



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 PUBLIC NOTICE – AGENDA NOVEMBER 27, 2018

Notice is hereby given that the Hopkinton Zoning Board of Adjustment will meet on Tuesday, November 27, 2018, at 5:30 PM in the Hopkinton Town Hall, 330 Main Street, Hopkinton, NH, to review and take action on the following.

- I. **Call to Order** (Determine quorum, review attendance of Regular Members and seating of Alternate Members, if necessary).
 - II. **Applications.**
 - #2018-9 Joseph Grogan** requests a Special Exception to operate an electrical business as a Home Business, located at 351 Park Avenue, owned by 351 Park Ave, LLC, in the R-1 district, shown on Tax Map 222 as Lot 70. The application is submitted in accordance with Zoning Ordinance Table of Uses 3.6.H.16.
 - #2018-10 56 Maple Street, LLC** requests a Special Exception to convert the building at 56 Maple Street into a five (5) unit residential building. The property is owned by 56 Maple Street, LLC, in the VR-1 district, shown on Tax Map 102 as Lot 44. The application is submitted in accordance with Zoning Ordinance Table of Uses 3.6.A.3.
 - III. **Review of the Minutes and Notices of Decisions for August 7 and September 5, 2018.**
 - IV. **Other Business.**
 - V. **Adjournment.**
-



Town of Hopkinton

RECEIVED

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

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SEP 14 2018

\$100.- CK 1125

HOPKINTON ZONING BOARD OF ADJUSTMENT APPLICATION FOR APPEAL

HOPKINTON
PLANNING DEPT.

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

Name of Applicant: Joseph Grogan

Mailing Address: 141 Red Chimney Rd, Warner, NH 03278

Telephone (days): 603-731-6896

Name of Property Owner: 351 Park Ave, LLC (Joseph Grogan)

Mailing Address: 141 Red Chimney Rd, Warner, NH 03278

Telephone (days): 603-731-6896

Tax Map: 222 Lot: 70 Location of Property: 351 Park Avenue

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: 3.7.3 Paragraph/Table: 3.6.H.16 HOME BUSINESS

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:

Use property for a residential electrical home business.

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.

- 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
- 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.**

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. *Town water private sewer*
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: *[Signature]* Date: 9/14/18
 Applicant's Printed Name: Joe Grogan Date: 9/14/18
 Owner's Signature: same Date: _____
 Owner's Printed Name: _____ Date: _____

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.

A home business is permitted by Special Exception per Zoning Ordinance subsections 2.1.H.1, 3.7.3 and Table of Uses 3.6.H.16.

2. No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials.

There are no hazardous materials being stored at the property.

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 business will not have a negative impact on any neighbors' property value.

There will not be any major change to the property exterior. All material would be stored inside and vehicle parked out back.

4. No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity.

There would be no significant increase in traffic. We travel to customers to perform the work.

5. No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection, and schools.

Water and sewer would see no increase. We hire private waste removal. Hopefully, no need for police or fire, unless there is an emergency.

6. No significant increase of storm water runoff onto adjacent property or streets.

No increase.

7. An appropriate location for the proposed use.

This is a personal business and we would consider this a very appropriate location.

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.

Storing of inventory would not pose any health risk to neighbors. Use would not affect development of any neighboring property.

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

Operating the business from 351 Park Avenue would not change the overall residential feel from the property and neighborhood.

MERRIMACK COUNTY RECORDS *Kathi L. Guay* CPO, Register

⑦

Return To:

351 Park Ave, LLC
141 Red Chimney Road
Warner, NH 03278

1447
2-
25

2025.00 **WARRANTY DEED**

KNOW ALL MEN BY THESE PRESENTS, That, Kip R. Garvin, married, with a mailing address of 7 Timberline Dr., Concord, NH 03301, for consideration paid grants to 351 Park Ave, LLC, a New Hampshire Limited Liability Company, with a mailing address of 141 Red Chimney Rd., Warner, NH 03278, with WARRANTY COVENANTS:

A certain tract or parcel of land with all Improvements thereon, situate in the Town of Hopkinton, Village of Contoocook, County of Merrimack and State of New Hampshire bounded and described as follows:

Beginning at an iron rod near a stump on the Westerly side of the highway leading from Contoocook to Davisville at corner of land now or formerly of Gertrude W. Hankins; thence

Westerly by said Hankins land 221-1/2 feet, more or less, to a split stone bound with an iron rod beside same at land now or formerly of the Contoocook Valley Fair Association, Inc.; thence

Southerly by said land of the Contoocook Valley Fair Association, Inc. 179 feet, amore or less, to an iron pin at land now or formerly of Ruth Bartlett Grinnell; thence

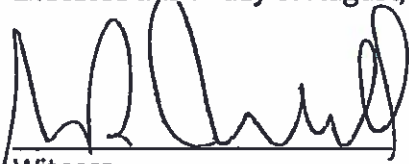
Easterly by said Grinnell land 250 feet, more or less, to a stone bound on the Westerly line of said highway leading from Contoocook to Davisville; thence

Northerly by said highway 189-1/2 feet, more or less, to the point of beginning.

Meaning and intending to describe and convey the same premises as conveyed to Kip R. Garvin by virtue of a deed dated November 3, 2005 and recorded in the Merrimack County Registry of Deeds at Book 2839, Page 78.

This is not the homestead property of the Grantor or his spouse.

Executed this 1st day of August, 2016.

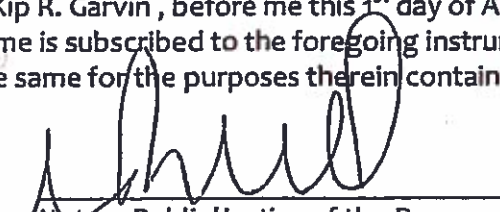

Witness


Kip R. Garvin

State of New Hampshire
County of Merrimack

Personally appeared the above named Kip R. Garvin, before me this 1st day of August, 2016 known to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed the same for the purposes therein contained.




Notary Public/Justice of the Peace
My Commission Expires:



Abutters List Report

Hopkinton, NH
September 06, 2018

Subject Property:

Parcel Number: 222-070-000
CAMA Number: 222-070-000
Property Address: 351 PARK AVE

Mailing Address: 351 PARK AVE, LLC
141 RED CHIMNEY RD
WARNER, NH 03278

Abutters:

Parcel Number: 222-061-000
CAMA Number: 222-061-000
Property Address: 392 KEARSARGE AVE

Mailing Address: HOPKINTON STATE FAIR ASSOC
PO BOX 700
CONTOOCOOK, NH 03229

Parcel Number: 222-069-000
CAMA Number: 222-069-000
Property Address: 341 PARK AVE

Mailing Address: CRESSY (REV TR) LESTER & BONIT
341 PARK AVE
CONTOOCOOK, NH 03229

Parcel Number: 222-071-000
CAMA Number: 222-071-000
Property Address: 375 PARK AVE

Mailing Address: BRANHAM CHRISTOPHER M & KATE A
375 PARK AVE
CONTOOCOOK, NH 03229

Parcel Number: 225-008-000
CAMA Number: 225-008-000
Property Address: 364 PARK AVE

Mailing Address: WHITE EMILY A
364 PARK AVE
HOPKINTON, NH 03229

Parcel Number: 225-009-000
CAMA Number: 225-009-000
Property Address: 350 PARK AVE

Mailing Address: HUNT JON W & SUSAN
350 PARK AVE
CONTOOCOOK, NH 03229

Parcel Number: 225-010-000
CAMA Number: 225-010-000
Property Address: 342 PARK AVE

Mailing Address: DAVIS REBECCA E
37 FERRIS ST
SAINT ALBANS, VT 05478

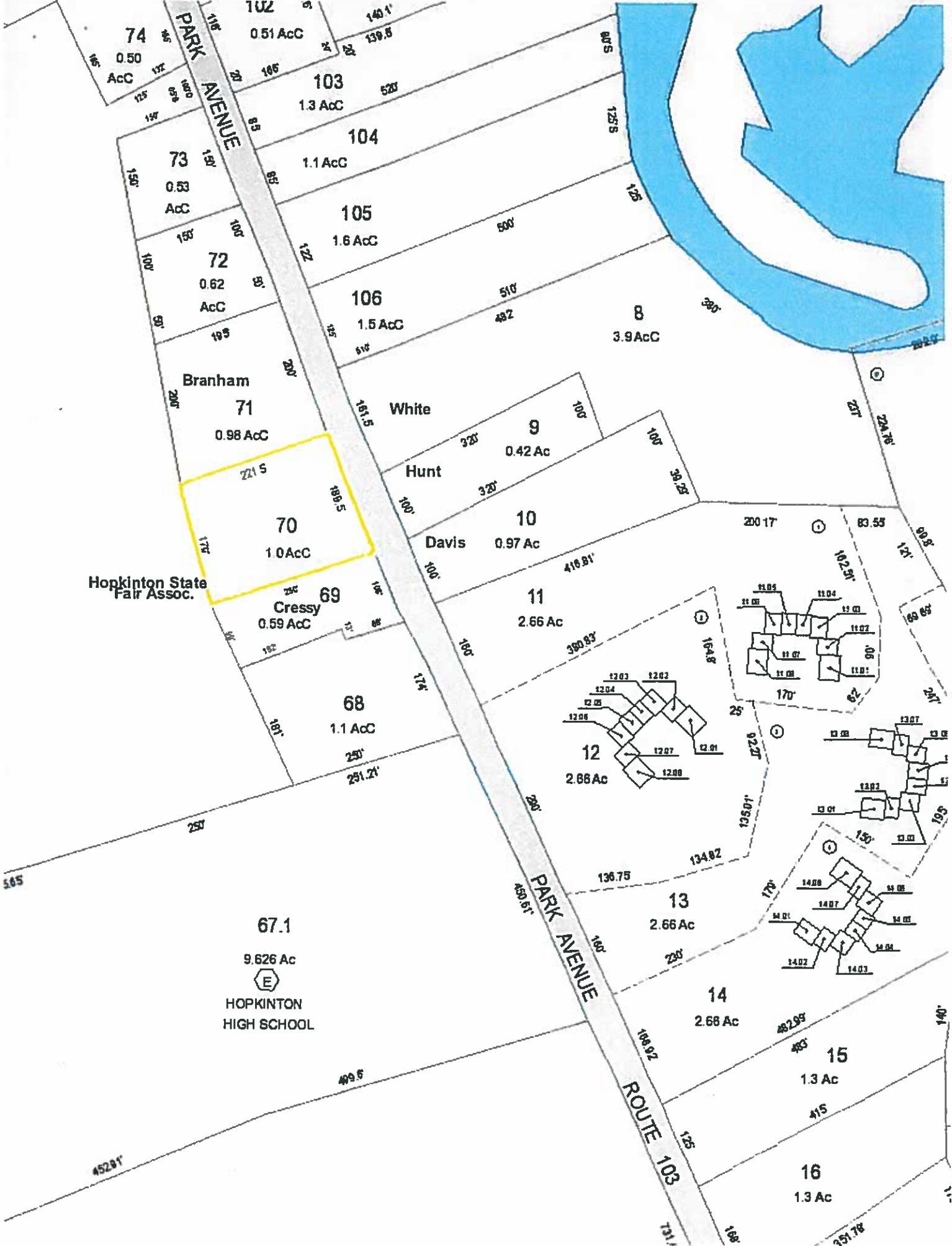


www.cai-tech.com

Data shown on this report 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 report.

