TOWN OF SWANZEY

OFFICE OF PLANNING AND COMMUNITY DEVELOPMENT

Phone: 603-352-7411 ext. 108
Email: planner@swanzeynh.gov
Web: www.swanzeynh.gov
Address: 620 Old Homestead Hwy

Swanzey Zoning Board of Adjustment
Meeting Agenda for February 24, 2025
7:00 p.m.

The regular meeting of the Swanzey Zoning Board of Adjustment will be held on Monday, February 24, 2025 at 7:00 p.m. at Whitcomb Hall, 17 Main Street, Swanzey. The public may also access the meeting via Zoom by going to www.zoom.us, using the Zoom App, or by calling (929) 205-6099 and entering Meeting ID number 235 370 4380. More information on public access to the meeting is available on the Town's website at: www.swanzeynh.gov.

1) Call to Order

2) Approval of Minutes

   a. December 16, 2024

3) Public Hearings

   a. **ZBA 24-013: Variance –** Jake Checani has requested this application for a variance to Section V, Article B.1 to construct a duplex in the Business District. The subject property is at Tax Map 102, Lot 81. Lot is on the corner of Underwood Road and Lake Street.

   b. **ZBA 24-014: Variance –** Jake Checani has requested this application for a variance to Section V, Article B.3 to construct a duplex within front and rear setbacks, and on a lot under 1 acre in size. The subject property is at Tax Map 102, Lot 81. Lot is on the corner of Underwood Road and Lake Street.

   c. **ZBA 25-001: Variance –** Black Belt LLC has requested this application for a variance to Section VII, Article E.1 to construct a leech field within the 125-foot wetland setback. The subject property is at Tax Map 220, Lot 5.

   d. **ZBA 25-002: Special Exception –** Black Belt LLC has requested this application for a special exception to Section V, Article B.2.g to construct a drive-through facility in the Business District. The subject property is at Tax Map 220, Lot 5.

   e. **ZBA 25-003: Variance –** Fieldstone Land Consultants, PLLC, on behalf of Sapphire Business Park, LLC, is requesting a variance pursuant to the proposed amendment to Section VII, Article D of the Zoning Ordinance to allow a wetland crossing to access a large dry upland area. The subject property is shown at Tax Map 209, Lot 4 and is in the Industrial Park District.

   f. **ZBA 25-004: Variance –** Fieldstone Land Consultants, PLLC, on behalf of 234 Old Homestead Highway Realty, LLC, is requesting a Variance pursuant to the proposed

amendment to Section VII, Article D of the Zoning Ordinance to allow a wetland crossing to access a large dry upland area. The subject property is shown at Tax Map 209, Lot 1 and is located in the Industrial Park District.

4) Other Business

5) Adjournment

Town of Swanzey, New Hampshire
Swanzey Zoning Board of Adjustment (ZBA)
Site Visit and Meeting Minutes – December 16, 2024
Whitcomb Hall, Main Street, Swanzey, NH

Note: Draft Minutes are subject to review, correction, and approval by the Board. Review and approval of Minutes generally takes place at the next regularly scheduled meeting of the Board.

CALL TO ORDER:
Vice Chair Adam Mulhearn continued the public hearing for the request for Variances by Jake Checani at 3:20 pm at the proposed site at 14 Underwood Road. Members present: Mulhearn, Lisa Thorne, Anne Karasinski, Jay Ward and Alternate Pete Delaney. Also present were Town Planner Adam Paquette, Assistant Town Planner Stephon Mehu and Recording Secretary Beverly Bernard. The Vice Chair seated Delaney for Bryan Rudgers. Five members of the Board were present.

ABSENT: Chair Bryan Rudgers, Alternate Wayne Lechlider

OTHERS PRESENT:
Mark Scalera, Kathy Snow, Joe Parisi, Amanda Quinty, Jake Checani, Jeremy Smith

DISCUSSION at SITE VISIT
Checani referred to the property and a large hole on the property that he was hoping to build the foundation for the duplex he is requesting the Variances for. Karasinski pointed out the parking spots without a driveway, directly onto Lake Avenue does not comply with driveway regulations.

Checani acknowledged the lot is non-conforming. There was a discussion about boundary markers and the footage for setbacks. There was a discussion about which road would serve as the frontage since the requirement for the setback is 30 feet at the front of the lot. Karasinski asked the applicant if he is ready to go to the next step of the Board to review his application. She referred to a drawing of the proposed building.

The Vice Chair asked for more comments or questions. Thorne noted that if the building were moved further back on the property it might be better for meeting setbacks. There was a note about sewer and water connections available.

Snow spoke about the history of the lot. Karasinski said the dwelling that was intended on the site originally was going to be a business model home for future home development.

Again, the Vice Chair asked for further questions or comments. There were no further questions. The Vice Chair continued the public hearing to7:00 pm this evening at Whitcomb Hall. The meeting was continued at 3:48 pm.

Public Hearing continued at 7:00 pm at Whitcomb Hall.

MINUTES:

- The meeting Minutes of November 18, 2024 were considered. **Motion** was made by Karasinski to approve the meeting Minutes of November 18, 2024. There was a second by Thorne. All were in favor. ***Motion passed.***

Regional Impact: The members considered whether any items on the agenda could be construed as having potential for regional impact. **Motion** was made by Ward that there is no item on the agenda which can be construed to have potential for regional impact. There was a second by Delaney with no further discussion. All were in favor. ***Motion passed.***

PUBLIC HEARING(S)

ZBA 24-013 & 24-014: Variances – Jake Checani has requested two Variances to Section V, Articles B.1 and B.3 to construct a duplex within all setbacks and on a lot under 1 acre. Subject property is at Tax Map 102, Lot 81 and is in the Business District. Lot is on the corner of Underwood Road and Lake Street. The lot is .027 acres in size. The first Variance is because a duplex is not permitted in a Business District. The second Variance is required since the proposed duplex is less than one acre in size and will encroach on front, side and rear setbacks. It is also noted that the proposed parking spaces do not adhere to driveway regulations.

Discussion: Mulhearn asked if Checani had comment. Checani said he is aware that the site plan as presented is insufficient and the driveway is questionable to be approved as is. He asked for a continuation to next month to give him more time to adjust his proposal. Paquette noted the next meeting, January 20th, is within the 90 period to make a decision. Application was dated November 1st. Delaney asked if a Withdrawal might be preferred. Paquette said there are some downsides to withdrawal such as losing the application fee.

Ward noted both Variances would be necessary with a new site plan. Ward said the Variance needed for a duplex in a Business District is separate from a site plan. He said perhaps we should consider the first Variance since it is impacted by the site plan.

> Karasinski **moved** to continue the public hearing for the variance request of Jake Checani for two Variances to Section V, Articles B.1 and B.3 to construct a duplex within all setbacks and on a lot under 1 acre to January 20, 2025 at the request of the applicant. There was a second by Thorne. All were in favor. ***Motion passed.***

Jeremy Smith asked a question about the application and Paquette said anyone wanting to comment on the Variance will be heard at the next meeting.

RSA 674:33, Section 8 – was read aloud by Paquette. The section notes that a decision must be made within 90 days of day of receipt of application (in this case, November 1, 2024). If the applicant agrees and ZBA agrees, the 90 days may be extended. If the ZBA thinks there is insufficient information, they may deny the application without prejudice and the applicant may re-apply.

OTHER BUSINESS

Zoning Board Meeting Schedule for 2025

Paquette reviewed the proposed schedule with the members. He asked for their confirmation. Two dates were Town Holidays and they will have to be changed. The schedule, with the changes proposed by the ZBA, is as follows:

Regular Meeting Dates	Application Deadlines – 1 PM
January 27th, 2025	January 6th, 2024
February 24th, 2025	February 3rd, 2025
March 17th, 2025	February 24th, 2025
April 21st, 2025	March 31st, 2025
May 19th, 2025	April 28th, 2025
June 16th, 2025	May 26th, 2025
July 21st, 2025	June 30th, 2025
August 18th, 2025	July 28th, 2025
September 15th, 2025	August 25th, 2025
October 20th, 2025	September 29th, 2025
November 17th, 2025	October 27th, 2025
December 15th, 2025	November 24th, 2025

New Member

Joe Parasi was present and spoke about his background. He said he is retired and formerly lived in Chesterfield. He has been a member of the Chesterfield Planning Board and on the Chesterfield Budget Committee. Parisi said he was now living in Swanzey and was interested in serving on the ZBA. Mulhearn said he appreciates the interest. Mulhearn spoke about how Alternates are involved in discussions with applications.

> Ward **moved** to encourage Parisi to apply for ZBA alternate, second by Delaney, all were in favor. ***Motion passed.***

ADJOURNMENT

Motion to adjourn was made by Thorne and seconded by Karasinski and all were in favor. ***Motion passed.*** Adjournment occurred at 7:35 p.m.

Respectfully Submitted,

Beverly Bernard, Recording Secretary

DRAFT

TOWN OF SWANZEY

620 OLD HOMESTEAD HIGHWAY
P.O. BOX 10009
SWANZEY, NH 03446-0009
TOWN HALL (603) 352-7411 FAX (603) 355-8099
WWW.SWANZEYNH.GOV

Memorandum – Office of Planning & Economic Development

TO: Zoning Board of Adjustment

FROM: Adam Paquette, Town Planner

RE-NOTICED ON 2/11/2025

DATE: **November 4, 2024**

RE: ZBA #24-013 & ZBA #24-014 – Tax Map 102 Lot 81

Background:

Jake Checani has requested two variances pursuant to Section V, Articles B.1 and B.3 of the Town of Swanzey Zoning Ordinance to build a duplex within the business district on a lot of less than one acre and within front, side, and rear setbacks. The subject property is shown at Tax Map 102, Lot 81 and is located in the Business District. Notice of Public Hearing was mailed to abutters on November 6 and notice was published in the Keene Sentinel on November 9.

Discussion:

The subject property is 0.27 Acres in size and has frontage along both Lake Street and Underwood Road. The frontage along Underwood is 191.56', which meets the requirements for the Business District. There are currently no structures on the lot.

