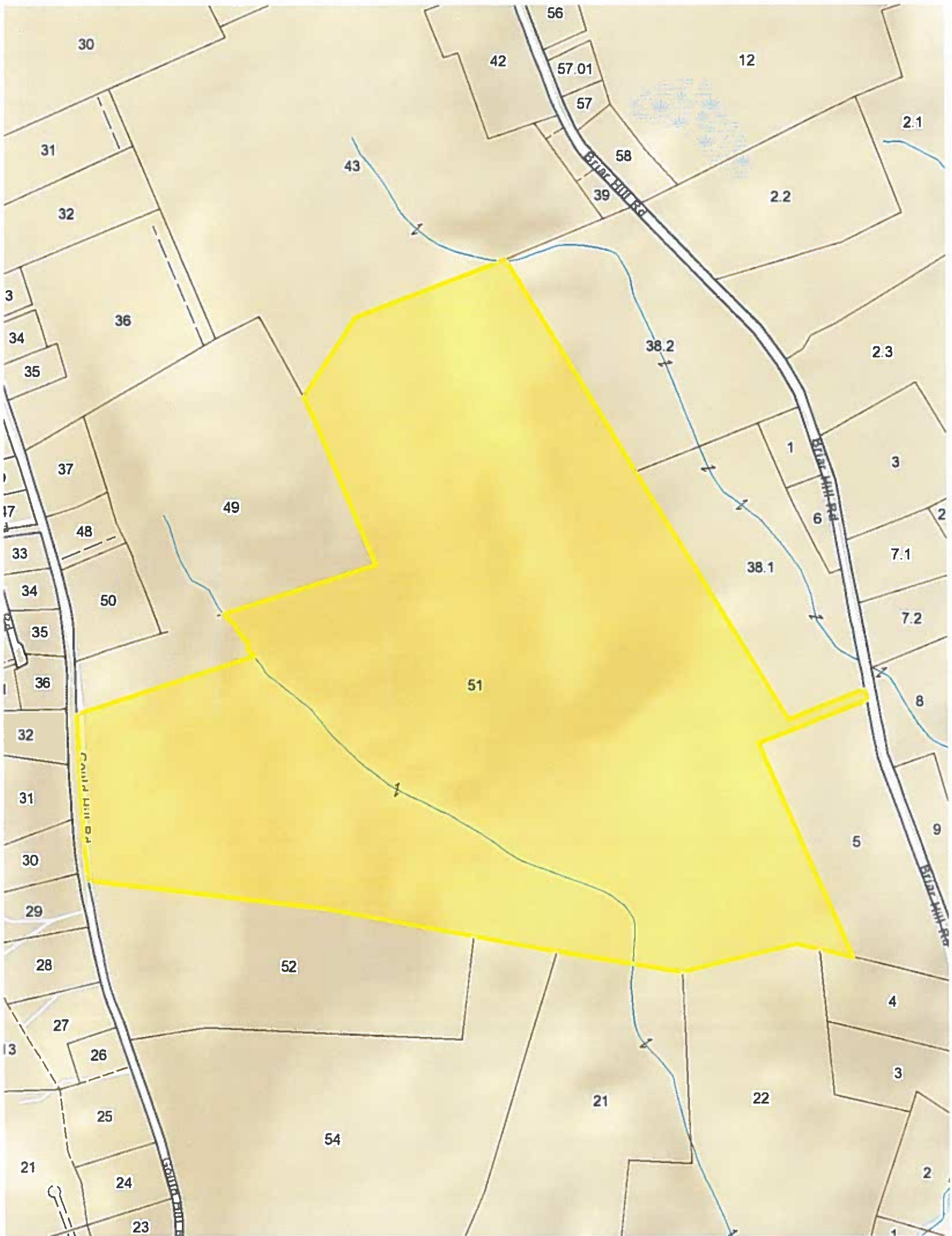
Abutters List
John H. Lynch Irrevocable Trust of 2012
Zoning Variance Request
Assessors Map 240 Lot 51
Gould Hill Road & Briar Hill Road
Hopkinton, NH

<u>MAP</u>	<u>LOT</u>	<u>OWNER</u>
240	51	John H. Lynch Irrevocable Trust of 2012 2 Watchtower Road Hopkinton, NH 03229
239	21	Virginia L. Pastuszcak Timothy D. Sweatt 373 Old Stagecoach Road Contoocook, NH 03229
239	22	Five Rivers Conservation Trust 10 Ferry Street Suite 311A Concord, NH 03301
240	29	Alison Josefiak Christopher Navarro 257 Gould Hill Road Contoocook, NH 03229
240	30	Thomas R. & Hilary A. Chapman 283 Gould Hill Road Contoocook, NH 03229
240	31	Bradford W. & Ann McClane Kuster 331 Gould Hill Road Contoocook, NH 03229
240	32	Jane D. W. & Frederic Bradstreet P.O. Box 149 333 Gould Hill Road Contoocook, NH 03229
240	36	Irvin D. Gordon 63 Roberts Road Hopkinton, NH 03229