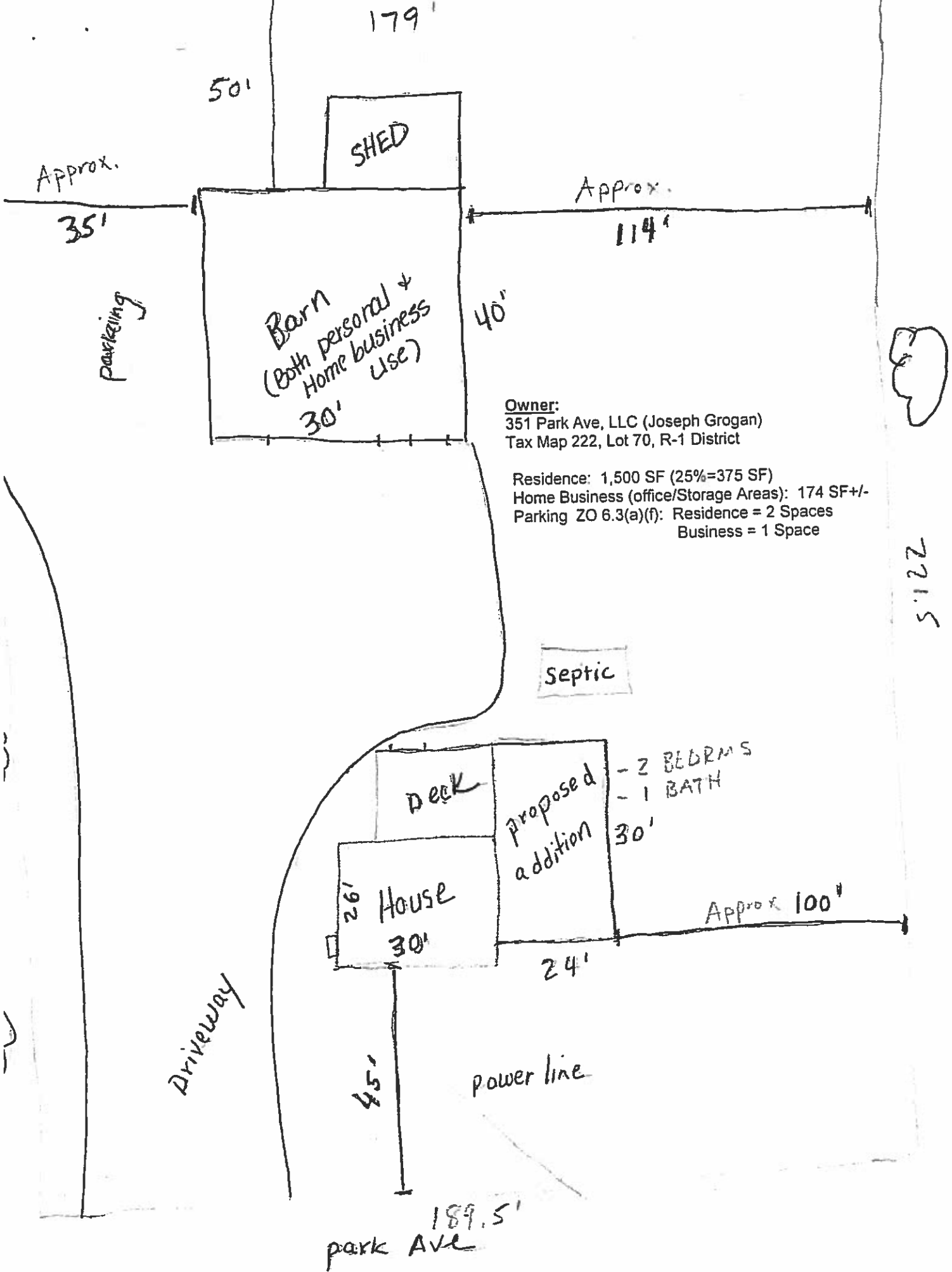
9/6/2018

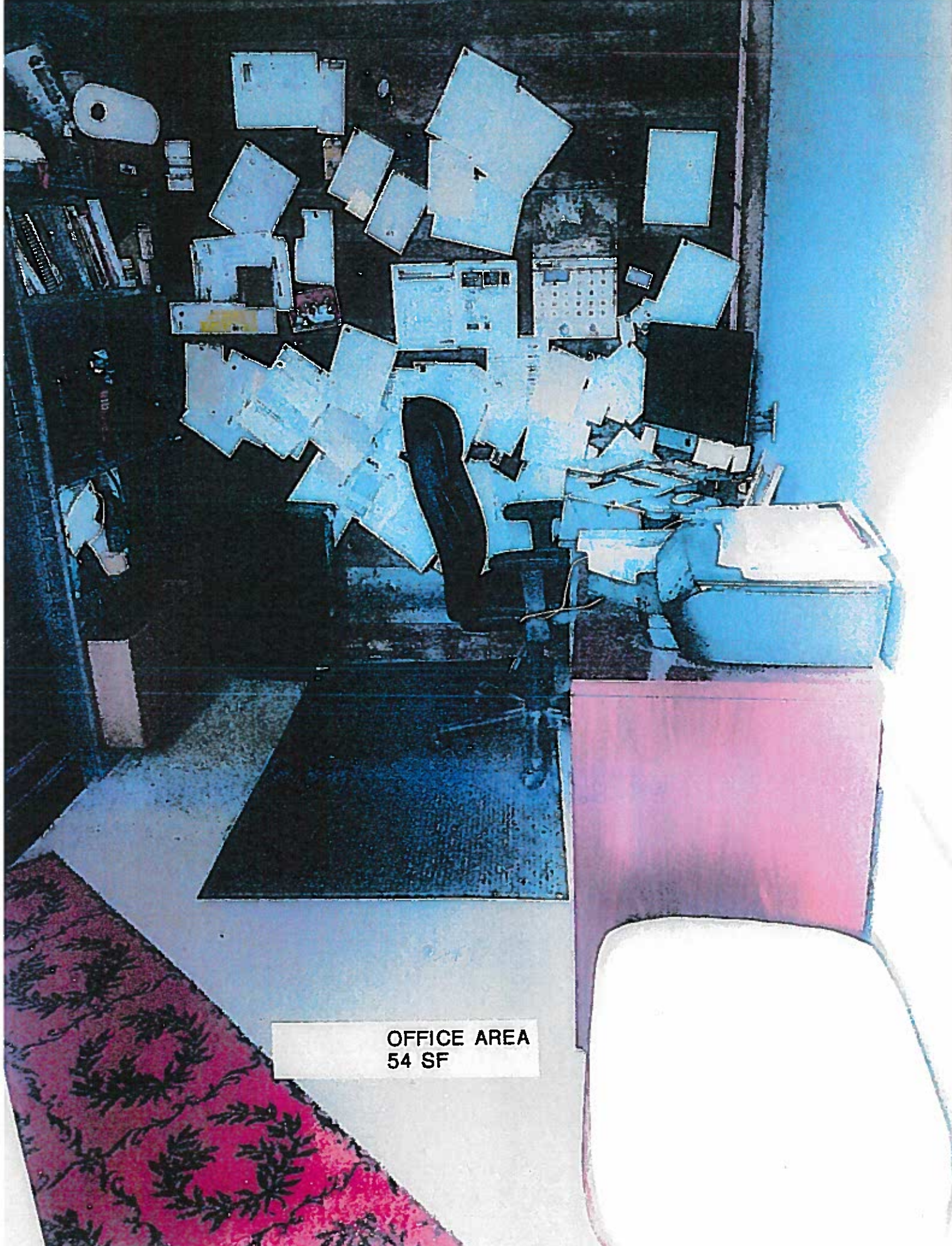
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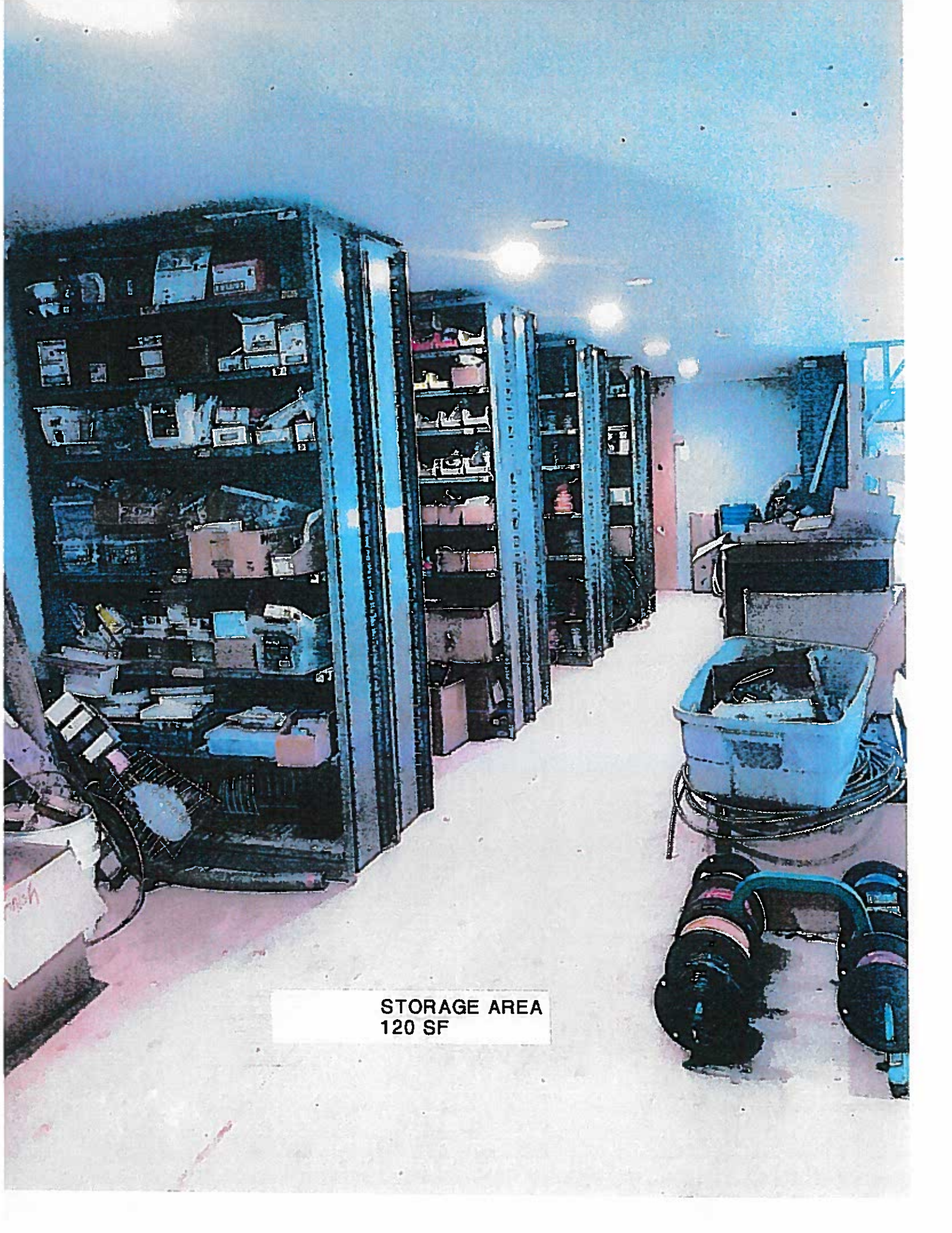
Hopkinton State Fair Assoc.