The applicant proposes two variances. The first variance will be pursuant to Section V, Article B.1 of the Zoning Ordinance. **This variance is sought because a duplex is not a permitted use in the business district. The second variance is sought because the lot is less than one acre in size and the proposed duplex will encroach on front, side, and rear setbacks.** The proposed duplex has four proposed parking spaces off Lake Street instead of a driveway. **These parking spaces do not adhere to the Driveway Regulations.** The proposed duplex will hook up to town sewer and water.

Sections of the Town of Swanzey Zoning Ordinance that apply to this variance are:

Section V, Article B.1: Uses Permitted in the Business District

Section V, Article B.3: All lots shall be of at least one (1) acre in size with one hundred twenty-five (125) foot frontage on a town or State maintained road. For properties with frontage on NH

Route 10 or NH Route 12, all buildings and structures shall be located thirty (30) feet from the right-of-way line. For all frontages other than NH Route 10 or NH Route 12, all buildings and structures shall be located thirty (30) feet from the front property line. The side and rear setbacks are twenty (20) feet from the side and rear property lines.

Department Head and Staff Review:

Department Heads were notified of the application on November 4. The following concerns were raised:

Joe DiRusso: Applicant is not adhering to the Driveway Regulations.

Eric Mattson: I think this building should be moved back away from the Lake St. side 20', to obtain a better distance from a busy street. The driveway should be south of the building again as Lake St is a very busy street throughout the day and night, any entrance and exiting onto Lake St. would be dangerous.

Planning Staff: We agree with the above comments from department heads. The structure and parking as presented do not adhere to adopted regulations and could be dangerous to drivers/pedestrians along Lake St.

Attachments:

A. Variance Application
B. Aerial Map and Tax Map

APPLICATION FOR VARIANCE
TOWN OF SWANZEY (New 1/10; Revised 8/22)

MAP: 102 **LOT:** 81

To: Board of Adjustment, Town of Swanzey:

NAME OF APPLICANT:	**MAILING ADDRESS OF APPLICANT:**
Jake Anthony Checani	14 Underwood Rd, Swanzey, NH 03431
Contact phone number:	
OWNER OF PROPERTY: (If same as applicant, write "same")	**MAILING ADDRESS OF OWNER:** (If same as applicant, write "same")
same	same

LOCATION OF PROPERTY (Give Zoning District in which located & current street address)
Lot is in the business district and the address is its located at the corner of Lake St and Underwood Rd. It is found on Tax Map 102 and is lot #81

FEES:

- Application fee: $75
- Current rates for Keene Sentinel Legal Notices
- $10/abutter certified mail notice

Fees will be billed and **must** be paid prior to public hearing.

1. ☑ **SITE PLAN** – The site plan need not be done professionally, but **must** be to scale; the scale should be appropriate for the size of the project & the plan must be readable. Plans must indicate the size of the lot in acres or square feet, show the placement of all **existing** and **proposed** buildings on the lot and include setbacks required by the zoning ordinance. The plan must include a written and visual depiction of the scale used.

2. ☑ If applicable, indicate on the Site Plan the location of:

- septic system and/or leach field
- water supply
- curb cuts
- parking area (and size of parking spaces)
- waterways
- wetland areas
- tree lines
- drainage ways
- loading docks
- underground tank locations
- impervious surfaces

It is the applicant's responsibility for including all information on the plan that is pertinent to their application and proposed project.

3. ☑ Attach completed and up-to-date listing of ALL abutters with addresses.

4. ☑ Provide a brief description of the project/request.

Staff Correction: SECTION V, ARTICLE B.1

A Variance is requested from the terms of Section V, Article B. !1 of the Zoning Regulations of the Town of Swanzey.

FACTS IN SUPPORT OF GRANTING THE VARIANCE:

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

This building would be consistent with the current land use conditions of the immediate area. I currently own 14 Underwood Rd, which sits on a lot that is less than half the size of this current lot, and meets none of the setbacks as laid out in the residence district front and side/rear setbacks. In addition to this, my mother and father who are both disabled live at 14 Underwood. A two family dwelling would fit in in the neighborhood

2. Granting the variance would observe the spirit of the ordinance because:

The proposed building lot resides in the Business District. Section V, B, 2, b, states that Multi Family dwellings are allowed, and are not necessarily subject to the minimum acreage requirement if they are connected to town sewer and water, which this dwelling would have access to. Though this is not a multi family dwelling, a two family property would still offer the addition of an affordable housing unit in the town and is good for development.

3. Granting the variance would do substantial justice because:

The property cannot conform to the setbacks as mandated at this time of the year 2024. It is also too narrow, and the lots are already cut up in such a way with me and my neighbor that it is not feasble to redraw the boundaries. Whenver it was cut up this way, I was done an injustice, as the current property owner, by the town as they created a lot that in the future would be inbuildable.
Without the variance, I cannot build housing on the property, period.

4. Granting the variance would not diminish the values of surrounding properties because:
The way that Underwood Rd was subdivided long ago makes many of the lot sizes inadequate for single family dwellings. This building would be consistent with the current conditions of the road and some of the other properties. Small lots with houses close to one another. It would also be beautiful, for I intend for this to be a timber frame home, one that utilizes craft and sustainable building materials. This building would actually be quite secluded in relation to any of the other properties on the road, regardless of how close it would be to the property line of my neighbor Amanda, as it would exist over 100 feet from any of the other homes on Underwood Rd when measures in terms of road frontage. I plan to landscape it thoughtfully as well, which would create a bright new face for Underwood Rd.

5. Unnecessary Hardship
Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because:

The "Special Conditions" of this property that distinguish it from other properties in the area are as follows:
The lot was purchased by me in 2023, and at the time of purchase was .27 acres. This is not a potential subdivison; this land was carved in this way long before my involvement and was not done in the best interest of the owner then, or future owner, as it created a lot of record that would be unbuildable in the future. I cannot meet the setbacks, or any the minimum size requirements, with this lot and their is nowhere to go in the neighborhood to get more land or change the current property lines. The previous owner Bedard applied for a variance in order to put a manufactured home on the site as a showroom. That variance was granted; however, the project never went through, and the lot was allowed to grow into a forest, which it remained as until my purchase. use of the land to create a building there.

A. Owing to the special conditions of the property as set forth above 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 because:
This property would be a two family house, in the business district. It would fit in with the other houses in the area that are in other zoning districts. It would not be an outlier in the residencial district, from where the minum size requirementds arise from. Would not disrupt the rural character of the town, or hinder business as usual.

and

ii. The proposed use is a reasonable one because:
There are mutli-family units across the street. There is already a stub point for the town sewer, and water is close by. There is a four-story housing complex that just went up on Route 12 less than a 1/4 mile away. There is an outdated hotel complex on the other side of the roundabout. The lot was approved for a manufactured model home in the past when the setbacks were different.

If the criteria in subparagraph A.i. **and** A.ii. are not established, an unnecessary hardship will be deemed to exist if, and only if:

B. Owing to special conditions of the property as set forth above 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 the property because:

The lot simply cannot conform to the current setbacks for the 2024 zoning ordinance. Had I not stepped in and purchased the building lot, a decision that was a financially difficult one to make, that parcel of land would have continued to go fallow and provide no value. I reached out to the family that owned the lot directly, because I intended to use the property to help myself and my mother and father. I cannot build on the lot without an ordinance.
It is an odd shape and was harmed whenever the lake street extension work was done. They left a large hole, when they stripped the topsoil to create a berm and make the slope work for Underwood RD, and as such is sort of an unsavory lot. I believe the town should be proud for granting me an ordinance in this case, as I am literally doing the best that I can with what I have.

Note: The definition of "unnecessary hardship" set forth in subparagraph 5 shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

_____ Date: 10/31/24
Signature of Applicant

_____ Date: 10/31/24
Signature of Property Owner

THIS VARIANCE IS HEREBY:

☐ **GRANTED** ☐ **DENIED**

by the Swanzey Zoning Board of Adjustment. The following are reasons and/or conditions:

CHECKLIST FOR GRANTING A VARIANCE
(for use by Swanzey Zoning Board of Adjustment)

1. Could the variance be granted without being contrary to the public interest?

_____ Yes _____ No

2. Would the spirit of the ordinance be observed if the variance were granted?

_____ Yes _____ No

3. Would granting the variance do substantial justice?

_____ Yes _____ No

4. Could the variance be granted without diminishing surrounding property values?

_____ Yes _____ No

5. Do special conditions of the property exist that distinguish it from other properties in the area?

_____ Yes _____ No

A.i. Owing to the special conditions of the property that distinguish it from other property in the area, there is not a fair and substantial relationship between the general public purpose of the ordinance and the specific application of the provision to the property?

_____ _____

Yes/Agree No

And

A.ii. Is the proposed use a reasonable one?

_____ _____

Yes No

If the criteria in subparagraph A.i. **and** A.ii. are not met, an unnecessary hardship will be deemed to exist if, and only if:

B. Owing to the 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 necessary to enable a reasonable use of the property:

_____ _____

Yes No

If the answer to questions 1, 2, 3, 4 and 5 (5A or 5B) is "yes," the variance should be granted.

If the applicant fails to meet any one of the five variance requirements (1, 2, 3, 4 and/or 5), it cannot be legally granted and should be denied. Note: The applicant only needs to meet either 5A or 5B to satisfy criteria 5.

3. There are two abutters to the property found at the corner of Underwood Rd and Lake St, these are as follows:

- Tax Map 80:
  - Waterview Realty Trust
    PO BOX 565
    KEENE, NH 03431 0565
- Tax Map 82:
  - Amanda R Quinty
    12 Underwood Rd
    Swanzey, NH 03431

4. I am proposing the building of a duplex at the property owned by me, Jake Anthony Checani, at the corner of Underwood Rd and Lake St. The project requires a variance as none of the current properties located in proximity to the empty lot, or currency occupied homes, meet the current standards for lot size, and setbacks as laid out in the 2024 edition of the Zoning Ordinance. This building would be consistent with the conditions of the current properties on Underwood Rd, and be consistent with the other properties in the residential districts that lie between the boundaries of lake rd, RT 12 and Park St.
This project would do substantial justice as this lot cannot comply with the current zoning board restrictions for the district.

