



# **Town of Hopkinton**

## **Planning Department**

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

### **HOPKINTON ZONING BOARD OF ADJUSTMENT PUBLIC NOTICE – AGENDA APRIL 5, 2022**

The **Hopkinton Zoning Board of Adjustment** will meet on Tuesday, April 5, 2022, at 5:30 PM in the Hopkinton Town Hall, 330 Main Street, Hopkinton, to review and take action on the following:

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**I. Call to Order/Roll Call.**

**II. Application.**

**#2022-03 J.E. Belanger Land Surveying, PLLC** Variance from Zoning Ordinance 4.2 Table of Dimensional Requirements to construct an attached garage with less than the required front and sideline setbacks, 166 Branch Londonderry Turnpike, Tax Map 266, Lot 1, R-3 district.

**III. Review of Minutes and Notices of Decision of January 4, 2022.**

**IV. Other Business.**

**V. Adjournment.**

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# 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: J.E. BELANGER LAND SURVEYING PLLLC  
 Mailing Address: 61 OLD HOPKINTON NH DUNBARTON NH 03046  
 Telephone (days): (603) 774-3601  
 Name of Property Owner: TAYLOR BELANGER  
 Mailing Address: 166 BRANCH LONDONDERRY TURNPIKE, HOPKINTON NH  
 Telephone (days): (603) 491-8410  
 Tax Map: 266 Lot: 1 Location of Property: 166 BRANCH LONDONDERRY TP

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: 4 Paragraph/Table: 4.2

**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:

THE VARIANCE REQUEST IS TO ALLOW FOR A 2 CAR ATTACHED GARAGE. THE  
GARAGE WOULD BE WITHIN THE FRONT AND SIDELINE SETBACKS.

**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.

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. 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 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.

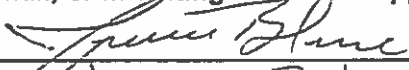
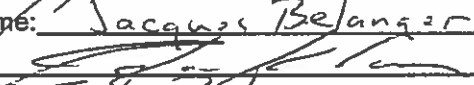
You are encouraged to review the attached Rules of Procedures used by the Board of Adjustment at the public hearing.

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: <u></u>	Date: <u>3/10/22</u>
Applicant's Printed Name: <u>Jacques Belanger</u>	Date: <u>3/10/22</u>
Owner's Signature: <u></u>	Date: <u>3/10/22</u>
Owner's Printed Name: <u>Taylor Belanger</u>	Date: <u>3/10/22</u>

## **VARIANCE**

### **(1) The proposed use would not diminish surrounding property values because:**

Variance relief will not diminish property values in the neighborhood; it will allow space to store vehicles and equipment typically used for residential purposes stored out of sight. The garage will be constructed to be architecturally similar to the existing residence.

The existing residential use and accessory residential uses are permitted by right within the R-3 district. Granting the Variance will allow the property to be utilized reasonably, consistent with how other properties in the neighborhood are being used.

### **(2) Granting the Variance would not be contrary to the public interest because:**

A reduction in the front and side yard setbacks will not affect neighboring properties. The Applicant is proposing a minimal size, two-car garage. Again, Variance relief will not adversely impact the neighborhood; it will allow space to store vehicles and equipment typically used for residential purposes stored out of sight.

Granting the Variance would not alter the essential characteristics of the neighborhood or threaten public health, safety or welfare. As previously indicated, residential uses, including associated accessory uses/structures, are permitted in the R-3 district.

At the intersection of Stickney Hill Road and Branch Londonderry Turnpike to the Bow town line, two (2) residences are on the west side and three (3) residences on the east side of Branch Londonderry Turnpike. The Applicant's property is located at the Bow town line on the west side. The existing residence sits on a .32 acres (13,836 SF) at the town line.

The property is irregular-shaped, triangular, and is narrow. The proposed location of the garage is the most feasible location given the fact that the property is adjacent to Boutwell Brook, making the water table high in the area. Furthermore, portions of the property towards the rear have been designated by FEMA as Special Flood Hazard Area (SFHA), which is "an area that would be inundated by the flood having a 1-percent chance of being equaled or exceeded in any given year (base flood)." Therefore, the most feasible location for the garage is towards the front of the property. As you can see by the site plan, the location is further restricted by the placement of the existing septic tank.

Granting the Variance will allow the property to be utilized reasonably, consistent with how other properties in the neighborhood are being used. To show that the proposal is not contrary to the public interest, I have included information about properties along the street with structures that do not meet setback requirements. Lot 59 contains an older residence that does not comply with the front setbacks for both Stickney Hill Road and Branch Londonderry Turnpike. The septic system is located in the road right-of-way. Lot 60 contains an existing residence built around 2005 that is 1.8 feet from the side property line. Lot 61 has two sheds located within the front setback. Lot 3 contains an older residence that does not comply with the front setback requirement. Lot 2 contains an existing residence that straddles the front lot line so that it is partially located within the road right-of-way. Lot 1 is the lot in question that also does not comply with the front yard setback requirement.

**(3) By granting the Variance, substantial justice would be done because:**

Substantial justice will be done by granting the Variance since a denial would be a loss to the Applicant without any justified gain to the public. Granting the Variance will allow the Applicant the same opportunity as others in the neighborhood; having a garage or outbuilding to secure and protect vehicles and other accessory residential equipment.

As previously stated, the residential use has already been established. The existing residence is already too close to the front property. Other residences and accessory buildings in the neighborhood are similarly situated. One residence is only 1.8 feet from the sideline; one is located at the front property line; another residence straddles the front property line, and sheds exist within the front setback. The proposed garage will be located more than 100-feet from the residence on Lot 2. A portion of the residence on Lot 2 straddles the property into the road right-of-way. Accordingly, the proposed garage will not adversely impact the neighborhood, and substantial justice would be done by granting the Variance. It will allow the Applicant to utilize his property similarly to others in the neighborhood.

Substantial justice is also achieved by granting variances that do not adversely impact nearby property owners and allow a property to be reasonably used. The difference between the requested setbacks compared to the setbacks of other residences and accessory structures along the road and within the neighborhood could be considered minimal. As the adjacent residence is located outside of the front property line within the road right-of-way, a residence across and further down the street is only 1.8-feet to the side lot line. Two other residences on the corner of the street also do not comply with setbacks. In fact, in 2000, a septic system for one of the residences was installed within the road right-of-way.

Given the lot's configuration, the proximity of Boutwell Brook (high water table), FEMA's designation as of SFHA, and the septic system location, the Applicant cannot reasonably construct the garage while maintaining the front and sideline setbacks.

**(4) The spirit and intent of the Ordinance will not be broken by granting the Variance because:**

Again, the use is permitted and has already been established on the property. The area surrounding the property is generally open, with only five (5) residences along the street to the town line. Again, the existing residence is already too close to the front property line. Other residences and accessory buildings in the neighborhood are similarly situated, with one residence being only 1.8 feet from the sideline. Another residence is located at the property line, and there are sheds located within the front setback. The spirit and intent of the Ordinance will not be broken as there will remain a separation or open space between structures. The proposed garage will be located more than 100-feet from the residence on Lot 2, which also does not meet the front setback requirement. Again, a portion of the residence on Lot 2 straddles the property into the road right-of-way.

**(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.**

The property is unique as it is irregular-shaped, triangular, and narrow. The lot is the smallest lot along the street, .32 acres (13,836 SF), and is at the town line. The residence is an existing nonconforming structure that does not comply with the front yard setback. Considering the way the residence is situated on the lot, the irregular shape of the lot, the proximity of Boutwell Brook (high water table), FEMA's designation as SFHA, and the septic system location, the Applicant cannot reasonably construct the garage while maintaining the front and sideline setbacks. As previously stated, the proposed garage will be located more than 100-feet from the residence on Lot 2 and will be more conforming to the front yard setback than many residences along the street.

As previously stated, other residences and accessory buildings in the neighborhood are similarly situated to what is being proposed for setbacks. There is one residence that is only 1.8 feet from the sideline. Another residence is located at the property line, sheds located within the front setback, and a residence located partially into the road right-of-way.

Each property along the street has one or more accessory structures, such as a garage, barn, or shed. For example, Lot 61 has an existing two-story barn, lean-to, and sheds. Lot 62 has a garage, lean-to, and shed. Lot 59 has a garage and attached sheds, and Lot 3 has attached storage buildings. Granting relief will be consistent with the location and uses of other structures in the neighborhood.

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

The proposed garage is a permitted use in the R-3 district and, as previously stated, is reasonable and consistent with the location and uses of other structures in the neighborhood.

- (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.**

As previously stated, the property is unique as it is irregular-shaped, triangular, and narrow. The lot is the smallest lot along the street, .32 acres (13,836 SF), and is at the Hopkinton/Bow town line. The residence on the lot is an existing nonconforming structure that does not comply with the front yard setback. Considering the way the residence is situated on the lot, the irregular shape of the lot, the proximity of Boutwell Brook (high water table), FEMA's designation as SFHA, and the septic system location, special conditions exist that distinguish it from other properties in the area. The Applicant cannot reasonably construct the garage in strict conformance with the Ordinance.

Merrimack Title Company, Inc  
95 N State Street Ste 1  
Concord, NH 03301

1455  
22  
25  
150.00  
**WARRANTY DEED**

I, **Jacqueline L. Soul**, single, with a mailing address of 135 Hall Street, Concord, New Hampshire 03301 for consideration paid grant to **Taylor F. Belanger**, with a mailing address of 61 Old Hopkinton Road, Dunbarton, New Hampshire 03046 with warranty covenants:

A certain tract or parcel of land, with any buildings thereon, situated in Hopkinton, County of Merrimack, State of New Hampshire, bounded and described as follows:

Beginning on the westerly side of the Old Turnpike, so-called, which runs through Hopkinton and Bow at a stake and stones at the corner of and formerly owned or occupied by Jonathan S. Clark; thence running South  $62\frac{3}{4}^{\circ}$  West by said Clark land and 32 rods, more or less to a stake and stones; thence South  $33\frac{1}{3}^{\circ}$  East through land formerly of Charles H. Norton 41 rods and six links, more or less, to stake and stones; thence through land of said Norton South  $7\frac{1}{4}^{\circ}$  West rods 14 link, more or less, to stake and stones at land formerly of Hiram Farrington; thence by land of said Farringtons North  $55\frac{1}{2}^{\circ}$  East  $28\frac{1}{2}$  rods, more or less, to a stake and stones by land of said Clark; thence by said Clark land North  $5^{\circ}$  West 29 rods, more or less, to stake and stones; thence by said Clark land North  $50\frac{4}{5}^{\circ}$  East 4 rods, more or less, to a stake and stones on the westerly line of said Turnpike; thence by said Turnpike  $27\frac{1}{2}^{\circ}$  rods, more or less, to the place of beginning.