240	49	April Dunn 59 Blaze Hill Road Hopkinton, NH 03229
240	52	Rix Family Trust of 2016 248 Gould Hill Road Hopkinton, NH 03229
240	54	Richard Jones Irrevocable Trust 18 Green Street Newport, NH 03773
241	38-1	Kirk Hemphill 831 Briar Hill Road Contoocook, NH 03229
241	38-2	R and J Case Trust 1030 Briar Hill Road Hopkinton, NH 03229
241	43	Jeanne C. Dwyer GST Exempt Trust P.O. Box 600 Concord, NH 03302
249	4	Kurt K. & Betsey F. Rhynhart 675 Briar Hill Road Hopkinton, NH 03229
249	5	The Viking Trust 745 Briar Hill Road Contoocook, NH 03229
249	8	S. Wayne & Elizabeth A. Clarke 812 Briar Hill Road Hopkinton, NH 03229

Professional Consultant

Timothy F. Bernier, LLS, CWS
T. F. Bernier, Inc.
PO Box 3464
Concord, NH 03302-3464



LINE	BEARING	LENGTH
L1	S87°23'30"E	46.82'
L2	S87°23'30"W	94.32'
L3	S87°15'00"W	24.87'
L4	S1°10'56"E	38.57'
L5	S7°30'21"E	17.22'
L6	S7°30'21"E	71.88'
L7	S2°30'53"E	63.86'
L8	S8°02'48"E	92.47'
L9	S5°33'00"E	19.88'
L10	S8°33'00"E	91.84'
L11	S4°54'41"E	72.80'
L12	S7°21'08"E	76.18'
L13	S7°28'16"E	20.17'
L14	S20°08'48"E	33.29'
L15	S83°21'31"E	46.71'
L16	S82°10'18"E	137.01'
L17	S78°00'18"E	23.83'
L18	S83°08'43"E	68.84'
L19	S80°47'23"E	56.35'
L20	S83°32'30"E	63.84'
L21	S81°30'18"E	36.37'
L22	S87°13'02"E	38.02'
L23	S84°04'12"E	57.43'
L24	S80°38'18"E	118.23'
L25	S83°17'25"E	47.88'

LINE	BEARING	LENGTH
L26	S89°17'42"E	40.82'
L27	S79°18'04"E	117.86'
L28	S8°14'28"E	11.34'
L29	S7°48'27"E	77.16'
L30	S7°18'49"E	158.14'
L31	S80°25'15"E	105.87'
L32	S7°28'11"E	138.75'
L33	S80°38'11"E	63.16'
L34	S7°43'57"E	206.79'
L35	S80°18'54"E	152.80'
L36	N37°11'08"E	8.95'
L37	S7°42'48"E	182.29'

MAP 241 LOT 43
JEANNE C. DRYER
OST EXEMPT TRUST
P.O. BOX 800
CONCORD, NH 03302
BOOK 2435 PAGE 863

MAP 241 LOT 38-2
R AND J CASE TRUST
1030 BRIAR HILL ROAD
HOPKINTON, NH 03228
BOOK 3882 PAGE 1782

MAP 241 LOT 38-1
KIM MEMPHILL
831 BRIAR HILL ROAD
CONCORD, NH 03228
BOOK 2831 PAGE 898

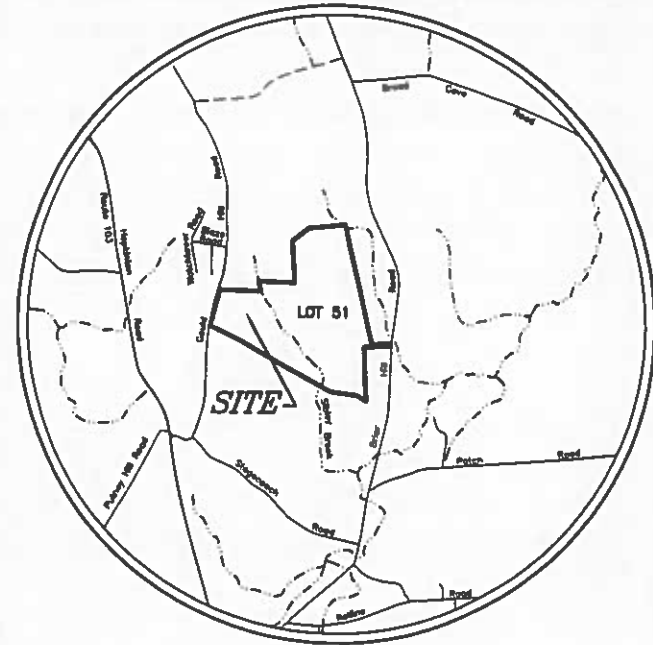
MAP 248 LOT 6
B. WATNE CLARKE
ELIZABETH A. CLARKE
812 BRIAR HILL ROAD
HOPKINTON, NH 03228
BOOK 2130 PAGE 343