APPLICATION FOR VARIANCE
TOWN OF SWANZEY (New 1/10; Revised 8/22)

MAP: 102 **LOT:** 81

To: Board of Adjustment, Town of Swanzey:

NAME OF APPLICANT:	**MAILING ADDRESS OF APPLICANT:**
jake anthony checani	14 underwood rd swanzey, nh 03431
Contact phone number:	
OWNER OF PROPERTY: (If same as applicant, write "same") same	**MAILING ADDRESS OF OWNER:** (If same as applicant, write "same") same

LOCATION OF PROPERTY (Give Zoning District in which located & current street address)
business district
Property does not have an address currently. It is found on Tax Map 102 and is lot #81. Street location is the corner of Underwood and Lake Rd .

FEES:

- Application fee: $75
- Current rates for Keene Sentinel Legal Notices
- $10/abutter certified mail notice

Fees will be billed and **must** be paid prior to public hearing.

1. ☑ **SITE PLAN** – The site plan need not be done professionally, but **must** be to scale; the scale should be appropriate for the size of the project & the plan must be readable. Plans must indicate the size of the lot in acres or square feet, show the placement of all **existing** and **proposed** buildings on the lot and include setbacks required by the zoning ordinance. The plan must include a written and visual depiction of the scale used.

2. ☑ If applicable, indicate on the Site Plan the location of:

septic system and/or leach field
water supply
curb cuts
parking area (and size of parking spaces)
waterways
wetland areas
tree lines
drainage ways
loading docks
underground tank locations
impervious surfaces

It is the applicant's responsibility for including all information on the plan that is pertinent to their application and proposed project.

3. ☑ Attach completed and up-to-date listing of ALL abutters with addresses.

4. ☑ Provide a brief description of the project/request.

Staff Correction: SECTION V, ARTICLE B.3

A Variance is requested from the terms of Section IV, Article A. 3 of the Zoning Regulations of the Town of Swanzey.

FACTS IN SUPPORT OF GRANTING THE VARIANCE:

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

This building would be consistent with the currently land use conditions of the immediate area. I currently own 14 Underwood Rd, which sits on a lot that is less than half the size of this current lot, and meets none of the setbacks as laid out in the residence district front and side/rear setbacks. In addition to this, my mother and father who are both disabled live at 14 Underwood. That house is not designed to be ADA compliant, and needs the kinds of renovations that are not possible while it is occupied. Looking into the future, I will need a modern building, that has the necessary accommodations in order to keep them housed.

2. Granting the variance would observe the spirit of the ordinance because:

The proposed building lot resides in the Business District. Section V, B, 2, b, states that Multi Family dwellings are allowed, and are not necessarily subject to the minimum acreage requirement if they are connected to town sewer and water, which this dwelling would have access to. It would appear the spirit of the setback and minimum acreage requirements are to preserve the rural areas of the town of Swanzey. Seeing as though this lot resides in the business district, granting a two-family house in this location would be consistent with the towns desire to promote development, where applicable, and would not harm the rural character of the surrounding areas. This area of town spans a few different zoning districts, and reads like a city block, with houses packed in, close to one another with small lots. This place would fit right in. It would also be a contribution moving forward to affordable housing.

3. Granting the variance would do substantial justice because:

The property cannot conform to the setbacks as mandated at this time of the year 2024. It is also too narrow, and the lots are already cut up in such a way with me and my neighbor that it is not feasble to redraw the boundaries. Whenver it was cut up this way, I was done an injustice, as the current property owner, by the town as they created a lot that in the future would be inbuildable.
The town would also be helping me to take care of my mother and father as they age.

4. Granting the variance would not diminish the values of surrounding properties because:
The way that Underwood Rd was subdivided long ago makes many of the lot sizes inadequate for single family dwellings. This building would be consistent with the current conditions of the road and some of the other properties. Small lots with houses close to one another. It would also be beautiful, for I intend for this to be a timber frame home, one that utilizes craft and sustainable building materials. This building would actually be quite secluded in relation to any of the other properties on the road, regardless of how close it would be to the property line of my neighbor Amanda, as it would exist over 100 feet from any of the other homes on Underwood Rd when measures in terms of road frontage. I plan to landscape it thoughtfully as well, which would create a bright new face for Underwood Rd.

5. Unnecessary Hardship
Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because:

The "Special Conditions" of this property that distinguish it from other properties in the area are as follows:
The lot was purchased by me in 2023, and at the time of purchase was .27 acres. This is not a subdivision that is potential; this land was carved in this way long before my involvement and was not done in the best interest of the owner then, or future owner, as it created a lot of record that would be unbuildable in the future. I cannot meet the setbacks, or any the minimum size requirements, with thius lot and their is nowhere to go in thr neighborhood to get more land or change the current property lines. The previous owner Bedard applied for a variance in order to put a manufactured home on the site as a showroom. That variance was granted; however, the project never went through, and the lot was allowed to grow into a forest, which it remained as until my purchase. use of the land to create a building there.

A. Owing to the special conditions of the property as set forth above 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 because:
This property would be a two family house, in the business district. It would fit in with the other houses in the area that are in other zoning districts. It would not be an outlier in the residencial district, from where the minum size requirementds arise from. Would not disrupt the rural character of the town, or hinder business as usual.

and

ii. The proposed use is a reasonable one because:
There are mutli-family units across the street. There is already a stub point for the town sewer, and water is close by. There is a four-story housing complex that just went up on Route 12 less than a 1/4 mile away. There is an outdated hotel complex on the other side of the roundabout. The lot was approved for a manufactured model home in the past when the setbacks were different.

This building would actually have a lot of privacy in relation to those. It is a good use for a neglected piece of land. There is already a foundation partially dug.

If the criteria in subparagraph A.i. **and** A.ii. are not established, an unnecessary hardship will be deemed to exist if, and only if:

B. Owing to special conditions of the property as set forth above 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 the property because:

The lot simply cannot conform to the current setbacks for the 2024 zoning ordinance. Had I not stepped in and purchased the building lot, a decision that was a financially difficult one to make, that parcel of land would have continued to go fallow and provide no value. I reached out to the family that owned the lot directly, because I intended to use the property to help myself and my mother and father. I cannot build on the lot without an ordinance.
It is an odd shape and was harmed whenever the lake street extension work was done. They left a large hole, when they stripped the topsoil to create a berm and make the slope work for Underwood RD, and as such is sort of an unsavory lot. I believe the town should be proud for granting me an ordinance in this case, as I am literally doing the best that I can with what I have.

Note: The definition of "unnecessary hardship" set forth in subparagraph 5 shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

Signature of Applicant Date: 10/31/24

Signature of Property Owner Date: 10/31/24

THIS VARIANCE IS HEREBY:

☐ **GRANTED** ☐ **DENIED**

by the Swanzey Zoning Board of Adjustment. The following are reasons and/or conditions:

CHECKLIST FOR GRANTING A VARIANCE
(for use by Swanzey Zoning Board of Adjustment)

1. Could the variance be granted without being contrary to the public interest?

_____ Yes _____ No

2. Would the spirit of the ordinance be observed if the variance were granted?

_____ Yes _____ No

3. Would granting the variance do substantial justice?

_____ Yes _____ No

4. Could the variance be granted without diminishing surrounding property values?

_____ Yes _____ No

5. Do special conditions of the property exist that distinguish it from other properties in the area?

_____ Yes _____ No

A.i. Owing to the special conditions of the property that distinguish it from other property in the area, there is not a fair and substantial relationship between the general public purpose of the ordinance and the specific application of the provision to the property?

_____ _____

Yes/Agree No

And

A.ii. Is the proposed use a reasonable one?

_____ _____

Yes No

If the criteria in subparagraph A.i. **and** A.ii. are not met, an unnecessary hardship will be deemed to exist if, and only if:

B. Owing to the 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 necessary to enable a reasonable use of the property:

_____ _____

Yes No

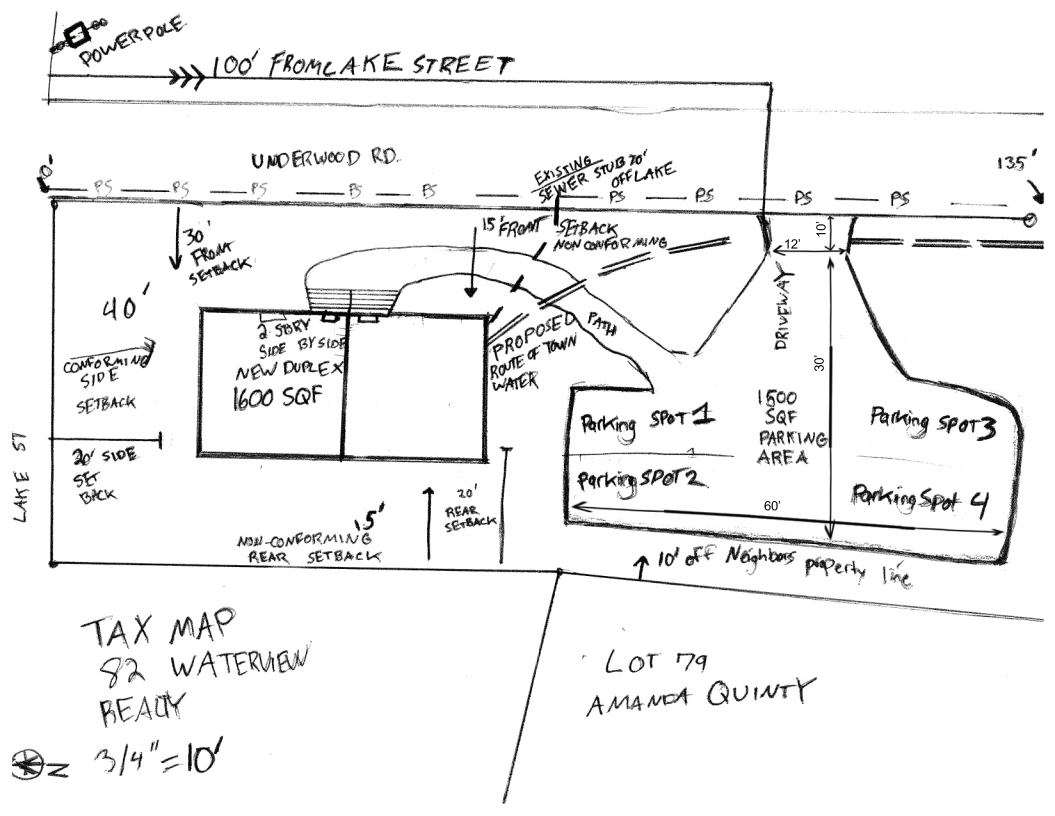
If the answer to questions 1, 2, 3, 4 and 5 (5A or 5B) is "yes," the variance should be granted.