67.1
9.626 Ac
E
HOPKINTON
HIGH SCHOOL





OFFICE AREA
54 SF



STORAGE AREA
120 SF



TOWN OF HOPKINTON, NH BUILDING/USE APPLICATION

Completed application must be returned to the Selectmen's Office by 12 Noon on Friday, in order to have the application processed for review by the Selectmen at their next scheduled meeting. 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.

SUBMISSION REVIEW CHECKLIST (Office Use)

Permit No. _____	Phasing Applicability: Permit <u> </u> of <u> </u> Subdivision: _____	
Application Received <u> 9/14/18 </u>	<input type="checkbox"/> Driveway Permit	<input type="checkbox"/> PUC Approval
By: <u>KR</u> (initial) Fee: <u>incl. D/ZBA/PB</u>	<input checked="" type="checkbox"/> Septic Approval	<input type="checkbox"/> Floodplain
	<input type="checkbox"/> Fire/Life Safety	<input type="checkbox"/> ZBA/PB
		<input type="checkbox"/> Shoreland Protection
		<input checked="" type="checkbox"/> Code Enforcement
		<input checked="" type="checkbox"/> CVP Water Commission

PROPERTY INFORMATION

Street Address 351 Park Ave	Tax Map No. 222	Tax Lot No. 70	Zoning District R-1
<input type="checkbox"/> Demolition <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input checked="" 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 Number: _____			
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			
Note: If yes, a new CLU map must be submitted to the Assessing Department (746-8258).			

APPLICANT/OWNER INFORMATION

Applicant's Name: Joseph Grogan	Owner's Name: 351 Park Ave LLC (Joseph Grogan)
Mailing Address: 141 Red Chimney Rd	Mailing Address: Same as Applicant
City/State/Zip: Warner, NH 03278	City/State/Zip:
Phone (days): 603-731-6896	Phone (days):
Email:	Email:
Note: Please indicate whether you would prefer your PERMIT emailed or mailed (circle one).	

CONTRACTOR INFORMATION

	Name of Contractor/License #	Address/City/State/Zip	Telephone No.
Architect			
General Contractor			
Electrical (permit required)			
Plumbing (permit required)			
Sewer/Septic			
Mechanical			
Sprinkler			
Fire Alarm			

DESCRIPTION OF WORK/USE

Electrical Home Business

Value of Work: \$ _____

ZONING ORDINANCE APPLICABILITY

Note: Include Setbacks on Sketch	Proposed Number of Feet to Structure:	If Applicable:	Proposed Number of:	Include Dimensions on Sketch	Square Feet & Dimensions (exterior only):
Front Setback (Front property line is not edge of pavement)		Stories		Lot Area (Acres)	
Rear Setback		Bedrooms		Basement (Full, Partial)	
Side Setback (left)		Full Baths		Structure (exterior)	
Side Setback (right)		Partial Baths		Garage	
Shoreland Setback		Fireplace		Deck/Pool/Etc.	
Wetland Setback		Units		Sign(s)	
Building Height				Other	
Distance from closest structure on your property					

TYPE OF UTILITIES (proposed/existing)

Water Supply: <input type="checkbox"/> Municipal <input type="checkbox"/> Well	Heating Fuel: <input type="checkbox"/> Electric <input type="checkbox"/> LP Gas <input type="checkbox"/> Oil <input type="checkbox"/> Wood <input type="checkbox"/> Other
Sewer: <input type="checkbox"/> Municipal <input type="checkbox"/> Individual	Fuel Storage: <input type="checkbox"/> Inside <input type="checkbox"/> Outside (above-ground/under)

DRIVEWAY PERMIT: Public Works (746-5118) approval for all projects that require Driveway Permit connection to a Town road. See Town's Driveway Regulations. Connection to a State road requires the approval of the State of NH Department of Public Works and Highways (666-3336).

COMPLIANCE - STATE SEPTIC SYSTEM: If town sewer is not required, provide the following information from the NH Department of Environmental Services (271-3501): Approval number: _____ Date: _____

COMPLIANCE - NEW HAMPSHIRE ENERGY CODE: NH Energy Code Certification of Compliance is required for New Construction, Additions or Renovations. For information, visit the NH Public Utilities Commission's Website at www.puc.nh.gov or call 271-6306. Office location: 21 South Fruit Street, Ste. 10, Concord, NH 03301-2429. Structure is EXEMPT because (circle one): Mobile Home, on an historic register, contains no provisions for fossil derived or electric heat, greenhouse for agricultural use only, or low energy use (less than 1 watt/ft²). Approval Number: _____ Date: _____

COMPLIANCE - STATE BUILDING CODES: Applicant, owner, contractor and/or builder must review proposal with Building Code Enforcement Officer and Fire Code Enforcement Officer, prior to construction. The contractor of a building, building component or structure, is responsible for meeting the minimum requirements of the State Building Code and State Fire Codes. The Town of Hopkinton is not liable for any failure on the part of a contractor or building to comply with the provisions of the NH adopted Building and Fire Codes. I certify that I am aware of and will comply with the State Building Code and State Fire Codes as it relates to this property and the proposed use. Signature: _____ Date: _____

**Building Code Enforcement Officer (783-1509) between 8 – 12 on Mondays and Wednesdays.
Fire Code Enforcement Officer, Contoocook Fire Station (746-3181).**

COMPLIANCE – 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. For more information, please visit the NH Department of Environmental Services Shoreland Website at www.des.nh.gov/cspa or call 271-2147. Office location: 29 Hazen Drive, Concord, NH 03302-0095. Approval Number: _____ 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 Selectmen's Office. That any permit issued based on inaccurate information is subject to immediate withdrawal. That the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as his/her authorized agent and we 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 use. In addition, I am aware that application for permit, license or approval with respect to an activity in or on the building or property shall be deemed to be consent for Town officials and employees to enter the building or property to perform inspections, measurements, sampling, or any other action deemed necessary.


Signature of Applicant

Joe Grogan
Print Name of Applicant

9/14/18
Date



Town of Hopkinton

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

Tel: 603-746-3170

Fax: 603-746-3049

Office Use:

Permit No. _____ Name of Applicant/Owner: Joseph Grogan

Tax Map/Lot 222/70 Address: 351 Park Avenue Zoning District R-1


PERMIT DENIED

Date: 09/14/2018

HOPKINTON SELECT BOARD



James O'Brien, Chair



Sabrina Danlap



Ken Traim, Vice Chair

Steven Whitley



Sara Fersechino

DENIED PER HOPKINTON ZONING ORDINANCE: Table of Uses 3.6H.16 Home Business - Special Exception

SITE PLAN REVIEW REQUIRED: Section 1.1 (Authority) Site Plan Review Regulations

SECTION II DEFINITIONS

2.1.F.3 Frontage: The horizontal distance measured along a lot line dividing a lot from a street. Driveways to rear lots shall not be construed as frontage.

2.1.H.1 Home Business: Shall mean any business or profession conducted entirely within a dwelling, or an accessory building located on the same premises as the dwelling, which (a) entails contact with the general public at the premises, (b) is capable of being unobtrusively pursued, (c) creates no nuisance nor any environmental, health or safety concerns, (d) is clearly incidental and subordinate to the dwelling use, (e) does not change either the character of the dwelling as a residence or the character of the neighborhood in which the Home Business is established, (f) is conducted by the resident owner(s) of the dwelling, (g) employs not more than one person outside the Family (as defined in Section II, Paragraph 2.1.F.1), and (h) utilizes an area (either in the dwelling or in an accessory building) of not more than twenty-five percent (25%) of the total floor area of the dwelling (including any functional basement) or five hundred (500) square feet, whichever is less. A Home Business shall be subject to the provisions of Section III, Paragraph 3.7.3 of this Ordinance.

2.1.H.2 Home Occupation: Shall mean any individual business or profession conducted entirely within a dwelling which (a) entails no contact with the general public at the dwelling (except normal postal and commercial delivery services), (b) is capable of being unobtrusively pursued, (c) creates no nuisance nor any environmental, health or safety concerns, (d) is clearly incidental and subordinate to the dwelling use, (e) does not change either the character of the dwelling as a residence or the character of the neighborhood in which the Home Occupation is established, (f) is conducted solely by the resident owner(s) of the dwelling, and (g) utilize an area of not more than twenty-five percent (25%) of the total floor area of the dwelling (including any functional basement) or 500 square feet, whichever is less. Home Occupations shall be subject to the provisions of Section III, Paragraph 3.7.5 of this Ordinance.

2.1.H.3 Hospital: A building providing 24-hour in-patient services for the diagnosis, treatment, or other care of human ailments including a sanitarium, clinic, rest home, nursing home, and convalescent home.

2.1.H.4 Hotel: Any building, or any part thereof, which contains one or more Lodging Units devoted to transient or semi-transient rental occupancy and which has a common entrance or entrances, including an inn, motel, motor inn, tourist court, boarding house, lodging house or rooming house, but specifically excepting a Bed and Breakfast Home and Bed and Breakfast Inn.

2.1.H.5 Housing for the Elderly: A building or group of buildings containing dwellings where the occupancy of the dwellings is restricted to persons 60 years of age or older or couples where either the husband or wife is 60 years of age or older. This does not include life care or nursing home facilities.

2.1.I.1 Industrial Use: Any activity that entails manufacturing, processing, assembling, warehousing storage, distribution, shipping and/or other related uses. For the purpose of this definition, agricultural uses, home businesses, and home occupations, as defined in this Ordinance, shall not be considered industrial uses.

2.1.J.1 Junk: Old or scrap copper, brass, rope rages, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof iron, steel and other old or scrap ferrous or nonferrous materials.

**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	W-1
H. Accessory Uses										
6. Accessory building for storage or outside storage clearly necessary to the operation and conduct, of a permitted principal wholesale, transportation, industrial and/or commercial use.	X	X	X	X	S	S	X	S	S	
7. Newsstand, barbershop, dining room or cafeteria and similar accessory services primarily for occupants or users thereof within a hotel, office, industrial building, hospital or transportation terminal facility.	X	X	S	S	P	P	S	P	P	
8. Accessory off-street parking loading spaces as required in Section VI.	P	P	P	P	P	P	P	P	P	
9. Filling of water or wet area in accordance with Section XII.	S	S	S	S	S	S	S	S	S	
10. Seasonal greenhouse or farm stand selling goods primarily raised on the premises.	S	S	S	S	S	P	S	S	P	
11. Construction trailer(s) for a construction project provided a permit is secured from the Board of Selectmen under conditions they may prescribe.	P	P	P	P	P	P	P	P	P	
12. Temporary housing as a result of an emergency situation provided a permit is secured from the Board of Selectmen under condition they may prescribe.	P	P	P	P	P	P	P	P	P	
13. Childcare Family Home in accordance with Section III, paragraph 3.7.7.	P	P	P	P	P	P	S	S	S	
14. Childcare Family Group Home in accordance with Section III, paragraph 3.7.7.	S	S	S	S	S	S	S	S	S	
15. Small Wind Energy Systems in accordance with Section III, paragraph 3.11.	P	P	P	P	P	P	P	P	P	
16. Home Business in accordance with Section III, paragraph 3.7.3, except for the VB-1 and VM-1 districts. Site Plan Review required in all districts.	S	S	S	S	S	S	S	P	P	

Section XII Wetlands Conservation District (Overlay)

**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	W-1
H. Accessory Uses										
17. Home Occupation in accordance with Section III, paragraph 3.7.5.	P	P	P	P	P	P	P	P	P	P
18. Telecommuting in accordance with Section III, paragraph 3.7.5.	P	P	P	P	P	P	P	P	P	P
19. Accessory Dwelling Unit in accordance with Section III, paragraph 3.12.	P	P	P	P	X	P	P	P	P	P

Section XII Wetlands Conservation District (Overlay)

3.7 SPECIAL PROVISIONS The following provisions shall apply, as appropriate, to the Table of Uses, Section 3.6, of this Ordinance.