MAP 248 LOT 5
THE VINDO TRUST
748 BRIAR HILL ROAD
CONCORD, NH 03228
BOOK 2831 PAGE 1848

OWNERS OF RECORD
MAP 248 LOT 51
JOHN H. LYNCH IRREVOCABLE TRUST OF 2012
SUSAN E. LYTON LYNCH &
WILLIAM G. STEELE, JR. CPA-TRUSTEES
2 WATCHTOWER ROAD
HOPKINTON, NH 03228
BOOK 3888 PAGE 1738
PLAN REFERENCE #1



NO.	REVISION	DATE



LOCUS
SCALE: 1"=2000'

NOTES:

- THE PURPOSE OF THIS PLAN IS TO SHOW THE POTENTIAL SUBDIVISION OF MAP 240 LOT 51 INTO 3 NEW SINGLE FAMILY RESIDENTIAL LOTS. ALL THE NEW LOTS WILL HAVE FRONTAGE ON GOULD HILL ROAD AND WILL BE SERVED BY ON SITE WELL AND SEPTIC SYSTEM.
- THE PARCELS SHOWN HEREIN ARE LOCATED IN THE "R-4" RESIDENTIAL/AGRICULTURAL ZONING DISTRICT AND THE "R-2" MEDIUM DENSITY RESIDENTIAL DISTRICT, AND ARE SUBJECT TO THE FOLLOWING DIMENSIONAL RESTRICTIONS:

DISTRICT	MINIMUM LOT SIZE	MINIMUM FRONTAGE	MINIMUM DEPTH	MINIMUM BUILDING SETBACKS	MAXIMUM BUILDING HEIGHT
R-2	80,000 S.F. (UPLAND)	250'	140'	FRONT: 40' SIDE: 25' REAR: 40'	35'
R-4	120,000 S.F. (UPLAND)	300'	200'	FRONT: 60' SIDE: 30' REAR: 60'	35'
- THE EXISTING BOUNDARY LINES SHOWN HEREIN ARE FROM PLAN REFERENCE #1, A FIELD SURVEY PERFORMED BY THIS OFFICE IN JUNE 2021, AND RECORD DEEDS. THE FIELD SURVEY WAS PERFORMED USING A TOTAL STATION AND THE TRAVELER HAS AN ERROR OF CLOSURE OF ONE PART IN 10,000 OR BETTER. THE SURVEY WAS PERFORMED IN ACCORDANCE WITH THE REQUIREMENTS OF A STANDARD PROPERTY SURVEY AS DEFINED IN THE NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES LAM 500.
- THE BEARINGS SHOWN HEREIN ARE REFERENCED TO NAD 83/11 NH STATE PLANE, BASED ON GPS OBSERVATIONS PERFORMED BY THIS OFFICE IN JUNE 2021.
- THE LOTS DO NOT FALL IN THE 100 YEAR FLOOD ZONE AS SHOWN ON THE FLOOD INSURANCE RATE MAP FOR THE TOWN OF HOPKINTON, MAP NO. 3301SC5102, WITH EFFECTIVE DATE 4/19/2016.

PLAN REFERENCE

- SURVEY, GOULD HILL TRUST, WILLIAM G. STEELE, JR. TRUSTEE, GOULD HILL ROAD & BRIAR HILL ROAD IN HOPKINTON, N.H., TAX MAP 240-51, SCALE: 1"=200', DATE: 9/22/1998, PREPARED BY BRISTOL, SHEET & ASSOCIATES, INC. OF NORTH SUTTON, NEW HAMPSHIRE, AND RECORDED AT THE MERRIMACK COUNTY REGISTRY OF DEEDS AS PLAN #14886.
- EXISTING RIGHT-OF-WAY PLAN OVER TAX MAP PARCEL 240-46, LAND OF JOANNE G. LINDEN, PREPARED FOR ROBERT SCOTT HOMES, HOPKINTON, NEW HAMPSHIRE, SCALE: 1"=50', DATED: SEPTEMBER 22, 2003, PREPARED BY MERRIMACK LAND SERVICES INC. IN AMHERST, NEW HAMPSHIRE, AND RECORDED AT THE MERRIMACK COUNTY REGISTRY OF DEEDS AS PLAN #18831.

