

TOWN OF SUNAPEE ZONING BOARD OF ADJUSTMENT

**A PUBLIC HEARING WILL BE HELD AT THE TOWN
MEETING ROOM LOCATED AT 23 EDMONT ROAD
ROOM ON THURSDAY, January 2, 2020 AT 7:00 PM ON THE
FOLLOWING CASES:**

Any continued cases from previous meeting

**Case #ZBA19-22 &
ZBA19-23**

Parcel ID: 0133/ 0026/ 0000/

**Variance for Rear Setback and
Variance from Front Setback, per
Article III Section 3.10, to permit a
proposed new commercial building
7-feet from the rear property line,
11-feet from the edge of the Garnet
Street right-of-way, and 29.7-feet
from the centerline of Garnet Street.
5 Garnet Street
Zoned VC (Village Commercial) w/
Shoreline Overlay
Royce Enterprises, LLC**

Case #ZBA19-24

Parcel ID: 0115/ 0038/ 0000/

**Special Exception, per Article IV
Section 4.15, to permit a home-base
daycare in the RR district.
57 North Shore Rd.
Zoned RR w/ Shoreline Overlay
Agnes H. and Jennifer Slavin**

MISC.

**Review Minutes from Previous Meeting(s);
Rules of Procedure
Request for Rehearing for ZBA Case #19-21**

NOTE:

In the event the meeting is cancelled, the Agenda will be continued to the next scheduled Zoning Board meeting.



TOWN OF SUNAPEE
23 Edgemont Road
Sunapee, New Hampshire 03782-0717
www.town.sunapee.nh.us

DATE: December 19, 2019 (for the hearing 1/2/2020)
TO: Zoning Board of Adjustment
FROM: Nicole Gage, Zoning Administrator
CASE: **Case #ZBA19-22 & ZBA19-23 – Variance(s)**
Owner/Applicant: Royce Enterprises, LLC
Parcel ID: 0133/ 0026/ 0000/
5 Garnet Street
Zoned VC (Village Commercial) w/ Shoreline Overlay

Summary of Case: The applicant is applying for two (2) variances to put up a new building, once they demolish the existing building that is there now: a Variance for Rear Setback and Variance from Front Setback, per Article III Section 3.10, to permit a proposed new commercial building for professional office & retail space (single-story?, with possible decks/patios, not clear about basement) 7-feet from the rear property line (where 10-feet is normally required), and 29.7-feet from the centerline of Garnet Street (where 40-feet is normally required).

The proposal seems to meet the Maximum Lot Coverage for VC w/ Shoreline Overlay in 3.20 (p. 12):
60% impermeable surfaces
80% total impermeable & permeable surfaces

Use: Note the proposal is to use the new building for a combination of Retail and Professional Office. Both are allowed uses in VC.

Department Review: The applications were reviewed by both Highway and Police, who have recommendations regarding the revised parking spots for a new driveway, parking signs and crosswalks. However, those would be addressed by the Planning Board during Site Plan Review.

Note: There are Deed Restrictions on this lot, including limits to the height of the building.

References to the Zoning Ordinance:

Page	Article	Section	Part
11*	III*	3.10*	(Village Comm.)*
	Dimensional Controls	Table of Dimensional Controls	

*Appeal for Current Application

Description of Property:

- The Royce Enterprises, LLC purchased this property in April 2019.
- The lot is approximately 0.15 acres
- Served by town Water and Sewer
- Zoned VC (Village Commercial) with Shoreline Overlay for being within 250-feet of Lake Sunapee.
- Built in 1940.

Land Use History: (may be incomplete)

1996 – 2017 10 sign permits issued (#18A, 22S, 29S, 109S, 128S, 148S, 152S & 219S)

Property Location: 5 GARNET ST

MAP ID: 0133/ 0026/ 0000/ /

Bldg Name:

State Use: 3220

Vision ID: 1448

Account # 1427

Bldg #: 1 of 1

Sec #: 1 of 1

Card 1 of 1

Print Date: 10/17/2019 15:48

CURRENT OWNER

ROYCE ENTERPRISES, LLC

PO BOX 50

SUNAPEE, NH 03782

Additional Owners:

TOPO.

4 Rolling

UTILITIES

2 Public Water

3 Public Sewer

STRT./ROAD

1 Paved

LOCATION

3 Rural

Other ID:

0133-0026-0000

SEPTIC APPR

UTILITY

DES PERMITS

Routing # 1618

SUBDIVISION

SUPPLEMENTAL DATA

PP

LAKE FRON

LOT DEPTH

MULTIPLE

ASSOC PID#

RECORD OF OWNERSHIP

ROYCE ENTERPRISES, LLC

SULLIVAN REVOC TRUST OF 1998, RONALD E

SULLIVAN, RONALD

BK-VOL/PAGE

2068/ 676

1669/ 479

0/ 0

SALE DATE

04/29/2019

12/06/2007

q/u

U

U

v/i

I

I

SALE PRICE

154,000

0

V.C.

1A

1T

EXEMPTIONS

Year

Type

Description

Amount

Code

Description

Number

Amount

Comm. Int.

Total:

ASSESSING NEIGHBORHOOD

NBHD/ SUB

0001/A

NBHD Name

Street Index Name

Tracing

Batch

NOTES

OTHER ASSESSMENTS

Yr.

Code

Assessed Value

Yr.

Code

Assessed Value

Yr.

Code

Assessed Value

Total:

153,400

153,400

153,400

Total:

153,400

This signature acknowledges a visit by a Data Collector or Assessor

APPRAISED VALUE SUMMARY

Appraised Bldg. Value (Card)

Appraised XF (B) Value (Bldg)

Appraised OB (L) Value (Bldg)

Appraised Land Value (Bldg)

Special Land Value

Total Appraised Parcel Value

Valuation Method:

Adjustment:

Net Total Appraised Parcel Value

52,200

0

0

101,200

0

153,400

C

0

153,400

BUILDING PERMIT RECORD

Permit ID

Issue Date

Type

Description

Amount

Insp. Date

% Comp.

Date Comp.

Comments

Date

IS

ID

Cd.

Purpose/Result

233S

06/03/2019

SG

SIGN

0

04/06/2016

0

04/01/2016

SMALL 9 - 12 SQ FT SIG

06/04/2019

MP

BP

BUILDING PERMIT

219S

05/15/2017

SG

SIGN

0

05/07/2013

100

04/01/2013

ONE (1) 8 SQ FT OVAL

05/01/2019

MP

AC

ADMIN DATA ENTRY

152S

06/28/2010

SG

SIGN

0

05/07/2013

100

04/01/2013

UNLIT RECTANGULAR

04/06/2018

KM

BP

BUILDING PERMIT

148S

05/17/2010

SG

SIGN

0

05/07/2013

100

04/01/2013

NEW SIGNS

05/16/2017

MP

BP

BUILDING PERMIT

128S

04/27/2009

SG

SIGN

0

04/01/2010

100

04/01/2010

(2) NEW SIGNS FOR FR

08/28/2015

NB

FR

IN FIELD REVIEW

LAND LINE VALUATION SECTION

B

Use Code

Use Description

Zone

D

Front Depth

Units

Unit Price

I. Factor

S.A.

Acre

Disc

C. Factor

ST. Idx

Notes- Adj

Special Pricing

S Adj Fact

Adj. Unit Price

Land Value

1

3220

STORE/SHOP MDL-94

VC

6,534

SF

6.89

1.5000

6

1.0000

1.50

0.00

LOCATION

1.00

15.49

101,200

Total Card Land Units:

0.15 AC

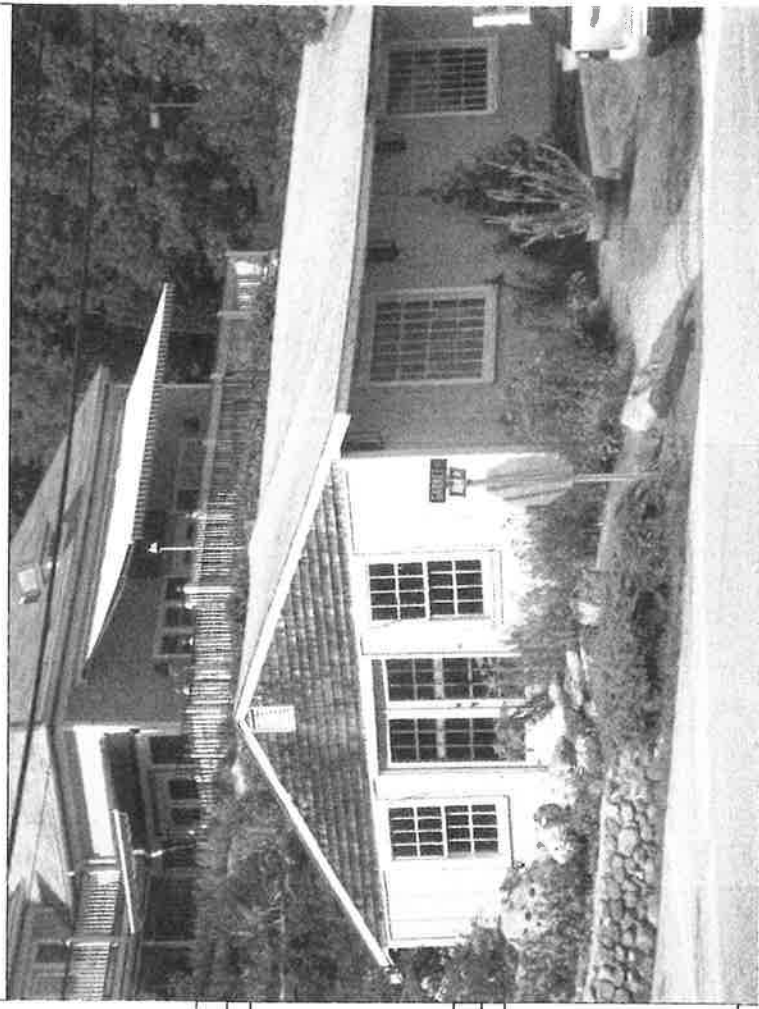
Parcel Total Land Area:

0.15 AC

Total Land Value:

101,200

CONSTRUCTION DETAIL				CONSTRUCTION DETAIL (CONTINUED)									
Element	Cd.	Ch.	Description	Element	Cd.	Ch.	Description						
Style	17		Store										
Model	94		Commercial										
Grade	02		Below Average										
Stories	1												
Occupancy	1												
Exterior Wall 1	06		Board & Batten										
Exterior Wall 2	14		Wood Shingle										
Roof Structure	03		Gable/Hip										
Roof Cover	03		Asph/F Gls/Cmp										
Interior Wall 1	03		Plastered										
Interior Wall 2	07		K PINE/A WD										
Interior Floor 1	09		Pine/Soft Wood										
Interior Floor 2													
Heating Fuel	03		Gas										
Heating Type	04		Forced Air-Duc										
AC Type	01		None										
Bldg Use	3220		STORE/SHOP MDL-94										
Total Rooms													
Total Bedrms													
Total Baths													
Heat/AC	00		NONE										
Frame Type	02		WOOD FRAME										
Baths/Plumbing	02		AVERAGE										
Ceiling/Wall	06		CEIL & WALLS										
Rooms/Prtns	02		AVERAGE										
Wall Height	8												
% Cornn Wall													
				OB-OUTBUILDING & YARD ITEMS(L) / XF-BUILDING EXTRA FEATURES(B)									
Code	Description	Sub	Sub Description	L/B	Units	Unit Price	Yr	Gde	Dp	Rt	Cnd	%Cnd	Apr Value
				BUILDING SUB-AREA SUMMARY SECTION									
Code	Description			Living Area	Gross Area	Eff. Area	Unit Cost	Undeprec. Value					
BAS	First Floor			1,344	1,344	1,344		133,576					
UST	Utility, Storage, Unfinished Deck, Wood			0	336	101		10,038					
WDK				0	144	14		1,391					
Ttl Gross Liv/Lease Area:				1,344	1,824	1,459	145,006						



**Zoning Board of Adjustment (ZBA)
Variance Application**

Questions? Please contact the Zoning Administrator. All dates and deadlines are published on the ZBA calendar; see Page 6. For helpful guidelines on completing this application, see page 4-5.

Attach additional sheets of paper as necessary.

1. Landowner(s) Name(s): ROYCE ENTERPRISES, LLC
2. Parcel ID: 133-0026 3. Zoning District: VILLAGE-COMMERCIAL
1. Project Location (Street & #): 5 GARNET ST.
2. Mailing Address: P.O. BOX 50, SUNAPEE, NH 03782
3. Phone Number: 603-477-9366
4. Email: ROYCEENTERPRISES@COMCAST.NET

X ABUTTERS LIST: You must prepare a list of all abutting property owners and attach it to your application. If you have any difficulty, consult the town office, but the accuracy of the list is your responsibility. You can download an abutters list by using the Tax Maps/GIS on the town's website (under Assessing Department).

X FEES: pd ck # 113 (2 applications)
Application Fee: \$300 * Make check payable to Town of Sunapee.
Abutter Notification Fee: \$34.25 * per abutter. Make payable to US Post Office.
pd ck # 125 5 x \$6.85

* NOTE: Rates and fees are subject to change. For the most current rate, please check with the town office.

ATTACHMENTS: To assist the board, please attach sketches, photos, surveys, plot plans, pictures, construction plans, or whatever may help explain the proposed use. Include copies of any prior Zoning or Planning decisions concerning the property. If you have something in writing stating that your proposed project does not meet zoning, please attach that to this application. It may be a letter, email or denied permit. A professional survey by a licensed surveyor is strongly recommended for variances related to setback requirements. For properties located in the Shorelines Overlay District, a professional survey is required.