3.7.1 Other Provisions: All uses permitted by right or by special exception are subject to all other pertinent provisions of this Ordinance.

3.7.2 Special Exception: All special exceptions are subject to the provisions of Section 15.8.2 of this Ordinance.

3.7.3 Home Business: In addition to meeting the requirements of Section XV, paragraph 15.8.2, Special Exception, of this Ordinance, the applicant must agree to and demonstrate compliance with the following conditions in order to receive a special exception for a Home Business:

- (a) The use shall be carried out entirely within the dwelling or an accessory building located on the same premises as the dwelling, subject to the area limitations set forth in Section II, paragraph 2.1.H.1.
- (b) There shall be no display of goods or wares visible from the street.
- (c) The dwelling or accessory building in which the Home Business is conducted shall not be rendered objectionable to the neighborhood because of exterior appearance, emission of odors, gas, smoke, dust, noise, electrical disturbance, hours of operation or in any other way.
- (d) In a multi-family dwelling, the Home Business use shall in no way become objectionable or detrimental to any residential use within the multi-family dwelling. It shall include no features of design not customary in buildings for residential use.
- (e) The use shall not create a traffic safety hazard, nor shall it result in a substantial increase in the level of traffic congestion in the vicinity of the dwelling.
- (f) No outside storage of equipment will be allowed in connection with the Home Business.
- (g) Any special exception for a Home Business (i) shall be nontransferable, (ii) shall be issued to the individual applicant(s) only, and (iii) shall automatically expire when such applicant(s) is no longer the resident owner(s) of the dwelling.

SECTION III
ESTABLISHMENT OF DISTRICTS AND USES

- (h) Not more than one commercial vehicle in connection with the Home Business shall be stored on the premises. Parking areas associated with or needed for the Home Business, if any, shall be effectively screened from abutting and facing residential properties by appropriate fencing, four (4) feet in height, or by an evergreen planting at least three (3) feet in height, at the time of planting.
- (i) Site plan review by the Planning Board shall be required.

3.7.4 Bed and Breakfast Home: In addition to meeting the requirements of Section XV, Paragraph 15.8.2, Special Exception, of this Ordinance, if applicable, the applicant must agree to and demonstrate compliance with the following conditions to the Zoning Board of Adjustment or Board of Selectmen, as applicable, in order to operate a Bed and Breakfast Home:

- (a) The number of proposed Lodging Units (i) shall be compatible with the surrounding area, and (ii) shall be reasonable, taking into consideration the floor size and configuration of the Dwelling Unit and the size of the Lot on which such Dwelling Unit is located; provided, however, that in no event shall a Bed and Breakfast Home contain more than three (3) Lodging Units.
- (b) There shall be adequate off-street parking for the owner(s) and guests of the Bed and Breakfast Home in accordance with Section VI of this Ordinance. The physical and aesthetic impact of off-street parking shall not be detrimental to the existing character of the Lot and the surrounding neighborhood.
- (c) Breakfast shall be the only meal served to guests of a Bed and Breakfast Home and such meal may only be served to overnight guests of the Bed and Breakfast Home.
- (d) The septic system shall be adequate to accommodate the use.
- (e) The applicant shall comply with all applicable State statutes and regulations.
- (f) The maximum length of stay for guests of the Bed and Breakfast Home shall not exceed five (5) days in any thirty (30) day period.
- (g) Adequate guest records shall be maintained in accordance with the requirement of State regulations.
- (h) Site plan review shall be required.

3.7.5 Telecommuting and Home Occupation: In order for Telecommuting, as defined in Section II, Paragraph 2.1.T.1, or a Home Occupation, as defined in Section II, Paragraph 2.1.H.2, to be conducted as a permitted use, the following conditions must be met:

- (a) The use shall be carried out entirely within the dwelling.
- (b) There shall be no display of goods or wares or signs.
- (c) No outside structures not typically associated with residential telephone lines shall be allowed unless such structures are otherwise permitted under this Ordinance.



Town of Hopkinton

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

HOPKINTON PLANNING BOARD MINUTES OCTOBER 9, 2018

Members present: Chairman Bruce Ellsworth, Vice Chairman Michael Wilkey, Ex-Officio Sabrina Dunlap (6:33 PM), James Fredyma Jane Bradstreet, Rich Steele, and Alternate Clarke Kidder. Absent: Celeste Hemingson and Alternate Timothy Britain. Staff present: Planning Director Karen Robertson.

I. **Call to Order.** Chairman Ellsworth called the meeting to order at 6:28 PM in the Hopkinton Town Hall.

II. **Review of the Minutes and Notice of Decision of September 11, 2018.**

Mr. Fredyma, seconded by Mrs. Bradstreet, motioned to **APPROVE** the Minutes of September 11, 2018, as presented. Motion carried unanimously in the affirmative (Wilkey, Fredyma, Bradstreet, Steele, and Ellsworth).

Mr. Fredyma, seconded by Mrs. Bradstreet, motioned to **APPROVE** the Notice of Decision of September 11, 2018, as presented. Motion carried unanimously in the affirmative (Wilkey, Fredyma, Bradstreet, Steele, and Ellsworth).

III. **Applications.**

#2018-8 Dave Barkie requesting Site Plan Review for retail, closed storage and associated outside storage on property owned by Lisa Thorne, located off Maple Street in the M-1 district, Tax Map 227 Lot 40.

The Board passed by review of the application as there was no one present to speak to the Application.

✓ **#2018-10 Joseph Grogan.** Mr. Grogan addressed the Planning Board requesting Site Plan Review for a residential electrical business as a Home Business at 351 Park Avenue, on property owned by 351 Park Ave, LLC, in the R-1 district, shown on Tax Map 222 as Lot 70.

The property consists of approximately one (1) acre, includes a detached barn and existing residence. Mr. Grogan plans on constructing an addition to the residence in which he and his family will live in and he will operate his business out of the barn. The barn will be used for storage and an office. All work is done off-premises. The business employs one (1) employee.

Mrs. Robertson noted that the Zoning Board of Adjustment had to reschedule the meeting in which Mr. Grogan's application for Special Exception was to be reviewed.

Mr. Grogan did not expect changes in the traffic or neighborhood on account of the business. He noted that, other than his personal vehicles, there will be a work vehicle and employee vehicle at the property. Hours of operation were estimated between 7 AM – 5 PM.

In response to Chairman Ellsworth's questions concerning signage and added lighting, Mr. Grogan stated that there would be no signage or additional lighting proposed.

Mrs. Bradstreet reviewed the Zoning Ordinance with respect to the size of the accessory structure verses the principal residence. Mrs. Robertson explained how the house is grandfathered, and that the applicable provisions of the Zoning Ordinance involve that section that addresses home businesses. The definition of a home business limits the size of the area to be utilized to no more than twenty-five percent (25%) of the gross floor area of the home as the calculating factor, even if utilizing a detached structure, or 500 SF, whichever is less. In this case, Mr. Grogan is permitted to utilize 375 SF; however, plans to utilize 174 SF of the detached barn.

Mr. Kidder asked if the building permit for the addition is not approved then would it negate the operation of the home business. Mrs. Robertson replied yes but noted that Mr. Grogan could apply to operate the business based on the size of the existing residence.

Mr. Wilkey, seconded by Mr. Steele, motioned to **ACCEPT** Application #2018-10 as complete and for consideration. Motion carried unanimously in the affirmative (Wilkey, Fredyma, Bradstreet, Steele, Dunlap, and Ellsworth).

Chairman Ellsworth opened and closed the public hearing portion of the meeting, due to the fact that there was no public testimony.

Mrs. Bradstreet, seconded by Mr. Steele, motioned to **APPROVE** Application #2018-10, subject to Zoning Board of Adjustment approval. Motion carried unanimously in the affirmative (Wilkey, Fredyma, Bradstreet, Steele, Dunlap, and Ellsworth).

#2018-11 Keith & Tara Rutherford/Peter & Julie Smith. Keith Rutherford addressed the Board, on behalf of the Applicants, requesting a Lot Line Adjustment involving properties located off Dustin Road, at the Hopkinton/Webster Town Line, in Hopkinton's R-4 district, shown on Hopkinton's Tax Map 224 as Lot 33 and Webster's Tax Map 7 as Lots 7-54-3 & 7-54-4. Mr. and Mrs. Rutherford and Mr. and Mrs. Smith purchased the properties, jointly.

Mrs. Robertson noted that the minutes of the Town of Webster's Planning Board meeting was included in the material provided.

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

OCT 22 2018

HOPKINTON ZONING BOARD OF ADJUSTMENT
APPLICATION FOR APPEAL

HOPKINTON
PLANNING DEPT.

Name of Applicant: 56 Maple Street, LLC

Mailing Address: P.O. Box 31, Hopkinton, NH 03229

Telephone (days): 568-1115

Name of Property Owner: 56 Maple Street, LLC and Shawn L. McCluskey

Mailing Address: P.O. Box 31, Hopkinton, NH 03229/ 76 Maple Street, Contoocook, NH 03229

Telephone (days): _____

Tax Map: 102 Lot: 43 & 44 Location of Property: 56 Maple Street & 76 Maple 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: 3.6.A.3 Paragraph/Table: Table of Uses

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:

The establishment of a residential multi-family dwelling with 5 units.

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.

- 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
- 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.**
- 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.
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: [Signature] Date: 10/18/18
 Applicant's Printed Name: John Wuellenweber Date: 10/18/18
 Owner's Signature: [Signature] Date: 10/18/18
 Owner's Printed Name: John Wuellenweber Shawn McCluskey Date: 10/18/18

**Narrative in Support of Special Exception Application
56 Maple Street, LLC**

The Applicant is proposing to rehabilitate the existing building located at 56 Maple Street and convert it into a five (5) unit residential building. It is located within the VR-1 District and is permitted under the Zoning Ordinance by Special Exception. The property abuts other 4 to 5 multi-family residential buildings, as well as a mixed residential/commercial use and is consistent with the neighborhood.

As part of the proposal, the Applicant has entered into a Purchase & Sale Agreement with an abutting property owner in order to purchase an additional 4,462 square feet of land as part of a Lot Line Adjustment. In doing this, the Applicant is able to meet the density and all other requirements in the Zoning Ordinance for the five (5) residential units being requested without any further relief.

The Applicant is able to provide the required parking for this proposal on site and in a location that abuts a similar parking area. The Applicant is also working with the NH DOT to re-locate the existing driveway to a location that will provide better access to and from the property and eliminate any potential traffic conflicts with Prospect Street. The existing driveway on the property will be removed.



RECEIVED

OCT 22 2018
CK7489 \$245
HOPKINTON
PLANNING DEPT.

October 22, 2018

HAND DELIVERED BY JENNIFER MCCOURT

*Maria T. Dolder

Donald F. Hebert

Law Office

95 North State Street

Suite 4

Concord, NH

03301

603-717-0380

603-717-0382 fax

E-mail:

info@hebertanddolder.com

A Professional Limited
Liability Company

*Also admitted in
Massachusetts, Maine
and Missouri

Zoning Board of Adjustment
Town of Hopkinton
330 Main Street
Hopkinton, New Hampshire 03229

RE: Special Exception Application of 56 Maple Street, LLC
56 Maple Street & 76 Maple Street

Dear Members of the Town of Hopkinton Zoning Board of Adjustment:

I am writing on behalf of my client, 56 Maple Street, LLC, in connection with a Special Exception Application for property located at 56 Maple Street and involving the property located at 76 Maple Street.