Excepting and reserving a certain tract of land in Bow on the west side of Old Turnpike Road bounded and described as follows:

Beginning at the southeast corner of land formerly of Leon I. Marcou on the westerly side of said road; thence westerly by the southerly line of said Marcou's land to the brook; thence northerly 165 feet, more or less, along said brook to a bound; thence easterly through land of said Marcou to said Old Turnpike Road on a line parallel with the southerly line of the tract herein conveyed; thence southerly by said Turnpike Road to the point of beginning.


Excepting and reserving a certain tract of land in Bow, County of Merrimack State of New Hampshire being identified as Tax Map/Block/Lot: 2-4-21 as conveyed to the Town of Bow by deed at Book 3609 Page 2414 in said Registry.

Subject to Terms of Release Form for Protective Well Radii from Department of Environmental Services dated October 13, 2005 recorded in the Merrimack County Registry of Deeds at Book 2833, Page 110.

Meaning and intending to describe and convey a portion of the premises conveyed to the above grantor by deed of Da-Mont Investments, Inc. dated March 29, 2006 recorded in the Merrimack County Registry of Deeds at Book 2879, Page 26.

This is not homestead property of the above grantor.


Executed this 25<sup>th</sup> day of September 2019.

  
Jacqueline L. Soul

State of New Hampshire  
County of Merrimack

The foregoing instrument was acknowledged before me by Jacqueline L. Soul this 25<sup>th</sup> day of September 2019.



  
Notary Public/~~Justice of the Peace~~  
Print Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_



Town of Hopkinton, NH List of Abutters					
Map	Lot(s)	Property Owner(s) Name	Mailing Address	Office Use Only	
266	61	BARRY UPTON	167 BRANCH LONDONDERRY TP		
			HOPKINTON NH 03229		
266	2	HAROLD DARRA JR	96 SMITH ROAD, BARNSTEAD NH 03218		
266	4.1	RANDY & MARY DUQUETTE	523 STICKNEY HILL ROAD, HOPKINTON NH		
		BOW			
2 B4	23-A7	RONALD & ANN FERRENTE	148 HOOKSETT TURNPIKE BOW NH 03304		
2 B4	21	TOWN OF BOW	10 GRANDVIEW DRIVE, BOW NH 03304		
		OWNER			
		TAYLOR F. BELANGER	166 BRANCH LONDONDERRY TP HOP		
		SURVEYOR			
		J,E, BELANGER LAND LAND SURVEYING PLLC	61 OLD HOPKINTON ROAD, DUNBARTON NH 03046		

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.



# Town of Hopkinton Planning Department

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

## **BUILDING/USE PERMIT DENIAL**

Permit: \_\_\_\_\_ Name of Applicant/Owner: Taylor Belanger  
Tax Map/Lot: 266/1 Street Address: 166 Branch Londonderry Tpk District: R3

Request: Construct attached garage with less than the required front and sideline setbacks.

Denied Due to Noncompliance (Hopkinton Zoning Ordinance): Section IV, 4.3 Table of Dimensional and Density Requirements, R-3 District, 60-foot front and 30-foot sideline setbacks required.

*In issuing the denial, the Applicant has the opportunity to apply to and seek relief through an application to the Hopkinton Zoning Board of Adjustment. If appealing an administrative decision, applications to the Zoning Board of Adjustment must be made within forty-five (45) days of this decision as indicated in the Zoning Board of Adjustment Rules of Procedure.*

  
Karen Robertson  
Planning Director

Date: 3/11/2022



# Town of Hopkinton Planning Department

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

## BUILDING/USE APPLICATION

Permit # _____	<input type="checkbox"/> 2 Sets of Plans (Full/11"x 17") <input type="checkbox"/> Site Plan
Date Submitted: <u>3/11/22</u>	<input type="checkbox"/> Construction Plans/Cross-Section
By: _____ Fees: _____	<input type="checkbox"/> Driveway Permit <input type="checkbox"/> Septic Approval <input type="checkbox"/> PUC EC-1 form
	<input type="checkbox"/> NHDES - Wetlands/Shoreland/AoT Approval
	<input type="checkbox"/> ZBA/PB Approval <input type="checkbox"/> FD Approval <input type="checkbox"/> Sewer/Water Approval

Street Address: <u>166 Branch Lonsderry</u>	Map/Lot: <u>266/1</u>	Zoning District: <u>R3</u>
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<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 type="checkbox"/> No
What is the Flood Insurance Rate Map (FIRM) Community Panel #:
Is the portion 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>Taylor Belanger</u>	Owner's Name: <u>Taylor Belanger</u>
Mailing Address: <u>166 Branch Lonsderry TRK</u>	Mailing Address: <u>166 Branch Lonsderry TRK</u>
City/State/Zip: <u>Hopkinton NH 03229</u>	City/State/Zip: <u>Hopkinton NH 03229</u>
Phone (days): <u>603-491-8410</u>	Phone (days): <u>603-491-8410</u>
Email: <u>TBelanger 0730@gmail.com</u>	Email: <u>TBelanger 0730@gmail.com</u>
Note: Please indicate whether you would prefer your PERMIT emailed or mailed (circle one).	

	Contractor/License #	Address/City/State/Zip	Telephone
Architect	<u>N/A</u>		
General Contractor	<u>Home owner</u>	<u>166 Branch Lonsderry Turnpike Hopkinton NH</u>	
Electrical	<u>Home owner</u>	<u>166 Branch Lonsderry Turnpike Hopkinton NH</u>	
Plumbing			
Sewer/Septic			
Mechanical			
Sprinkler			
Fire Alarm			

### DESCRIPTION OF WORK/USE

Pole Barn style Garage

Value of Work: \$ \_\_\_\_\_

Street Address: 166 Branch Landderry Turnpike Map/Lot: 266 Lot 1 Zoning District: Low Density Residential District  
Hopkinton NH 03229

Include Setbacks on Sketch	Distance to Structure (feet):	When Applicable, Proposed Number of:	Square Feet & Dimensions (exterior only):
Front Setback (Not edge of pavement)	<u>60'</u>	Stories	Lot Area (Acres)
Rear Setback	<u>60'</u>	Bedrooms	Basement (Full, Partial)
Side Setback (left)	<u>30'</u>	Full Baths	Structure (exterior )
Side Setback (right)	<u>50'</u>	Partial Baths	Garage
Shoreland Setback		Fireplace	Deck/Pool/Etc.
Wetland Setback		Units	Sign(s)
Building Height	<u>13' 8"</u>		Other
Distance from closest structure on your property			

Water Supply: ☐ Municipal ☐ Well Heating Fuel: ☐ Electric ☐ LP Gas ☐ Oil ☐ Wood ☐ Other  
Sewer: ☐ Municipal ☐ Individual Fuel Storage: ☐ Inside ☐ Outside (above/under-ground)

**DRIVEWAY PERMIT:** Hopkinton Public Works (603-746-5118) approval for driveway connection to a Town street. Connections to State roads require the State of NH Department of Public Works and Highways (666-3336) approval. Approval number: n/a Date:

**SEPTIC SYSTEMS:** NH Department of Environmental Services (603-271-3501) approval. If additional bedrooms are being created and the building is on a private septic system, provide a copy of the septic system approval to show the system is capable of handling the additional load.

Approval number: n/a Date:

**NH ENERGY CODES:** We continue to require the New Hampshire Residential Energy Code Application (EC-1 Form pages 1 & 2) to be submitted as part of your building permit application. Please note that the EC-1 form should no longer be sent to the State PUC. Inspection of all insulated materials including slab, basement, crawl spaces, floors, walls, and ceilings are required. **Required Testing:** Successful blower door and duct leakage test results are required before issuance of a Certificate of Occupancy. n/a

**NH COMPREHENSIVE SHORELAND PROTECTION ACT (CSPA) RSA 483-B:** Effective July 1, 2008, a SHORELAND PERMIT is required for many construction, excavation, or filling activities within the Protected Shoreland. A complete list of activities that do not require a shoreland permit can be found in the Shoreland Administrative Rules, Env-Wq 1406. Please visit the NH Department of Environmental Services Shoreland Website at [www.des.nh.gov/cspa](http://www.des.nh.gov/cspa) or call 271-2147. Office location: 29 Hazen Drive, Concord, NH 03302-0095.  
Approval Number: n/a Date:

This is to certify that the information included with this application will be followed during construction, and any changes shall be only after notifying the Planning Office. That any permit issued based on inaccurate information is subject to immediate withdrawal. That the owner of record authorizes the proposed work and that I have been authorized to make this application as his/her authorized agent, and I agree to conform to all applicable laws of this jurisdiction. I further certify that I am aware of and will comply with any deed restrictions or covenants and any regulations or conditions imposed by the Select Board, Zoning Board of Adjustment, and or Planning Board as it relates to this property and the proposed structure/use. Also, I am aware that applying for a permit with respect to an activity in or on the building or property shall be deemed consent for Town officials and employees to enter the building or property to perform inspections, measurements, sampling, or any other action deemed necessary.

Submitted as part of ZBA app. See Signature. K.R.  
Signature of Applicant Print Name of Applicant Date



# Federal Emergency Management Agency

Washington, D.C. 20472

## LETTER OF MAP AMENDMENT DETERMINATION DOCUMENT (REMOVAL)

COMMUNITY AND MAP PANEL INFORMATION		LEGAL PROPERTY DESCRIPTION
COMMUNITY	TOWN OF HOPKINTON, MERRIMACK COUNTY, NEW HAMPSHIRE	A parcel of land, as described in the Warranty Deed recorded as Document No. 639712, in Book 2879, Pages 26 and 27, in the Office of the Recorder, Merrimack County, New Hampshire (TM:266; TL:1)
	COMMUNITY NO.: 330116	
AFFECTED MAP PANEL	NUMBER: 33011600208	
	DATE: 5/17/1988	
FLOODING SOURCE: BOUTWELL MILL BROOK		APPROXIMATE LATITUDE & LONGITUDE OF PROPERTY: 43.188, -71.885 SOURCE OF LAT & LONG: PRECISION MAPPING STREETS 7.0 DATUM: NAD 83

### DETERMINATION

LOT	BLOCK/ SECTION	SUBDIVISION	STREET	OUTCOME WHAT IS REMOVED FROM THE SFHA	FLOOD ZONE	1% ANNUAL CHANCE FLOOD ELEVATION (NGVD 29)	LOWEST ADIJACENT GRADE ELEVATION (NGVD 29)	LOWEST LOT ELEVATION (NGVD 29)
-	-	-	186 Branch Londonberry Turnpike	Structure	X (unshaded)	344.1 feet	348.9 feet	-

**Special Flood Hazard Area (SFHA)** - The SFHA is an area that would be inundated by the flood having a 1-percent chance of being equaled or exceeded in any given year (base flood).