ZONING PLAN
LAND OF
JOHN H. LYNCH IRREV. TRUST OF 2012
ASSESSORS MAP 240 LOT 51
GOULD HILL ROAD &
BRIAR HILL ROAD
HOPKINTON, NH
SCALE 1"=200' - DATE: JUNE 2021



T. F. BERNIER, INC.
Land Surveyors - Designers - Consultants
80 PLEASANT STREET - P.O. BOX 3484
CONCORD, NEW HAMPSHIRE 03302-3484
Tel: (603) 224-4148 - Fax: (603) 224-0507

DESIGNED BY	DRAWN BY	CHECKED BY	F.B.	P.C.	JOB #
					663-01

LEGEND

- ANGLE POINT
- ⊙ IRON ROD TO BE SET
- ⊙ DRILL HOLE SET
- ⊙ IRON ROD FOUND
- ⊙ IRON PIPE FOUND
- UTILITY POLE
- ⊕ MAILBOX
- STONE WALL
- EDGE OF PAVEMENT
- OHU- OVERHEAD UTILITIES
- UGU UNDERGROUND UTILITIES
- RF IRON ROD FOUND
- RF IRON PIPE FOUND
- DHS DRILL HOLE SET
- RS IRON ROD SET

MAP 240 LOT 52
R&J FAMILY TRUST OF 2018
248 GOULD HILL ROAD
HOPKINTON, NH 03228
BOOK 3638 PAGE 72

MAP 240 LOT 54
RICHARD JONES IRREVOCABLE TRUST
9 HILLTOP DRIVE
SUNAPEE, NH 03782
BOOK 3584 PAGE 2838

MAP 238 LOT 21
VIRGINIA L. PARTUSCZAK
THOMAS D. BRIGHT
373 OLD STAGECOACH ROAD
CONCORD, NH 03301
BOOK 752 PAGE 208

MAP 238 LOT 22
FIVE RIVERS CONSERVATION TRUST
10 FERRY STREET SUITE 311A
CONCORD, NH 03301
BOOK 2594 PAGE 1538

MAP 248 LOT 4
JURY K. RYHMYRT
BETSEY F. RYHMYRT
875 BRIAR HILL ROAD
HOPKINTON, NH 03228
BOOK 2787 PAGE 1178



Application #2021-11

PAULA DOW

Variance – Separate Curb Cut for ADU.

#2021-11
\$195. CK2024

Town of Hopkinton, New Hampshire
Zoning Board of Adjustment
330 Main Street, Hopkinton, NH 03229
Tel: (603) 746-4487 • Fax (603) 746-2952
e-mail: planzone@hopkinton-nh.gov

RECEIVED

AUG 20 2021

HOPKINTON
PLANNING DEPT.

HOPKINTON ZONING BOARD OF ADJUSTMENT
APPLICATION FOR APPEAL

Name of Applicant: Paula Dow
Mailing Address: 875 E. Penacook Rd.
Telephone (days): 603-219-2978
Name of Property Owner: Stephen D. Dow + Paula Jean Dow
Mailing Address: Same
Telephone (days): Same
Tax Map: 245 Lot: 12 Location of Property: 875 E. Penacook Rd.

Zoning of property in question (circle one): R-1 R-2 R-3 R-4 B-1 M-1 VR-1 VB-1 VM-1

Section of Hopkinton Zoning Ordinance under which your application was denied or you believe your proposal relates to: Section: III Paragraph/Table: ADU

A copy of your denied Building/Use Application or administrative decision must be attached.

This application is for: ☒ Variance ☐ Special Exception ☐ Equitable Waiver ☐ Administrative Appeal

The undersigned hereby requests a Variance, Special Exception, Equitable Waiver, and Administrative Appeal in order to permit the following:

Add driveway in order to access future ADU

NOTE: This application is not acceptable unless all required statements have been completed.
Additional information may be supplied on a separate sheet if the space provided is inadequate.