Applications will not be considered complete unless all the questions are answered, the fees are paid, and an Abutters Mailing List is attached.

GENERAL DESCRIPTION: This is a place to give a general summary of the proposed project as an introduction and overview for the public hearing. For example, where is the property located? Describe the property. Give area, frontage, side and rear lines, slopes, natural features, etc. What do you propose to do? Why does your proposal require an appeal to the board of adjustment?

SEE ATTACHED

Attach additional sheets of paper as necessary.

SPECIFIC REASON THE VARIANCE IS NECESSARY: A Variance is requested from Zoning

Ordinance, Article III, Section 3.10 (FRONT SETBACK) to permit _____

REPLACEMENT OF EXISTING NON-CONFORMING STRUCTURE IN A DIFFERING BUILDING ENVELOPE, WHICH WILL REDUCE NON-CONFORMANCE. THE PROPOSED STRUCTURE WILL BE 7' FROM THE REAR PROPERTY LINE AND 11' FROM THE EDGE OF THE GARNET STREET RIGHT OF WAY AND 29.7' FROM THE CENTER LINE OF GRANET STREET

Facts in support of granting the variance:

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

GRANTING THE REQUESTED VARIANCE WILL DECREASE THE NON-CONFORMANCE WITH EXISTING BUILDING SETBACK REQUIREMENTS, AND ALLOW FOR THE CONSTRUCTION OF A MODERN, FUNCTIONAL AND BUILDING CODE COMPLIANT STRUCTURE.

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

GRANTING THE REQUESTED VARIANCE WILL KEEP WITH THE SPIRIT OF THE ORDINANCE BY DECREASING THE NON-CONFORMANCE WITH EXISTING BUILDING SETBACK REQUIREMENTS, AND ALLOW FOR THE CONSTRUCTION OF A MODERN, FUNCTIONAL AND BUILDING CODE COMPLIANT STRUCTURE.

3. Granting the variance would do substantial justice because: _____

THE REQUESTED VARIANCE WILL ALLOW FOR REDUCED NON-CONFORMANCE WITH EXISTING BUILDING SETBACK REQUIREMENTS, AND ALLOW FOR THE CONSTRUCTION OF A MODERN, FUNCTIONAL AND BUILDING CODE COMPLIANT STRUCTURE. THE PROPERTY OWNER AS WELL AS THE PUBLIC WILL BE SERVED BY REDUCED NON-CONFORMANCE AND INCREASED PROPERTY VALUES AND ESTHETICS.

4. If the variance were granted, the values of the surrounding properties would not be diminished because: THE REQUESTED VARIANCE WILL ALLOW FOR REDUCED NON-CONFORMANCE WITH EXISTING BUILDING SETBACK REQUIREMENTS, AND ALLOW FOR THE CONSTRUCTION OF A MODERN, FUNCTIONAL AND BUILDING CODE COMPLIANT STRUCTURE. THE PROPOSED PROJECT IS EXPECTED TO INCREASE THE VALUES OF SURROUNDING PROPERTIES.

5. Unnecessary Hardship

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

i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because: THE SUBJECT PROPERTY IS AN EXISTING NON-CONFORMING LOT. THE LOT IS ONLY 42' DEEP AND COMPLIANCE WITH CURRENT BUILDING SETBACKS WOULD RENDER THE PROPERTY UNBUILDABLE. THE REQUESTED VARIANCE ALLOWS FOR CONSTRUCTION OF A MORE CONFORMING STRUCTURE.

- and -

ii. The proposed use is a reasonable one because: THE PROPOSED USE IS AN ALLOWED USE. THE LOT IS ONLY 42' DEEP AND COMPLIANCE WITH CURRENT BUILDING SETBACKS WOULD RENDER THE PROPERTY UNBUILDABLE. THE REQUESTED VARIANCE ALLOWS FOR CONSTRUCTION OF A MORE CONFORMING STRUCTURE.

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

NOTE:

For person(s) with physical disabilities,
please see RSA 674:33 regarding alternative hardship criteria for a Variance.

SIGNATURE: I understand that the public hearing will be held at the scheduled date and time unless a request is made by me for a new hearing. Any rehearing will require a new public notice and notification to abutters, the cost of which will be borne by the applicant. Further, I hereby give permission to the ZBA members and zoning officials to visit the subject property prior to the public hearing. To the best of my knowledge, the above is true and correct.

April Royce
Landowner(s) Signature(s)

12/4/19
Date

Rear setback

RECEIVED
DEC 04 2019
TOWN OF
SUNAPEE

Zoning Board of Adjustment (ZBA) Variance Application

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April Royce
Landowner(s) Signature(s)

12/4/19
Date

Variance Application

Property of: Royce Enterprises, LLC

Property location: 5 Garnet Street

Parcel ID: 133-0026

0.14 acres

Road Frontage 182'+/-

General Description:

The project proposes to demolish the existing commercial structure and construct a new commercial building of the same square footage. This building will be used for retail space as well as professional office space. The new building will be slightly wider and shallower than the existing structure and will be located partially north easterly of the existing structure. The modified building footprint will allow the rear setback to be increased from 6.35' to 7' and the front setback (from edge of R.O.W.) to be increase from 7' to 11'. Additionally, the proposed project will include the addition of a driveway access and two parking spaces, neither of which currently exist on the property. The elevation of the peak of the proposed structure will be the same elevation as the peak of the existing structure. Moving the building northeasterly allows for driveway access to the property which will facilitate a more efficient and safe use of the property by the owners and allow for property maintenance.

Although this project improves currently non-conforming building setbacks, the proposed building setbacks will remain non-conforming. The applicant has been informed that a variance is required.

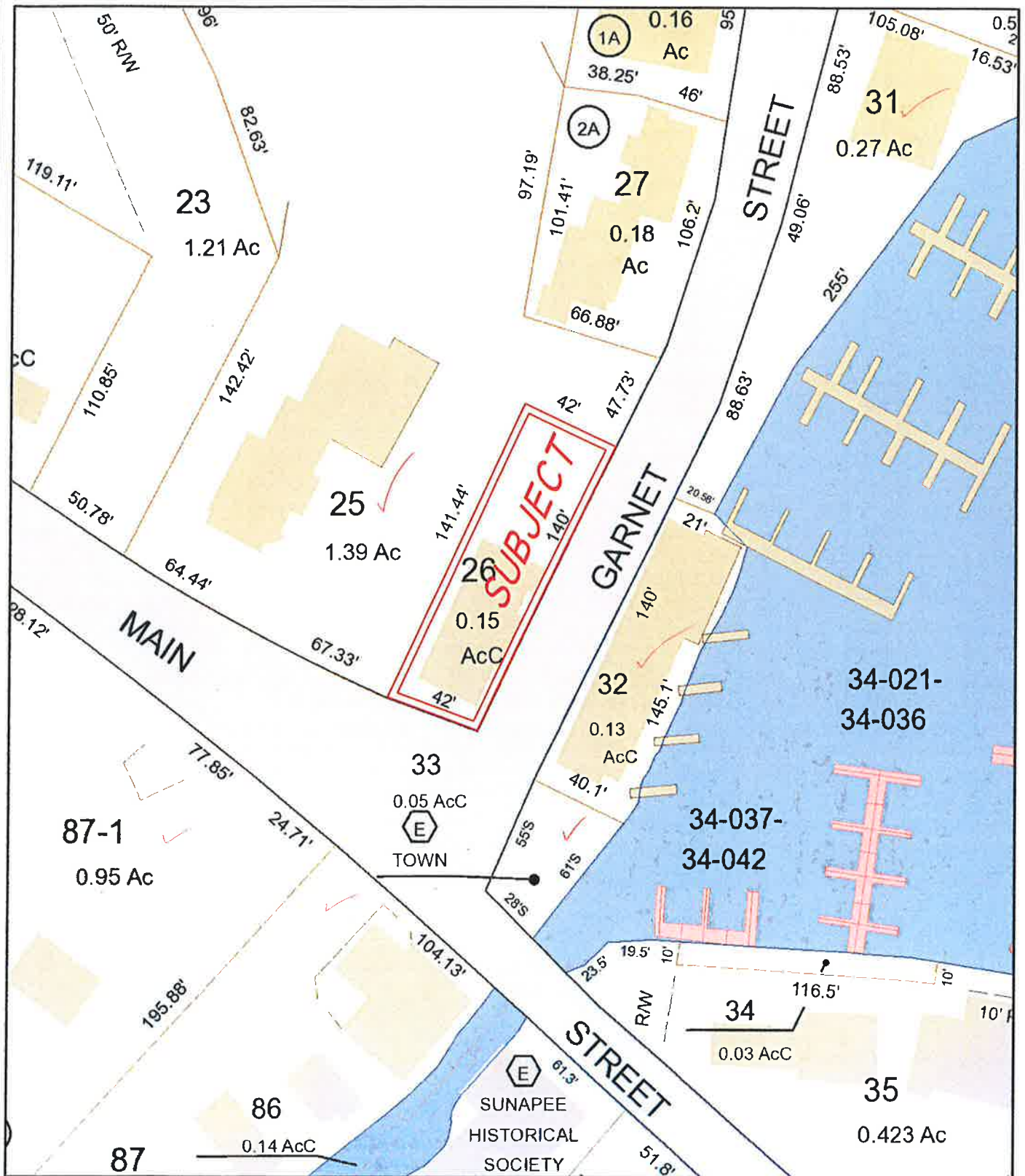


Tri Town, NH

1 inch = 60 Feet



December 2, 2019



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

ABUTTER LIST

PROPERTY OF
133-0026
ROYCE ENTERPRISES, LLC
PO BOX 50
SUNAPEE, NH 03782

①

133-0025

LAKE SUNAPEE PROTECTIVE ASSOC.
PO BOX 683
SUNAPEE, NH 03782

②

133-0031

INDIAN CAVE ASSOCIATION
ATTN: INDIAN CAVE PRESIDENT
IC INDIAN CAVE LANDING
SUNAPEE, NH 03782

③

133-0032

SUNAPEE HARBOR-RIVERWAY INC
PO BOX 850
SUNAPEE, NH 03782-0850

④

133-0033

TOWN OF SUNAPEE
23 EDMONT ROAD
SUNAPEE, NH 03782

→ to hand deliver

133-0087

~~SUNAPEE HARBOR-RIVERWAY INC
PO BOX 850
SUNAPEE, NH 03782-0850~~

duplicate

~~133-0087-0001~~

~~SUNAPEE HARBOR-RIVERWAY INC
PO BOX 850
SUNAPEE, NH 03782-0850~~

duplicate

APPLICANT

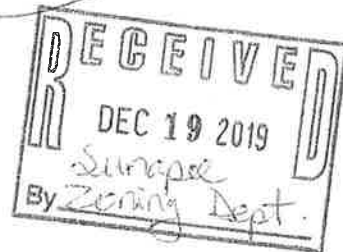
TRAVIS ROYCE
92 COONS DRIVE
CHARLESTOWN, NH 03603

⑤

AVE ASSOCIATION
DIAN CAVE PRESIDENT
V CAVE LANDING
, NH 03782

Additional
abutter notice
mailed out
12/20/2019

mes \$6.85



BOUNDARY SURVEY AND EXISTING CONDITIONS PLAN
ROYCE ENTERPRISES LLC
P.O. BOX 50 SUNAPEE, NH 03782
SULLIVAN COUNTY REGISTRY OF DEEDS BK: 2068 PG: 676
SUNAPEE, TAX MAP 133 LOT 26
5 GARNET STREET
SULLIVAN COUNTY, CHARLESTOWN, NEW HAMPSHIRE

PREPARED BY

PATON LAND SURVEYING

150 SOUTHRIDGE STREET, P.O. BOX 581, SPRINGFIELD, VT 05156

DATE: DECEMBER 18, 2019

SCALE: 1"=10'