**ADDITIONAL CONSIDERATIONS** (Please refer to the appropriate section on Attachment 1 for the additional considerations listed below.)

**PORTIONS REMAIN IN THE SFHA  
ZONE A**

This document provides the Federal Emergency Management Agency's determination regarding a request for a Letter of Map Amendment for the property described above. Using the information submitted and the effective National Flood Insurance Program (NFIP) map, we have determined that the structure(s) on the property(ies) is/are not located in the SFHA, an area inundated by the flood having a 1-percent chance of being equaled or exceeded in any given year (base flood). This document amends the effective NFIP map to remove the subject property from the SFHA located on the effective NFIP map; therefore, the Federal mandatory flood insurance requirement does not apply. However, the lender has the option to continue the flood insurance requirement to protect its financial risk on the loan. A Preferred Risk Policy (PRP) is available for buildings located outside the SFHA. Information about the PRP and how one can apply is enclosed.

This determination is based on the flood data presently available. The enclosed documents provide additional information regarding this determination. If you have any questions about this document, please contact the FEMA Map Assistance Center toll free at (877) 338-2627 (877-FEMA MAP) or by letter addressed to the Federal Emergency Management Agency, 3501 Eisenhower Avenue, Suite 130, Alexandria, VA 22304-8439.

*William R. Stanton Jr.*

William R. Stanton Jr., CFM, Chief  
Engineering Management Section  
Mitigation Division



# Federal Emergency Management Agency

Washington, D.C. 20472

## LETTER OF MAP AMENDMENT DETERMINATION DOCUMENT (REMOVAL)

### ATTACHMENT 1 (ADDITIONAL CONSIDERATIONS)

**PORTIONS OF THE PROPERTY REMAIN IN THE SFHA (This Additional Consideration applies to the preceding 1 Property.)**

Portions of this property, but not the subject of the Determination/Comment document, may remain in the Special Flood Hazard Area. Therefore, any future construction or substantial improvement on the property remains subject to Federal, State/Commonwealth, and local regulations for floodplain management.

**ZONE A (This Additional Consideration applies to the preceding 1 Property.)**

The National Flood Insurance Program map affecting this property depicts a Special Flood Hazard Area that was determined using the best flood hazard data available to FEMA, but without performing a detailed engineering analysis. The flood elevation used to make this determination is based on approximate methods and has not been formalized through the standard process for establishing base flood elevations published in the Flood Insurance Study. This flood elevation is subject to change.

This attachment provides additional information regarding this request. If you have any questions about this attachment, please contact the FEMA Map Assistance Center toll free at (877) 336-2827 (877-FEMA MAP) or by letter addressed to the Federal Emergency Management Agency, 3801 Eisenhower Avenue, Suite 130, Alexandria, VA 22304-8439.

*William R. Blanton Jr.*

William R. Blanton Jr., CFM, CMF  
Engineering Management Section  
Mitigation Division



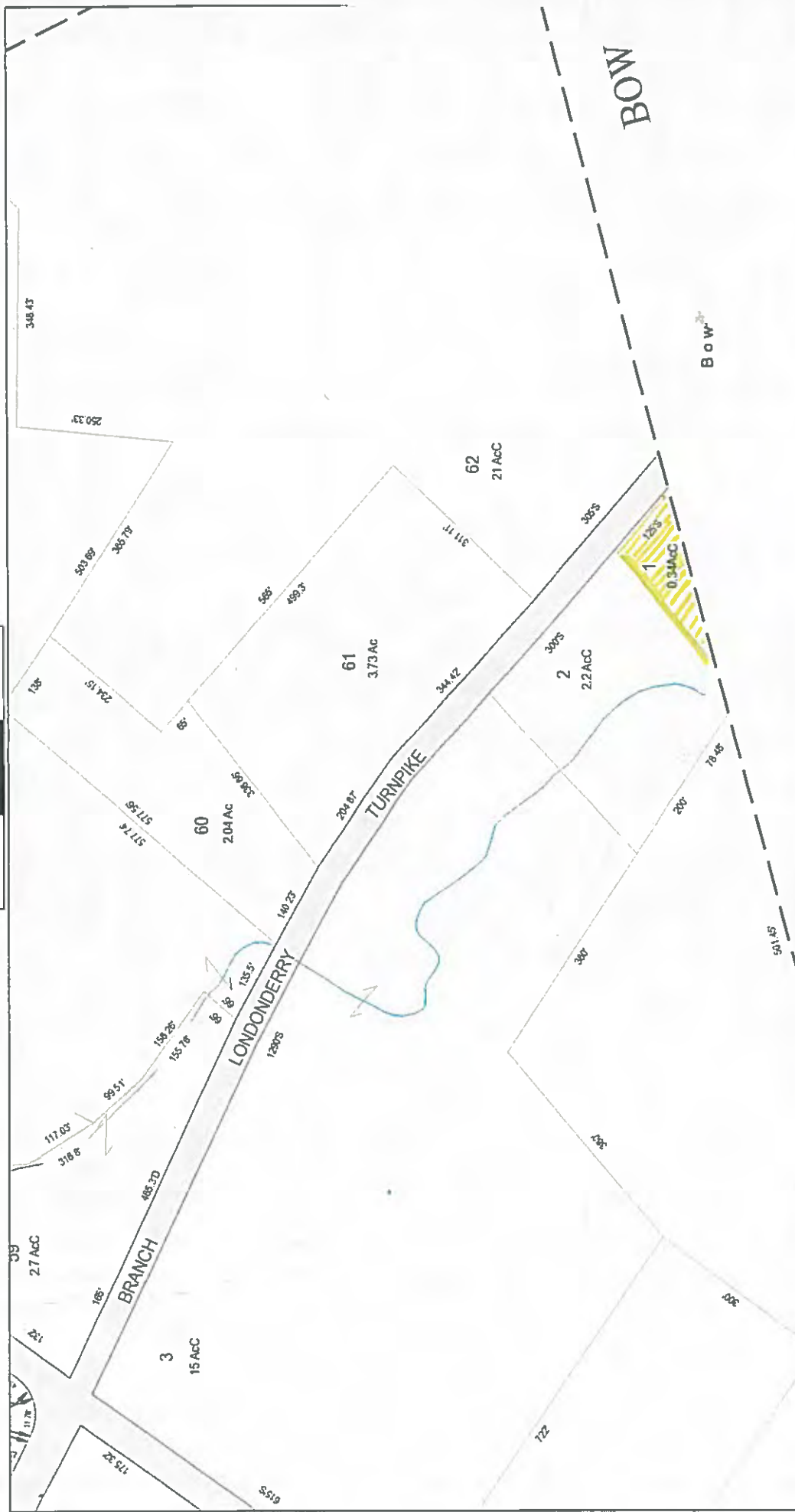
TAYLOR BELANGER

166 BRANCH LONDERR TP



www.cai-tech.com

March 9, 2022



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.