✓1. **Hearing, Abutter, Notification Fees:**

- Variance – \$100.00 ✓
 - Special Exception – \$100.00
 - Equitable Waiver – \$100.00
 - Administrative Appeal – \$100.00
 - Rehearing – \$100.00
 - Notification of each Owner, Applicant, Agent, Abutter – \$5.00 X 4 = \$20.00 ✓
 - Published Notice – \$75.00 ✓
- } \$195.00

✓2. **List of names and mailing addresses of all abutters to the property as defined by NH RSA 672:3.**
Supply information on separate sheet. Abutter is any person whose property adjoins or is directly across the street or stream from the land under consideration.

✓3. **Attach location map showing exact location of property in relation to at least one prominent landmark (road junction, business, town building, etc.).** Include north arrow and label road names. Indicate with an X the location of the property in question.

4. **Attach site plan of property showing:** Boundaries and area of parcel; north point, scale and legend; location, size and type of all existing and proposed buildings, uses, parking, signs, roadways, screening, etc.

- N/A 5. **List provisions to be made for septic disposal, fire protection, water supply, parking, noise, smoke, surface drainage, etc.** Supply information on separate sheet.

- N/A 6. **Letter of Authorization to allow an Agent or Attorney to represent Applicant, if applicable.**

- ✓ 7. **Copy of property deed of the subject property.**

- ✓ 8. **Any other pertinent information that you feel the Board may need to assist in their decision making process.** *Letter from Dan Blanchette + pictures*

You must appear at the public hearing or be presented by an authorized agent or attorney for the Board to take action on your application. The application will be terminated or tabled for failure to appear at a scheduled public hearing, without first providing written notification to the Planning Department.

You are fully responsible for researching and knowing any and all laws, which may be applicable and affect the outcome of the Board's decision on your application request. The Town of Hopkinton assumes no responsibility or liability relating to your failure to research and know all applicable laws including, but not limited to, state, federal and local laws, codes, land development regulations and comprehensive plan. The Town of Hopkinton strongly encourages all applicants to consider consulting an attorney regarding their application.

You are encouraged to review the attached Rules of Procedures used by the Board of Adjustment at the public hearing.

I/we being duly sworn, depose and say that I am/We are the owner(s)/lessee(s) of land included in the application and that the foregoing statements herein contained and attached, and information or attached exhibits thoroughly to the best of my/our ability represent the arguments on behalf of the application herewith submitted and that the statements and attached exhibits referred to are in all respect true and correct to the best of my/or knowledge and belief.

In addition, I/We understand this application must be filed with all pertinent information as it pertains to the requirements of the Town of Hopkinton Zoning Ordinance and all other information requested or required by the Zoning Board of Adjustment in order to be considered complete. I/We understand that this application will not be filed until all required information has been received, and do further understand that the Town of Hopkinton reserves the right to postpone this request until such time as the requirements are met.

Furthermore, I/We understand that I/We, our representative as stated on the application, should appear at the public hearing. If photographs, documents, maps or other materials are provided to the Board as evidence at the public hearing, said evidence will become property of the Town of Hopkinton and will remain on file for future reference.

Also, I/We recognize and understand that the public hearing before the Board of Adjustment regarding land development is considered quasi-judicial in nature. **State and local law strictly prohibits applicants and/or interested parties from participating in ex-parte communications with Board members in person, by phone, e-mail, or in writing before the application is discussed at a public hearing.**

Applicant's Signature: Paula Jean Dow Date: 8/18/21
Applicant's Printed Name: Paula Jean Dow Date: 8/18/21
Owner's Signature: Paula Jean Dow Date: 8/18/21
Owner's Printed Name: Paula Jean Dow Date: 8/18/21

VARIANCE
(Section XV)

In order to secure a variance, the Zoning Board of Adjustment must determine by law that your variance request satisfies the following criteria of the Zoning Ordinance. **Please provide a written response along with any other supporting documentation for each of the following criteria.** Please note that all criteria must be satisfied and supported by the Zoning Board of Adjustment in order for a variance to be granted. Should the space provided be inadequate, please attach additional pages to this application.

1. The proposed use would not diminish surrounding property values because:

It's only a private driveway that would not create an eyesore

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

The proposed driveway is in a safe location with excellent sight lines and it would not pose any safety hazards

3. By granting the variance substantial justice would be done because:

This is the only logical way to access the ADU. The existing driveway cannot be used as the well would be in the way if the existing driveway were to be extended

4. The spirit and intent of the Ordinance will not be broken by granting the variance because:

Allowing the additional driveway is the only way we can access the ADU

5. Literal enforcement of the ordinance results in unnecessary hardship.

- (a) For purposes of this subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:

- (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.

I'm not sure I understand this question, but we would like to take advantage of the opportunity to build an ADU without adding a driveway. It does not appear that we could do so.