DRAWN BY TR

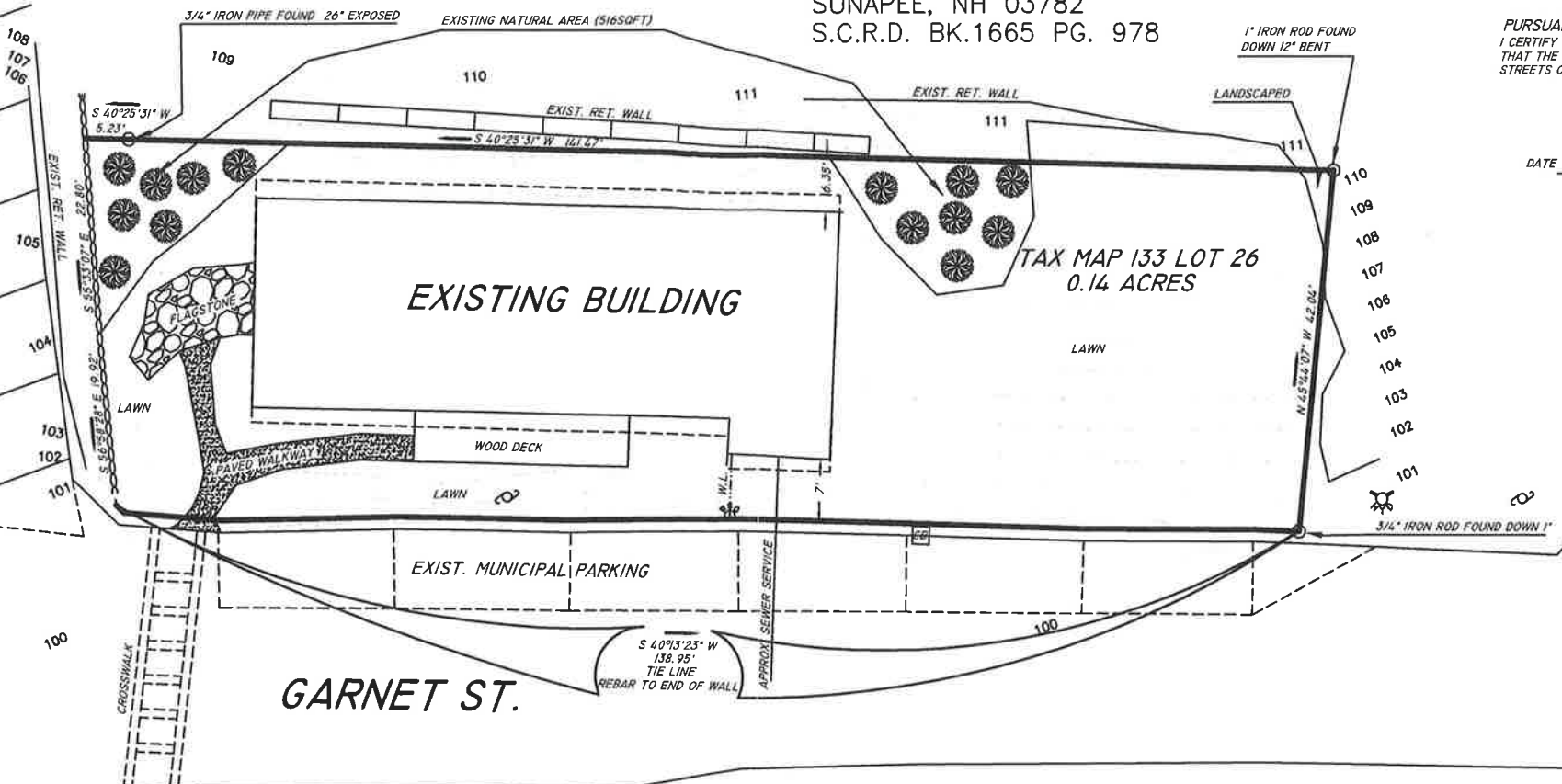
CK'D BY CTP

SURVEYED BY CTP, TR

133-87 & 87-1
SUNAPEE HARBOR-RIVERWAY INC
PO BOX 850
SUNAPEE, NH 03782-0850

MAIN ST.

EXIST. MUNICIPAL PARKING



GARNET ST.

THE ANCHORAGE

133-0033
TOWN OF SUNAPEE
23 EDMONT ROAD
SUNAPEE, NH 03782

133-32
SUNAPEE HARBOR-RIVERWAY INC
PO BOX 850
SUNAPEE, NH 03782-0850

133-31
INDIAN CAVE ASSOCIATION
ATTN: INDIAN CAVE PRESIDENT
1C INDIAN CAVE LANDING
SUNAPEE, NH 03782

SHORELINE

SHORELINE

EXISTING CONDITIONS
TOTAL = 6,098 SQFT
BUILDING (WALLED) = 1,706 SQFT
BUILDING IMPERVIOUS (ROOF) = 1,972 SQFT
DECK (OUTSIDE OF ROOF OVERHANG) = 101 SQFT
WALKWAY = 128 SQFT
FLAG STONE = 117 SQFT
TOTAL IMPERVIOUS = 2,318 SQFT
LAWN AND LANDSCAPED = 3,263 SQFT
NATURAL = 517 SQFT

LAKE SUNAPEE



REFERENCE PLANS:
1) PLAN ENTITLED 'KNOWLTON HOUSE', PREPARED BY PENNYROYAL HILL LAND SURVEYING & FORESTRY, LLC, DATED 9/4/2007 AND RECORDED AT S.C.R.D. IN PF.4, P.11, F.3, #33

CERTIFICATION
I CERTIFY THAT THIS PLAN IS THE RESULT OF AN ACTUAL FIELD SURVEY MADE ON THE GROUND AND HAS A MAXIMUM ERROR OF CLOSURE OF ONE PART IN TEN THOUSAND ON ALL PROPERTY LINES WITHIN & BORDERING THE SUBJECT PROPERTY

PURSUANT TO RSA 676:18,III AND RSA 672:14
I CERTIFY THAT THIS SURVEY PLAT IS NOT A SUBDIVISION PURSUANT TO THIS TITLE AND THAT THE LINES OF STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED AND THAT NO NEW WAYS ARE SHOWN

DATE _____
LICENSED LAND SURVEYOR



BOUNDARY SURVEY AND EXISTING CONDITIONS PLAN	
ROYCE ENTERPRISES LLC	
P.O. BOX 50 SUNAPEE, NH 03782	
SULLIVAN COUNTY REGISTRY OF DEEDS BK:2068 PG:676	
SUNAPEE, TAX MAP 133 LOT 26	
5 GARNET STREET	
SULLIVAN COUNTY, CHARLESTOWN, NEW HAMPSHIRE	
PREPARED BY	
PATON LAND SURVEYING	
150 SOUTHRIDGE STREET, P.O. BOX 581, SPRINGFIELD, VT 05156	
DATE: DECEMBER 18, 2019	SCALE: 1"=10'
DRAWN BY TR	CK'D BY CTP
SURVEYED BY CTP, TR	

NOTES

1) PROPOSED DRIVEWAY ACCESS
WIDTH = 21'
GRADE = 5%

2) PROPERTY BOUNDARY BASED ON SHORELAND PLAN PREPARED FOR
LAKE SUNAPEE PROTECTIVE ASSOCIATION DATED AUGUST 19, 2019

3) EXISTING WATER AND SEWER CONNECTIONS TO BE USED FOR
PROPOSED BUILDING. SUBJECT TO DEPARTMENT APPROVAL

4) BUILDING SETBACKS: ZONING: SIDE & REAR = 10' ROAD = 40'
EXISTING BUILDING: 6.35' FROM BACK (WEST) PROPERTY LINE
7' FROM GARNET STREET RIGHT OF WAY
26.6' FROM THE CENTERLINE OF GARNET ST.
PROPOSED BUILDING: 7' FROM BACK (WEST) PROPERTY LINE
11' FROM GARNET STREET RIGHT OF WAY
29.7' FROM THE CENTERLINE OF GARNET ST.

5) TOTAL LOT COVERAGE SHALL BE REDUCED SLIGHTLY FROM
EXISTING CONDITIONS

6) EXISTING CROSSWALK SHALL BE RELOCATED TO THE
SATISFACTION OF THE TOWN OF SUNAPEE ROAD AGENT

7) PVIOUS SURFACES: ALL PROPOSED PVIOUS SURFACES
(PARKING, WALKWAY, PATIOS) SHALL CONFORM TO NHDES
SHORELAND PERMIT REQUIREMENTS

8) INSTALL SILT FENCE ALONG GARNET STREET AS INDICATED
PRIOR TO COMMENCEMENT OF CONSTRUCTION ACTIVITIES.

9) SITE ENTRANCE SHALL BE ARMORED WITH 3" MINUS STONE TO
REDUCE STORMWATER AND EROSION IMPACTS TO TOWN ROAD.

10) EXISTING GARNEET ST. PARKING = 6 SPACES, EACH SPACE
APPROX. 20' LONG. PROPOSED PARKING = 6 SPACES, 4 AT 20' AND
2 AT 18' IN LENGTH.

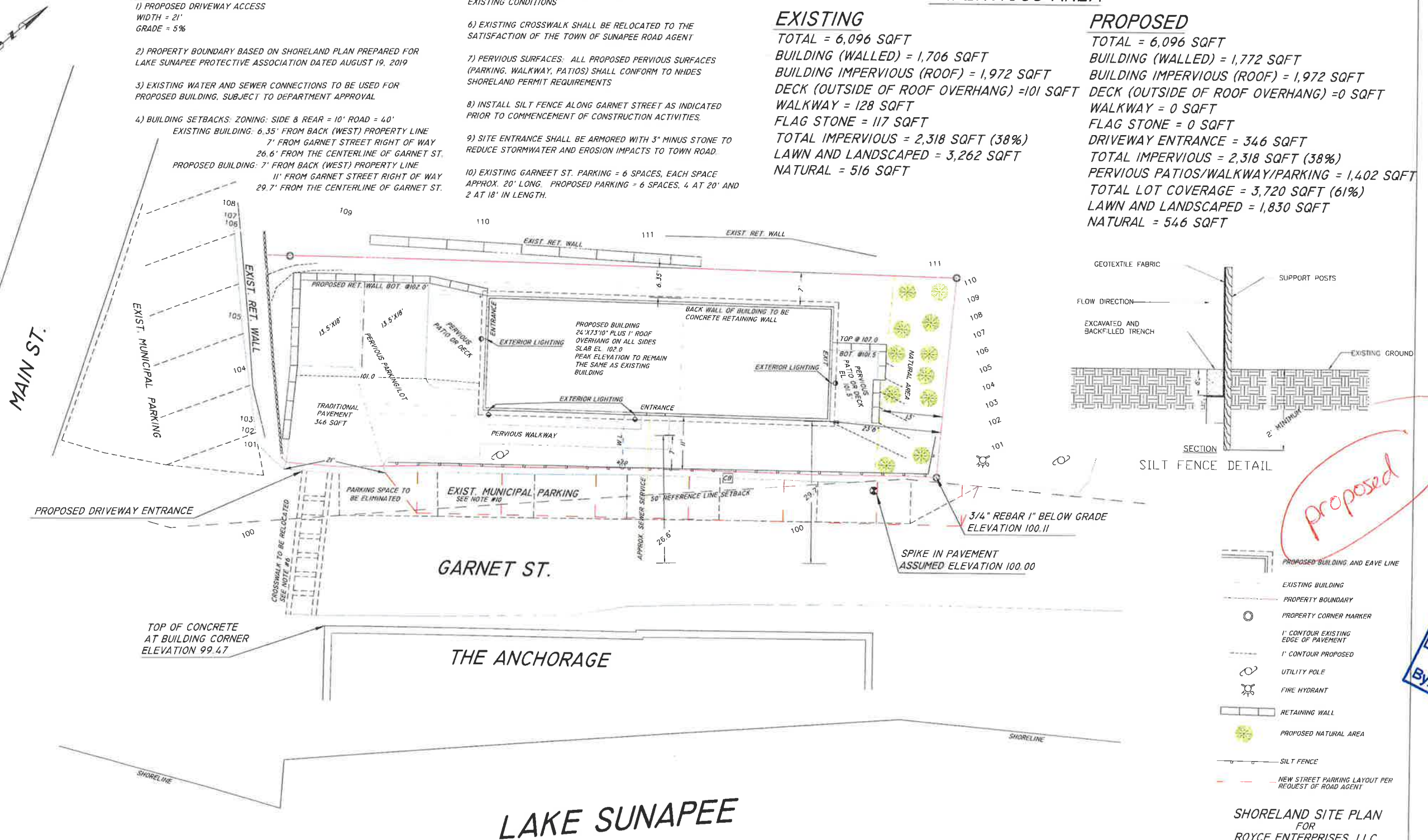
IMPERVIOUS AREA

EXISTING

TOTAL = 6,096 SQFT
BUILDING (WALLED) = 1,706 SQFT
BUILDING IMPERVIOUS (ROOF) = 1,972 SQFT
DECK (OUTSIDE OF ROOF OVERHANG) = 101 SQFT
WALKWAY = 128 SQFT
FLAG STONE = 117 SQFT
TOTAL IMPERVIOUS = 2,318 SQFT (38%)
LAWN AND LANDSCAPED = 3,262 SQFT
NATURAL = 516 SQFT

PROPOSED

TOTAL = 6,096 SQFT
BUILDING (WALLED) = 1,772 SQFT
BUILDING IMPERVIOUS (ROOF) = 1,972 SQFT
DECK (OUTSIDE OF ROOF OVERHANG) = 0 SQFT
WALKWAY = 0 SQFT
FLAG STONE = 0 SQFT
DRIVEWAY ENTRANCE = 346 SQFT
TOTAL IMPERVIOUS = 2,318 SQFT (38%)
PVIOUS PATIOS/WALKWAY/PARKING = 1,402 SQFT
TOTAL LOT COVERAGE = 3,720 SQFT (61%)
LAWN AND LANDSCAPED = 1,830 SQFT
NATURAL = 546 SQFT



SHORELAND SITE PLAN
FOR
ROYCE ENTERPRISES, LLC
5 GARNET STREET
SUNAPEE, NEW HAMPSHIRE
TAX MAP 133 LOT 26
0.15 ACRES± PER TAX MAP

SCALE 1"=10' DECEMBER 3, 2019
PREPARED BY: TRAVIS ROYCE DESIGNER #1597



TOWN OF SUNAPEE
23 Edgemont Road
Sunapee, New Hampshire 03782-0717
www.town.sunapee.nh.us

DATE: December 19, 2019 (for the hearing 1/2/2020)
TO: Zoning Board of Adjustment
FROM: Nicole Gage, Zoning Administrator
CASE: **Case #ZBA19-24 – Special Exception**
Owner/Applicant: Jennifer Slavin
Parcel ID: 01115/ 0038/ 0000/
57 North Shore Road
Zoned RR (Rural Residential) w/ Shoreline Overlay – Perkins Pond

Summary of Case: The applicant is applying for a Special Exception as per Article IV Section 4.15 (p. 19) to permit a home-based Day Care (Home Business) in the RR district. She is scheduled for a Site Plan Review Hearing on January 9th.

Ms. Slavin has been running center-based day care in Sunapee for many years at the catholic church and currently at 31 River Road.