If the applicant fails to meet any one of the five variance requirements (1, 2, 3, 4 and/or 5), it cannot be legally granted and should be denied. Note: The applicant only needs to meet either 5A or 5B to satisfy criteria 5.

3. There are two abutters to the property found at the corner of Underwood Rd and Lake St, these are as follows:

- Tax Map 80:
  - Waterview Realty Trust
    PO BOX 565
    KEENE, NH 03431 0565
- Tax Map 82:
  - Amanda R Quinty
    12 Underwood Rd
    Swanzey, NH 03431

4. I am proposing the building of a duplex at the property owned by me, Jake Anthony Checani, at the corner of Underwood Rd and Lake St. The project requires a variance as none of the current properties located in proximity to the empty lot, or currency occupied homes, meet the current standards for lot size, and setbacks as laid out in the 2024 edition of the Zoning Ordinance. The building of a two-family house is also not a permitted use in the business district, so I am requiring an additional variance to build one.
This building would be consistent with the conditions of the current properties on Underwood Rd, and be consistent with the other properties in the residential districts that lie between the boundaries of lake rd, RT 12 and Park St.
This project would do substantial justice as this lot cannot comply with the current zoning board restrictions for the district.


POWERPOLE
100' FROM LAKE STREET
UNDERWOOD RD.
0'
135'
PS PS PS PS PS EXISTING SEWER STUB 70' OFF LAKE PS PS PS
30' FRONT SETBACK
15' FRONT SETBACK NON CONFORMING
12'
10'
DRIVEWAY
30'
40'
CONFORMING SIDE SETBACK
2 STORY SIDE BY SIDE
NEW DUPLEX
1600 SQF
PROPOSED PATH ROUTE OF TOWN WATER
Parking SPOT 1
1500 SQF PARKING AREA
Parking SPOT 3
Parking SPOT 2
Parking Spot 4
60'
20' SIDE SET BACK
LAKE ST
NON-CONFORMING REAR SETBACK
15'
20' REAR SETBACK
10' off Neighbors property line
TAX MAP
82 WATERVIEW
READY
LOT 79
AMANDA QUINTY
N
3/4" = 10'

TOWN OF SWANZEY

620 OLD HOMESTEAD HIGHWAY
P.O. BOX 10009
SWANZEY, NH 03446-0009
TOWN HALL (603) 352-7411 FAX (603) 355-8099
WWW.SWANZEYNH.GOV

Memorandum – Office of Planning & Economic Development

TO: Zoning Board of Adjustment

FROM: Adam Paquette, Town Planner

RE-NOTICED ON 2/11/2025

DATE: **January 21, 2025**

RE: ZBA #25-001 & ZBA #25-002– Tax Map 220 Lot 5

Background:

Black Belt LLC has requested a variance pursuant to Section VII, Articles E.1 and a special exception pursuant to Section V, Article B.2.g of the Town of Swanzey Zoning Ordinance. The variance is being requested to allow a leech field within the 125-foot wetland setback, and the special exception is being requested to construct a drive-through facility in the Business District. The subject property is shown at Tax Map 220, Lot 5 and is located in the Business District. Notice of Public Hearing was mailed to abutters on January 14 and notice was published in the Keene Sentinel on January 25.

Discussion:

The subject property is 15.39 acres in size and has frontage along both NH Route 12 and Marcy Hill Road. The frontage along Marcy Hill Road is roughly 513' and the frontage along NH Route 12 is roughly 620', both of which meet the requirement for the Business District. There are currently no structures on the lot.

The proposed variance is pursuant to Section VII, Article E.1 of the Zoning Ordinance. **This variance is sought because a leech field is not permitted closer than 125 feet from any designated wetland.**

The proposed special exception is pursuant to Section V, Article B.2.g of the Zoning Ordinance. **This special exception is sought because a drive-through facility is being proposed in the business district.**

Sections of the Town of Swanzey Zoning Ordinance that apply to this variance are:

Section V, Article B.2.g:

2. In addition to the aforementioned permitted uses, the following are permitted after the issuance of a Special Exception by the Board of Adjustment: (Section V.B.2. Amended March 9, 1999)

a. Daycare facility; gasoline service stations; repair garage or body shop; motor vehicle dealership; wholesale, warehousing or manufacturing facility; industrial park; vehicle wash facility; (Amended March 14, 2000, Amended March 8, 2022, Amended March 2024)

b. Multi-family dwelling(s): The density requirement for a multi-family dwelling(s) shall be one (1) acre for the first dwelling unit and one half (1/2) acre for each additional dwelling unit, unless connected to public sewer. The maximum density permitted for a multi-family dwelling(s) connected to public sewer shall be twelve (12) units per acre. The minimum number of units for a multi-family residential dwelling in the Business District shall be five (5) units; (Amended March 14, 2000, Amended March 8, 2022)

c. (Deleted March 8, 2022)

d. The removal and processing of clay, sod, loam, crushed stone, sand or gravel for sale, subject to the minimum standards established pursuant to RSA 155-E; (Adopted March 14, 2000)

e. (Adopted March 14, 2000; Deleted March 8, 2022)

f. (Adopted March 14, 2000; Deleted March 8, 2022)

g. Drive-through facility. (Adopted March 9, 2021)

Section VII, Article E.1

E. SPECIAL PROVISIONS

1. No leach field or dry well may be located closer than one hundred twenty-five (125) feet to any designated wetland. In instances of septic failure, certified to by the Town of Swanzey Health Officer, the one hundred twenty-five (125) foot requirement is waived if a licensed septic designer certifies to the Health Officer that a one hundred twenty-five (125) foot setback is not possible; in that event, the system can be replaced to State specifications.

Department Head and Staff Review:

Relevant Department Heads were notified of the application on January 14. The following concerns were raised:

Conservation Commission:

1. Granting the variance would NOT observe the spirit of the ordinance. The spirit of the Wetland Conservation District ordinance is to protect wetlands. Allowing a drive-in restaurant on top of a wetland that was filled in and dredged illegally in 1985 is not protecting wetlands. The front of this property is very wet—in the words of the applicant, "there are no areas on the property having a distance of 125 feet from any wetlands." I have walked the property, and flushed ducks near Rte. 12. This wetland drains to the South Branch, and any polluted groundwater here could also impact nearby wells. When asked, the applicant stated that the water table is less than a foot down—and this was during a drought. The property also appears to be sitting on top of one of the town's aquifers. The rear of the property however (not shown on the plot plan, as they plan to subdivide), is high and dry.

2. Granting the variance would NOT do substantial justice. In 1985, R & L Doody owned this property, and received a permit from the ZBA and State Wetlands Board to use 200 cu yds of fill and build a small convenience store. Instead, the Doodys dumped more than 4,000 yards of fill, illegally dredged the site, and applied to the town to add gas pumps. Their application was denied and the Army Corps instructed them to remove excess fill. It's unclear whether that was done. Since this project is proposed on a wetland that was illegally filled in, that fact should not be rewarded by allowing another developer to add more fill and build on that same spot. That would not be just. This property was only recently purchased, with the buyer knowing full well about the wetland frontage on Rte. 12. The rear of the property is NOT affected by wetlands issues and could be developed in a different way.

3. The special condition distinguishing this property is that indeed it is very wet along Rte. 12, and there are no areas having a distance of 125 feet from any wetlands on the Rte. 12 frontage—but that is not the case in the back of the lot. The other special condition is its history, as noted above.

Attachments:

A. Variance Application
B. Tax Map

CIVILWORKS NEW ENGLAND

181 WATSON ROAD
P.O. BOX 1166 DOVER, NH 03821-1166
PHONE: 603.749.0443

January 6, 2025

Keith Thibault, Chair
Town of Swanzey - Zoning Board of Adjustment
620 Old Homestead Hwy - PO Box 10009
Swanzey, NH 03446

RE: Proposed Drive-Through Restaurant – Map 220, Lot 5 - Variance
CNE Reference No. 23150

Dear Chairperson Thibault and Members of the Board:

On behalf of Black Belt, LLC, Civilworks New England (CNE) hereby submits documents in support of a Variance for the setback from wetlands for the leach field associated with a drive-through restaurant proposed in the Business District at Marcy Hill Road and Monadnock Highway (Rte. 12) on Tax Map 220, Lot 5. This request is being made in accordance with the terms of Section VII, Article E.1. of the Zoning Ordinance.

This variance request is to allow a 75 foot wetland setback where 125 foot is required. The 75 foot setback proposed from all wetlands meets or exceeds the separation distance requirements of the NHDES. As stipulated in the supporting facts section of the applications, it is our opinion that the variance if granted would not be contrary to public interest, would observe the spirit of the ordinance, would do substantial justice and would not diminish the values of surrounding properties. And if not granted, reasons are stated as to why an unnecessary hardship would result to the property Owner/Applicant.

The following documents are enclosed in support of the application:

- Application for Variance
- Site Plan prepared by CNE dated 1/6/25
- Abutters List and labels

It is our understanding that this proposal will be considered by the Board at its' public hearing on January 27, 2025. Also, we understand that we will be invoiced for the full application fee amount that must be paid before the hearing. Please contact our office if any additional information is required in advance of the meeting. Thank you for your consideration of this matter.