- (ii) The proposed use is a reasonable one.

I believe this request is reasonable considering there is no other way to access the area where the ADU is to be located.

- (b) 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.

We would like to build an ADU for our adult disabled daughter. The placement of the ADU is limited due to the layout of our lot. The configuration that is most logical to meet setback requirements to distance from septic to well, etc. does not allow for easy access. Adding a

Zoning Board of Adjustment

driveway that could go directly to the parking area beside the ADU would solve the issue.

✓✓

SECTION III ESTABLISHMENT OF DISTRICTS AND USES

3.12 ACCESSORY DWELLING UNIT (ADU)

3.12.1 Authority: This Ordinance is adopted by the Town of Hopkinton on **June 1, 2017**, and amended on **March 12, 2019**, in accordance with the authority granted in New Hampshire Revised Statutes Annotated 674:21 and 674:71 – 73.

3.12.2 Purpose: These regulations have been enacted in order to establish guidelines for Accessory Dwelling Units, in an effort to maintain neighborhood aesthetics while fulfilling the following goals:

- (a) Increase the supply of affordable housing and workforce housing without the need for more infrastructure or further land development.
- (b) Provide flexible housing options for residents and their families.
- (c) Integrate affordable housing and workforce housing into the community with minimal negative impact.
- (d) Provide aging residents with the opportunity to retain their homes and age in place.

3.12.3 Definitions:

- (a) **Accessory Dwelling Unit (ADU):** A residential living unit that is subordinate and within or attached to a single-family dwelling, or is located in a detached structure, and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies. Every accessory dwelling residence shall be deemed a residence of workforce housing for purposes of satisfying the obligations under NH RSA 674:59.

3.12.4 Standards: Applicant proposing an ADU, as defined in Section III, 3.12.3 (a), must agree to and demonstrate compliance with the following conditions in order to receive a building/use permit:

- (a) A maximum of one (1) ADU shall be permitted.
- (b) The ADU shall be located within or attached to the principal single-family dwelling with common walls, or may be in a separate detached structure, such as a garage or barn, provided the existing structure conforms with the required setbacks for the zoning district. An ADU may also be in a new structure.
- (c) New construction for an attached or detached ADU shall comply with all standards for a single-family detached dwelling including, but not limited to, setbacks, height limits, and lot coverage and shall not increase any non-conforming aspect of any existing structure. The architecture of the ADU shall be the same as the principal dwelling unit so to provide aesthetic continuity. This includes appearance, design, colors, and materials.
- (d) The accessory dwelling and principal dwelling units shall comply with all applicable State Building Codes and Fire Codes for construction.
- (e) The total area of an ADU shall not exceed the lesser of (i) 1,400 square feet (combined heated/non-heated space); or (ii) 50% of the total floor area of the principal dwelling

K2

SECTION III ESTABLISHMENT OF DISTRICTS AND USES

(heated/occupied space). Where 50% of the total floor area of the principal dwelling is less than 750 square feet, the maximum size allowed shall be 750 square feet.

- (f) The ADU shall contain fully self-sufficient living quarters, consisting of adequate sleeping, bathing, and eating accommodations.
- (g) An ADU shall not be considered an additional dwelling unit for purposes of determining the minimum lot size or development density of the property.
- (h) An interior door shall be provided between the principal dwelling unit and the attached ADU. There is no requirement that the interior door remains unlocked.
- (i) An independent exterior means of ingress and egress shall be provided for an attached ADU. The ingress and egress shall not be on the same side of the building as the principal dwelling unit.
- (j) All new construction, intended to be used as a detached accessory dwelling unit, must be located to the side or rear of the existing principal dwelling, except when the Planning Board finds, during Site Plan Review, that the placement of the detached accessory dwelling unit will not adversely affect the character of the neighborhood; traffic on roads; safety of pedestrians, and will not create a hazard or nuisance to abutting property owners.
- (k) Either the principal dwelling unit or the ADU must be owner-occupied. A temporary leave of absence by the property owner is allowed, provided the owner-occupied unit is not rented during the temporary leave of absence. The owner must demonstrate that one of the units is their principal place of residence and legal domicile. Both the principal and ADU must remain in common ownership. Transfer of either dwelling unit to condominium ownership is not permitted.

Prior to the issuance of a zoning/building permit, the owner shall record in the Merrimack County Registry of Deeds acknowledgment of the ADU and the owner/occupancy requirement. Acknowledgment is to be in a form that is satisfactory to the Town, in order to put prospective buyers on notice of the prohibition against renting out both units.