State info: I spoke with Heather Domboski, Licensing Coordinator for the State Department of Health and Human Services. She clarified that it is her agency that is responsible for licensing for the health and safety of the children. Prior to the State's final approval, her agency will also require a fire inspection and health officer inspection. If the ZBA does not limit the number of kids, Ms. Domboski explained this would be a "Family Childcare Home" which could have up to nine (9) children (in specific age categories specified by the State). Those nine (9) children would have to include any of the children under 10-years-old who also live there. Any children over the age of 10 living at the house don't count toward that maximum number of 9.

Department Review: Police Chief & Highway Director ask that no parking on the street be allowed. Water/Sewer Department expects no changing to billing and asks that the owners review a pamphlet called "*What's Flushable*" regarding the care of the sewer system (I will bring copies that night).

References to the Zoning Ordinance:

Page	Article	Section	
19*	IV* Use Regulations	4.15* Special Exception Criteria for Uses	

*Appeal for Current Application

Description of Property:

- The lot is approximately 0.20 acres
- Served by town sewer and private well.
- Zoned RR (Rural Residential) with Shoreline Overlay for being within 250-feet of Perkins Pond.
- Built in 1950.
- Frontage on North Shore Road – an "emergency way" which is plowed by the town and is considered a Side Setback

Land Use History: (may be incomplete)

1968 Approval for Construction, 3-bedroom septic
2002 Approval for Construction & Operation, 3-bedroom septic (CA2002044876)
2015 Connected to town sewer system

Property Location: 57 NORTH SHORE RD
Vision ID: 642

MAP ID: 0115/ 0038/ 0000/ /
Account # 1294

Bldg Name:
Bldg #: 1 of 1

State Use: 1016
Print Date: 10/17/2019 15:01

SLAVIN, AGNES H
SLAVIN, JENNIFER
57 NORTH SHORE RD
SUNAPEE, NH 03782
Additional Owners:

2413
SUNAPEE, NH

VISION

TOPO

4 Rolling

UTILITIES

5 Well
3 Public Sewer

STRT./ROAD

3 Unpaved

LOCATION

7 Waterfront

RECORD OF OWNERSHIP

SLAVIN, AGNES H
SLAVIN, RICHARD & AGNES

Other ID: 0115-0038-0000
SEPTIC APPR CA2002044876
UTILITY
DES PERMITS
Routing # 1192
SUBDIVISION
GIS ID: 0115-0038-0000

ASSOC PID#

APPRaised Value

86,700
152,300
10,200

Code

1016
1016
1016

Assessed Value

86,700
152,300
10,200

PREVIOUS ASSESSMENTS (HISTORY)

2019 1016
2019 1016
2019 1016

Yr.

2018
2018
2018

Code

1016
1016
1016

Assessed Value

86,700
152,300
10,200

EXEMPTIONS

2006 11 VETERAN'S EXEMPTION

Amount

500.00

Code

1A

SALE PRICE

768/ 814

SALE DATE

06/06/2017
11/13/1984

U

I

V.C.

1A

OTHER ASSESSMENTS

2008/ 884
768/ 814

Amount

500.00

Code

1A

SALE PRICE

768/ 814

SALE DATE

06/06/2017
11/13/1984

U

I

V.C.

1A

ASSESSING NEIGHBORHOOD

0001/A

Street Index Name

Tracing

Batch

NOTES

SFB-2 BD, 1 1/2 BATH; SHD = NV - SIZE
FGRI IS GARAGE OVER GARAGE
WDK FOUND NEAR WATER
9/12 - VINYL SHED = NV

APPRaised Value

86,700
10,200
152,300
0
249,200
0

Code

1016
1016
1016
C
C

Assessed Value

86,700
10,200
152,300
0
249,200
0

APPRaised Value

86,700
10,200
152,300
0
249,200
0

Code

1016
1016
1016
C
C

Assessed Value

86,700
10,200
152,300
0
249,200
0

NET Total Appraised Parcel Value

249,200

Net Total Appraised Parcel Value

249,200

BUILDING PERMIT RECORD

Permit ID

Issue Date

Type

Description

Amount

Insp. Date

% Comp.

Date Comp.

Comments

06/16/2017
05/05/2016
08/17/2015
09/13/2012
12/03/2004

MP
MP
NB
RE
DG

AC
AC
FR
M
M

ADMIN DATA ENTRY
ADMIN DATA ENTRY
IN FIELD REVIEW
MEASURE
MEASURE

LAND LINE VALUATION SECTION

B

Use Code

1 1016

Zone

RR

Front

Depth

Units

8,712 SF

Unit Price

5.41

Factor

4.0000

Acre

Disc

9

1.0000

ST.

Factor

0.85

Idex

PP

Notes-Adj

LACK W/F-10,-5 TOPO

Adj.

0.95

Special Pricing

Spec Use

Spec Calc

1.00

Adj. Unit Price

17.49

Land Value

152,300

Total Card Land Units:

0.20 AC

Parcel Total Land Area:

0.2 AC

Total Land Value:

152,300

CONSTRUCTION DETAIL				CONSTRUCTION DETAIL (CONTINUED)			
Element	Cd.	Ch.	Description	Element	Cd.	Ch.	Description
Style	01		Ranch				
Model	01		Residential				
DESIGN/APPEAL	03		Average				
Stories	1						
Occupancy	1						
Exterior Wall 1	13		Pre-Fab Wood				
Exterior Wall 2							
Roof Structure	03		Gable/Hip				
Roof Cover	03		Asph/F GlS/Cmp				
Interior Wall 1	05		Drywall/Sheet				
Interior Wall 2							
Interior Flr 1	14		Carpet				
Interior Flr 2							
Heat Fuel	02		Oil				
Heat Type	05		Hot Water				
A/C	01		None				
Total Bedrooms	02		2 Bedrooms				
Total Bthrms	1						
Total Half Baths	1						
Total Xtra Fixtrs							
Total Rooms	4						
Bath Style	02		Average				
Kitchen Style	02		Average				
OB-OUTBUILDING & YARD ITEMS(L) / XF-BUILDING EXTRA FEATURES(B)							
Code	Description	Sub	Sub Description	L/B Units	Unit Price	Yr	Gde Dp Rt Cnd %Cnd Apr Value
FGRI	GARAGE-AVE			L 440	25.00	2005	0 75 3,300
WDDK	WOOD DECK		12 X 12	L 144	13.00	2005	0 50 900
RPV1	RES PAV SMA			L 1	1,000.00	2005	0 100 1,000
BUILDING SUB-AREA SUMMARY SECTION							
Code	Description	Living Area	Gross Area	Eff. Area	Unit Cost	Undeprec. Value	
BAS	First Floor	918	918	918		92,360	
FBM	Basement, Finished	0	792	238		23,945	
FEP	Porch, Enclosed, Finished	0	25	18		1,811	
WDDK	Deck, Wood	0	60	6		604	
Ttl Gross Liv/Use Area:					918	1,795	125,720

Hearing date 1/2/2020

CASE# ZBA19-24

pd
mes \$20.55 for abutters
pd
mes \$150- application fee

Town of Sunapee
Zoning Board of Adjustment

Jenniferstevin@yahoo.com

Special Exception

1. Landowner(s) Name(s): Jennifer Stevin
 2. Parcel ID# 0115-0038
 3. Zoning District: RR
 4. Project Location (Street & #): 57 North Shore Rd
 5. Mailing Address: 57 North Shore Rd Sunapee NH
 6. Phone Number 603 372 6181
 7. Reason the Special Exception is necessary: Have to move preschool / after school care. I looked at about 68 location in last year to find a place. Been in business since 1999 starting off at St Joachims & then moving to Pete's shed (31 River Rd). Now hoping to move to my home and char to home base instead of Center.
- All applications seeking relief from setback requirements on lakefront properties must be accompanied with a professional recorded survey of the property and building location(s).
 - Important-Your property has to be identified with your street number or name-without this identification your hearing may be continued to a later date.
 - Please use the abutter list form, which is attached, for your abutters' mailing list.
 - IMPORTANT:** Review application deadline dates for a timely submission.
 - Base Fee-See Zoning Administrator for Fee Schedule.**

Please sign the following statement: I understand that the public hearing will be held at the scheduled date and time unless a request is made by me for a new hearing. Any rehearing will require a new public notice and notification to abutters, the cost of which will be borne by the applicant. Further, I hereby give permission to the ZBA members to visit the subject property prior to the public hearing. To the best of my knowledge, the above is true and correct.

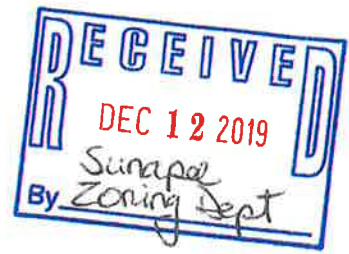
Jennifer Stevin
Landowner(s) Signature(s)

12/5/19
Date

Description of proposed use, showing justification for a Special Exception as specified in the Zoning Ordinance, Article IV Section 4.15.

to permit a home base daycare in a BR district.

Slavin's Haven Proposal



The main use of 57 North Shore rd will mainly be used as residential living. This home was built in 1970's. My family has always owned this land since 1970's as a summer home. In early 1980's we permanently moved to Sunapee at 57 North Shore rd. During Many years we had many foster children coming and going or being adopted at this residence. At one time we had 5 to 6 children in our care through foster care. My mother, (Agnes) and I has run Slavin's ~~Have~~ Have in Sunapee NH since 1999. The first place we rented was St. Joachim Church basement from 1999 to Dec 31st 2010. Jan 2nd 2011 we moved in what once was called Pete's Shed at 31 River Rd and been there until now, but new land lords took over. The new land lord been trying to get us out all year. They have done things to try to make us leave earlier than our lease, like removed our thermostat. Our room gets really cold and sometime have to do field trips to warmer places like the library or to our house and etc or they try to bake us out. Since landlord took over in January I've been looking for a new place and have seen or talk to over 68 places even apartments to try to find a new place. We decided to change over to family child care because our home is the best and safest place there was. Don't know why I didn't think about it before. We been going smaller and doing fine with the 12 to 15 kids we have now, but with out the over head and rent and many other things we could go down to 8 or 9 kids. We have 2 to 3 students all day and the others are after school kids. Our own kids take a special need bus so all of our after school kids ride the same bus to our preschool. We still keeping insurance and will have to have swing set removed from our fence in area and bring some of the toys from the preschool to come in and used. We will probably update our 4 ft fence next summer to a newer version. The fence in area is the residence play area now and is used by residence and friends and visitors. We have a safe house with 4 to 6 parking spaces, main driveway for holiday hold 3 cars, side driveway in front of lower garage hold 1 car, upper garage driveway holds 1 car and If we clean out dug out parking are on our lot across the road it hold 1 car, which I parked my car for two years and could in summer have the more dug out

to hold second car. Drop off is between 630 am and 9 am, pick up is between 12 pm and 5 pm, so out of all the years we had licensed of 20 children we never had more than 1 to 3 parents picking up at one time or dropping off. Since we moved to 31 River rd we went down in numbers which was around 15 children and still been 1 to 3 parents at one time. Sunapee have many needs for daycare/Preschool, especially all the laws and regulations that need to be followed and updated on a regular bases. We help parents with kids 3 years to 15 years of age. We are on a town maintain road that is plowed and care for regularly. The house is on town sewer and we have 1 and half bathrooms. We are adding some toys to the living room with carts and removing some tables and movie shelf but we don't loose any other space for lamps or tv because of it we just have a cart or cubbies instead of tables and with measurement it makes the open space bigger that can be used. We empty out one of the two bed rooms upstairs that will be quiet area and games and circle area for the kids. We are going to add a child friendly table for our preschoolers to eat at and use our regular table for the older children to do home work and eat at in dinning room. The other bedroom and kitchen area will be off limits to the children upstairs. The whole downstairs will not be used for the daycare purpose and is only residence bedrooms, play area and a work shop. There is no effect on the neighborhood to have children in your house or in residence out side play area that is don't change. We always have a group of children, (grandchildren, nieces, or friends) at our house on the weekend that I don't think the residence will even notice the difference. Sometimes numbering 3 to 6 children at a time. The location is quiet and peaceful and we are surrounded by mainly vacationers. The neighbor 4 to 5 house down works all day and rest of neighbors are all far away that live full time. Most of the vacationer have grandchildren and they are up at their grandparents place all the time. The main purpose of our building is our home with now having few extra children during the middle of the week. We try to prepare the children for their future education to help them succeed through fun and loving environment. The children need a safe place to go while parents are at work instead of going to work with them like some use too. Many daycare and preschool closing because of all the rules and laws that need to be

followed for a safe and appropriate environment. Slavin's Haven needed to find a new safe place because landlord is making were we are startling to be unsafe and uncomfortable, So we tried to find a place but realized, we always lived in a safest and best place for children. We haven't needed to advertise with signs on the building. We couldn't at the church and the New landlord took down our approved signs and left them at our inside door one day, so they could post all their signs. We at 31 River Rd is on the river and know all the water safety caution especially since we had to cross the bridge through Quack shack crowd to playground during the summer busy time. Our house playground was always attached to our side door, so out of the years of running a daycare /preschool this one I believe is the safest travel from inside to outside play. We are about 50 to 60 feet away from the water front. Our drive way is attach to the road and has a wide entrance. The house measurements out side is about 20 feet to 22 feet double floored first floor and basement floor. The living room is 21.5 feet by 13 feet, the dining area is 12 feet by 9 feet, bedroom is 9.5 by 12 feet. which total 495 square foot area the day care is allowed in to play or use, plus the bathroom. Slavin's run all year long with many vacation during the summer time and holiday time. We take a lot of time to do family time especially in summer at our camper in Wentrthworth NH on PineHaven Campground.

first 5 pictures during one of the snow storms. we clean drive way now, but may get someone to plow. also next two picture is taken from inside the house out the door window showing part of the playground. The swings are off and will take care of frame of swing set in the summer. The rest is of 31 river rd since new landlord took over temp in room and some dangers and unsanitary near us because we have to go through common area to bathroom.



upper garage



lower garage looking
out to road and dug
out.



side parking in front of lower
garage



main parking



need to shovel and move brush .