Enclosed please find a copy of the following: Special Exception Application with attached Narrative, the abutters list, the plan, deeds for the properties and authorization letters from 56 Maple Street, LLC and Shawn McCluskey. We have also enclosed a check for the filing fee.

Please let me know if you have any questions or should you need any further information from me. Otherwise, please be so kind as to place us on the agenda for the ZBA hearing on November 7, 2018. Thank you very much.

Sincerely,

Maria T. Dolder
mdolder@hebertanddolder.com

Enclosures

Cc: John Wuellenweber (letter & application)
Jennifer McCourt (letter & application)

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.**

Residential multi-family dwellings with a maximum up to eight (8) dwelling units are permitted by Special Exception in the VR-1 District under Section 3.6.A.3, Table of Uses, of the Zoning Ordinance. The Applicant is proposing five (5) residential units.

2. **No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials.**

There will not be any storage of hazardous or toxic materials on the property. There are no known toxic materials existing. The property will be utilized for residential purposes.

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 building itself is in a state of disrepair. The rehabilitation of the property will be a significant improvement to the values in the vicinity. The building is existing, and there is no change to its size, therefore, it has no impact to the essential character of the neighborhood. The use shall remain residential and consistent with abutting properties. The location of the parking area on the property is closest to an abutting parking area.

4. **No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity.**

The Applicant is able to provide on-site parking to accommodate the five residential units. Such a residential use of the property will not create any traffic hazard or substantial increase in the level of traffic. The fact that the units will be one to two bedrooms also serves to limit the number of occupants and any related traffic. The Applicant has been working with the NH DOT to re-locate the existing driveway to a location which will allow

better access to and from the property and eliminate any potential conflicts with Prospect St

5. **No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection, and schools.**

The Applicant is proposing that the units be one to two bedroom units, which will not create any excessive demand on municipal services. The units are for residential purposes and the size of the units will serve to limit the number of occupants and therefore, be of minimal impact to such services. The property has a trash disposal area which will be private and not municipal.

6. **No significant increase of storm water runoff onto adjacent property or streets.**

There will not be any significant increase in storm water runoff off site due to the use of an on site detention pond and the removal of the existing driveway.

7. **An appropriate location for the proposed use.**

The use itself is permitted by Special Exception and fits into the neighborhood. There are existing 4 to 5 multi-family buildings abutting the property, as well as a mixed retail and residential use across the street. The location is in close proximity to the downtown area and is limited to residential uses.

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 use being proposed for the property is residential. The property is abutted by other multi-family buildings and a mixed use residential/commercial building. The Applicant is able to provide the required parking on site and will be improving the driveway location. This use is consistent with the neighborhood and surrounding area and will not have any impact on the health and safety of the area, nor be detrimental to surrounding properties.

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

The Applicant intends to rehabilitate the old home and lot area, while providing much needed residential housing units close to the downtown area. The Zoning Ordinance permits up to eight (8) dwelling units; however, the Applicant is only proposing five (5) units. This allows the property to be utilized reasonably and within the confines of the Ordinance.



Abutters List Report

Hopkinton, NH
October 19, 2018

Abutters List Report
Hopkinton, NH
October 19, 2018



Subject Property:

Parcel Number: 102-044-000
CAMA Number: 102-044-000
Property Address: 56 MAPLE ST

Mailing Address: 56 MAPLE ST LLC
PO BOX 31
HOPKINTON, NH 03229

Abutters:

Parcel Number: 102-037-000
CAMA Number: 102-037-000
Property Address: 91 CEDAR ST

Mailing Address: WRIGHT THOMAS G
PO BOX 658
CONTOOCOOK, NH 03229

~~Parcel Number: 102-043-000
CAMA Number: 102-043-000
Property Address: 76 MAPLE ST~~

~~Mailing Address: MCCLUSKEY SHAWN L
76 MAPLE ST
CONTOOCOOK, NH 03229~~

Parcel Number: 102-045-000
CAMA Number: 102-045-000
Property Address: 40 MAPLE ST

Mailing Address: SMITH JOSHUA
115 N MAIN ST
BOSCAWEN, NH 03303

Parcel Number: 102-049-000
CAMA Number: 102-049-000
Property Address: 43 MAPLE ST

Mailing Address: SIMMS ANN H & SIMMS RICHARD T
SIMMS ROBERT T
PO BOX 539
CONTOOCOOK, NH 03229

Parcel Number: 102-050-000
CAMA Number: 102-050-000
Property Address: 53 MAPLE ST

Mailing Address: WINZELER (REV TR) MARK L WINZELER
(TRE) MARK L
53 MAPLE ST
HOPKINTON, NH 03229

Parcel Number: 102-079-000
CAMA Number: 102-079-000
Property Address: 73 MAPLE ST

Mailing Address: EKSTROM HAROLD V & MARY P
73 MAPLE ST
CONTOOCOOK, NH 03229



www.cai-tech.com

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10/19/2018

Page 1 of 1



Abutters List Report

Hopkinton, NH
October 19, 2018

Subject Property:

Parcel Number: 102-043-000
CAMA Number: 102-043-000
Property Address: 76 MAPLE ST

Mailing Address: MCCLUSKEY SHAWN L
76 MAPLE ST
CONTOOCOOK, NH 03229

Abutters:

Parcel Number: 102-012-000
CAMA Number: 102-012-000
Property Address: 134 CEDAR ST

Mailing Address: HECK THOMAS J & KARLA D
134 CEDAR ST
CONTOOCOOK, NH 03229

Parcel Number: 102-013-000
CAMA Number: 102-013-000
Property Address: 116 CEDAR ST

Mailing Address: BLANK ROBERT T
116 CEDAR STREET
CONTOOCOOK, NH 03229

Parcel Number: 102-028-000
CAMA Number: 102-028-000
Property Address: 98 CEDAR ST

Mailing Address: DENONCOUR BRIAN J & WANDA M
98 CEDAR ST
CONTOOCOOK, NH 03229

~~Parcel Number: 102-037-000
CAMA Number: 102-037-000
Property Address: 91 CEDAR ST~~

~~Mailing Address: WRIGHT THOMAS G
PO BOX 658
CONTOOCOOK, NH 03229~~

Parcel Number: 102-042-000
CAMA Number: 102-042-000
Property Address: 86 MAPLE ST

Mailing Address: CLEMENT LOREN D & HOLLY E
86 MAPLE STREET
CONTOOCOOK, NH 03229

~~Parcel Number: 102-044-000
CAMA Number: 102-044-000
Property Address: 56 MAPLE ST~~

~~Mailing Address: 56 MAPLE ST LLC
PO BOX 31
HOPKINTON, NH 03229~~

~~Parcel Number: 102-050-000
CAMA Number: 102-050-000
Property Address: 53 MAPLE ST~~

~~Mailing Address: WINZELER (REV TR) MARK I WINZELER
(TR) MARK I
53 MAPLE ST
HOPKINTON, NH 03229~~

~~Parcel Number: 102-079-000
CAMA Number: 102-079-000
Property Address: 73 MAPLE ST~~

~~Mailing Address: EKSTROM HAROLD V & MARY P
73 MAPLE ST
CONTOOCOOK, NH 03229~~

Parcel Number: 102-080-000
CAMA Number: 102-080-000
Property Address: 91 MAPLE ST

Mailing Address: BARWELL MICHAEL R & MARY R
91 MAPLE ST
HOPKINTON, NH 03229



www.cai-tech.com

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October 18, 2018

Zoning Board of Adjustment
Town of Hopkinton

Town of Hopkinton Planning Board

RE: Tax Map 102, Lot 44

Dear Members of the Zoning Board of Adjustment and the Planning Board:

I am writing as the owner of the property known as Tax Map 102, Lot 44 located at 56 Maple Street to provide my consent to permit Maria T. Dolder, Esquire, of the law firm of Hebert & Dolder, PLLC, Jennifer McCourt, of McCourt Engineering Associates, PLLC and Dan Higginson of Higginson Land Services, to make and execute any and all zoning applications and planning board applications on my behalf involving my property in connection with my proposed multi-family dwelling unit on 56 Maple Street.

This authorization also includes the ability to present the applications before the Town of Hopkinton Zoning Board of Adjustment and Planning Board.

Should you have any questions or need further information, please do not hesitate to contact me.

Very Truly Yours,

56 Maple Street, LLC

By:



John Wuellenweber, Manager

10/18/18

October 18, 2018

Zoning Board of Adjustment
Town of Hopkinton

Town of Hopkinton Planning Board

RE: Tax Map 102, Lot 43

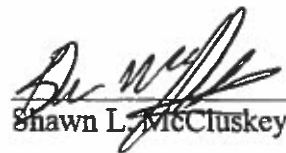
Dear Members of the Zoning Board of Adjustment and the Planning Board:

I am writing as the owner of the property known as Tax Map 102, Lot 43 located at 76 Maple Street to provide my consent to permit 56 Maple Street, LLC, Maria T. Dolder, Esquire, of the law firm of Hebert & Dolder, PLLC, Jennifer McCourt, of McCourt Engineering Associates, PLLC and Dan Higginson of Higginson Land Services to make and execute any and all zoning applications and planning board applications on my behalf involving my property in connection with the proposed multi-family dwelling unit on 56 Maple Street.

This authorization also includes the ability to present the applications before the Town of Hopkinton Zoning Board of Adjustment and Planning Board.

Should you have any questions or need further information, please do not hesitate to contact me.

Very Truly Yours,


Shawn L. McCluskey

Return to: 102 Fieldstone Rd
Hopkinton, NH
03229

1450
2-
25-

MERRIMACK COUNTY RECORDS *Kathi L. Guay* CPO, Register

1244.00 QUITCLAIM DEED

Citizens Bank N.A., of 10 Tripps Lane, Riverside, RI 02915, for the amount Eighty Two Thousand Nine Hundred and 00/100 Dollars (\$82,900.00), grant 56 Maple St, LLC, A New Hampshire limited liability company, of P.O. Box 31, Hopkinton, NH 03229 with QUITCLAIM COVENANTS:

The land with the buildings thereon located at 56 Maple Street, Hopkinton, Merrimack County, New Hampshire and further bounded and described in deed referenced below and as follows:

Beginning on the westerly side of the highway leading from Contoocook to Weare, now known as Maple Street, at the northeasterly corner of land now or formerly of A.C. Call; thence westerly by land of said Call to an iron pin; thence northerly by land of said Call, one rod to an iron pin at land formerly of Julia M. Johnson later of Jennie Cummings; thence continuing northerly by land of said Cummings nine (9) rods four (4) links to an iron pin at land now or formerly of Will H. Milton; thence easterly by said Milton land to Maple Street; thence southerly by Maple Street to the point of beginning.

Meaning and intending to convey the same premises subject to and together with rights of way, easements, restrictions, declarations described in Foreclosure Deed granting to Citizens Bank, N.A. f/k/a RBS Citizens, N.A. dated April 12, 2017 and recorded on May 8, 2017 in Book 3555 at Page 85.

Property address: 56 Maple Street, Hopkinton, NH 03229

102/44

Witness my hand this 5 day of March, 2018

Citizens Bank, N.A. f/k/a RBS Citizens N.A.