Very truly yours,

CIVILWORKS NEW ENGLAND





Mark E. Beaudry, PE
Senior Associate/Sr. Project Manager

Stephen J Haight, PE
President

Copy: Black Belt, LLC

APPLICATION FOR VARIANCE
TOWN OF SWANZEY (New 1/10; Revised 8/22)

MAP: 220 **LOT:** 5

To: Board of Adjustment, Town of Swanzey:

NAME OF APPLICANT:	**MAILING ADDRESS OF APPLICANT:**
BLACK BELT, LLC	59 BONANNO COURT METHUEN, MA 01844
Contact phone number: 978-884-9158	
OWNER OF PROPERTY: (If same as applicant, write "same")	**MAILING ADDRESS OF OWNER:** (If same as applicant, write "same")
SAME	SAME

LOCATION OF PROPERTY (Give Zoning District in which located & current street address)

TAX MAP 220, LOT 5 - MONADNOCK HIGHWAY (NH ROUTE 12) & MARCY HILL ROAD

ZONE: BUSINESS DISTRICT

FEES:

- Application fee: $75
- Current rates for Keene Sentinel Legal Notices
- $10/abutter certified mail notice

Fees will be billed and **must** be paid prior to public hearing.

1. ☑ **SITE PLAN –** The site plan need not be done professionally, but **must** be to scale; the scale should be appropriate for the size of the project & the plan must be readable. Plans must indicate the size of the lot in acres or square feet, show the placement of all **existing** and **proposed** buildings on the lot and include setbacks required by the zoning ordinance. The plan must include a written and visual depiction of the scale used.

2. ☑ If applicable, indicate on the Site Plan the location of:

septic system and/or leach field
water supply
curb cuts
parking area (and size of parking spaces)
waterways
wetland areas
tree lines
drainage ways
loading docks
underground tank locations
impervious surfaces

It is the applicant's responsibility for including all information on the plan that is pertinent to their application and proposed project.

3. ☑ Attach completed and up-to-date listing of ALL abutters with addresses.

4. ☑ Provide a brief description of the project/request.

A Variance is requested from the terms of Section VII, Article E.1 of the Zoning Regulations of the Town of Swanzey.

FACTS IN SUPPORT OF GRANTING THE VARIANCE:

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

The leach field location, as proposed, meets or exceeds NHDES setback requirements, being located MORE THAN 75 feet from all wetlands, both poorly drained (50' requirement) and very poorly drained (75' requirement).

2. Granting the variance would observe the spirit of the ordinance because:

The leach field setbacks, as proposed, exceed NHDES requirements and are in compliance with draft changes to the Wetland Conservation District ordinance relative to leach field setbacks. No land area adjacent to the building site is more than 125 feet from wetlands. To achieve a 125 foot setback, the wetland to the west would need to be crossed to run force main pressure piping to a potential septic site at the upland area to the rear of the property. No wetlands impact/alteration is required with the system as proposed.

3. Granting the variance would do substantial justice because:

The leach field setbacks, as proposed, exceed NHDES requirements and are in compliance with draft changes to the Wetland Conservation District ordinance relative to leach field setbacks.

4. Granting the variance would not diminish the values of surrounding properties because:

The leach field, as proposed, meets or exceeds all NHDES requirements and appears to be consistent with other developed parcels existing along the west side of the Route 12 corridor.

5. Unnecessary Hardship
Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because:

The "Special Conditions" of this property that distinguish it from other properties in the area are as follows:

There are no areas on the property having a distance of 125 feet from any wetlands. The requirements of the ordinance exceed the provision of the NHDES regulations.

A. Owing to the special conditions of the property as set forth above 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 because:

There are no areas on the property having a distance of 125 feet from any wetlands. The requirements of the ordinance exceed the provision of the NHDES regulations. Providing conformance with NHDES requirements meets the public purpose for on-site wastewater disposal.

and

ii. The proposed use is a reasonable one because:

The leach field setbacks, as proposed, exceed NHDES requirements and are in compliance with draft changes to the Wetland Conservation District ordinance relative to leach field setbacks.

If the criteria in subparagraph A.i. **and** A.ii. are not established, an unnecessary hardship will be deemed to exist if, and only if:

B. Owing to special conditions of the property as set forth above 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 the property because:

Due to the configuration of the parcel and the locations of the wetlands on the property, the usable land area in the proposed development area is limited to the building, parking and access/egress from the frontage of the parcel along the abutting roadways. The proposed variance to allow a 75 foot setback to wetlands for the leach field is in keeping with NHDES regulations and is consistent with other developed parcels along the west side of he Route 12 corridor. Several of these parcels currently show development within the 125 foot setback from mapped wetlands as shown on the National Wetlands Inventory Plus site on New Hampshire GRANIT GIS. Therefore, it would be unreasonable to deny the request for setback relief, as it would unfairly distinguish the development site from other properties in the area.

Note: The definition of "unnecessary hardship" set forth in subparagraph 5 shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

Signature of Applicant Date: 1/3/2025

Signature of Property Owner Date: 1/3/2025

THIS VARIANCE IS HEREBY:

☐ **GRANTED** ☐ **DENIED**

by the Swanzey Zoning Board of Adjustment. The following are reasons and/or conditions:

CHECKLIST FOR GRANTING A VARIANCE
(for use by Swanzey Zoning Board of Adjustment)

1. Could the variance be granted without being contrary to the public interest?

_____ Yes _____ No

2. Would the spirit of the ordinance be observed if the variance were granted?

_____ Yes _____ No

3. Would granting the variance do substantial justice?

_____ Yes _____ No

4. Could the variance be granted without diminishing surrounding property values?

_____ Yes _____ No

5. Do special conditions of the property exist that distinguish it from other properties in the area?

_____ Yes _____ No

A.i. Owing to the special conditions of the property that distinguish it from other property in the area, there is not a fair and substantial relationship between the general public purpose of the ordinance and the specific application of the provision to the property?

_____ _____

Yes/Agree No

And

A.ii. Is the proposed use a reasonable one?

_____ _____

Yes No

If the criteria in subparagraph A.i. **and** A.ii. are not met, an unnecessary hardship will be deemed to exist if, and only if:

B. Owing to the 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 necessary to enable a reasonable use of the property:

_____ _____

Yes No

If the answer to questions 1, 2, 3, 4 and 5 (5A or 5B) is "yes," the variance should be granted.

If the applicant fails to meet any one of the five variance requirements (1, 2, 3, 4 and/or 5), it cannot be legally granted and should be denied. Note: The applicant only needs to meet either 5A or 5B to satisfy criteria 5.

CIVILWORKS NEW ENGLAND

181 WATSON ROAD
P.O. BOX 1166 DOVER, NH 03821-1166
PHONE: 603.749.0443

January 6, 2025

Keith Thibault, Chair
Town of Swanzey - Zoning Board of Adjustment
620 Old Homestead Hwy - PO Box 10009
Swanzey, NH 03446

RE: Proposed Drive-Through Restaurant – Map 220, Lot 5 - Special Exception
CNE Reference No. 23150

Dear Chairperson Thibault and Members of the Board:

On behalf of Black Belt, LLC, Civilworks New England (CNE) hereby submits documents in support of a Special Exception for a drive-through at a restaurant proposed in the Business District at Marcy Hill Road and Monadnock Highway (Rte. 12) on Tax Map 220, Lot 5. This request is being made in accordance with the terms of Section V, Article B.2.g. of the Zoning Ordinance.

The subject parcel has frontage on each of the two roads mentioned above. However, the access/egress driveways are being proposed at Marcy Hill Road only based on informational meetings with the Town. The proposed use is consistent with the intent of the Business District as stipulated in the Zoning Ordinance and the proposed design meets or exceeds the requirements of Zoning Ordinance Section III. Z. Drive-Through Facility.

The following documents are enclosed in support of the application:

- Application for Special Exception
- Site Plan prepared by CNE dated 1/6/25
- Abutters List and labels

It is our understanding that this proposal will be considered by the Board at its' public hearing on January 27, 2025. Also, we understand that we will be invoiced for the full application fee amount that must be paid before the hearing. Please contact our office if any additional information is required in advance of the meeting.

Thank you for your consideration of this matter.

Very truly yours,

CIVILWORKS NEW ENGLAND





Mark E. Beaudry, PE
Senior Associate/Sr. Project Manager

Stephen J Haight, PE
President

Copy: Black Belt, LLC

APPLICATION FOR SPECIAL EXCEPTION **MAP:** 220 **LOT:** 5
TOWN OF SWANZEY (Revised 8/22)

To: Board of Adjustment, Town of Swanzey:

NAME OF APPLICANT:	**MAILING ADDRESS OF APPLICANT:**
BLACK BELT, LLC	59 BONANNO COURT METHUEN, MA 01844
Contact phone number:	
OWNER OF PROPERTY: (If same as applicant, write "same")	**MAILING ADDRESS OF OWNER:** (If same as applicant, write "same")
SAME	SAME

LOCATION OF PROPERTY (Give Zoning District in which located & current street address)

TAX MAP 220, LOT 5 - MONADNOCK HIGHWAY (NH ROUTE 12) & MARCY HILL ROAD

ZONING: BUSINESS DISTRICT

FEES:

- Application fee: $75
- Current rates for Keene Sentinel Legal Notices
- $10/abutter certified mail notice

Fees will be billed and **must** be paid prior to public hearing.

1. ☑ **SITE PLAN –** The site plan need not be done professionally, but **must** be to scale; the scale should be appropriate for the size of the project & the plan must be readable. Plans must indicate the size of the lot in acres or square feet, show the placement of all **existing** and **proposed** buildings on the lot and include setbacks required by the zoning ordinance. The plan must include a written and visual depiction of the scale used.

2. ☑ If applicable, indicate on the Site Plan the location of:

- Septic system and/or leach field
- Water supply
- Curb cuts
- Parking area (and size of parking spaces)
- Waterways
- Wetland areas
- Tree lines
- Drainage ways
- Loading docks
- Underground tank locations
- Impervious surfaces

It is the applicant's responsibility for including all information on the plan that is pertinent to their application and proposed project.