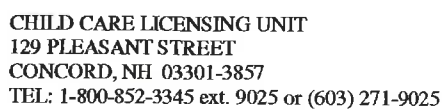
It fit my honda pilot for two
years.

playground looking out our side door. 48.7 feet by 13.9 feet.

31 river rd pictures

landlord control temp leaves our room chilly





Slavin's Haven

603 763 4251

TELEPHONE NUMBER

CHILD CARE AGENCY TYPE(S): ☒ **FAMILY-BASED DAY CARE** [RSA 170-E:2, IV(a) and (b)]
☐ **CENTER-BASED DAY CARE** [RSA 170-E:2, IV(c) through (g)]
☐ **24-HOUR RESIDENTIAL** [RSA 170-E:25, II(b), (c), (d) and III]

LOCATION ADDRESS: 57 North Shore Rd
Sunapee NH 03782

MAILING ADDRESS: 57 North Shore Rd
Sunapee NH 03782

APPLICANT'S NAME: Jennifer Slavin

1. **SECTION 1 OR 2** must be completed by an individual who is authorized to sign zoning documents.
2. **SECTION 1** complete if zoning action is not required.
3. **SECTION 2** complete if zoning action is required.
4. **SECTION 2** include any restrictions regarding the existence of the agency

_____ The child care agency listed above conforms to the requirements of the zoning ordinance.

Any limits on the number of children in care? No Yes - If yes, how many children?

Ms. Starin is scheduled for a public hearing w/ the Zoning Board of Adjustment on 1/2/2020 for a Special Exception for Day Care in the RR zone.

12/5/2019

12/5/2019
Date Signed

_____The child care agency listed above has been approved by the zoning board of adjustment.

Restrictions? ☐ No ☐ Yes - If yes, please indicate below or include a separate attachment

Date Signed

TITLE XII

PUBLIC SAFETY AND WELFARE

CHAPTER 170-E

CHILD DAY CARE, RESIDENTIAL CARE, AND CHILD-PLACING AGENCIES

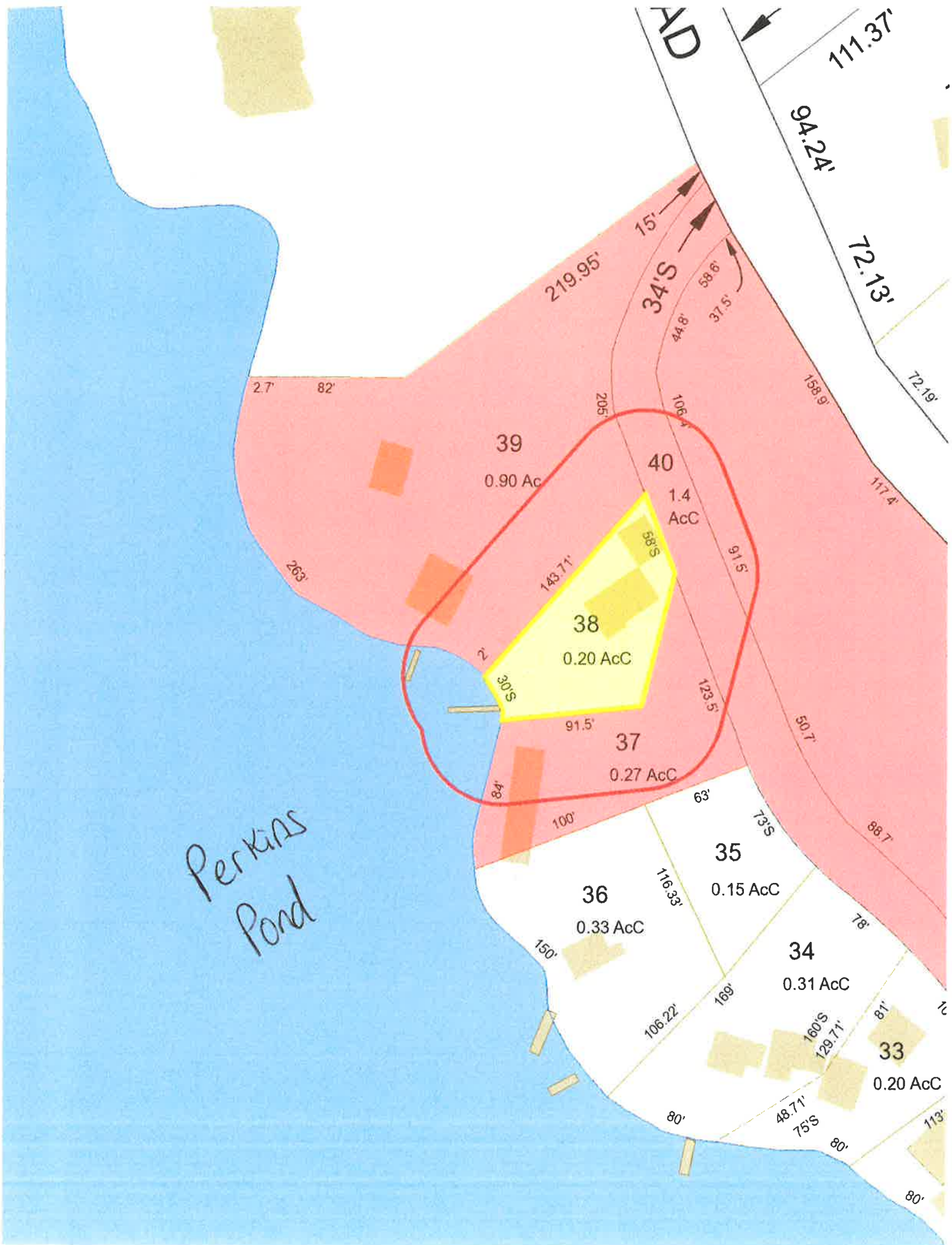
Child Day Care Licensing

Section 170-E:2

170-E:2 Definitions. –

In this chapter:

- I. "Applicant" means a person, institution or agency who intends to receive for child day care one or more children unrelated to the operator and who indicates that intent to the department by filling out the forms prescribed by rule adopted by the commissioner pursuant to RSA 541-A.
- II. "Child" means any person under 18 years of age.
- III. "Child day care" means the care and supervision of a child away from the child's home and apart from the child's parents.
- IV. "Child day care agency" means any person, corporation, partnership, voluntary association or other organization, either established for profit or otherwise, which regularly receives for child day care one or more children, unrelated to the operator or staff of the agency. The total number of hours in which a child may remain in child day care shall not exceed 13 hours per day, except in emergencies. The types of child day care agencies are defined as follows:
 - (a) "Family day care home" means an occupied residence in which child day care is provided for less than 24 hours per day, except in emergencies, for up to 6 children from one or more unrelated families. The 6 children shall include any foster children residing in the home and all children who are related to the caregiver except children who are 10 years of age or older. In addition to the 6 children, up to 3 children attending a full day school program may also be cared for up to 5 hours per day on school days and all day during school holidays.
 - (b) "Family group day care home" means an occupied residence in which child day care is provided for less than 24 hours per day, except in emergencies, for 7 to 12 children from one or more unrelated families. The 12 children shall include all children related to the caregiver and any foster children residing in the home, except children who are 10 years of age or older. In addition to the 12 children, up to 5 children attending a full day school program may also be cared for up to 5 hours per day on school days and all day during school holidays.
 - (c) "Group child day care center" means a child day care agency in which child day care is provided for preschool children and up to 5 school-age children, whether or not the service is known as day nursery, nursery school, kindergarten, cooperative, child development center, day care center, center for the developmentally disabled, progressive school, Montessori school, or by any other name.
 - (d) "Day care nursery" means a child day care agency in which child day care is provided for any part of a day, for 5 or more children under the age of 3 years.
 - (e) "Night care agency" means a center or family home in which child day care is provided during the evening and night hours. A child day care agency may be licensed for day care, night care, or both.
 - (f) "Preschool program" means a child day care agency providing care and a structured program for children 3 years of age and older who are not attending a full day school program. The total amount of hours a child may be enrolled in a preschool program shall not exceed 5 hours per day.
 - (g) "School-age program" means a child day care agency providing child day care for up to 5 hours per school day, before or after, or before and after, regular school hours, and all day during school holidays and vacations, and which is not licensed under RSA 149, for 6 or more children who are 4 years and 8 months of age or older. The number of children shall include all children present during the period of the program, including those children related to the caregiver.
 - (h) "Dual licensure" means the issuance of 2 licenses by the department of health and human services to operate both a child day care agency and a family foster care agency, as provided by RSA 170-E:8, II.
- V. "Commissioner" means the commissioner of the department of health and human services.
- VI. "Corrective action plan" means a written proposal setting forth the procedures by which a child day care agency will come into compliance with the standards set by rules adopted by the commissioner under RSA 541-A, and subject to the approval of the department. The proposal shall include the time needed to assure compliance and the steps proposed by the agency to reach compliance.
- VII. "Department" means the department of health and human services.
- VIII. "Guardian" means the guardian of the person of a minor, as defined in RSA 463.
- IX. "License" means an authorization granted by the commissioner to provide one or more types of child day care.
- X. "Monitoring visit" means a visit made to the child day care agency by department personnel for the purpose of assessing



Perkins Pond



50 foot Abutters List Report

Tri Town, NH
December 05, 2019

Subject Property:

Parcel Number: Sun-0115-0038-0000
CAMA Number: Sun-0115-0038-0000
Property Address: 57 NORTH SHORE RD

Mailing Address: SLAVIN, AGNES H SLAVIN, JENNIFER
57 NORTH SHORE RD
SUNAPEE, NH 03782

①

Abutters:

Parcel Number: Sun-0115-0037-0000
CAMA Number: Sun-0115-0037-0000
Property Address: 55 NORTH SHORE RD

Mailing Address: MAZGELIS, MATTHEW J & GAIL B
40 CORDUROY RD
AMHERST, NH 03031

②

Parcel Number: Sun-0115-0039-0000
CAMA Number: Sun-0115-0039-0000
Property Address: 61 NORTH SHORE RD

Mailing Address: EVANS, ROBERT N & VANTINE, ANNE D
22 WILDWOOD RD
STOW, MA 01775

③

Parcel Number: Sun-0115-0045-0000
CAMA Number: Sun-0115-0045-0000
Property Address: PERKINS POND RD

Mailing Address: ~~SLAVIN, AGNES H SLAVIN, JENNIFER~~
~~57 NORTH SHORE RD~~
~~SUNAPEE, NH 03782~~

duplicate

$$3 \times \$6.85 = \$20.55$$



www.cai-tech.com

12/5/2019

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Page 1 of 1



CLEVELAND, WATERS AND BASS, P.A.
ATTORNEYS AT LAW

PHILIP M. HASTINGS, ESQUIRE
(603) 224-7761 EXT. 1069
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HASTINGSP@CWBPA.COM

TWO CAPITAL PLAZA, P.O. Box 1137
CONCORD, NEW HAMPSHIRE 03302-1137

ALSO ADMITTED IN MASSACHUSETTS

December 6, 2019

VIA HAND DELIVERY

Zoning Administrator, Zoning Board of Adjustment
Town of Sunapee
23 Edgemont Road
Sunapee, New Hampshire 03782



**Re: Schirmer Revocable Trust of 2019 (Karen A. Berg, Trustee)
34 Jobs Creek Road (Tax Map and Lot 125/13)
Case # 19-21**

Dear Ms. Gage:

Enclosed for filing on behalf of the Schirmer Revocable Trust of 2019 (the "Trust") is a fully-executed original Motion for Rehearing of the November 7, 2019 decision of the Zoning Board of Adjustment denying the Trust's variance application requesting relief from Article III, Section 3.10 to permit: (1) a side yard setback of four feet four inches (4'4") where fifteen feet (15') is required; (2) a side yard setback of six feet eight inches (6'8") where fifteen feet (15') is required; and (3) a building height of approximately thirty-five feet (35') where twenty-five feet (25') is the maximum permitted.

Please contact me if you need further information or have any questions and let me know when the ZBA intends to take up this matter.

Sincerely,


Philip M. Hastings

PMH
Enclosures

December 6, 2019
Page 2

cc: Mr. Frank Anzalone
Ms. Karen A. Berg

THE STATE OF NEW HAMPSHIRE

SULLIVAN, SS.

**TOWN OF SUNAPEE
ZONING BOARD OF ADJUSTMENT**

**In the Matter of the Variance Application of
Karen A. Berg, Trustee of the Schirmer Revocable Trust of 2019
34 Jobs Creek Road (Tax Map 125, Lot 13)**

MOTION FOR REHEARING

Karen A. Berg, Trustee of the Schirmer Revocable Trust of 2019 (the “Owner” or “Applicant”), by and through its attorneys, Cleveland, Waters and Bass, P.A., respectfully moves, pursuant to RSA 677:2 and Section 10.60 of the Town of Sunapee Zoning Ordinance (the “Zoning Ordinance”) for a rehearing of the November 7, 2019 decision of the Town of Sunapee Zoning Board of Adjustment (the “ZBA”) denying the Applicant three variances with respect to the property located at 34 Jobs Creek Road (Tax Map 25, Lot 13; the “Property”). In support of this motion, the Applicant states as follows:

I. Statement of Facts

The Applicant owns the Property, which consists of a camp-style residence on an approximately 0.13 acre, uniquely shaped parcel of land, located within the White Shutter Lodges subdivision. The Property is located in the Rural-Residential (RR) District and partially within the Shoreline Overlay District, and is surrounded by similarly situated camp-like structures and single-family residences. The building was constructed (according to the Town’s tax records) in the 1940s, is in somewhat poor repair, inadequately framed, and sits atop a wood pile and tilting concrete pier foundation. The building predates the enactment of the Zoning Ordinance, making it a pre-existing, lawful non-conforming structure pursuant to Article VI of the Zoning Ordinance.