Michelle R. McKinnon Robin A. Bellows

Witness
Michelle R. McKinnon
State of Rhode Island
County of Providence

By:
Robin A. Bellows, VP

I hereby certify that on this 5th day of March, 2018, before me, the subscriber, Notary Public of the State aforesaid, personally appeared Robin A. Bellows, VP its representative of Citizens Bank, N.A. f/k/a RBS Citizens N.A., whose name is subscribed to the within instrument, and acknowledged the foregoing deed to be his/her act under authority of the Grantor and the free act and deed of the Grantor, and also certify, under penalties of perjury, that the consideration recited herein is true and correct.

GRETCHEN GALVIN
Notary Public-State of Rhode Island
My Commission Expires
April 25, 2021

Gretchen Galvin
Notary Public: Gretchen Galvin
My Commission Expires: April 25, 2021

Property Address: 56 Maple Street, Hopkinton, NH 03229



MERRIMACK COUNTY RECORDS *Kathi L. Guay, CPO, Register*

3

Return To:

Shawn L. McCluskey
76 Maple Street
Hopkinton, NH 03229

WARRANTY DEED

14⁴⁹
2¹¹
25

3599.00

KNOW ALL MEN BY THESE PRESENTS, That, Edwin C. Taylor and Deborah S. Taylor, husband and wife, with a mailing address of 1044 Lincoln Lane, Park City, UT 84098, for consideration paid grant to Shawn L. McCluskey, unmarried, with a mailing address of 1612 Old Concord Road, Henniker, NH 03242, with WARRANTY COVENANTS:

A certain tract of land, with the buildings thereon, located in the Town of Hopkinton, County of Merrimack and State of New Hampshire, bounded and described as follows:

Certain premises located in the Village of Contoocook, so-called, in the Town of Hopkinton, bounded on the North by land now or formerly of Henry Davis; on the East by Maple Street; on the South by land now or formerly of Edwin Bartlett; and on the West by Cedar Street.

Meaning and intending to describe and convey the same premises as conveyed to Edwin C. Taylor and Deborah S. Taylor by Warranty Deed dated October 23, 1998 recorded in the Merrimack County Registry of Deeds in Book 2124, Page 0560.

This is not homestead property.

EC
BJ

Warranty Deed
Edwin C. Taylor and Deborah S. Taylor
to
Shawn L. McCluskey
Page 1 of 2

102/43

Executed this 21st day of July, 2015.

Witness to both

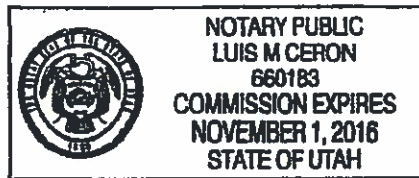
Edwin C. Taylor 7/21/15
Edwin C. Taylor

Deborah S. Taylor
Deborah S. Taylor

State of Utah
County of Summit

Personally appeared the above named Edwin C. Taylor and Deborah S. Taylor, before me this 21st day of July, 2015 known to be the persons whose names are subscribed to the foregoing instrument and acknowledged that they executed the same for the purposes therein contained.

[Signature]
Notary Public/Justice of the Peace
My Commission Expires: November 1, 2016





Victoria F. Sheehan
Commissioner

William Cass, P.E.
Assistant Commissioner

DRIVEWAY PERMIT

To: John Wuellenweber
56 Maple St LLC
PO Box 31
Hopkinton, NH 03229

City/Town: Hopkinton
Route/Road: NH 127 (S0000127)
Patrol Section: 504
Tax Map: 102
Lot: 44
Development: 5-Unit Multifamily

Permit #: 05-227-0043
District: 05
Permit Date: 11/5/2018

Permission is hereby granted to construct (alter) a driveway, entrance, exit or approach adjoining NH 127 (S0000127), pursuant to the location and specifications as described below. Failure to adhere to the standards and engineering drawings previously approved shall render this instrument null and void. Failure to start or complete construction of said facility within one calendar year of the date of this permit shall require application for permit extension or renewal in accordance with the Driveway Access Rules. Facilities constructed in violation of the permit specifications or the rules, shall be corrected immediately upon notification by a Department representative. Any cost by the State to correct deficiencies shall be fully borne by the landowner. The landowner shall defend, indemnify and hold harmless the Department and its duly appointed agents and employees against any action for personal injury and/or property damage sustained by reason of the exercise of this permit.

Drive 1

Location: Approximately 0.0143 miles north of Prospect St. on the west side of NH 127 (S0000127).
SLD Station: 25256 (left) GPS: 43.22083 N 71.71305 W.

Specifications: This permit authorizes a paved access to be used as a Multi-Family Residential drive. Any change in use, increase in use or reconstruction of the driveway requires reapplication.

The right-of-way line is located (see plan).

The entrance shall be graded so that the surface of the drive drops (see plan) at a point (see plan) from NH 127 (S0000127) edge of pavement to create a drainage swale.

The driveway shall not exceed (see plan) in width. The entrance of the drive may be flared; typically the flare radius is one half the driveway width.

The driveway shall match to the existing asphalt sidewalk.

Other Conditions:

No structures, including buildings, permanent or portable signs, lights, displays, fences, walls, etc. shall be permitted on, over or under the Highway Right of Way.

No parking, catering or servicing shall be conducted within the Highway Right of Way.

The applicant shall comply with all applicable ordinances and regulations of the municipality or other State Agencies.

The Department has relied on the title and subdivision information provided by the landowner. The Department has not performed additional title research and makes no warranty or representation concerning landowner's legal right to access. In the event of a dispute about the landowner's legal right to the access provided herein, the landowner will defend and indemnify the Department.

No additional surface drainage will enter upon the highway.

This permit to act relates solely to the use of the State right-of-way, and is not determinative of any rights of flowage between private land owners.

A copy of this permit shall be present at the site during construction of the drive(s).

All work is to be done by the applicant at no cost to the State of New Hampshire.

This permit does not include or approve the location or installation of underground utilities.

Drive(s) shall approach the highway at or about 90 degrees.

All materials and structures shall conform to the current version of the NHDOT Standard Specifications for Road and Bridge Construction, as amended.

During construction within the highway right-of-way, traffic shall be maintained in accordance with MUTCD standards and as directed by the District Engineer.

Driveway modifications are to be constructed as shown on plans prepared by McCourt Engineering Associates, PLLC dated Oct, 18 and last revised 11/5/18 for 56 Maple Street, LLC, on file in the District Five Office.

Copies: District, Town, Patrolman
McCourt Engineering Associates
Jennifer McCourt
42 Ezekiel Smith Rd
Henniker, NH 03242

Approved 
Assistant District Engineer
For Director of Administration



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 NOTICE OF DECISION AUGUST 7, 2018

Notice is hereby given that the Hopkinton Zoning Board of Adjustment met on **Tuesday, August 7, 2018, at 5:45 PM** in the Hopkinton Town Hall, 330 Main Street, Hopkinton, and made the following decision(s):

I. Application(s).

#2018-7 Elizabeth J. Nolin, Esq. Variance to permit the construction of an addition to the residence at 86 Maple Street, owned by Loren and Holly Clement, in the VR-1 district, Tax Map 102 Lot 42. The application was submitted in accordance with Zoning Ordinance Table 4.2 and Section 5.1.2 (a).

Toni Gray, seconded by Charles Koontz, moved to **APPROVE** Application #2018-7 contingent upon Planning Board approval of the lot line adjustment (Lots 42 & 43). Motion carried in the affirmative (Gray, Scheinman, Koontz, and Rinden). The Applicant successfully addressed all criteria to be granted a Variance as outlined in Section XV of the Zoning Ordinance.¹

Reasons for approval as follows:

1) Property Values:

- There was no evidence that surrounding property values would diminish because of the existing non-conforming lot size (14,960 SF), existing non-conforming setback (29'-7"), and size of the proposed addition (approx. 1,300 SF).
- The residence was constructed in 1850 before zoning in Hopkinton.
- The residences in the neighborhood are larger than the Applicant's residence and are more non-conforming in setback.

2) Public Interest:

- There was no evidence that the public's interest would be negatively affected because of the existing lot size being 40 SF less than required, the existing building setback being 5-inches less than required, and because of the proposed addition exceeding 50 percent of the size of the existing residence.
- Residences in the neighborhood are more non-conforming in setback and are larger in size than the Applicant's existing residence.
- Certified notice was provided to the abutters and public notice of the proceedings was published in the Concord Monitor. Subsequently, there was no member of the public present at the meeting.

Subject to review and approval.

3) Substantial Justice:

- The public would realize no appreciable gain from denial of the Variance.
- The Applicant's residence is very small and less non-conforming when compared to other residences in the neighborhood.
- The difference in actual square footage and required square footage of the lot is 40 square feet.
- The residence is already existing and the deficiency in lot size (40 SF) and setback (5") is unnoticeable.

4) Spirit and Intent:

- The spirit and intent of the Ordinance will not be broken by granting the Variance as the residence is existing, constructed in 1850, and will continue to be utilized in the same manner.
- The nature and character of the surrounding properties will not change as the abutting properties are used for residential purposes and the abutting property owners have agreed to the lot line adjustments.
- While the proposed addition exceeds fifty percent of the size of the existing residence, it will not further encroach upon the non-conforming setback.
- Requiring the Applicant to limit the size of the addition to no more than fifty percent of the existing residence is not necessary in order to give full effect to the purpose of the Zoning Ordinance as the residence will be of a similar size and characteristics of other residences in the neighborhood.
- The proposed addition will not adversely affect the health, safety, convenience, or general welfare of the residents in the neighborhood.

5) Unnecessary Hardship:

- Literal enforcement of the Ordinance will result in an unnecessary hardship as the Applicant would need to demolish and reconstruct the residence in order to construct the proposed addition.
- Given the age of the residence, the existing minimal deficiency in setback and lot size, as compared to others within the neighborhood, the proposed addition is reasonable.
- Once the addition is completed, the total size of the residence will be similar to other residences in the neighborhood.

II. Any other business that may legally come before the Board.

- The Minutes of the May 1, 2018 meeting were unanimously **APPROVE** as presented.
- The Notice of Decision of the May 1, 2018 meeting was unanimously **APPROVED** as presented.
- The Minutes of the May 10, 2018 meeting were unanimously **APPROVED** as presented.
- The Notice of Decision of the May 10, 2018 meeting was unanimously **APPROVED** as presented.

III. Adjournment. Chairman Dan Rinden, seconded by Toni Gray, moved to **ADJOURN** the meeting at 6:23 PM. Motion carried in the affirmative. The next regular scheduled meeting of

the Hopkinton Zoning Board of Adjustment is at 5:30 PM on Wednesday, September 5, 2018, at the Hopkinton Town Hall.

Karen Robertson
Planning Director

¹ 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

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HOPKINTON ZONING BOARD OF ADJUSTMENT MINUTES AUGUST 7, 2018

Members present: Chairman Daniel Rinden, Jessica Scheinman, Toni Gray, and Charles Koontz.
Absent: Seth Greenblott. Staff present: Planning Director Karen Robertson.

- I. **Call to Order.** Chairman Rinden called the meeting to order at 5:45 PM in the Hopkinton Town Hall.
- II. **Applications.**

#2018-7 Elizabeth J. Nolin, Esq. Attorney Paul Alfano of Alfano Law Office, Concord, New Hampshire, addressed the Board on behalf of Loren and Holly Clement for a Variance to permit the construction of an addition to the residence at 86 Maple Street, owned by Loren and Holly Clement, in the VR-1 district, Tax Map 102 Lot 42. The application was submitted in accordance with Zoning Ordinance Table 4.2 and Section 5.1.2 (a).

The site plans presented had shown the Clement property and the abutting property to the north and south. To increase the lot size a lot line adjustment with the property to the north had been completed. Mr. and Mrs. Clement are scheduled to go before the Planning Board to complete a similar lot line adjustment with the property to the south.