March 9, 2022

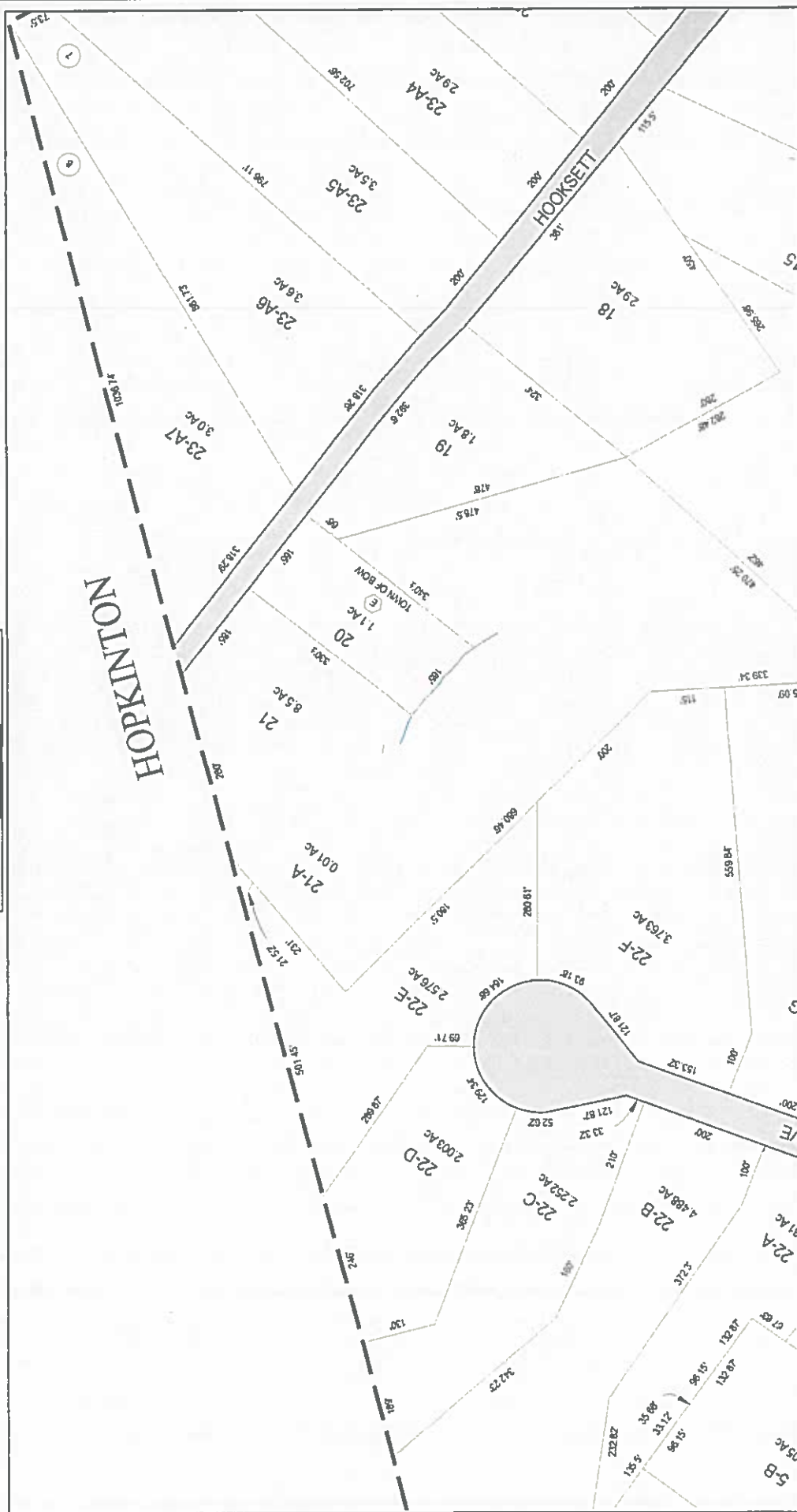
Bow's Tax Map

TAYLOR BELANGER  
166 BRANCH LONDONDERRY TP

1 inch = 146 Feet  
0 146 293 440



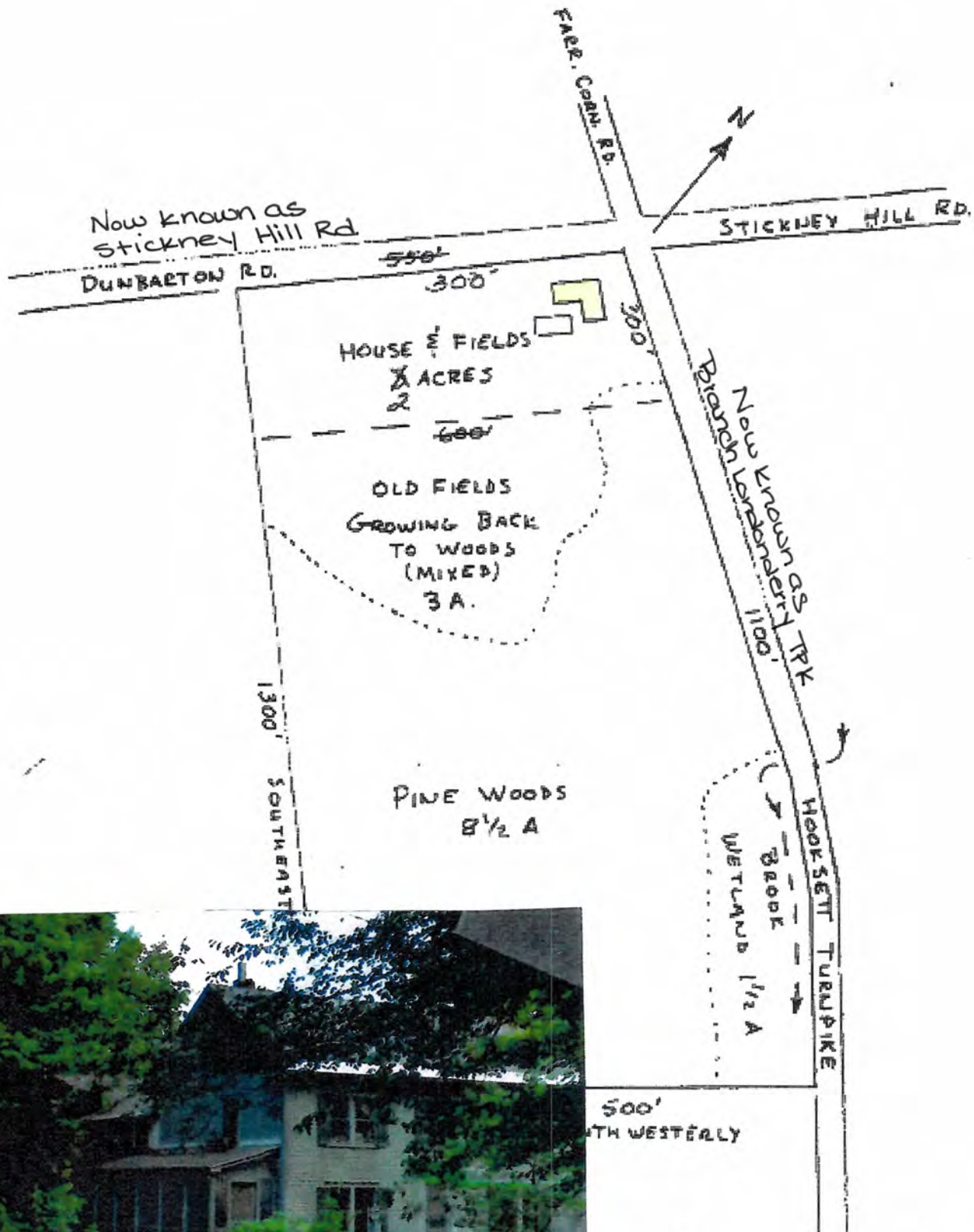
www.cai-tech.com



Data shown on the 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 the map.



Tax Map 266 Lot 3 - 427 Stickney Hill Rd  
-Visually house appears to not meet front yard setback.

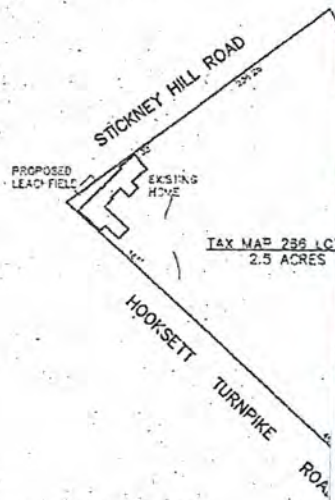


CURRENT USE MAP  
RICHARD C & JOAN H JOOS  
FARRINGTON'S CORNER  
HOPKINTON N. H.

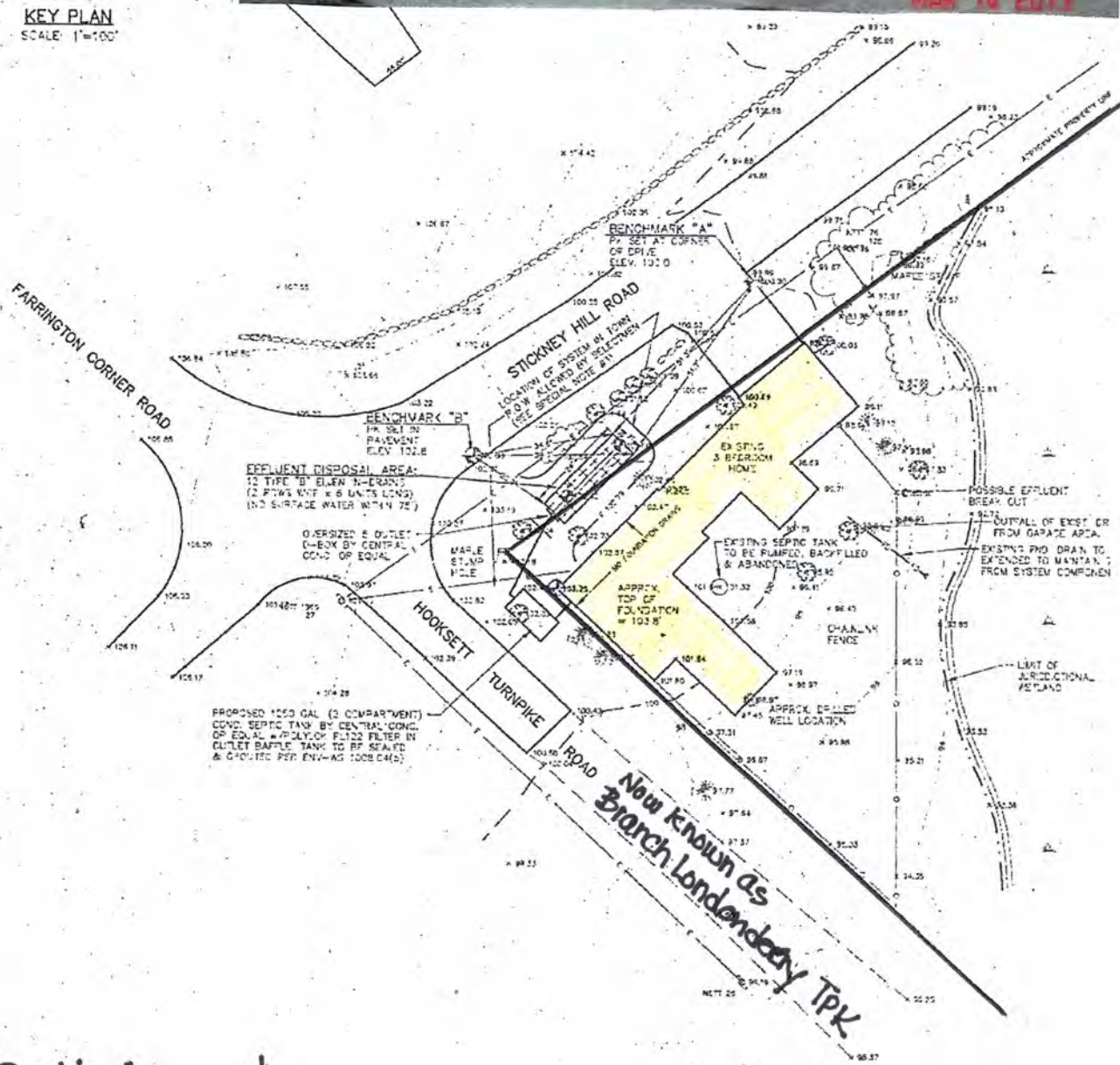


Tax Map 266-Lot 59 - 405 Stickney Hill Rd  
(Corner Branch Londonderry Tpk)

Town records indicate noncompliance with  
both front setbacks. Septic system in road right-of-way.