Due to the age and functional obsolescence of the building, the Applicant intends to demolish the existing building and replace it with an all-season, single-family residence. The

proposed single-family residence will be energy efficient and attractive and provide permanent erosion control and landscaping. The footprint of the proposed single-family residence (including decks, a screened porch, and attached garage) will be approximately 427 square feet larger than the existing building's footprint. Because of the severe slope of the Property and regulations in the building code, constructing a single-family residence on the same type of foundation as the existing building is not feasible, economical, or safe. The proposed single-family residence will have a concrete foundation, a walkout level facing White Shutters Road, a main level facing Jobs Creek Road, and a third level above. Attached hereto as Exhibit A are plans of the existing and proposed building on the Property, shown in relation to the other properties in the White Shutters Lodge subdivision.¹

The Applicant submitted an application for six (6) separate variances from the terms of the Zoning Ordinance to the ZBA for consideration at its November 7, 2019 meeting (the "Application"). The Applicant requested variances from Article III, Sections 3.10 and 3.20 of the Zoning Ordinance to permit the following: (1) a front yard setback of twenty-eight (28) feet where fifty (50) feet is required; (2) a side yard setback of four feet four inches (4'4") where fifteen (15) feet is required; (3) a side yard setback of nine feet five inches (9'5") where fifteen (15) feet is required; (4) a side yard setback of six feet eight inches (6'8") where fifteen (15) feet is required; (5) a building height of approximately thirty-five (35) feet where twenty-five (25) feet is the

¹ The plans consist of the following six (6) sheets: (1) Drawing A101, showing the heights, footprint size and percentage of lot coverage for the homes in the White Shutters Lodge subdivision; (2) Drawing A102, showing the compliance with the yard setback requirements under the Zoning Ordinance for the homes at White Shutters Lodge subdivision; (3) Drawing A103, showing the north and south elevations of the Applicant's proposed building in relation to house located on the adjacent lot (Tax Map 125, Lot 12; "Lot 12"); (4) Drawing A104, showing existing photographs of the Property and Lot 12, together with digital photo-overlays of the proposed new house in relation to Lot 12; (5) Drawing A-0.1, showing a revised site plan with updated lot coverage percentages; and (6) Drawing A-0.2, showing additional dimensions of the existing and proposed yard setbacks in relation to Lot 12.

maximum permitted; and (6) a thirty-nine percent (39%) impermeable surface within the Shoreline Overlay District, where twenty-five percent (25%) is the maximum permitted. Several neighbors and abutters of the Property submitted statements to the ZBA in support of the Application. The Sunapee Fire Chief and Highway Director did not express any concerns with the proposed single-family residence. Following the public hearing on November 7, 2019, the ZBA granted variances (1), (3) and (6) (with respect to front and side yard setbacks and impermeable surface), but denied variances (2) and (4) with respect to side yard setbacks and variance (5) with respect to building height (the ZBA's denial of the three variances is referred to herein as the "ZBA Action"). The ZBA issued a Notice of Decision for the ZBA Action dated November 18, 2019 (the "Notice of Decision").²

Since the ZBA hearing on November 7, 2019, the Applicant has received a Shoreland Permit from the New Hampshire Department of Environmental Services permitting it to construct new structures within the protected shoreline buffer. A copy of the permit is attached hereto as Exhibit B.³

II. Grounds for Rehearing

The ZBA has the statutory authority to grant a rehearing if there is "good reason" therefor, including that the decision complained of is unlawful or unreasonable. RSA 677:2-3. In this case, the ZBA Action was unlawful or unreasonable for the following reasons:

- A. The ZBA failed to fully and properly consider the applicable legal standards for granting a variance to the Application.

² Due to the delay in the ZBA's issuance of the Notice of Decision, the Applicant reserves its right to amend this motion for rehearing to the extent permitted under RSA 677:2.

³ For additional detail, see N.H. Department of Environmental Services, Water Division/Shoreland Program, File #2019-03570.

The ZBA is authorized, upon appeal, to grant variances from the terms of the Zoning Ordinance if:

- “(A) The variance will not be contrary to the public interest;
- (B) The spirit of the ordinance is observed;
- (C) Substantial justice is done;
- (D) The values of surrounding properties are not diminished; and
- (E) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.”

RSA 674:33, I(a)(2); see also Zoning Ordinance, §10.42.

During its deliberations, the ZBA only once generally mentioned the existence of five criteria used to analyze variance applications. Town of Sunapee Zoning Board Meeting Minutes, November 7, 2019 (the “Minutes”) at 271-72. The ZBA generally discussed “hardship” and “reasonableness,” but such discussions were vague and misapplied the applicable legal standards. See, e.g., id. at 257-58 (“Mr. Lyons said that he thinks that there may be more than one reasonable alternative.”); id. at 318-19 (“Chairman Schneider said that he looks at if not granting this Variance would be a hardship.”); id. at 324-26 (“Chairman Schneider said that he thinks [it]... is not necessary to rebuild the house so in his mind does not meet the hardship test.”). The ZBA’s deliberations were so devoid of a substantive discussion of the legal standards that the Zoning Administrator felt compelled to state that “[t]he denials for these cases were not clear and could be difficult for the Notice of Decision. For future cases, the five criteria should be discussed and a decision should be clear with the reasons that something is denied.” Id. at 477-480.⁴ With

⁴ The process by which the ZBA voted to deny the three variance requests also was irregular in that Mr. Claus made a motion to *approve* each of the three variances that were denied, and in two instances Mr. Lyons seconded the motion, but both ZBA members voted in opposition to the motion to approve in each case.

respect to the ZBA Action, the Notice of Decision cursorily states that Variance (2) was “denied due to hardship” and Variances (4) and (5) were “denied” with no specific basis stated.

B. The ZBA failed to fully and properly apply the unnecessary hardship standard with respect to the Application.

To the extent that the ZBA considered the requirements of RSA 674:33, I(a)(2) for granting a variance, its consideration was limited to the unnecessary hardship prong.⁵ However, the ZBA failed to fully and properly apply that standard to the Application.

1. *Current Standard.* For purposes of RSA 674:33, I(a)(2)(E), an “unnecessary hardship” exists if:

“owing to the special conditions of the property that distinguish it from other properties in the area:

(A) 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; and

(B) The proposed use is a reasonable one.”

RSA 674:33, I(b)(1). The current statutory language must be read in light of the rather complex evolution of zoning jurisprudence of this subject. Prior to the New Hampshire Supreme Court’s decision in Simplex Techs., Inc. v. Town of Newington, 145 N.H. 727 (2001), the unnecessary hardship prong required that the hardship be so great as to effectively prevent the landowner from making *any* reasonable use of the land. See Governor’s Island Club, Inc. v. Town of Gilford, 124 N. H. 126, 130 (1983). Simplex relaxed the unnecessary hardship standard to require only that the zoning restriction interfere with the applicant’s “reasonable use of the property, considering the

⁵ In the absence of findings to the contrary in the Notice of Decision or in the record of the hearing set forth in the Minutes, the Applicant assumes for the purpose of this motion that the ZBA considered the Application to have satisfied the all of the requirements for the requested variances except the unnecessary hardship requirement of RSA 674:33, I(a)(2)(E).

unique setting of the property in its environment.” Simplex, 145 N.H. at 731. The current iteration of RSA 674:33 was intended to codify the Simplex decision. N.H. Laws 2009, ch. 307, §5.

Unlike in the pre-Simplex era, an applicant is no longer required to show that the proposed use is the *only* reasonable use, or that the use is *necessary*, simply that the proposed use is a *reasonable* one. See Harborside Assocs., L.P. v. Parade Residence Hotel, LLC, 162 N.H. 508, 519 (2011). The question of whether the property can continue to be used in a manner different than what the applicant has proposed is not a material consideration. Malachy Glen Assocs., Inc. v. Town of Chichester, 155 N.H. 102, 108 (2007). Instead, in determining whether a proposed use is reasonable, the relevant factors include the extent to which the landowners are able to receive a reasonable return on investment and whether the variance would alter the essential character of the neighbor. Harrington v. Town of Warner, 152 N.H. 74, 80-81 (2005)

2. *Failure to Consider or Properly Apply Standard.*

a. *Reasonable Use.* In its denial of the Applicant’s request for variances from the side yard setback and building height requirements, the ZBA erred in its consideration of whether the proposal was reasonable for purposes of the unnecessary hardship standard. Regarding the setback on the southwest corner of the Property, Chairman Schneider remarked that he “looks at if not granting this Variance would be a hardship” and “[it] is not necessary to rebuild the house so in his mind [it] does not meet the hardship test.” Minutes at 318-29, 325-26. The ZBA did not discuss unnecessary hardship at all in arriving at its decision to deny the requested variance related to the setback on the eastern portion of the Property. The only discussion was to the effect that the proposed single-family residence would not be as close to the property line as the existing porch and stairway, but granting the variance would somehow increase the non-conformity. Minutes at 358-60. Similarly, in denying the Applicant’s request for a

variance for the building height, the ZBA's discussion focused on the difficulties of building on the Property because of the severe slope, how the Town of Sunapee measures building height, and other possible locations for the proposed single-family residence on the Property to avoid implicating the zoning restrictions on building height. See, e.g., Minutes at 364-65, 367-68, 396-98. There was no discussion of the extent to which denial of any of the variances would limit the Applicant's ability to receive a reasonable return on investment in the Property or how the specific location and dimensions of the proposed new building on the Property would alter the essential character of the neighborhood.

b. Fair and Substantial Relationship. The ZBA further erred by in its denial of the Applicant's variance requests by failing to consider whether there is a fair and substantial relationship between the purposes of the Zoning Ordinance and the restrictions on the Property, as required by RSA 674:33, I(b)(1)(A). The ZBA's deliberations ignored the general purposes of the Zoning Ordinance, which includes promoting "the health, safety and general welfare of the community by encouraging the most appropriate use of land"; protecting natural resources; preserving the vitality, atmosphere and varied economic forces of the Town; and "providing a workable framework for the fair and reasonable treatment of individuals." Zoning Ordinance, §1.20.

The ZBA also ignored the purpose of the specific setback and height restrictions involved in this case. Setback and height requirements are typically enacted to ensure adequate emergency access and response. See 2 Young, Anderson's American Law of Zoning (4th ed., 1996), §9.56, Setback Regulations, at 293. Zoning restrictions on setbacks are further intended to prevent overcrowding, and height requirements are sometimes imposed for aesthetic reasons.

The ZBA's deliberations simply lacked any cogent discussion of how granting the variances would cause overcrowding, limit emergency access, cause safety concerns, harm the environment, or be aesthetically displeasing. Nor did the ZBA Action take into account the extent to which granting the variances would significantly improve the Property and surrounding area, both in terms of its physical appearance and value. As a result, there was no basis for the ZBA to lawfully conclude that there is a fair and substantial relationship between the purposes of the Zoning Ordinance and the restrictions on setbacks and heights as applied to Applicant's proposal for the Property, as required by RSA 674:33, I(b)(1)(A).

C. The Applicant's requested variances are reasonable.

In denying the Applicant's two side yard setback variance requests and the height variance request, the ZBA ignored the testimony and other evidence before it supporting the reasonableness of the proposed use. The proposed use is reasonable because single-family dwellings are permitted by right in the Rural-Residential District, and, as shown on Exhibit A, several of the buildings in the White Shutters Lodge neighborhood are similarly close to their property lines and are not dissimilar in size and height. All of the existing buildings in the White Shutters Lodge subdivision fail to comply side or rear yard setbacks required under the Zoning Ordinance; in fact, all of the buildings in the neighborhood provide less than a ten (10) foot side yard setback, and ten (10) of those (not including the Property) provide a side yard setback of less than 4' 4" – i.e., closer to the property line than what is proposed by the Applicant. See Exhibit A, Drawing A102. Although most of the other buildings in the neighborhood are smaller in size and height than what is proposed by the Applicant, all but four of the lots are smaller than the Property and the ratio of building footprint to lot size on the other lots in the subdivision is comparable to the Applicant's proposal. See Exhibit A, Drawing A101. Taking into account the slope of the Property, the height of the

proposed building on the Property is comparable to several of the existing buildings in the neighborhood. See id.

As the improvements to the Property are intended to allow the Applicant to use the property on a year-round basis, granting the variances will improve the overall utility and value of the Property. The value to the Property and its surrounding properties will be further enhanced by the well-designed, well-constructed and aesthetically-pleasing residence, done in an environmentally sensitive manner. The site design incorporates several erosion control features, including retaining walls and drip edge stormwater containment, all in compliance with all applicable shoreline protection regulations. See Exhibit A, Drawing A-0.1; Exhibit B.

With respect to the setback variances specifically, the odd shape of the Property restricts the ability of the Applicant to construct any structure larger than 371 square feet because of the yard setback requirements, impeding the Applicant's ability to use the land for almost any modern structure. The size of proposed single-family residence is appropriate, particularly when viewed in comparison with other homes in the area. See Minutes at 319-21; Exhibit A, Drawing A104. Similar to a majority of the homes in the neighborhood, at its southwesterly corner the existing building is located less than two (2) feet from White Shutters Road, with the existing deck on the easterly side of the building located less than four (4) feet from Lot 12. See Exhibit A, Drawing A-0.2. The proposed building would reduce these non-conforming conditions to four feet four inches (4'4") from White Shutters Road and six feet eight inches (6'8") from Lot 12 (increasing the separation between the buildings on Lot 12 and the Property from 16' 6" to 20' 3"). See id.