The existing 1,344 SF residence is non-conforming as it encroaches on the rear (Cedar Street) setback by five inches. In Comparing the Clement residence with other residences along the street, the setback of their residence is more conforming.

Mr. Clement explained his proposal to construct an addition of a first-floor mudroom/landing, a garage and living room, and second-floor bedrooms, full bath and a master bedroom.

Attorney Alfano noted that when considering the average size of the houses in the neighborhood, the changes proposed will bring the Clement house more in conformity. Additionally, many of the homes in the area have garages or barns, so the proposed garage will also be consistent with others in the neighborhood.

Attorney Alfano suggested that approval be contingent upon Planning Board approval of the lot line adjustment to the south, so to ensure that the side line setback is met.

Mr. Koontz questioned what would happen if the lot line adjustment is not approved by the Planning Board. Mr. Clement had no reason to believe that the Planning Board would not approve the adjustment. He explained that he was recently before the Board for a lot line adjustment on the other side of his property.

Subject to review and approval.

Mrs. Robertson suggested reasons the Planning Board would not approve the lot line adjustment. For example, if the proposal created a violation of the Zoning Ordinance or increased an existing non-conformity.

Ms. Scheinman questioned the percentage of the property that would be covered by the residence after the addition is completed. In response, Mrs. Robertson reviewed the plan of the lot line adjustment which showed that the existing residence is currently using 20.2 percent of the lot. The residence after the addition will utilize 26.9 percent.

The Applicant's written response to the criteria for a Variance as outlined in Section XV of the Zoning Ordinance was as follows:

- 1) **The proposed use would not diminish surrounding property values because:** "A Variance from Section 4.2 would not diminish surrounding property values. The existing square footage of the lot is 14,960 square feet, and the requirement under the table is 15,000 square feet. A residence already exists on the lot; and many lots in this area are non-conforming because of their age and less than the required dimensions. For this reason, the Variance to this section would not diminish surrounding property values.

A Variance from Section 5.1.2(a) for the proposed addition would not diminish property values because the use would remain residential, as required by the district; the property owner has hired experts and taken great measures to ensure that the addition will be in keeping with the aesthetic of the existing residence and the surrounding neighborhood, a task similarly undertaken when the applicant upgraded the existing residence; and the addition will bring the residence into closer conformity with surrounding properties in terms of square footage. Additionally, the proposed addition will increase the value and desirability of the subject property."

- 2) **Granting the Variance would not be contrary to the public interest because:** "Granting a Variance from Section 4.2 would not be contrary to the public interest because it would be consistent with the essential character of the district (since the deficit is only 40 square feet and barely discernable from complying lots) and would in no way threaten the public health, safety, or welfare.

Granting a Variance from Section 5.1.2(a) for the proposed addition would not be contrary to the public interest because it would be consistent with the essential character of the district and would not in any way threaten the public health, safety, or welfare. The proposed use shall be entirely residential, and therefore will be in keeping with the residential nature of the district. Visually, the addition will be in keeping with the character of the district; the property owner has experience renovating the existing residence in keeping with the character and aesthetic of the district, and the same attention – as shown on the proposed plans – has and will be given to the addition to ensure consistency with the visual character of the district. Additionally, there is no risk that the proposed variance would have any risk to the public health, safety, and welfare as it shall be a residential addition with no increase in the number of residents, and minimal increase to public resources to accommodate the single bath in the addition. The fact that the proposed variance will not be contrary to the public interest is highlighted by the fact that both immediate abutters and many of the surrounding abutters are in favor of the application and have lent their support to the property owner in this application."

- 3) **By granting the Variance substantial justice would be done because:** “Granting a variance to Section 4.2 would serve substantial justice because the property owner would realize significant gain from being able to develop on the subject lot; the difference between the actual square footage and requisite square footage is only 40 square feet; and the general public would realize no appreciable gain from denying the variance as a structure is already on the lot and the deficiency in terms of square footage on the lot is barely discernable.

Substantial justice would be done by granting the Variance to Section 5.1.2 because the property owner would achieve tremendous gain by being able to expand his residence and thereby use and enjoy his property more fully, while the public would realize no loss. The proposed addition poses no threat or burden to the surrounding property or community, is appropriate for the area in terms of use, size, and appearance, and does not harm the abutters; therefore, the general public would realize no appreciable gain from denying the variance.”

- 4) **The spirit and intent of the Ordinance will not be broken by granting the Variance because:** “The spirit of the Ordinance is to, among other objectives, promote the health, safety, convenience, and general welfare of inhabitants.

The Variance request to Section 4.2 would not break the spirit and intent of the Ordinance because the deficiency of the subject lot is only 40 square feet, and there is already a residence on the subject lot.

The Variance request to Section 5.1.2 shall not be contrary to the spirit and intent of the Ordinance because the request does not threaten the health, safety, convenience, or general welfare of the inhabitants; nor does it propose an incompatible use on the subject location; nor does it threaten the values of surrounding properties. Because the proposal in no way is contrary to the public interest or proposes an inconsistent use for the district, the spirit and intent of the Ordinance will not be broken.”

- 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.** “With regards to the Variance from Section 4.2, no fair and substantial relationship exists between the general purposes of Section 4.2 and the specific application to the property. The public purpose of Section 4.2 is to regulate development and ensure that property is not overdeveloped and affecting abutting properties. In this case, the deficiency of the subject lot is 40 square feet; and a residence is already on the site. The proposed addition would be within the requisite building envelope, and therefore there is no risk of overdevelopment on the subject lot or interference with abutters by granting the Variance to Section 4.2.

We request a variance from Section 5.1.2, providing that non-conforming residences may be expanded by up to 50% in square footage from the square footage existing at the date of nonconformity provided the addition does not further encroach upon non-conforming setbacks.

The purpose of Section 5.1.2 is to prevent over-development on lots with non-conforming residences, to provide that building on such lots does not interfere with the aesthetic of the district, and to keep districts and neighborhoods substantially uniform.

In this case, no fair and substantial relationship exists between these general public purposes and the specific application to this property. The proposed expansion would be more than 50% of the square footage of the existing building but would be entirely within building envelopes and in conformity with setback requirements of VR-1 properties as articulated under Section 4.2. The applicant has hired professionals to design and plan the addition to ensure the addition would be consistent with the aesthetic of the existing property and surrounding properties in the district, particularly taking into account the historic element of the neighborhood. Additionally, the applicant's addition will be partly screened by surrounding vegetation, and immediate abutters have given their support to the project.

The proposed addition shall consist partly of additional living space and partly of a garage. The proposed addition is consistent with other properties in the neighborhood because most properties have an additional or supplemental building that is a garage or barn. In fact, the subject property as it currently exists is one of the only properties in the vicinity that does not have a garage or barn. The proposed addition is in keeping with the style and structures in the neighborhood. For these reasons, there is no fair and substantial relationship between the general public purposes of Section 5.1.2 and the specific application of that provision of this property."

- (ii) **The proposed use is a reasonable use.** "With regards to the Variance from Section 4.2, the proposed use of permitting the construction of an addition on a 14,960 square foot lot as opposed to 15,000 is reasonable because the deficiency is barely measurable and does not impact abutters with regards to overdevelopment of the lot or placement of a structure too close to lot lines.

With regards to the Variance from Section 5.1.2, the proposed use is a reasonable one because it seeks to expand a residence to reasonably accommodate the family that currently lives there and families who would look to purchase in the area. The existing structure is a non-conforming structure built in 1850, before there were zoning or planning ordinances in effect in Hopkinton. The existing residence consists of 1288 square feet. As shown on the preliminary plans, the proposed addition would seek to add extra living space, a garage, two bedrooms, and one full bath, all within the required building envelope for the VR-1 district. The addition would be entirely for residential use, in keeping with the district.

The applicant is married with four children, and understandably in need of additional space to raise his family. The existing residence is one of the smallest

residences in terms of square footage in the immediate vicinity, with surrounding properties ranging from about 1650 to 3000 square feet; therefore, the total square footage of the proposed and the existing residence would be within the range of other properties in the neighborhood. As Hopkinton is an extremely family-oriented community, the addition to the existing property would also likely be appealing to potential purchasers looking for a family home in the area. As the proposed addition would keep the existing residence and addition within the required building envelope while achieving these objectives, the proposed use is a reasonable use.

In addition to the above-described reasons as to why literal enforcement results in unnecessary hardship, an additional reason remains. The applicant would likely be able to demolish the existing residence and construct an entirely new residence within the building envelope that could result in a building larger than the existing residence and proposed addition. Literal enforcement of the Ordinance would result in unnecessary hardship on the applicant to level and erect a larger, new structure.”

Attorney Alfano was asked to further address the hardship element of the Variance criteria. In response, he stated that the Ordinance requires a minimum lot size of 15,000 square feet. The Clement lot consists of 14,960 square feet. There is a substantial hardship imposed when you balance the benefits with respect to the enlargement of the house because the house is so small. Attorney Alfano suggested that the maximum increase of fifty percent for additions to non-conforming residences is intended to address a possible lack of admiration in the area and not for the expansion of a small residence. Furthermore, the proposed addition is reasonable because it will make the house size more consistent with others in the neighborhood.

Ms. Scheinman asked Mr. Clement if he had considered designing the addition so that it would comply with the fifty percent requirement or were the plans developed before knowing about the maximum size allowed. Mr. Clement responded that he had the plans prepared with the understanding that he would need lot line adjustments. Later, he learned of the encroachment of the existing residence by five inches into the setback.

Ms. Scheinman asked Attorney Alfano to elaborate on the special conditions that distinguish the property from other properties in the area, such as no fair and substantial relationship exists and that the proposed use is reasonable. Attorney Alfano reiterated the size of the existing residence, noting that it is unusually small as compared to other homes in the neighborhood. He suggested that the purpose of the Ordinance is to create cohesiveness. Everything that the Applicant has done, such as the lot line adjustments and the design of the addition, is to make the home more consistent with the neighborhood. When the lot line adjustments are completed, the home will have the least non-conforming setback as compared to others within the neighborhood.

At this time, Chairman Rinden opened and closed the public hearing portion of the meeting as there were no members of audience, besides Mr. Clement and Attorney Alfano.

Ms. Gray believed that the Applicant had done everything possible to increase the size of his lot and to decrease the non-conformity of the setbacks of the home. She suggested that if the application were to be approved that it should be contingent upon Planning Board approval of the lot line adjustment. Members concurred.

Mr. Koontz noted that the Applicant could demolish the existing residence and construct a new three-story residence that would comply with the setbacks. While the new residence would comply, its size would not be consistent with the other homes in the neighborhood.

At this time, Board members reviewed the Applicant's response to the criteria for Variance to determine whether all were satisfied.

- 1) The proposal would increase surrounding property values.
- 2) Granting the Variance would not be contrary to the public's interest.
- 3) The public and private rights of others would not be adversely affected as the existing non-conforming lot size and setback is minimal, and the addition will make the residence consistent in size with other residences in the neighborhood.
- 4) The spirit and intent of the Ordinance would not be adversely affected because of the deficiency in the lot size and the setback. Furthermore, the proposal will not adversely affect the health, safety, convenience, or general welfare of the residents in the neighborhood.
- 5) The Applicant has made every effort to work with his neighbors in adjusting the lot lines so to reduce the non-conformity of the lot size and to provide adequate setback for the existing residence.