3. ☑ Attach completed and up-to-date listing of ALL abutters with addresses.

4. ☑ Provide a brief description of the project/request.

A Special Exception is requested from the terms of Section V, Article B. 2. g. of the Zoning Ordinance of the Town of Swanzey.

FACTS IN SUPPORT OF GRANTING THE SPECIAL EXCEPTION:

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

The proposed use on the subject parcel is consistent with the Dunkin' restaurant located in the Business District at 47 Monadnock Highway. That existing business includes a drive-through. The business at 47 Monadnock Highway has access/egress driveways on both Route 12 and Park Street where, in the case of the proposed development, no access/egress driveway is proposed onto Route 12.

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

The proposed building site is entirely within the Business District with the access/egress driveway being approximately 200 feet from the beginning of the Residential zoning district along Marcy Hill Road. The proposed use is consistent with the intent of the Business District as stipulated in Zoning Ordinance Section II.A.4.

3. There will be no nuisance or serious hazard to vehicle or pedestrians because:

Access to, and egress from the development site is proposed along a straight and level section of Marcy Hill Road and will be subject to stop sign controls. Adequate sight distance for the posted 40 MPH speed limit appears to be provided for vehicles turning out of, or into, Marcy Hill Road tooling to the northwest and southeast according to distances established by AASHTO for stopping sight distance and intersection site distance. No sidewalks currently exist on the roadways in the area of this site, nor are any being proposed. However, appropriate on-site pedestrian facilities are being provided for the development.

4. Adequate and appropriate facilities will be provided for the proper operations of the proposed use because:

The proposed design meets or exceeds the requirements of Zoning Ordinance, Section III.Z. Drive-Through Facility.

Signature of Applicant

Date: 11/3/2025

BLACK BELT LLC

Signature of Property Owner

Date: 11/3/2025

THIS SPECIAL EXCEPTION IS HEREBY:

☐ **GRANTED** ☐ **DENIED**

by the Swanzey Zoning Board of Adjustment. The following are reasons and/or conditions:

CHECKLIST FOR GRANTING A SPECIAL EXCEPTION
(for use by Swanzey Zoning Board of Adjustment)

The Board of Adjustment shall have the power to hear and decide Special Exceptions to the terms of the Zoning Ordinance, and in doing so, may grant approval in appropriate cases and subject to appropriate conditions and safeguards for the protection of the public health, safety, and welfare. Special Exceptions may be approved if the Board finds in the affirmative that:

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

_____ _____
Yes No

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

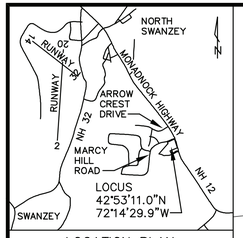
_____ _____
Yes No

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

_____ _____
Yes No

4. Adequate and appropriate facilities will be provided for the proper operations of the proposed use

_____ _____
Yes No



LOCATION PLAN
1" = 5,000'±

MARCY HILL ROAD

75' WETLAND SETBACK

STOP SIGN AND STOP BAR

SIGN "STOP"

SIGN "MARCY HILL RD."

20'R

10'R

LOT LINE

30' SETBACK

DRIVE THRU LANE

36'

PROPOSED CONC. CHAMBER LEACH FIELD

32'

24'

75' WETLAND SETBACK

15'

20'

20'

PROPOSED PYLON SIGN

SBC

18'

8'R

3'R

9' (TYP)

PROPOSED 5' WIDE CONCRETE SIDEWALK

PROPOSED RAMP WITH TIP-DOWN CURB

24'

STOP SIGN AND STOP BAR

LOT LINE

PROPOSED TIP-DOWN CURB

22'

PROPOSED RAMP

5'R

SGC

ICC

11'

11'

END SBC BEGIN ICC

30' SETBACK

1 STORY DRIVE-UP ±2,380 S.F. RESTAURANT

PROPOSED PAINTED ISLAND

DRIVE-THRU WINDOW TYP. (2)

PROPOSED R7-B & R7-8A SIGN IN BOLLARD

END ICC BEGIN SGC

PROPOSED SINGLE WHITE LANE LINE 42'

PROPOSED WET POND STORMWATER BASIN

20' SETBACK

FUTURE LOT LINE

PROPOSED TIP-DOWN CURB

END SBC

END SGC BEGIN PCC

BEGIN SBC END PCC

12'

22'

15'R

12'R

54'R

PROPOSED OVERHANG CANOPY TYP.

BEGIN SBC

END SGC BEGIN PCC

BEGIN SGC END PCC

PROPOSED 11'x52' CONCRETE PAD

PROPOSED CONCRETE DUMPSTER PAD

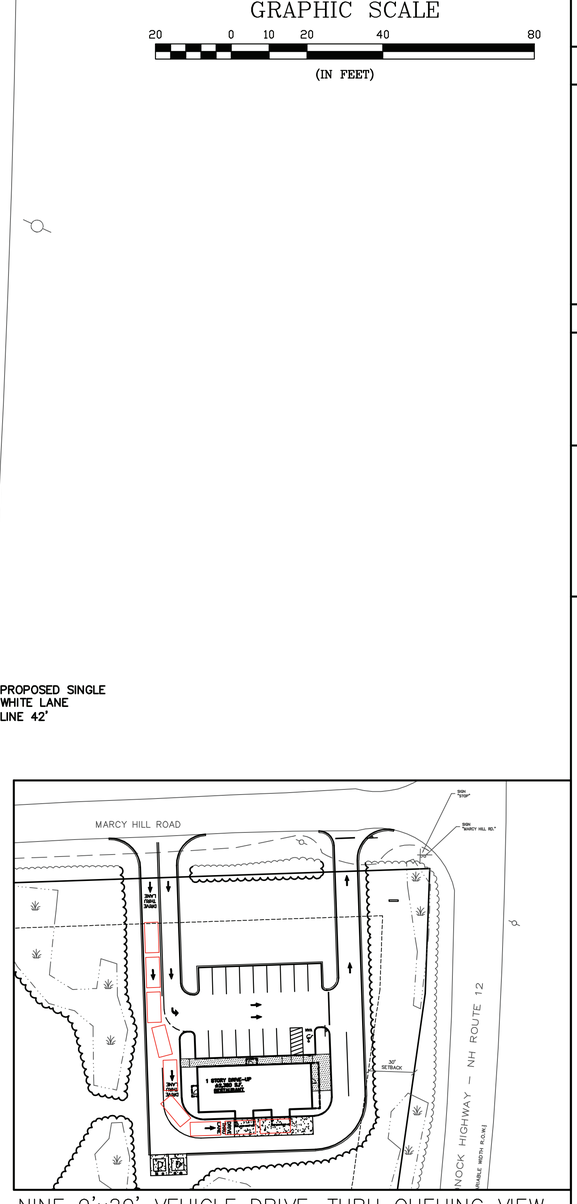
PROPOSED BOLLARD (TYP OF 4)

30' SETBACK

FUTURE LOT LINE

MONADNOCK HIGHWAY – NH ROUTE 12

{PUBLIC; VARIABLE WIDTH R.O.W.}



NINE 9'x20' VEHICLE DRIVE-THRU QUEUING VIEW
SCALE: 1"=50'

GRAPHIC SCALE
20 0 10 20 40 80
(IN FEET)

NOT FOR CONSTRUCTION FOR PERMIT USE ONLY

CIVILWORKS NEW ENGLAND
CIVIL & WATERSHED ENGINEERING
181 Watson Road, PO Box 1166
Dover, New Hampshire 03821
603.749.0443

NO.	REVISION	APP'D	DATE

DATE: 1-6-25
SCALE: 1"=20'
DRAWN BY: MJM
DESIGN BY: MEB
APPROVED BY:MEB
PROJECT NO: 23150
FILE: SITE.DWG

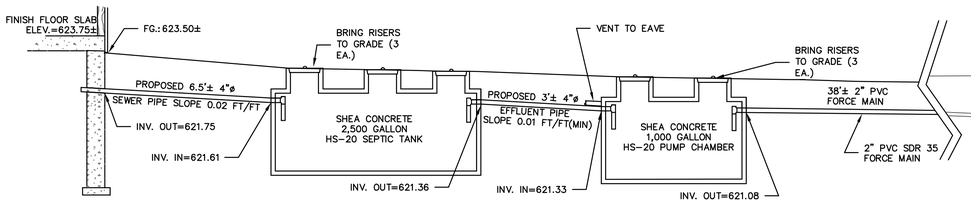
THE STATE OF NEW HAMPSHIRE
MARK E. BEAUDRY No. 7101 LICENSED PROFESSIONAL ENGINEER
1/6/25

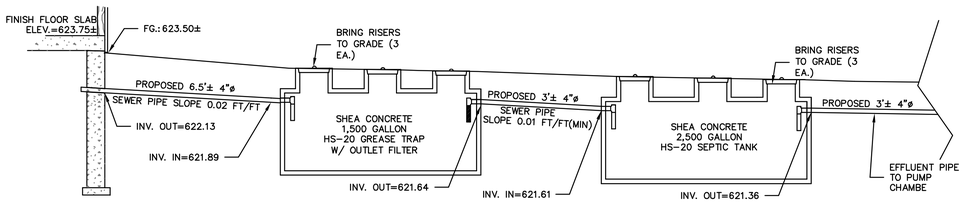
BLACK BELT LLC
59 BONANNO COURT
METHUEN, MA 01844

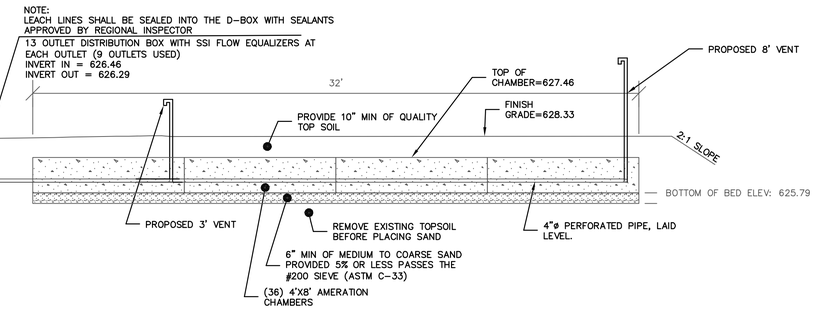
PROPOSED DRIVE-UP RESTAURANT
MONADNOCK HIGHWAY &
MARCY HILL ROAD
TAX MAP 220, PARCEL 5A
SWANZEY, NH