KEY PLAN  
SCALE: 1"=100'



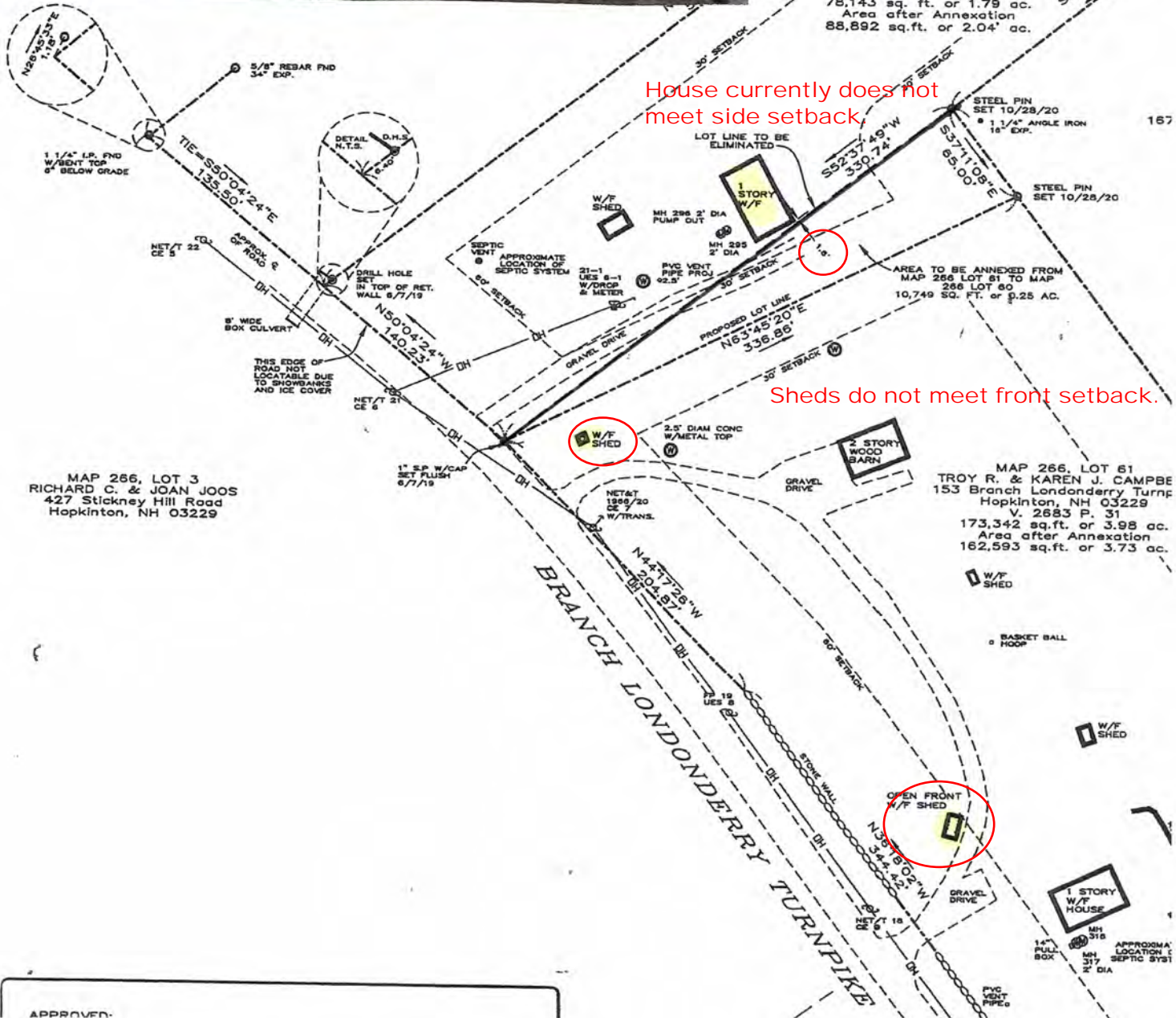
Copy: Septic Approval



Tax Map 266 Lot 60 - 85 Branch Londonderry Tpk  
 Town records indicate noncompliance with sideline setback  
 House constructed 2005.

Lot Line Adj. approved 2020.  
 According to Town, not official  
 until deed is recorded transferring  
 ownership. As of 3/2022 deed not  
 recorded.

County, NH In the Records of Susan Cragin, Register  
 5.00

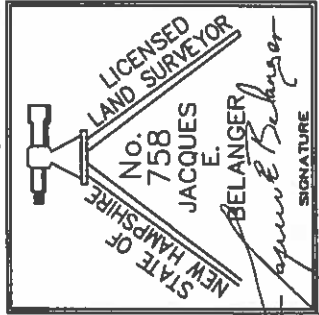






Tax Map 2666 Lot 2  
142 Branch Londonderry TPK.

MARCH 8, 2022



MAP 266 LOT 4.1  
RANDY & MARY C. DUQUETTE  
523 STICKNEY HILL ROAD  
HOPKINTON NH 03229  
BOOK 3137 PAGE 860

HOPKINTON  
BOW

MAP 2 BLOCK 2 LOT 21  
TOWN OF BOW  
10 GRANDVIEW DRIVE  
BOW NH 03046  
BOOK 3609 PAGE 2414

MAP 266 LOT 2  
HAROLD DARRAH JR.  
96 SMITH ROAD  
BARNSTEAD NH 03218  
BOOK 3543 PAGE 1542

LOT 1  
13,836 SF  
0.32 ACRES

MOBILE HOME

WOOD FRAMED HOUSE

LEACH FIELD

SEPTIC TANK

4" x 4" x 2" GRANITE BOUND FOUND

S 51°48'24" E 453.77'

TOWN LINE SIGN

123.83'

5.8'

24'

24'

8.8'

9.4'

DRILLED WELL

1" x 16" IRON PIPE

ROW

2" x 36" GALVANIZED PIPE

2" x 36" GALVANIZED PIPE

MAP 2 BLOCK 4 LOT 23-A7  
RONALD & ANN FERRANTE  
148 HOOKSETT TURNPIKE  
BOW NH 03304  
BOOK 2064 PAGE 189

MAP 266 LOT 61  
BARRY O. UPTON  
167 BRANCH LONDONDERRY TURNPIKE  
HOPKINTON NH 03229  
BOOK 1117 PAGE 5

MAP 266 LOT 1  
BRANCH LONDONDERRY  
TURNPIKE  
HOPKINTON NH

THIS LOT LIES WITHIN THE LOW DENSITY RESIDENTIAL DISTRICT

FRONT SETBACK = 60'  
SIDELINE SETBACK = 30'  
REAR SETBACK = 60'

I HEREBY CERTIFY TO THE TOWN OF HOPKINTON NH BUILDING DEPARTMENT THAT THE INFORMATION SHOWN FOR THIS LOT PLAN REPRESENTS AS-BUILT AND PROPOSED CONDITIONS.

PREPARED FOR:

TAYLOR F. BELANGER  
166 BRANCH  
LONDONDERRY TURNPIKE  
HOPKINTON NH

PREPARED BY

J.E. BELANGER LAND SURVEYING P.L.L.C.

61 OLD HOPKINTON ROAD DUNBARTON NH 03046

TEL. (603) 774-3601

SCALE 1" = 40' PLAN DATE: FEBRUARY 11, 2022

SHEET 1 OF 1

JN 222281



**Front Elevation**

SCALE: 3/16" = 1'

**1**

2/18/2022

Location:  
166 Branch Londonderry  
Turnpike Rd., Hopkinton, N.H.

Prepared for:  
Taylor Belanger

**ELEVATION**

Belanger Garage





**Rear Elevation**  
SCALE: 3/16" = 1'

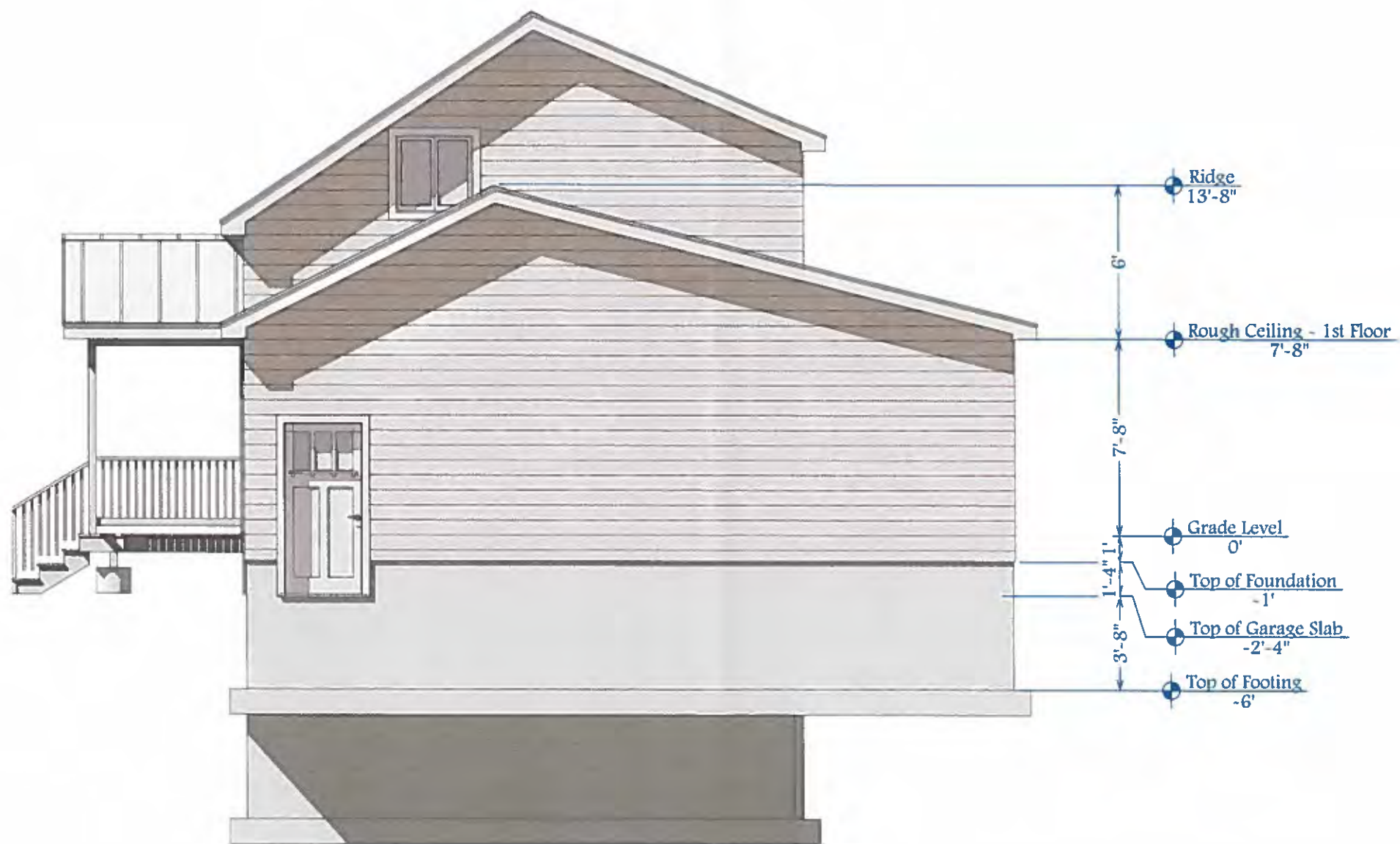
Belanger Garage

ELEVATION

Prepared for:  
Taylor Belanger

Location:  
166 Branch Londonderry  
Turnpike Rd., Hopkinton, N.H.