Ms. Scheinman noted that the Applicant was aware of the size of the property at the time of purchase. Chairman Rinden agreed and stated that if the Variance is not granted, the Applicant can tear down the existing residence and construct a new residence in conformity with the required setbacks. However, he suggested that removal and reconstruction would be costly.

Ms. Scheinman was not convinced that the Applicant had successfully addressed the "unnecessary hardship".

Mr. Koontz reiterated the fact that it would be costly to remove the existing residence and construct a new residence in compliance with the setback requirements.

Chairman Rinden stated that the residence is 150 years old and is non-conforming in setback by five inches.

Toni Gray, seconded by Charles Koontz, moved to **APPROVE** Application #2018-7 contingent upon Planning Board approval of the lot line adjustment (Lots 42 & 43). Motion carried in the affirmative (Gray, Scheinman, Koontz, and Rinden). The Applicant successfully addressed all criteria to be granted a Variance as outlined in Section XV of the Zoning Ordinance.¹

Reasons for approval as follows:

- 1) Property Values:
 - There was no evidence that surrounding property values would diminish because of the existing non-conforming lot size (14,960 SF), existing non-conforming setback

Subject to review and approval.

(29'-7"), and size of the proposed addition (approx. 1,300 SF).

- The residence was constructed in 1850 before zoning in Hopkinton.
- The residences in the neighborhood are larger than the Applicant's residence and are more non-conforming in setback.

2) Public Interest:

- There was no evidence that the public's interest would be negatively affected because of the existing lot size being 40 SF less than required, the existing building setback being 5-inches less than required, and because of the proposed addition exceeding 50 percent of the size of the existing residence.
- Residences in the neighborhood are more non-conforming in setback and are larger in size than the Applicant's existing residence.
- Certified notice was provided to the abutters and public notice of the proceedings was published in the Concord Monitor. Subsequently, there was no member of the public present at the meeting.

3) Substantial Justice:

- The public would realize no appreciable gain from denial of the Variance.
- The Applicant's residence is very small and less non-conforming when compared to other residences in the neighborhood.
- The difference in actual square footage and required square footage of the lot is 40 square feet.
- The residence is already existing and the deficiency in lot size (40 SF) and setback (5") is unnoticeable.

4) Spirit and Intent:

- The spirit and intent of the Ordinance will not be broken by granting the Variance as the residence is existing, constructed in 1850, and will continue to be utilized in the same manner.
- The nature and character of the surrounding properties will not change as the abutting properties are used for residential purposes and the abutting property owners have agreed to the lot line adjustments.
- While the proposed addition exceeds fifty percent of the size of the existing residence, it will not further encroach upon the non-conforming setback.
- Requiring the Applicant to limit the size of the addition to no more than fifty percent of the existing residence is not necessary in order to give full effect to the purpose of the Zoning Ordinance as the residence will be of a similar size and characteristics of other residences in the neighborhood.
- The proposed addition will not adversely affect the health, safety, convenience, or general welfare of the residents in the neighborhood.

5) Unnecessary Hardship:

- Literal enforcement of the Ordinance will result in an unnecessary hardship as the Applicant would need to demolish and reconstruct the residence in order to construct the proposed addition.
- Given the age of the residence, the existing minimal deficiency in setback and lot size, as compared to others within the neighborhood, the proposed addition is reasonable.
- Once the addition is completed, the total size of the residence will be similar to other residences in the neighborhood.

III. Any other business that may legally come before the Board.

- The Minutes of the May 1, 2018 meeting were unanimously **APPROVE** as presented.
- The Notice of Decision of the May 1, 2018 meeting was unanimously **APPROVED** as presented.
- The Minutes of the May 10, 2018 meeting were unanimously **APPROVED** as presented.
- The Notice of Decision of the May 10, 2018 meeting was unanimously **APPROVED** as presented.

IV. Adjournment. Chairman Dan Rinden, seconded by Toni Gray, moved to **ADJOURN** the meeting at 6:23 PM. Motion carried in the affirmative. The next regular scheduled meeting of the Hopkinton Zoning Board of Adjustment is at 5:30 PM on Wednesday, September 5, 2018, at the Hopkinton Town Hall.

Karen Robertson
Planning Director

¹ 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."



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HOPKINTON ZONING BOARD OF ADJUSTMENT NOTICE OF DECISION SEPTEMBER 5, 2018

Notice is hereby given that the Hopkinton Zoning Board of Adjustment met on **Wednesday, September 5, 2018, at 5:30 PM** in the Hopkinton Town Hall, 330 Main Street, Hopkinton, and made the following decision(s):

I. Applications.

#2018-8 Deborah Allen Special Exception to operate a year-round farm-stand selling products produced on the farm, located at 258 Dustin Road, owned by Deborah and Mark Allen, in the R-3 district, Tax Map 224 Lot 39. The application was submitted in accordance with Zoning Ordinance Table of Uses 3.6.D.3.

Toni Gray, seconded by Jessica Scheinman, moved to **APPROVE** Application #2018-8 as presented. Motion carried in the affirmative (Eck, Gray, Greenblott and Scheinman). The Applicant successfully addressed all criteria to be granted a Special Exception as outlined in Section XV of the Zoning Ordinance.¹

II. Review of Minutes and Notices of Decisions.

Review of the Minutes and Notice of Decision of August 7, 2018 was **DEFERRED** to the October 2, 2018 meeting.

Jonathan Eck, seconded by Toni Gray, moved to **APPROVE** the Minutes and Notice of Decision of August 20, 2018 as amended. With four members voting, three voted in favor (Eck, Gray and Greenblott) and one voted in abstention (Scheinman).

III. Adjournment.

Jessica Scheinman, seconded by Jonathan Eck, moved to **ADJOURN** the meeting at 7:13 PM. Motion carried in the affirmative. The next regular scheduled meeting of the Hopkinton Zoning Board of Adjustment is at 5:30 PM on Tuesday, October 2, 2018, at the Hopkinton Town Hall.

Karen Robertson
Planning Director

¹ 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."

Subject to review and approval.



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HOPKINTON ZONING BOARD OF ADJUSTMENT MINUTES SEPTEMBER 5, 2018

Members present: Seth Greenblott, Jessica Scheinman, Toni Gray, and Jonathan Eck. Absent: Daniel Rinden and Charles Koontz. Staff present: Planning Director Karen Robertson.

- I. **Call to Order.** Acting Chairman Greenblott called the meeting to order at 5:30 PM in the Hopkinton Town Hall.

The Applicant was given an opportunity to post-pone review of her application as there were only four members of the Board present. After brief discussion, the Applicant agreed to move forward.

- II. **Applications.**

#2018-8 Deborah Allen Special Exception to operate a year-round farm-stand selling products produced on the farm, located at 258 Dustin Road, owned by Deborah and Mark Allen, in the R-3 district, Tax Map 224 Lot 39. The application was submitted in accordance with Zoning Ordinance Table of Uses 3.6.D.3.

Chairman Greenblott noted that "Agriculture" and "Farming" uses are allowed in the R-3 district. The definition includes a farm roadside stand as an agricultural operation provided at least 35 percent of the product sales is from products produced on the farm. Therefore, Ms. Allen will not need a Special Exception. However, if Ms. Allen expects to sell less than the 35 percent, a Special Exception is needed as referenced in Table of Uses 3.6.D.3 of the Ordinance.

After discussions, Ms. Allen decided to move forward in presenting her application for Special Exception.

Currently, Ms. Allen's farm is a small licensed dairy farm that consists of seven (7) sheep. The farm-stand is intended to promote farming and the art of cheese making. In addition, it will provide consumers with a place to recycle their glass jars when purchasing yogurt. All manufacturing and sales will take place in a small area in her existing barn. Ms. Allen anticipates selling yogurt, cheese, products related to cheese, rabbit meat, and wool products. She will also engage, at some point in the future, in agritourism, offering cheese making classes. Furthermore, she plans to purchase milk from dairy farms that will be used by her at her farm. Ms. Allen's products are currently being sold at farmers' markets, and she plans on selling to grocery stores. Purchases at the farm-stand will be on an honor system between the hours of 7 AM – 7 PM, so it is not anticipated that there will be a substantial increase in traffic.

The Applicant's response to the criteria for a Special Exception as outlined in Section XV of the Zoning Ordinance was as follows:

Subject to review and approval.

1. **Standards provided by this Ordinance for the particular use permitted by Special Exception.** “A year-round farm-stand is permitted by Special Exception according to Table of Uses 3.6.D.3 and subsection 2.1.A.4.”
2. **No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials.** There will be no hazardous chemicals or materials used. All cleaning is with soap, water, and food safe sanitizer.
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.** “There is no odor or runoff to cause detriment to adjacent properties.”
4. **No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity.** “There should be no increase in traffic as a result of the request.” The property only consists of 3-acres and therefore, the farm is very small. The farm-stand will be self-serve (honor system).
5. **No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection, and schools.** “There will be no increase in demand on municipal services.”
6. **No significant increase of storm water runoff onto adjacent property or streets.** “There will be no change in stormwater runoff.”
7. **An appropriate location for the proposed use.** “The location is well lit and seems appropriate for the proposed use.”
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 exception would not adversely affect the health/safety of residents in the area.”
9. **In the public interest and in the spirit of the ordinance.** “The proposal is in the spirit of nurturing local food production. We feel that the request, if granted, would contribute to the community in a positive manner.”

Ms. Scheinman inquired about the process of licensing the farm. Ms. Allen stated that the farm is licensed as a dairy/cheese farm, which requires many forms to be completed. As a result, the State of New Hampshire tests the animals' milk and the water. In addition, there are standards with respect to sinks for handwashing and product making that needs to be adhered to.

Acting Chairman Greenblott opened the public hearing portion of the meeting to public testimony.

An abutter inquired about signage and its location. The abutter believed that the signage will

help in avoiding vehicles from turning around in her driveway. The abutter then questioned whether there will be on-street parking. Ms. Allen replied no, explaining that there is plenty of parking next to the barn.

Acting Chairman Greenblott declared public testimony closed. At this time, Board members began deliberations.

Mrs. Gray believed that the Applicant had successfully addressed all criteria to be granted a Special Exception. Ms. Scheinman agreed, saying that the farm-stand is small and will have no hazardous materials associated with it. Furthermore, the farm-stand will be setback from the abutting properties.

Toni Gray, seconded by Jessica Scheinman, moved to **APPROVE** Application #2018-8 as presented. Motion carried in the affirmative (Eck, Gray, Greenblott and Scheinman). The Applicant successfully addressed all criteria to be granted a Special Exception as outlined in Section XV of the Zoning Ordinance.¹

III. Minutes and Notice of Decision.

Review of the Minutes and Notice of Decision of August 7, 2018 was **DEFERRED** to the October 2, 2018 meeting.

Jonathan Eck, seconded by Toni Gray, moved to **APPROVE** the Minutes and Notice of Decision of August 20, 2018, as amended. With four members voting, three voted in favor (Eck, Gray and Greenblott) and one voted in abstention (Scheinman).

IV. Other Business. Valerie Aubry addressed the Board expressing concern that the Minutes of the August 20, 2018 meeting did not reflect Scott Clay's comments concerning the topography of the area (properties at Bound Tree Road, abutting Rhapsody Farm) as it is a valley, and how the sound travels.

V. Adjournment. Jessica Scheinman, seconded by Jonathan Eck, moved to **ADJOURN** the meeting at 7:13 PM. Motion carried in the affirmative. The next regular scheduled meeting of the Hopkinton Zoning Board of Adjustment is at 5:30 PM on Tuesday, October 2, 2018, at the Hopkinton Town Hall.

Karen Robertson
Planning Director

¹ 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."