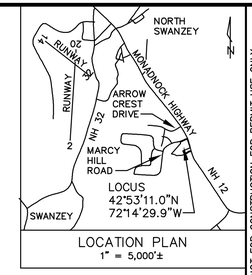
SITE PLAN

1



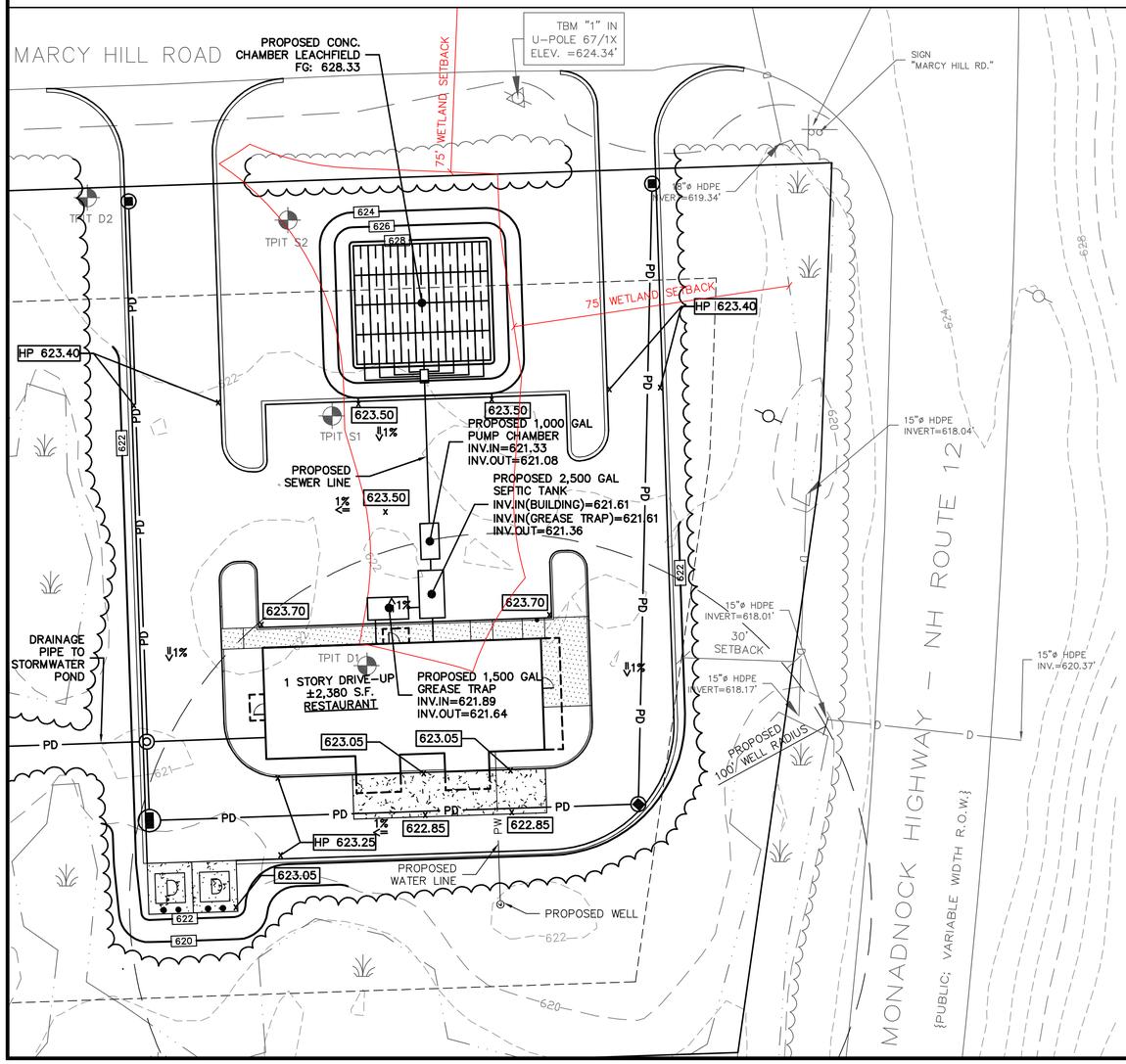






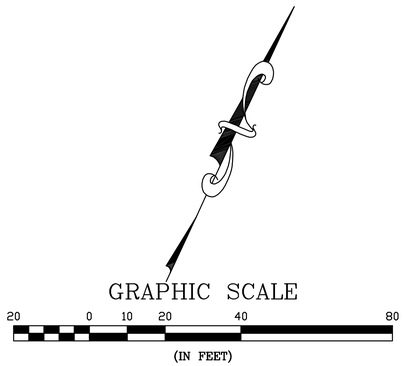
NOTES:

1. INLET AND OUTLET JOINTS TO SEPTIC TANK ARE TO BE SEALED WITH A NON-SHRINK MORTAR.
2. ALL INVERT ELEVATIONS AND GRADES ARE REFERENCED FROM T.B.M.
3. SEPTIC TANK AND DISTRIBUTION BOX ARE TO BE SUPPLIED BY: SHEA CONCRETE (603)942-5668, OR APPROVED EQUAL
4. DESIGNER SHALL BE NOTIFIED OF ANY CONDITIONS CONTRARY TO THOSE DEPICTED ON THIS PLAN
5. DISTRIBUTION BOX SHALL HAVE A VELOCITY TEE AT THE INLET PORT AND FLOW EQUALIZERS INSTALLED IN THE OUTLET PORTS.



LEGEND

S.F.	SQUARE FEET
Ac.	ACRE
±	MORE OR LESS
(TYP.)	TYPICAL
TBR	TO BE REMOVED
TBS	TO BE SET
	EXISTING UTILITY POLE
	EXISTING SIGN
	EXISTING WATER SHUT-OFF
	EXISTING WATER VALVE
	EXISTING HYDRANT
S	EXISTING SEWER MANHOLE
D	EXISTING DRAINAGE MANHOLE
	EXISTING CATCHBASIN
5'R	PAVEMENT RADIUS
x 74.00	EXISTING SPOT GRADE
----94----	EXISTING GRADE
OHW	OVERHEAD WIRES
OHE	EXISTING OVERHEAD ELECTRIC
W	EXISTING WATER LINE
S	EXISTING SEWER LINE
D	EXISTING DRAINAGE LINE
	PROPOSED SIGN
	PROPOSED EDGE OF PAVEMENT
	PROPOSED TREELINE
	SILT BARRIER
PW	PROPOSED WATER
PE	PROPOSED ELECTRIC
PD	PROPOSED DRAIN LINE
RD	PROPOSED ROOF DRAIN
	PROPOSED HYDRANT
	PROPOSED WATER SHUT-OFF
	PROPOSED GATEVALVE



DESIGN CRITERIA
PERCOLATION TEST RESULTS 10 MIN./IN.

LOT LOADING: LOT SIZE: 1.8 AC./ 100' WELL RADIUS: 0.72 AC./ WETLAND AREAS: 0.26 AC.
1.8 AC-0.72 AC-0.26 AC = 0.82 AC
LOT SIZE=(Q/2000) x SEWAGE LOADING FACTOR
SEWAGE LOADING FACTOR = DUANE VARIANT = GROUP 3, SLOPE 0-8% = 1.6
MAX Q = (0.82 AC x 2000)/1.6 = 1,025 GPD

SIZE OF LEACHING AREA PER TABLE 1016-1 = (1,025 GPD/100)*185 = 1,896.25 SF*0.6 (FOR CHAMBERS) = 1137.75 SF IS REQUIRED / 32 SF CHAMBER = 36 CHAMBERS
BED DIMENSIONS = 36' X 32' = 1152 SF IS PROVIDED

DESIGN INTENT: PROVIDED THE BOTTOM OF THE CHAMBERS SHALL BE CONSTRUCTED AT ELEVATION 625.79 WHICH IS APPROXIMATELY 3.17' ABOVE THE HIGH POINT (622.62) OF THE EDA AND SHALL MAINTAIN A MINIMUM OF 4.' SEPARATION FROM ESHWT.

DATUM: ASSUMED
NHDES SUBDIVISION APPROVAL NO.: PENDING

SOILS DATA
22C-COLTON GRAVELLY SANDY LOAM, 8 TO 15 PERCENT SLOPES
395-CHOCORUA MUCKY PEAT
SOIL SURVEY OF CHESHIRE COUNTY, NEW HAMPSHIRE. PREPARED BY NATURAL RESOURCES CONSERVATION SERVICE WEB SOIL SURVEY, VERSION 28, DATED: SEPT 3, 2024

TEST PIT DATA
TEST PIT NO. S2 (8/13/2024- LOGGED BY: LUKE HURLEY, CSS #095

DEPTH (IN)	DESCRIPTION
00-10	10YR 3/2 SAND, SINGLE GRAIN, LOOSE
10-24	10YR 4/3 SAND, SINGLE GRAIN, LOOSE, REDOX 20%
24-36	10YR 3/4 SAND, SINGLE GRAIN, LOOSE, REDOX 20%