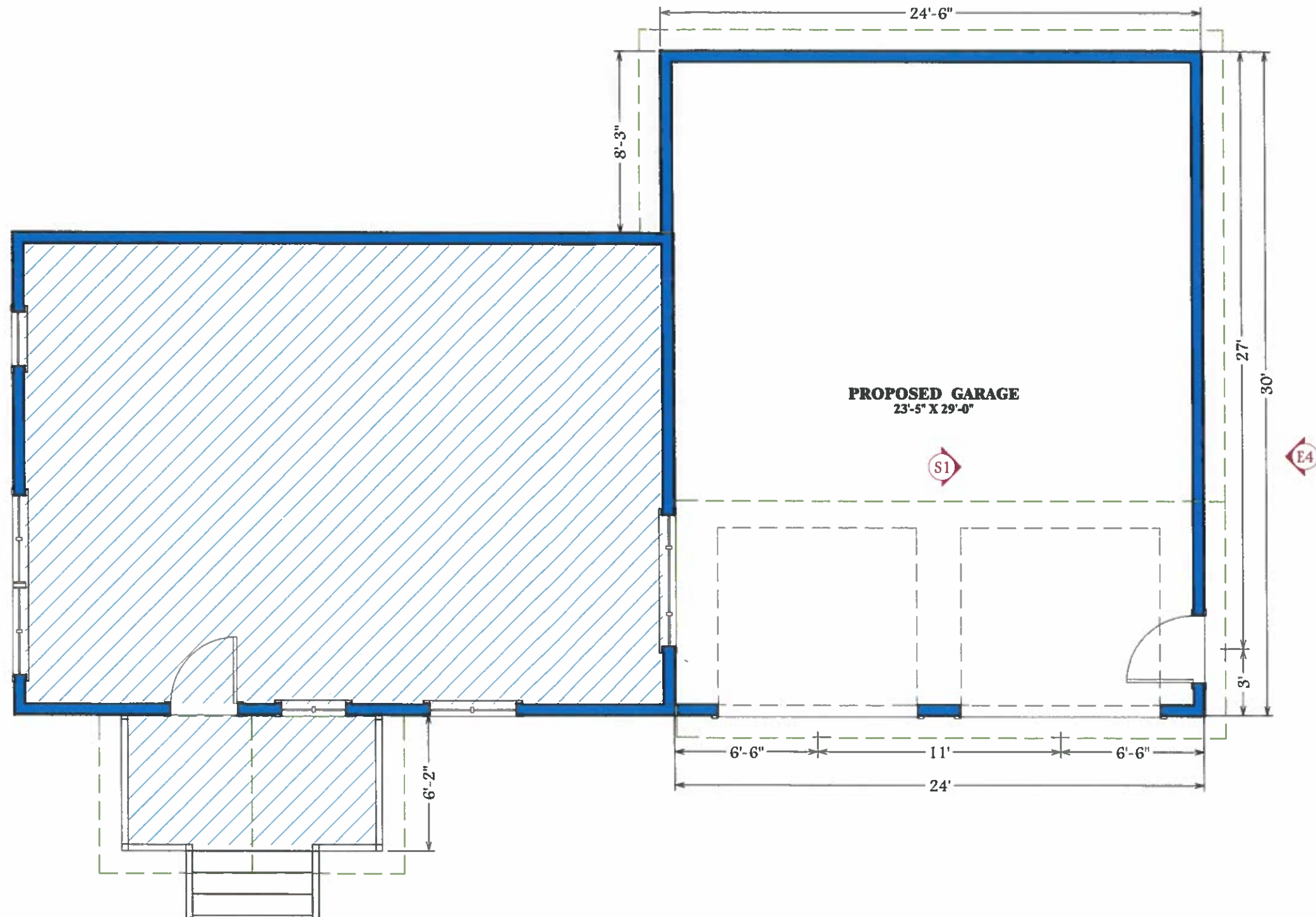
**2**  
2/18/2022





**First Floor**  
SCALE: 3/16" = 1'

E2



These drawings are prepared as a guideline for planning and construction purposes only. Contractor shall be responsible for all state and local permits and that construction meets all federal, state and local codes.

Belanger Garage

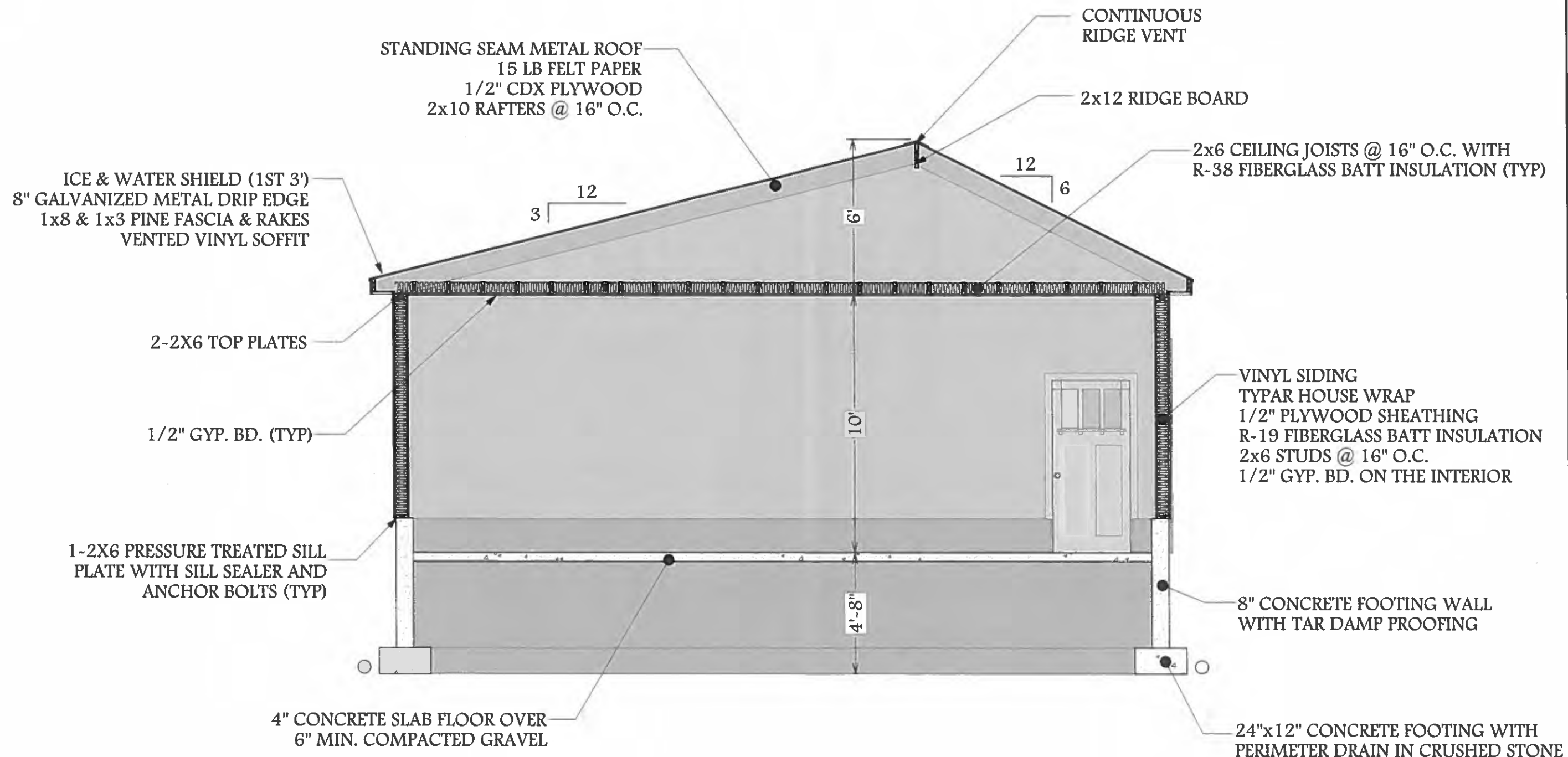
FLOOR PLAN

Prepared for:  
Taylor Belanger

Location:  
166 Branch Londonderry  
Turnpike Rd., Hopkinton, N.H.

4

2/18/2022





# Town of Hopkinton

## Planning Department

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

### HOPKINTON ZONING BOARD OF ADJUSTMENT MINUTES JANUARY 4, 2022

The Hopkinton Zoning Board of Adjustment held a meeting on Tuesday, January 4, 2022, at 5:30 PM in the Hopkinton Town Hall, 330 Main Street, Hopkinton. Members present: Acting Chairman Andrew Locke, Jessica Scheinman (remotely), Eric Buck, Kristen Cummings, and Thomas Lipoma. Staff present: Planning Director Karen Robertson.

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Motion made by Mr. Buck, seconded by Mrs. Cummings, to allow Ms. Scheinman to join the meeting remotely. Motion carried unanimously. Roll Call: Lipoma-yes, Cummings-yes, Buck-yes, and Locke-yes.

I. **Roll Call.** Lipoma, Cummings, Buck, Scheinman, and Chair Locke.

II. **Applications.**

**#2022-02 Drew Pond Properties, LLC** Variance from Zoning Ordinance 4.2 Table of Dimensional Requirements to establish a self-storage facility with less than the required front and rear setbacks, located off Bound Tree Road, Tax Map 221, Lot 75, B-1 district.

The Applicant delayed review of their application to, tentatively, the April meeting. As a result, abutters will be renotified.

**#2022-01 Cedar Street Holdings, LLC** Variance from Zoning Ordinance 4.2 Table of Dimensional Requirements to construct a deck with less than the required side setback and exceed the maximum lot coverage, 16 Cedar Street, Tax Map 101, Lot 18, VB-1 district.

Owner Brian Cressy introduced Attorney Maria Dolder of Hebert and Dolder, who presented on behalf of the Applicant.

It was noted that Hopkinton's definition of "Building Coverage" excludes unenclosed porches. As a result, the Variance to exceed the maximum lot coverage is not necessary. The Board agreed that should the Applicant later decide to screen-in the proposed deck, it would then be considered an enclosed structure requiring an application to the Zoning Board of Adjustment.