- (l) There shall be a minimum of two (2) parking spaces for each dwelling unit with no additional curb cut from that which is for the principal dwelling unit.
- (m) The applicant for a permit to construct an ADU shall make adequate provisions for water supply and sewage disposal for the ADU in accordance with RSA 485-A:38, but separate systems shall not be required for the principal and accessory dwelling units.
- (n) No home business will be permitted in the ADU.
- (o) The use of the ADU shall not include such transient occupancies as bed and breakfasts, VRBO (vacation rental by owner), hotels, motels, inns, rooming, or board houses.
- (p) As an alternative, if allowed within the zoning district, a property owner can seek permission to convert the attached ADU to either a standard two-family or a multi-family dwelling.

3.13 SOLAR ENERGY SYSTEMS

Item 2

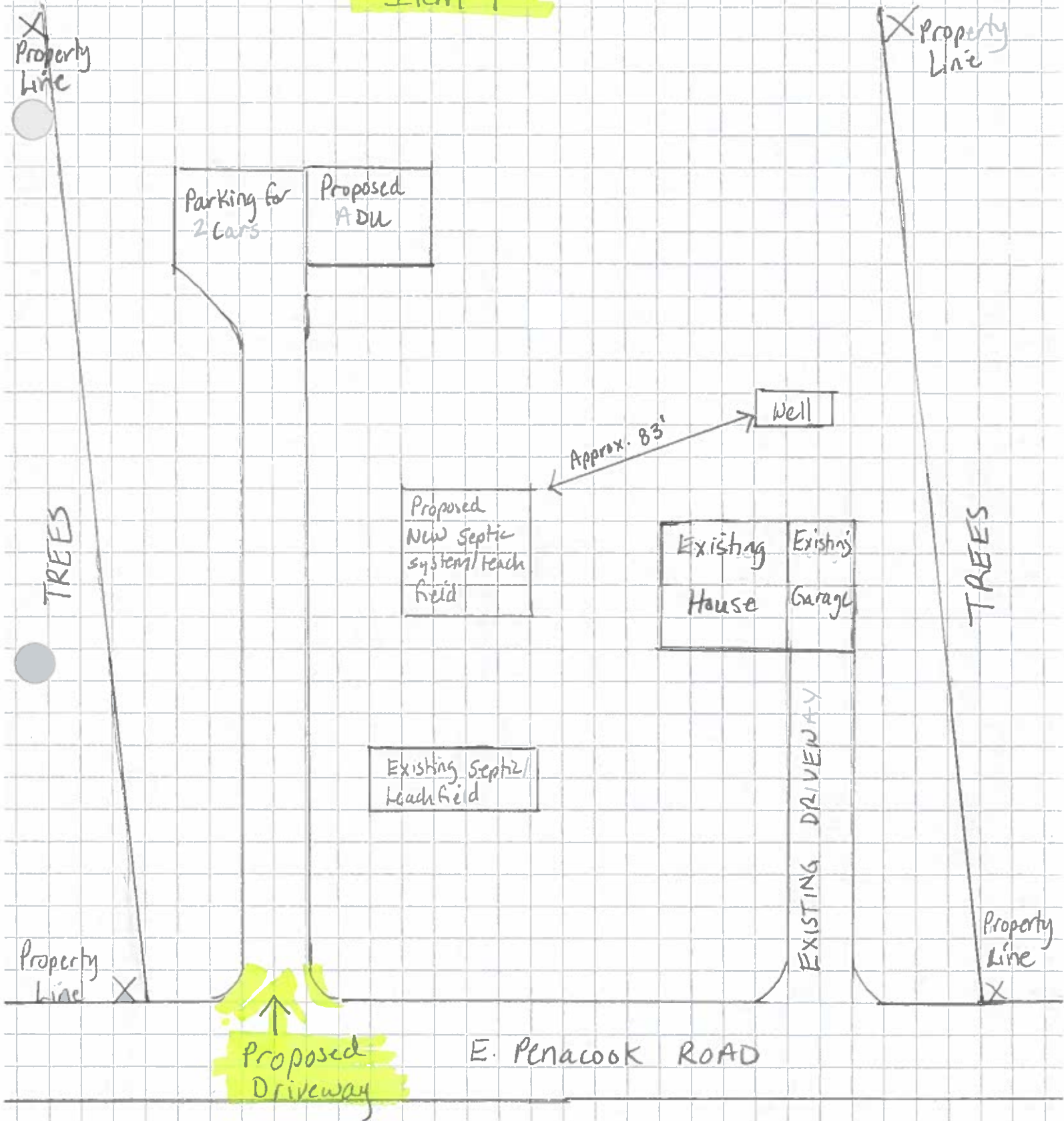
[illegible]

1. List names and mailing addresses of applicant(s), property owner(s), and abutters.
2. List names and mailing addresses of all professionals whose seal appears on any plan.
3. For condominium associations and property owner association, the officers of the association are the abutters to be notified.
4. List names and mailing addresses of any holder of conservation, preservation or agricultural preservation easements or restrictions on any parcels included in the proposed project or subdivision.