With respect to the height variance, due to the severe slope of the Property, the Applicant is precluded from building any reasonable two-story residence within the 25 foot limit. The proposed residence is specifically designed to essentially mimic the height of the existing building

along Jobs Creek Road through much of its north elevation, rising only with the elevation of Jobs Creek Road in the easterly direction, but staying less than 25 feet as measured from the grade to the roof line. Measured from the existing elevation along Jobs Creek Road, the proposed building will be less than three (3) feet taller than the building on Lot 12. See Exhibit A, Drawing A103. From the southerly side, the visual impact of the height of the proposed building will diminish as White Shutters Road turns to the south (away from the building), and, from the lake, the view is obscured by the distance (almost 250 feet from the shore) and the presence of other buildings located between the Property and the waterfront. From the latter perspective, in particular, the difference in the height of the proposed building compared to the surrounding buildings is negligible. See Exhibit A, Drawing A104.

- D. There is no fair and substantial relationship between the purposes of the Zoning Ordinance and application of the zoning restrictions to the Property in this case.

As stated above, in the ZBA Action, the ZBA ignored the extent to which the Application furthers the purposes of Zoning Ordinance. The replacement of the existing camp-like structure with the proposed single-family residence will be entirely consistent with the general purposes of the Zoning Ordinance by increasing the Property's utility and value, increasing property values in the area, and protecting the natural environment through the installation of permanent erosion control measures. Furthermore, in light of the significantly different economic environment in which homes like those in the White Shutter Lodges subdivision face compared to in the 1960s and before, denying these variances would counteract the Zoning Ordinance's stated purpose to provide a workable framework for the fair and reasonable treatment of individuals in an evolving community.

There is also no fair and substantial relationship between the purposes of the setback and building height requirements in the Zoning Ordinance to the Application. Neither the Sunapee

Fire Chief nor Highway Director had any safety concerns about either the height of proposed single-family residence or its location in relation to the Property's boundaries. By reducing the amount of the non-conforming setbacks on the easterly and westerly sides, the requested variances will increase the distance between buildings, lessening any concerns about overcrowding. Aesthetically, the proposed buildings setbacks and height will have no adverse effect and will improve the physical appearance of the Property significantly, a fact which no doubt has informed the several neighbors who have expressed their support for the Application.

III. Conclusion

For the foregoing reasons, the Applicant respectfully requests that the ZBA grant this motion and schedule a rehearing on the three specific variance requests denied by the ZBA on November 7, 2019 with respect to the Property, and, upon rehearing, grant each of the requested variances set forth in the Application.

Respectfully submitted,
KAREN A. BERG, TRUSTEE THE SCHIRMER
REVOCABLE TRUST OF 2019
By Its Attorneys,
CLEVELAND, WATERS AND BASS, P.A.

Date: December 6, 2019

By:

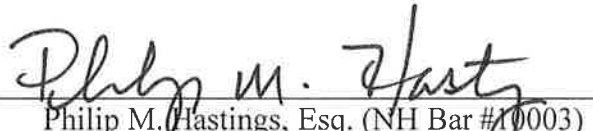

Philip M. Hastings, Esq. (NH Bar #10003)
Matthew D. Mortensen, Esq. (NH Bar
#270795)
Two Capital Plaza, 5th Flr., P.O. Box 1137
Concord, NH 03302-1137
(603) 224-7761

EXHIBIT A



1

EXISTING BUILDING HEIGHTS, FOOT PRINT SQ.FT , PERCENT LOT COVERAGE

SCALE:1" = 40'-0" BASED ON TAP MAP OBTAINED FROM CAI AXISGIS

GENERAL NOTES

THESE PLANS ARE AN INSTRUMENT OF SERVICE AND ARE THE PROPERTY OF THE ARCHITECT. INFRINGEMENTS WILL BE PROSECUTED.

No.	Description	Date

BERG RESIDENCE

34 JOBS CREEK RD
SUNAPEE, NH 03751

Frank Anzalone Associates
Architects and Planners

P.O.Box 1016
New London, NH 03257
Phone: 603.526.8911
www.faa-arch.com

SURROUNDING PROPERTY INFORMATION

Sheet: A101
Project No. 19014
Date: 12/06/19
Scale: 1" = 40'-0"



1

SIDE YARD CONFORMANCE

SCALE: 1" = 40'-0"

Less than 4' Side Yard Less than 10' Side Yard

NOTE: NO EXISTING STRUCTURE MEETS THE REQUIRED 25' SETBACK

LAKE SUNAPEE

SIDE YARD CONFORMANCE

Sheet:

A102

Project No.

19014

Date:

12/06/19

Scale:

1" = 40'-0"

Frank Anzalone Associates
Architects and Planners

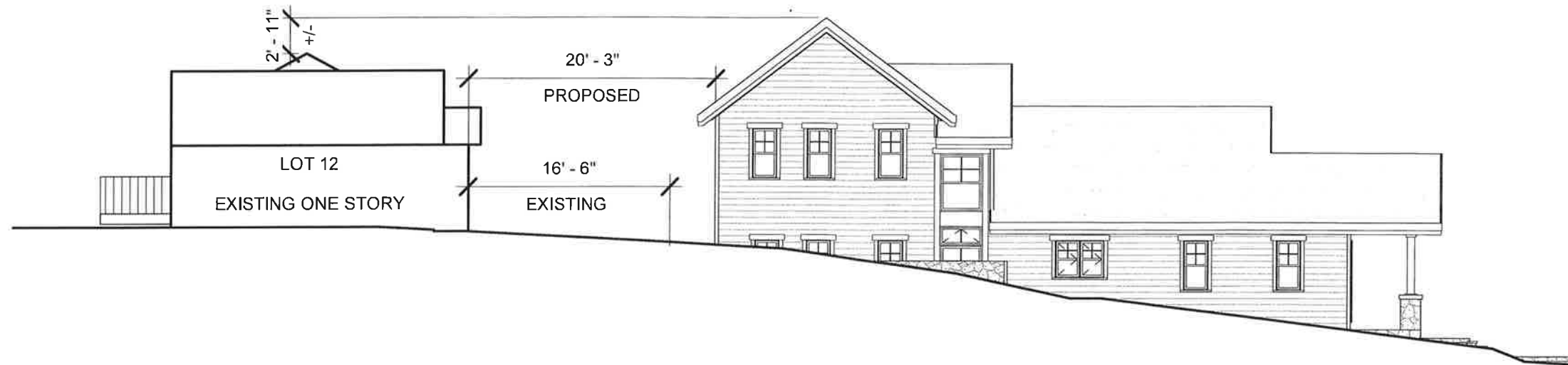
P.O. Box 1016
New London, NH 03257
Phone: 603.526.8911
www.faa-arch.com

BERG RESIDENCE
34 JOBS CREEK RD
SUNAPEE, NH 03751

GENERAL NOTES

THESE PLANS ARE AN INSTRUMENT OF SERVICE AND ARE THE PROPERTY OF THE ARCHITECT. INFRINGEMENTS WILL BE PROSECUTED.

No.	Description	Date



1

NORTH SITE ELEVATION

SCALE: 3/32" = 1'-0"



2

SOUTH SITE ELEVATION

SCALE: 3/32" = 1'-0"

GENERAL NOTES

THESE PLANS ARE AN INSTRUMENT OF SERVICE AND ARE THE PROPERTY OF THE ARCHITECT. INFRINGEMENTS WILL BE PROSECUTED.

No.	Description	Date

BERG RESIDENCE
34 JOBS CREEK RD
SUNAPEE, NH 03751

Frank Anzalone Associates
Architects and Planners

P.O. Box 1016
New London, NH 03257
Phone: 603.526.8911
www.faa-arch.com

ELEVATIONS

Sheet:	A103
Project No.	19014
Date:	12/06/19
Scale:	3/32" = 1'-0"



EXISTING PHOTOGRAPH



PROPOSED DIGITAL OVERLAY
NOT TO SCALE

GENERAL NOTES			
THESE PLANS ARE AN INSTRUMENT OF SERVICE AND ARE THE PROPERTY OF THE ARCHITECT. INFRINGEMENTS WILL BE PROSECUTED.			
No.	Description	Date	

BERG RESIDENCE
34 JOBS CREEK RD
SUNAPEE, NH 03751



EXISTING PHOTOGRAPH



PROPOSED DIGITAL OVERLAY
NOT TO SCALE

Frank Anzalone Associates Architects and Planners	P.O. Box 1016 New London, NH 03257 Phone: 603.526.8911 www.faa-arch.com		

DIGITAL OVERLAY

Sheet:	A104
Project No.	19014
Date:	12/06/19
Scale:	

1 SITE
SCALE: 1" = 10'-0"

ZONE: RURAL RESIDENTIAL

LOT COVERAGE

EXISTING LOT COVERAGE: = 22.7%

PROPOSED LOT COVERAGE: = 31.2%

ALLOWED = = 40%

SHORELAND IMPERMEABLE:

HOUSE = 277 SQ.FT.

DECK = 144 SQ.FT.

TOTAL = 421 SQ.FT.

LOT WITHIN 250' SHORELINE: = 1060 SQ.FT.

% OF IMPERMEABLE: = 39.7%

ALLOWED: = 25%

PERMEABLE AND IMPERMEABLE COMBINED: = 39.7%

ALLOWED: = 40%

2 SILT FENCE
SCALE: 1 1/2" = 1'-0"

CONSTRUCTION NOTES FOR FABRICATED SILT FENCE

1. WHEN TWO SECTIONS OF FILTER CLOTH ADJOIN EACH OTHER, THEY SHALL BE OVERLAPPED BY 6", FOLDED AND STAPLED.
2. MAINTENANCE SHALL BE PERFORMED AS NEEDED TO PREVENT "BULGES" IN THE SILT FENCE DUE TO DEPOSITION OF SEDIMENT.

SECTION

MAINTENANCE REQUIREMENTS

1. INSPECT SILT FENCE IMMEDIATELY AFTER EACH RAINFALL AND DAILY DURING PROLONGED RAINFALL. ANY NECESSARY REPAIRS SHALL BE MADE IMMEDIATELY.
2. IF THE FABRIC ON THE SILT FENCE SHOULD DECOMPOSE OR BECOME INFECTED DURING THE EXPECTED LIFE OF THE FENCE, THE FABRIC SHALL BE REPLACED PROMPTLY.
3. SEDIMENT DEPOSITS SHOULD BE REMOVED WHEN THEY REACH APPROXIMATELY ONE-HALF THE HEIGHT OF THE BARRIER.
4. SEDIMENT DEPOSITS THAT ARE REMOVED OR LEFT IN PLACE AFTER THE FABRIC HAS BEEN REMOVED SHALL BE GRADED TO CONFORM WITH THE EXISTING TOPOGRAPHY AND VEGETATED.

INFORMATION BASED ON SURVEY BY FUSS & O'NEILL DATED 04-29-2019

EXHIBIT B



SHORELAND PERMIT BY NOTIFICATION (PBN)

Water Division/ Shoreland Program

Land Resources Management

Check the status of your PBN: <https://www.des.nh.gov/onestop/>



RSA/Rule: RSA 483-B, Env-Wq 1400

	Administrative Use Only	<input checked="" type="checkbox"/> PBN Accepted, Expires: <u>11/12/2024</u>	Reviewer Initials: <u>REA</u>
		<input type="checkbox"/> PBN Rejected	Admin Initials: <u>DB</u>
		File Number: <u>2019-03570</u>	Amount: <u>\$ 400.00</u>
		Check No. <u>1014</u>	

This form requests authorization to excavate, fill, or construct new structures within the protected shoreland, which is 250 feet landward of the reference line, as regulated under RSA 483-B. Refer to the cover sheet to determine your eligibility to use this form in lieu of the standard Shoreland Permit Application. Please type or print clearly. **Please note:** Notification packages missing required components will be rejected and the fee will not be returned.

1. PROPERTY OWNER

LAST NAME, FIRST NAME, M.I.: Berg, Karen, A

ADDRESS: 50 Blueberry Lane	TOWN/ CITY: New London	STATE: NH	ZIP CODE: 03257
PHONE:	EMAIL: Karen.a.s.berg@gmail.com		

2. PROJECT LOCATION

ADDRESS: 34 Jobs Creek Road	TOWN/ CITY: Sunapee	STATE: NH	ZIP CODE: 03782
WATERBODY NAME: Sunapee	TAX MAP: 125	LOT NUMBER: 13	

3. CONTRACTOR OR AGENT

LAST NAME, FIRST NAME, M.I.: Anzelone, Frank

ADDRESS: PO Box 1016 224 Main St.	TOWN/ CITY: New London	STATE: NH	ZIP CODE: 03257
PHONE: (603) 526-8911	EMAIL: Frank@Faa-arch.com		

4. PROJECT DESCRIPTION

Provide a brief description of the proposed project including square footage of impacts and dimensions of new structures. This project involves the removal and replacement of a non conforming existing structure. The area within the 250' waterfront buffer on this property is 1060 square feet. The existing impervious area is 470 square feet. The proposed impervious area is a decrease to 421 square feet.