Attorney Dolder presented the application for Variance to construct a deck having less than the required side setback. The property is within the commercial district and is a corner lot having two frontages and one side. The side yard abuts the Contoocook River. The existing building is currently being used as a restaurant which is a use permitted in the commercial (VB1) district. The Applicant intends to renovate the current

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Subject to review and approval.

restaurant and, in doing so, is proposing to construct a deck to provide for outdoor seating. The Variance is to allow the deck to be built along the water.

Attorney Dolder reviewed the criteria for a Variance as outlined in Section XV of the Zoning Ordinance.

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

"The use itself is not only permitted by right within the VB-1 zoning district but it is already established on the property. The property is a corner lot; therefore, it has two frontages and one side yard. In the VB-1 district, there is no required front yard setback. Although the required side yard setback is 10 feet, in this specific case, the entire side of the property abuts the Contoocook River. Furthermore, the general area surrounding the property is commercial in nature. Accordingly, a waiver of the side yard setback will not have any effect on any neighboring property. On the other hand, the Applicant is proposing an extensive renovation to the existing building, with the addition of outside seating, all of which will increase the value of the property and the neighboring area. Given that the relief being requested shall not have any adverse impact to the neighborhood, but instead is beneficial to the area and the community, the Variance relief would not diminish surrounding property values."

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

"To be contrary to the public interest, the Variance must unduly, and in a marked degree conflict with the Ordinance such that it violates the Ordinance's basic zoning objectives. To ascertain whether granting the Variance would violate basic zoning objectives, you must examine whether it would alter the essential characteristics of the neighborhood or would threaten the public health, safety or welfare of the public. The Applicant's requested Variance does neither. As stated, the use itself is not only permitted by right within the VB- zoning district, but it is already established on the property. The general area surrounding the property is also commercial in nature and shall not be impacted by the proposed deck. In fact, in the VB-1 district, there are no front setback requirements. Since the property is a corner lot, having two frontages, it is not required to meet any setbacks on the portion that is along the roadway. The only area of the property that is required to comply is the side yard, which abuts the Contoocook River. Therefore, a reduction in the required side setback will not have any impact on the area. The granting of the relief requested shall have no impact on public safety, health, or general welfare of the public and will not be contrary to the public interest. Instead, granting the Variance will allow the property to be utilized in a reasonable manner, consistent with the intent of the Zoning Ordinance."

**3) By granting the Variance, substantial justice would be done because:** "One of the guiding rules in evaluating substantial justice is that any loss to the individual that is not outweighed by a gain to the public is an injustice. The Applicant clearly satisfies this requirement. The use itself is not only permitted by right, but it is already established on the property and fits in with the general commercial uses in the area. Accordingly, it will not have any adverse impact on the neighborhood. Since the portion of the property where the setback relief is requested abuts the

river, such a reduction in the required side setback will not have any impact on the area. Similarly, the addition of outside seating for restaurants has become a critical issue and important to the public welfare. By granting the Variance relief, substantial justice will be done since a denial would be a tremendous loss to the Applicant without any justified gain to the public.

Substantial justice is also achieved by granting variances that do not adversely impact nearby property owners and which allow a property to be used reasonably. Even with the requested relief, the difference between that required under the Zoning Ordinance and that being proposed is so minimal that it shall not create any adverse effect on the adjoining neighborhood. With the pandemic, outside seating has become increasingly important for restaurants and their customers. Given the configuration of the lot, the Applicant cannot reasonably accommodate outside dining while maintaining the side setback and the current lot coverage. Since the proposed use will not adversely impact nearby property owners but alternatively will allow the property to be used reasonably, granting the relief requested would result in substantial justice."

- 4) **The spirit and intent of the Ordinance will not be broken by granting the Variance because:** "Once again, the use itself is permitted by right under the Zoning Ordinance and is already established on the property. The general area surrounding the property is commercial in nature and consistent with this use. Although the Zoning Ordinance does require a 10-foot side setback, in this case, the entire side yard of the property abuts the river and shall have no impact on surrounding properties. The deck will be constructed along the waterfront and shall provide critical seasonal outdoor dining. As a result, there is no conflict with the proposal and the intent of the Zoning Ordinance. One of the general purposes of the Zoning Ordinance is to encourage the most appropriate use of land throughout the Town. In this particular case, granting the relief would be consistent with such a purpose."

- 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.** "The property is certainly unique in several ways. First of all, as already stated a number of times, the property is located within the VB-1 district where the proposed use is permitted by right and in fact, is already established on the property. The lot is a corner lot, which has two frontages and one side, which abuts the Contoocook River. Even though the lot itself is larger in size than the .17 acres required in the Zoning Ordinance, given the existing location of the building, the required side setback unreasonably impact the Applicant's ability to construct the deck and provide outside dining. With the pandemic, outside seating became critical for restaurants and has remained an important feature for customers, and their conform. It is also important to once

again point out that the area of the property where the setback relief is being requested directly abuts the river and shall have no impact on the neighboring area. On the other hand, the proposed use will allow the Applicant to utilize the property in a reasonable manner. The relief being requested by the Applicant is the minimum relief required in order to allow the Applicant to reasonably use the property and to provide critical outside seating. It is also important to note that even with the proposal, the proposed use will not alter the essential characteristics of the neighborhood or the property. Accordingly, there is no fair and substantial relationship between the general purpose of the Zoning Ordinance and the specific restrictions on the property."

**ii) The proposed use is a reasonable one.** "As stated, the use of the property is permitted by right under the Zoning Ordinance and is already established on the property. The addition of outdoor seating in connection with a restaurant is not only reasonable but has also become an important feature. The Applicant cannot add outdoor seating without encroaching into the 10-foot setback."

- 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.** "This property is certainly unique in several ways. First of all, as already stated a number of times, the property is located within the VB-1 district where the proposed use is permitted by right and, in fact, is already established on the property. The lot is a corner lot, which has two frontages and one side, which abuts the Contoocook River. Even though the lot itself is larger in size than the .17 acres required in the Zoning Ordinance, given the existing location of the building, the required side setback unreasonably impacts the Applicant's ability to construct the deck and provide outside dining. With the pandemic, outside seating became critical for restaurants and has remained an important feature for customers and their comfort. It is also important to once again point out that the area of the property where the setback relief is being requested directly abuts the river and shall have no impact on the neighboring area. On the other hand, the proposed use will allow the Applicant to utilize the property in a reasonable manner. The relief being requested by the Applicant is the minimum relief required in order to allow the Applicant to reasonably use the property and to provide critical outside seating. It is also important to once again note that even with the proposal, the proposed use will not alter the essential characteristics of the neighborhood or the property. Accordingly, 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."

Mrs. Cumming inquired about Lots 18 and 19, questioning whether they had been merged. In response, Attorney Dolder stated that they had assumed they had been combined but recently realized that it had not been done. The Applicant has agreed to merge the two lots when applying to the Planning Board for Site Plan Review.

Ms. Scheinman suggested that the rear deck is unnecessary as the plans also include a proposed patio and deck on the side of the building. The proposed side patio and deck would be larger than the proposed rear deck.

The Board briefly discussed the renditions presented as it appeared to show footings or posts supporting the side deck, while cantilevers support the rear deck. Also, based on the plans submitted, it appeared that one corner of the rear deck would be non-conforming. The remainder of the rear deck will comply with the 10-foot setback.

Mr. Lipoma inquired about the NHDES Shoreland Permit and the property line when abutting a river. While there was discussion about the high-water mark being the boundary line, Mr. Buck explained that there is a boundary (reference line) that NHDES will require to be shown the plan for the Shoreland Permit.

Ms. Scheinman asked about the maximum seating allowed for the restaurant and whether it is based on Fire Department standards. Attorney Dolder assumed it is based on available parking, explaining that the Applicant will review seating and parking during Planning Board Site Plan Review.

Ms. Scheinman noted that the renditions included with the application appear to show the footings or posts of the side deck along the edge of the river. Mr. Lipoma concurred and questioned whether the rear edge of the building was at the setback line. In response, Mr. Cressy stated that it would depend upon the river's height.

Mr. Buck inquired about the Shoreland Permit from the NH Department of Environmental Services (NHDES). In response, Attorney Dolder explained that they are presently working on the application.

Mrs. Cumming asked if the next step with NHDES would encompass the riverbed itself. Attorney Dolder replied yes.

Ms. Scheinman asked about the proposed outdoor patio shown on the front lot line, which is not subject to the setback requirement. The patio will provide outdoor seating. A plan review showed the proposed side patio and deck at the lot line.

Chairman Locke opened the public hearing portion of the meeting for comments.

The Board received letters of support of the application from Leeanne Vance and Dimitri Tsihlis, owners of businesses in the Village.

Abutter Scott Crathern, the owner of 25 Cedar Street, spoke in support of the application. He suggested that the proposed deck would not affect the residents in the area as it would be on the rear of the building.

Seth Greenblott of 442 Briar Hill Road, owner of 44 Cedar Street, and an alternate member of the Zoning Board of Adjustment, spoke in favor of the application. He is confident that Mr. Cressy will be an excellent steward and that the community will be proud of the project.

Greg Sagris of 32 Granite Valley, owner of a restaurant in Town, a member of the Planning Board, Economic Development Committee, and Chamber of Commerce, spoke in support of the application. Speaking as a business owner, Mr. Sagris believed using the Town's natural resources is beneficial to all. He suggested that the restaurant, once known, will bring people into the community that will also patronize other businesses.

Steve Lux of Little Tooky Road spoke in support of the proposal. Mr. Lux did not believe that the 10-foot setback was reasonable when abutting a river.

With no further comments from the public or rebuttal testimony from the Applicant, Chairman Locke closed the public portion of the hearing.

Chairman Locke stated that the Board's responsibility is two-fold: Consider the project and ensure that the Board honors the Zoning Ordinance as written. He then suggested that the property is unique due to its location and use.

Ms. Scheinman expressed concern with the requested zero setback to the river. The river is a natural resource that is vulnerable to impacts. The renditions included with the application show the posts that support the proposed deck to be at the river's edge. While Ms. Scheinman agreed with the proposed concept, she expressed concerns. She then suggested that the outdoor patio proposed to the side of the building provides outdoor seating and doesn't impact the 10-foot setback to the river. Mr. Lipoma agreed that using the proposed deck and patio to the side of the building would not require a Variance.

Mr. Lipoma noted that the boundary line to the river is unclear. In response, Mr. Buck stated that the property line is the reference line. Mr. Lipoma questioned whether the reference line could change over time. Mr. Buck replied no, indicating that the reference line is available at NHDES. It is not the water line. While the water line can change, the reference line (boundary line) is a fixed GPS location. The distance from the proposed deck to the reference line will not change over time. Mr. Lipoma then suggested that the issue of how the deck is constructed in relationship to the river is more of a concern of NHDES.