Item 3



Item 4



Item 7

01/30/2021

Deed: 201300005274
Book: 3373 Pages: 1588 - 1589
03/13/2013 9:54AM

Return to:
Laura E. Tobin, Esquire
Flood, Sheehan & Tobin, PLLC
Two Delta Drive, Suite 303
Concord, NH 03301

MCRD Book 3373 Page 1588



WARRANTY DEED

14.46
2.00
25-

Stephan D. Dow and Paula J. Dow, husband and wife, of Hopkinton, County of Merrimack and State of New Hampshire ("Grantors"), as joint tenants with rights of survivorship, for consideration paid, grant to Stephan D. Dow and Paula J. Dow, as tenants in common, with a mailing address of 875 East Penacook Road, Hopkinton, New Hampshire 03229, with WARRANTY COVENANTS, the following described premises:

A certain tract of land with the buildings thereon, if any, situated in Hopkinton, County of Merrimack and State of New Hampshire, shown as Lot No. 3 on a plan entitled, "Property of Van E. Hertel", surveyed by Robert G. Colbath, dated April 2, 1976, and recorded at the Merrimack County Registry of Deeds as Plan No. 4369, to which Plan reference may be made for a more particular description.

Subject to a 100 foot right of way utility easement as shown on Plan No. 4369.

Subject to easements, restrictions and rights of record.

Subject to all notations, facts, easements and issues as shown on Plan No. 4369 as recorded in said Registry.

MEANING AND INTENDING to describe and convey the same premises conveyed to the Grantors by Warranty Deed dated January 11, 2013 of Paula J. Dow and Stephan D. Dow, Trustees of the Paula Jean Dow Trust under declaration of trust dated June 1, 2006, and recorded in the Merrimack County Registry of Deeds at Book 3369, Page 772 and by Warranty Deed dated January 11, 2013 of Stephan D. Dow and Paula J. Dow, Trustees of the Stephan D. Dow Trust under declaration of trust dated June 1, 2006, and recorded in the Merrimack County Registry of Deeds at Book 3369, Page 770.

The within transaction is a non-contractual transfer, pursuant to RSA 78-B:2, IX, and is not subject to real estate transfer tax.



LT1-2-201300005274-1



LT2-3373-1588-2

1113602221

EXECUTED this 8th day of March, 2013.

Steph D Dow
Stephan D. Dow

Paula J Dow
Paula J. Dow

STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK

The foregoing instrument was acknowledged before me this 8th day of March, 2013, by Stephan D. Dow, Grantor.

Laura E Tobin
Notary Public
My commission expires: 9/9/2014

LAURA E. TOBIN
Notary Public - New Hampshire
My Commission Expires September 9, 2014

STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK

The foregoing instrument was acknowledged before me this 8th day of March, 2013, by Paula J. Dow, Grantor.

Laura E Tobin
Notary Public
My commission expires: 9/9/2014

LAURA E. TOBIN
Notary Public - New Hampshire
My Commission Expires September 9, 2014

MERRIMACK COUNTY RECORDS

Kate L. Gray, CPO, Registrar

Item 8

PAULA DOW <paulajdow@comcast.net>

8/5/2021 10:54 AM

Fwd: RE: Driveway

To paulajdow@comcast.net <paulajdow@comcast.net>

----- Original Message -----

From: Dan Blanchette <dpwdirector@hopkinton-nh.gov>

To: PAULA DOW <paulajdow@comcast.net>

Date: 08/05/2021 10:24 AM

Subject: RE: Driveway

To whom it may concern,

I have reviewed the potential location for an additional driveway at 875 East Penacook Rd. and have concluded that all setbacks, sight distances, and drainage requirements for a driveway are acceptable within the current guidelines.

Dan Blanchette

Director of Public Works

330 Main St.

Hopkinton NH, 03229

603-746-5118

DPWDirector@hopkinton-nh.gov

Item 8



Sight line from proposed driveway location

Item 8



Sight line (other direction) from proposed driveway

Item 8



If existing driveway is extended, it would need to angle toward the back of the garage (because of side property line + having to meet setback requirements) + it would be too close to the well.