TOTAL SQUARE FEET OF IMPACT: 1060 TOTAL SQUARE FEET OF NEW IMPERVIOUS AREA: 421

Total impact area is determined by the sum of all areas disturbed by excavation, filling, and construction. Examples include, but are not limited to: constructing new driveways, constructing new structures, removing or replacing structure foundations, grading, and installing a new septic system or well.

lrn@des.nh.gov or (603) 271-2147

NHDES Wetlands Bureau, 29 Hazen Drive, PO Box 95, Concord, NH 03302-0095

www.des.nh.gov

5. PBN CRITERIA: Check one of the following project type criteria.**(RSA 483-B:5-b)**

- | | |
|---|--|
| <input checked="" type="checkbox"/> 1. STANDARD PBN Project | This project impacts less than 1,500 square feet of which no more than 900 square feet is a net increase in impervious area. |
| <input type="checkbox"/> 2. | This project is directly related to stormwater management improvements, erosion control, or environmental restoration or enhancement. PBN Impact Limit: None / Fee: \$200. |
| <input type="checkbox"/> 3. | Per Env-Wq 1406.05, this project consists of geotechnical borings, test wells, drinking water wells or is a site remediation project. PBN Impact Limit: None / Fee: Capped at \$400. |

6. FEE

The base PBN fee is \$200 for restoration of water quality improvement projects, and \$400 for all other PBN projects. The special project types in Section 5 have alternate fee schedules as listed above.

Checks and money orders payable to "Treasurer - State of NH".

TOTAL FEE: \$400.00

7. PHOTOS

Required for all projects.	Dated photographs of <u>each</u> area proposed to be impacted.
----------------------------	--

8. PLAN REQUIREMENTS: Check Yes or No to all statements, and review the applicable plan requirements. If your plans do not include the information that is required, your notification will be rejected.

Required for all projects.	A clear and detailed plan of work depicting, at a minimum, all the impact areas, the <u>reference line</u> and property lines. Plans that are not to scale must show all relevant distances from the reference line and dimensions.	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	This project proposes an increase in <u>impervious</u> (i.e. non-permeable) area. Plans must include the dimensions and locations of all existing and proposed <u>impervious surfaces</u> within 250 feet of the <u>reference line</u> . Decks are typically considered impervious.	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	< 20%	This project proposes an increase in <u>impervious area</u> , and the total post-construction impervious area within 250 feet of the <u>reference line</u> will not exceed 20%.
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	20 – 30%	This project proposes an increase in impervious area such that the total <u>impervious area</u> within 250 feet of the reference line will be greater than 20% but less than 30%. Plans must include a <u>stormwater management system</u> that will infiltrate increased stormwater runoff from development per <u>RSA 483-B:9, V(g)(2)</u> and in accordance with <u>Env-Wq 1500</u> .
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	> 30%	This project proposes an increase in <u>impervious area</u> such that the total impervious area within 250 feet of the <u>reference line</u> will be greater than 30%. Plans must include a <u>stormwater management system</u> designed and certified by a professional engineer to account for all new development, <u>and</u> plans must demonstrate how the vegetation point score is met per RSA 483-B:9, V(g)(1,3).
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	This project proposes impacts within 50 feet of the reference line. Plans and photos must show each area of the <u>Waterfront Buffer</u> that will be impacted, including groundcover, and calculate the tree point scores in accordance with the <u>Vegetation Management Fact Sheet</u> .	

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<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	This project proposes impacts between 50 and 150 feet of the <u>reference line</u> . Plans must depict the 25% area of the Woodland Buffer to be designated and maintained as natural woodland. See the <u>Vegetation Management Fact Sheet</u> .
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	This project proposes to install or expand an <u>accessory structure</u> , such as a patio or shed, within 50 feet of the <u>reference line</u> . All plans <i>must</i> demonstrate that the height, size, and setback limitations for accessory structures will be met. These limitations are described within the <u>Accessory Structure Fact Sheet</u> . The <u>shoreland frontage</u> on this lot is: _____ linear feet. <input type="checkbox"/> N/A – There is no direct frontage on this lot.
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	This project proposes a pervious (i.e. permeable) surface technology. Plans must include the location and type of the surface and a cross-section depicting the construction method, materials and specifications as to how this surface will be maintained as a pervious technology.

9. CONDITIONS: Initial each of the required conditions below.

(Env-Wq 1406.20)

- KB 1. Erosion and siltation control measures shall: be installed prior to the start of work; be maintained throughout the project; and remain in place until all disturbed surfaces are stabilized.
- KB 2. Erosion and siltation controls shall be appropriate to the size and nature of the project and to the physical characteristics of the site, including slope, soil type, vegetative cover, and proximity to wetlands or surface waters.
- KB 3. No person undertaking any activity in the protected shoreland shall cause or contribute to, or allow the activity to cause or contribute to, any violations of the surface water quality standards established in Env-Ws 1700 or successor rules in Env-Wq 1700.
- KB 4. Any fill used shall be clean sand, gravel, rock, or other suitable material.
- KB 5. For any project where mechanized equipment will be used, orange construction fence shall: be installed prior to the start of work at the limits of the temporary impact area as shown on the plans approved as part of a permit or accepted as part of the permit by notification; be maintained throughout the project; and remain in place until all mechanized equipment has been removed from the site.

10. CERTIFICATIONS: Initial each of the required certifications below.

(Env-Wq 1406.18)

- KB 1. The property owner shall sign the notification form below.
- KB 2. The signature(s) shall constitute certification that: the information provided is true, complete, and not misleading to the knowledge and belief of the signer; the signer understands that any permit by notification obtained based on false, incomplete, or misleading information is not valid; the project as proposed complies with the minimum standards established in RSA 483-B:9, V and will be constructed in strict accordance with the proposal; the signer accepts the responsibility for understanding and maintaining compliance with RSA 483-B and these rules; the signer understands that an accepted shoreland permit by notification shall not exempt the work proposed from other state, local, or federal approvals; and the signer understands that incomplete notifications shall be rejected and the notification fee shall not be returned. The signer is subject to the applicable penalties in RSA 641, *Falsification In Official Matters*.

11. SIGNATURE OF OWNER

OWNER SIGNATURE: <u>Karen Berg</u>	PRINT NAME LEGIBLY: Karen Berg	DATE: 11/7/19
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Mail your complete application form and supporting materials to: NHDES Shoreland Program, 29 Hazen Drive, PO Box 95, Concord, NH 03302-0095

lrn@des.nh.gov or (603) 271-2147

NHDES Wetlands Bureau, 29 Hazen Drive, PO Box 95, Concord, NH 03302-0095

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**Zoning Board of Adjustment
Sunapee, New Hampshire
Rules of Procedure**

- I. Zoning Ordinance:** The Zoning Ordinance (“the Ordinance”) is incorporated by reference into these Rules of Procedure (“the Rules”). In the case of a discrepancy between the Ordinance and the Rules, the Ordinance shall take precedence.
- II. Zoning Administrator:** The Zoning Administrator shall:
- A. Act as the agent to the Board of Selectmen in the administration of the Ordinance as per Article VIII of the Ordinance.
 - B. Receive applications for a Certificate of Zoning Compliance and determine which applications require action by the Zoning Board of Adjustment (“the Board”).
 - C. Receive applications for action by the Board.
 - D. Prepare and distribute to Board members information on cases to be heard by the Board.
 - E. Act as the liaison between the Board and town administration.
 - F. Be responsible for compliance with New Hampshire statutes relating to the Board, including scheduling of meetings, public notice of meetings, minutes of meetings, and notice of decisions.
- III. Applications**
- A. Applications for Board action must be made by the owner of record of the applicable property, except that the holder of a valid purchase and sale agreement or valid option to purchase may make such application with the written approval of the owner of record. If the applicant wishes to designate an agent to present the case to the Board, such agent must be designated to the Board either in person or through signed written communication.
 - B. Adequate plans and exhibits must accompany all applications. It is the obligation of the applicant to supply all relevant information to the Board. Such information includes, but is not limited to, lot dimensions, dimensions of proposed and existing structures, identification of abutting properties and roads, locations of water bodies, wetlands, septic systems, etc.
 - C. A recent survey is strongly recommended for applications that concern setbacks, and may be required by the Zoning Administrator and/or the Board.
 - D. The Zoning Administrator is authorized to delay submission of an application to the Board until such time as adequate plans and exhibits are supplied.
 - E. The Board may vote to continue a case to a future specified meeting date pending receipt of additional relevant information.
 - F. Completed applications with accompanying plans and exhibits shall be made available to Board members not less than five days prior to a scheduled meeting.
 - G. An application for an action by the Board regarding a property for which a previous application was denied, may be submitted only if the application materially differs from the previous application that was denied.
- IV. Appeals of an Administrative Decision:** Appeals from an administrative decision related to the Zoning Ordinance, taken under RSA 676:5, must be filed within thirty (30) days of the decision. Appeals of an Administrative Decision shall be governed as per Section 10.20 of the Zoning Ordinance.

- V. Officers:** A Chairperson and a Vice-Chairperson shall each be an elected member of the Board and shall be elected annually by elected members at the first Board meeting following the town voting day in March. An affirmative vote of at least three elected members of the Board shall be required for election. In the event that there are not at least three elected Board members voting affirmatively, the full Board present (members and alternative members) shall elect an acting Chairperson and Vice-Chairperson to serve until such time as the required number of elected members voting affirmatively is obtained. The Vice-Chairperson shall act as Chair in the absence of the Chairperson. If the Chairperson and Vice-Chairperson are both absent, the longest serving elected Board member shall be the acting Chair.
- VI. Alternate Members:** Alternate members will have all the rights, privileges and responsibilities of regular members except for voting at a public hearing and serving as an officer of the Board. Alternate members may participate and deliberate at a public hearing, but they may not vote unless they are replacing a regular Board member.
- VII. Attendance:** Board members are expected to diligently discharge their responsibilities, including attending meetings of the Board. Members unable to attend a Board meeting should give prior notice to the Zoning Administrator and the Chair as much in advance as possible. Members who fail to diligently discharge their responsibilities may be removed as per Section 10.12 of the Ordinance.
- VIII. Board of Fewer than Five Members:** If the Board has a Quorum (as defined by Section 10.14 of the Ordinance) but fewer than five total voting members (elected and alternate) are present at a meeting, prior to the hearing of each case the Chair shall ask the applicant whether the applicant wishes the case to be heard with fewer than 5 voting members, or to be deferred until the next subsequent meeting. The applicant's decision shall be binding and may not be changed once the case has commenced to be heard.
- IX. Public Hearings:**
- A. All public proceedings shall be open to the public, except that the Board may call a non-public session pursuant to RSA 91-A:3, II.
 - B. The Chair has the authority to order the removal of any person who acts in a manner that disrupts the orderly proceedings of the Board.
 - C. Any person shall be permitted to use recording devices. However, the Chair has the jurisdiction to determine that the recording devices do not impair the proceedings for the applicant, the Board, and others present.
 - D. The order of public hearings shall be as follows:
 - 1. The Chair shall call the hearing in session and call the first case.
 - 2. The Zoning Administrator should present a summary of the case.
 - 3. The applicant or agent shall present the merits of the case.
 - 4. Members of the Board may ask questions of the applicant.

5. The Chair shall ask for any comments or questions from others present. Those wishing to speak must identify themselves by name and address.
6. The Chair will allow the applicant to make a further statement regarding the merits of the case.
7. The Chair will ask the Board members if they have further questions for the applicant.
8. Following all questions from the Board, the Chair will close the meeting to further testimony. At the request of a Board member, the Chair may subsequently re-open the meeting for outside questions or comments.
9. The Board members shall deliberate the case among themselves.
10. Following the Board member discussion, the Chair will request motions on the case. Each motion shall have a seconder. Motions may be amended by a like motion and second.
11. Following discussions among Board members, the Chair will call for a vote on the most recent motion on the table. All votes must be public by a show of hands, and each member's vote will be announced by the Chair.
12. The Chair may place reasonable time limits on all proceedings.
13. Following the last case on the agenda, the Board shall review, amend, and approve the minutes of the prior meeting.
14. The Chair will request any further items to be brought to the attention of the Board.
15. The Board may vote to adjourn the meeting prior to the conclusion of the agenda. In this case, remaining items on the agenda will be continued to a specific date determined and announced by the Board.

X. Continued Cases: If a case is continued to a subsequent meeting, the voting (elected and alternate) members originally present for that case shall continue to be voting members for the continuation. If not all of the original voting members for that case are present at the continuation, the Chair shall appoint other Board members as voting members to constitute a full Board to hear the case.

XI. Communications with Legal Counsel: The Board may vote to instruct the Zoning Administrator to request legal advice from Town Counsel, either in the form of a written opinion or a "non-meeting" conference call. The Board may either pose specific questions or indicate areas of concern. Without prior approval by the Board, the Chairperson may also request the Zoning Administrator to obtain legal advice on matters such as governance, legal risks, or to provide information to the Board when expediency is necessary. In addition, the Zoning Administrator may request legal advice on matters involving the Board. The Zoning Administrator shall provide Board members with all relevant information as soon as is

practicable. In accordance with Town policy, the Zoning Administrator shall direct all communications to counsel through the Town Manager.

XII. Joint Meetings with the Planning Board

- A. The Board may request the Planning Board to hold a joint meeting regarding an application. A joint meeting may facilitate the decision on an application and eliminate possible misunderstanding of the application. Each land use board may decide whether or not to hold such a joint meeting. The Planning Board Chairperson shall act as the Chair for such a joint meeting. When a joint meeting is held, each Board is responsible for keeping its own minutes and rendering a decision on matters within the respective jurisdictions.
- B. The Board shall meet at least annually with the Planning Board to propose and discuss changes to the Ordinance.

XIII. Amendments: These Rules may be amended by majority vote of the Board in a meeting at which there is a quorum. Proposed changes to the Rules must be submitted to the Zoning Administrator in writing and distributed to the Board at least five days prior to the meeting at which a vote will be taken.