At this time, the Board reviewed the Applicant's response to the criteria for a Variance, with a majority of the Board agreeing that the proposed deck would not decrease property values in the area.

Ms. Scheinman was concerned that the deck would be contrary to the public interest with a zero setback to the river. Other members noted that the proposed deck would hang into the 10-foot setback rather than impact the ground and that it is the corner of the deck, rather than the entire deck, that would be within the setback. Lastly, it was noted that there was a considerable amount of public interest in favor of the proposal.

Ms. Scheinman did not believe that substantial justice is accomplished by granting the Variance as the Applicant does not need the Variance to build outdoor space towards



the side of the building. Mr. Lipoma agreed that a sizeable portion of the deck would not require a Variance based on the site plan presented. It appeared that half of the proposed rear deck meets the 10-foot setback requirement. At the same time, the proposal seems more logical than constructing only a portion of a deck.

The majority of the Board agreed that the spirit and intent of the Ordinance would not be impacted by granting the Variance, especially if NHDES agrees that the deck will not affect the river. Encouraging this type of use in the area is supported by the Ordinance.

Concerning hardship, the Board unanimously agreed that they need to be consistent with similar requests if they were to grant or deny the application. There must be something unique about the property. In response, Mr. Lipoma questioned whether anyone contemplated the river when developing the setback requirements, suggesting that the property is unique. It was then noted that there would be zero setback if it were not a river and instead was a road.

Again, it was reiterated that outdoor seating is permitted on the proposed side deck and patio without requiring a Variance. While the proposed rear deck is not necessary for the operations of a restaurant, a large portion of the proposed rear deck, along with the side deck and patio, meets the setback requirement. Eliminating a small section of the deck off the back of the building may be unreasonable.

At this time, Chair Locke reopened the public portion of the hearing so that the Applicant could clarify the location of the deck support posts in relation to the river.

Property owner Brian Cressy stated that the plans or renditions are conceptual; however, the size of the proposed deck is accurate. He then noted that there would not be pylons or other support posts in the ground. Instead, the rear deck will be cantilevered to the building. The side deck will have support posts in the ground.

Again, Ms. Scheinman stated that the Applicant is able to reasonably use the proposed side deck and patio for outdoor seating. Therefore, she did not believe that the Applicant successfully met the criteria outlined in 5(a) and 5(b) for a Variance. She then questioned whether the supports would be within the 10-foot setback. In response, Mr. Lipoma said that it appears based on the renditions provided with the application that the supports for the side deck that go into the ground will be in alignment with the building; therefore, they will not be within the 10-feet. Mrs. Cummings and Mr. Buck agreed that it appears that the deck will hang within the 10-foot setback and that there will be no supports in the ground within the setback.

Ms. Scheinman wanted the Applicant to stipulate that only the deck will be cantilevered into the setback. Mr. Cressy agreed, stipulating that there would be no construction at ground level within ten feet of the river.

Eric Buck, seconded by Thomas Lipoma, moved to **APPROVE** Application #2022-01 as presented with the following conditions:

- 1) There shall be no excavated supports for the deck within the 10-foot setback.

- 2) The Applicant shall meet NH Department of Environmental Services' Comprehensive Water Quality Standards, and
- 3) The Applicant shall merge Lots 18 and 19 when applying for Site Plan Review.

Motion passed unanimously. Roll Call vote: Lipoma – yes, Cummings – yes, Buck – yes, Scheinman – yes, and Locke – yes. The Applicant successfully addressed all criteria to be granted a Variance as outlined in Section XV of the Zoning Ordinance.

Reasons for approval:

- 1) Property Values:
  - There was no evidence that surrounding property values would diminish because that part of the deck would encroach into the setback.
  - There would be no encroachment at ground level as the deck would be cantilevered to the building, and therefore, that part that is to be non-conforming will hang into the setback.
- 2) Public Interest:
  - There was no evidence that the public's interest would be negatively affected.
  - The non-conforming portion of the deck is to be located to the rear of the building.
  - There was a considerable amount of public interest in favor of the proposal.
- 3) Substantial Justice:
  - The public would realize no appreciable gain from denial of the Variance.
  - A large portion of the rear deck and the side deck and patio meet the setback requirements.
- 4) Spirit and Intent:
  - The building will continue to be utilized in the same manner (restaurant).
  - The nature and character of the surrounding properties will not change as the abutting properties are used for commercial and residential purposes.
  - Requiring the Applicant to limit the size of the rear deck to only that part that conforms to the setback is not necessary in order to give full effect to the purpose of the Zoning Ordinance as there will be no impact at ground level.
- 5) Unnecessary Hardship:
  - Literal enforcement of the Ordinance will result in unnecessary hardship as the Applicant would only be permitted to construct a portion of the rear deck.
  - A part of the rear deck will hang within the 10-foot setback with no supports in the ground.
  - The supports for the side deck that go into the ground will align with the building and meet the setback.
  - It would be unreasonable to only allow a part of the rear deck to be constructed based on the design.

**III. Minutes and Notice of Decision of December 7, 2021.** As presented, Jessica Scheinman, seconded by Thomas Lipoma, moved to approve the Minutes and Notice of

Decision of December 7, 2022. Motion passed unanimously. Roll Call vote: Lipoma – yes, Cummings – yes, Buck – yes, Scheinman – yes, and Locke – yes.

**IV. Adjournment.** Seconded by Kristen Cummings, Thomas Lipoma moved to adjourn the meeting at 7:20 PM. Motion passed unanimously. Roll Call vote: Lipoma – yes, Cummings – yes, Buck – yes, Scheinman – yes, and Locke – yes. The next scheduled meeting of the Board is Tuesday, February 1, 2022.

Karen Robertson  
Planning Director

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Ordinance §15.10. "Representations made at the public hearing or material submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking, or uses which are subject to regulations pursuant to subsection 15.8.2 or 15.8.3 shall be deemed conditions upon such special exception or variance."



# Town of Hopkinton Planning Department

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

## HOPKINTON ZONING BOARD OF ADJUSTMENT NOTICE OF DECISION JANUARY 4, 2022

Notice is hereby given that the Hopkinton Zoning Board of Adjustment met on Tuesday, January 4, 2022, at 5:30 PM in the Hopkinton Town Hall, 330 Main Street, Hopkinton. Members present: Acting Chairman Andrew Locke, Jessica Scheinman (remotely), Eric Buck, Kristen Cummings, and Thomas Lipoma. Staff present: Planning Director Karen Robertson. The Board made the following decision(s):

Motion made by Mr. Buck, seconded by Mrs. Cummings, to allow Ms. Scheinman to join the meeting remotely. Motion carried unanimously. Roll Call: Lipoma-yes, Cummings-yes, Buck-yes, and Locke-yes.

### I. Applications.

**#2022-02 Drew Pond Properties, LLC** Variance from Zoning Ordinance 4.2 Table of Dimensional Requirements to establish a self-storage facility with less than the required front and rear setbacks, located off Bound Tree Road, Tax Map 221, Lot 75, B-1 district.

The Applicant delayed review of their application to, tentatively, the April meeting. As a result, abutters will be re-notified.

**#2022-01 Cedar Street Holdings, LLC** Variance from Zoning Ordinance 4.2 Table of Dimensional Requirements to construct a deck with less than the required side setback and exceed the maximum lot coverage, 16 Cedar Street, Tax Map 101, Lot 18, VB-1 district.

Eric Buck, seconded by Thomas Lipoma, moved to **APPROVE** Application #2022-01 as presented with the following conditions:

- 1) There shall be no excavated supports for the deck within the 10-foot setback.
- 2) The Applicant shall meet NH Department of Environmental Services' Comprehensive Water Quality Standards, and
- 3) The Applicant shall merge Lots 18 and 19 when applying for Site Plan Review.

Motion passed unanimously. Roll Call vote: Lipoma – yes, Cummings – yes, Buck – yes, Scheinman – yes, and Locke – yes. The Applicant successfully addressed all criteria to be granted a Variance as outlined in Section XV of the Zoning Ordinance.

Reasons for approval:

- 1) Property Values:

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*Subject to review and approval.*

- There was no evidence that surrounding property values would diminish because that part of the deck would encroach into the setback.
  - There would be no encroachment at ground level as the deck would be cantilevered to the building, and therefore, that part that is to be non-conforming will hang into the setback.
- 2) Public Interest:
- There was no evidence that the public's interest would be negatively affected.
  - The non-conforming portion of the deck is to be located to the rear of the building.
  - There was a considerable amount of public interest in favor of the proposal.
- 3) Substantial Justice:
- The public would realize no appreciable gain from denial of the Variance.
  - A large portion of the rear deck and the side deck and patio meet the setback requirements.
- 4) Spirit and Intent:
- The building will continue to be utilized in the same manner (restaurant).
  - The nature and character of the surrounding properties will not change as the abutting properties are used for commercial and residential purposes.
  - Requiring the Applicant to limit the size of the rear deck to only that part that conforms to the setback is not necessary in order to give full effect to the purpose of the Zoning Ordinance as there will be no impact at ground level.
- 5) Unnecessary Hardship:
- Literal enforcement of the Ordinance will result in unnecessary hardship as the Applicant would only be permitted to construct a portion of the rear deck.
  - A part of the rear deck will hang within the 10-foot setback with no supports in the ground.
  - The supports for the side deck that go into the ground will align with the building and meet the setback.
  - It would be unreasonable to only allow a part of the rear deck to be constructed based on the design.

**II. Minutes and Notice of Decision of December 7, 2021.** As presented, Jessica Scheinman, seconded by Thomas Lipoma, moved to approve the Minutes and Notice of Decision of December 7, 2022. Motion passed unanimously. Roll Call vote: Lipoma – yes, Cummings – yes, Buck – yes, Scheinman – yes, and Locke – yes.

**III. Adjournment.** Seconded by Kristen Cummings, Thomas Lipoma moved to adjourn the meeting at 7:20 PM. Motion passed unanimously. Roll Call vote: Lipoma – yes, Cummings – yes, Buck – yes, Scheinman – yes, and Locke – yes. The next scheduled meeting of the Board is Tuesday, February 1, 2022.

Karen Robertson  
Planning Director

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Ordinance §15.10. "Representations made at the public hearing or material submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking, or uses which are subject to regulations pursuant to subsection 15.8.2 or 15.8.3 shall be deemed conditions upon such special exception or variance."