ESHWT=10"
REFUSAL: NONE, ROOTS: 10", OBSERVED WATER: 30"
PER. RATE= 10 MIN/IN AT 24 INCHES

NOTES

1. THE GENERAL CONTRACTOR IS TO BE RESPONSIBLE FOR HORIZONTAL AND VERTICAL CONTROL OF ALL SYSTEM COMPONENTS.
2. THIS PLAN IS TO SHOW THE DESIGN OF THE SUBSURFACE SEWAGE DISPOSAL SYSTEM ONLY. THE SYSTEM IS DESIGNED FOR FLOWS ESTIMATED UNDER DESIGN CRITERIA.
3. SYSTEM IS DESIGNED ONLY TO ACCOMMODATE SANITARY SEWAGE ASSOCIATED WITH NORMAL COMMERCIAL USAGE AND CONSISTING OF WATER-CARRIED PUTRESCIBLE WASTE.
4. THE SYSTEM IS NOT DESIGNED FOR GARBAGE GRINDERS.
5. THE SYSTEM SHALL BE VENTED THROUGH BUILDING PLUMBING AS REQUIRED BY BUILDING CODE.
6. APPLICABLE ZONING REGULATIONS SHALL BE CONFIRMED BY THE OWNER PRIOR TO CONSTRUCTION.
7. THE PLANS SHOW ONLY THOSE FEATURES THAT WERE VISUALLY APPARENT ON DATE OF TOPOGRAPHY AND THE ABSENCE OF SUBSURFACE STRUCTURES, UTILITIES, ETC. IS NOT INTENDED OR IMPLIED.
8. THE INSTALLER OF THIS SYSTEM MUST BE LICENSED BY THE STATE OF NEW HAMPSHIRE.
9. THERE ARE NO KNOWN EXISTING WELLS WITHIN 75 FEET OF THE PROPOSED SEWAGE DISPOSAL SYSTEM.
10. DISPOSAL SYSTEM AREAS ARE TO BE RAKED (SCARIFIED) BEFORE INSTALLATION OF CHAMBERS. ALL STONES EXCEEDING 2 INCHES IN DIAMETER, ALL LOAM, OR FOREIGN MATERIALS ENCOUNTERED DURING EXCAVATION ARE TO BE REMOVED FROM THE LEACHING AREA BED SURFACE.
11. FINISHED SURFACE OF THE LEACHING AREA SHALL BE GRADED TO ASSURE WATER RUNOFF (2% MINIMUM SLOPE).
12. ALL DISTURBED AREAS TO BE LOAMED, SEEDED, AND MAINTAINED TO PREVENT EROSION. PROVIDE 10" MINIMUM OF QUALITY TOP SOIL.
13. THE SEPTIC TANK SHOULD BE PERIODICALLY INSPECTED AND MAINTAINED AND SHOULD BE PUMPED WHEN SLUDGE IN THE BOTTOM EXCEEDS ¼ OF THE DEPTH.
14. ALTERNATE MANUFACTURERS FOR CONCRETE STRUCTURES AND EQUIPMENT SHOWN ON THESE PLANS MAY BE USED UPON THE WRITTEN APPROVAL OF THE DESIGN ENGINEER. ALTERNATE MANUFACTURERS WILL NOT BE USED IF THE USE OF THEIR EQUIPMENT REQUIRES DESIGN CHANGES.
15. IF ANY PART OF THIS DESIGN IS TO BE ALTERED IN ANY WAY, THE DESIGN ENGINEER AS WELL AS THE APPROVING AUTHORITIES SHALL BE NOTIFIED IN WRITING BEFORE CONSTRUCTION.
16. ALL WORK IS TO COMPLY WITH THE STATE OF NEW HAMPSHIRE SANITARY CODE FOR SUBSURFACE SEWAGE DISPOSAL SYSTEMS, AND ANY LOCAL BOARD OF HEALTH SUPPLEMENTARY REGULATIONS.
17. THE LOCAL BOARD OF HEALTH AGENT AND/OR STATE INSPECTOR WILL CONDUCT PERIODIC INSPECTIONS AS NEEDED.
18. THESE PLANS AND SPECIFICATIONS ARE INTENDED TO BE EXPLANATORY OF THE WORK TO BE DONE AND OF EACH OTHER, BUT SHOULD ANY OMISSION, ERRORS OR DISCREPANCIES APPEAR, THEY SHALL BE SUBJECT TO CORRECTION AND INTERPRETATION BY THE DESIGN ENGINEER THEREBY DEFINING AND FULFILLING THE INTENT OF THE PLANS.

NOT FOR CONSTRUCTION FOR PERMIT USE ONLY

CNE
CIVILWORKS NEW ENGLAND
CIVIL & WASTEWATER ENGINEERING
181 Watson Road, PO Box 1166
Dover, New Hampshire 03821
603.749.0443

NO.	REVISION	APP'D	DATE

DATE: 1-6-25
SCALE: 1"=20'
DRAWN BY: MJM
DESIGN BY: MJM
APPROVED BY:MEB
PROJECT NO: 23150
FILE: SITE.DWG

BLACK BELT LLC
59 BONANNO COURT
METHUEN, MA 01844

PROPOSED DRIVE-UP RESTAURANT
MONADNOCK HIGHWAY &
MARCY HILL ROAD
TAX MAP 220, PARCEL 6A
SWANZEY, NH

SEPTIC SYSTEM PLAN

SS-1

TOWN OF SWANZEY

OFFICE OF PLANNING AND COMMUNITY DEVELOPMENT

Phone: 603-352-7411 ext. 108
Email: planner@swanzeynh.gov
Web: www.swanzeynh.gov
Address: 620 Old Homestead Hwy

Memorandum – Office of Planning & Economic Development

TO: Zoning Board of Adjustment

FROM: Adam Paquette, Town Planner

DATE: February 18, 2025

RE: ZBA 25-003 – Variance – Map 209 Lot 4

ZBA 25-004 – Variance – Map 209 Lot 1

Background:

ZBA 25-003

Fieldstone Land Consultants, PLLC, on behalf of Sapphire Business Park, LLC, is requesting a variance pursuant to the proposed amendment to Section VII, Article D of the Zoning Ordinance to allow a wetland crossing to access a large dry upland area. The subject property is shown at Tax Map 209, Lot 4 and is in the Industrial Park District. Notice of Public Hearing was mailed to abutters on February 11 and notice was published in the Keene Sentinel on February 25.

ZBA 25-004

Fieldstone Land Consultants, PLLC, on behalf of Old Homestead Highway Realty, LLC, is requesting a Variance pursuant to the proposed amendment to Section VII, Article D of the Zoning Ordinance to allow a wetland crossing to access a large dry upland area. The subject property is shown at Tax Map 209, Lot 1 and is located in the Industrial Park District. Notice of Public Hearing was mailed to abutters on February 11 and notice was published in the Keene Sentinel on February 25.

Discussion:

The reason for these variance requests stems from RSA 676:12, which reads:

676:12 Building Permits to be Withheld in Certain Cases. –
I. The building inspector shall not issue any building permit within the 120 days prior to the annual or special town or village district meeting if:
(a) Application for such permit is made after the first legal notice of proposed changes in the building code or zoning ordinance has been posted pursuant to the provisions of RSA 675:7; and
(b) The proposed changes in the building code or the zoning ordinance would, if adopted, justify refusal of such permit.
II. After final action has been taken on the proposed changes in the building code or zoning ordinance, the building inspector shall issue or refuse to issue a permit which has been held in abeyance under this section pursuant to a final action under this section.
III. The provisions of paragraph I shall not be applicable in a city or in a county in which there are

located unincorporated towns or unorganized places unless the governing body of the city or the county votes by majority vote to be subject to the provisions of such paragraph.
IV. The building inspector may be authorized by the local legislative body to issue a temporary occupancy permit not to exceed 30 days, which may be extended at the discretion of the building inspector.
V. No building permit shall be denied on the grounds of uncompleted streets or utilities when the construction of such streets or utilities has been secured to the municipality by a bond or other security approved by the planning board pursuant to RSA 674:36, III or RSA 674:44, IV; provided, however, that on land which is part of a subdivision plat or site plan, no building shall be used or occupied prior to the completion of required streets and utilities, except upon such terms as the planning board may have authorized as part of its decision approving the plat or site plan.
VI. The provisions of paragraph I shall not apply to any plat or application which has been the subject of notice by the planning board pursuant to RSA 676:4, I(d) prior to the first legal notice of a proposed change in a building code or zoning ordinance or any amendment thereto. No proposed subdivision or site plan review or zoning ordinance or amendment thereto shall affect a plat or application which has been the subject of notice by the planning board pursuant to RSA 676:4, I(d) so long as said plat or application was the subject of notice prior to the first legal notice of said change or amendment. The provisions of this paragraph shall also apply to proposals submitted to a planning board for design review pursuant to RSA 676:4, II(b), provided that a formal application is filed with the planning board within 12 months of the end of the design review process.

The Amendment that would eliminate wetland crossings as an approved use is under Article 2, Amendment 9, shown below:

Amendment No. 9 Are you in favor of the adoption of Amendment No. 9 as proposed by the Planning Board, to amend the Swanzey Zoning Ordinance as follows:

Amend Section VII, Article D to read as follows:

D. USES PERMITTED

Uses permitted in the Wetlands Conservation District, provided that all required permits have been obtained, are as follows:

1. ~~Water impoundments, to the extent that wildlife considerations will allow and construction of wells for water supply~~ *Construction of wells for water supply, or man-made ponds as permitted by NH Dept. of Environmental Services.*

~~2. Drainage ways, streams, creeks or other paths of normal runoff water~~

2. Wildlife habitat development and management.

~~4. Parks and such recreation uses as are consistent with the purpose and intent of Section C~~ ***3.*** *Conservation areas and footpaths, footbridges and boardwalks providing for pedestrian recreational uses such as fishing, hunting, hiking, birdwatching and nature study, provided:*

a. *Said structures are constructed so as to permit the unobstructed flow of water and;*

b. *The natural contour of the wetlands is preserved.*

~~5. Conservation areas and natural trails;~~

4. Open spaces as permitted by subdivision regulations and other sections of the Ordinance.

~~6. Forestry and Tree Farming in Wetlands~~ ***5.*** *Forest management and tree farming within 75 ft. of wetlands, consistent with best management practices published by the NH Department of Resources and Economic Development and UNH Cooperative Extension.*

~~**8.** Agriculture in wetlands;~~ ***6.*** *Agriculture within 75 ft. of wetlands, where it does not impair the function and values in the adjacent wetlands, consistent with best management practices published by the NH Department of Agriculture, Markets and Food.*

~~**9.** The Construction or reconstruction of fences, footbridges, catwalks, wharfs, and structures that enhance the site as wildlife habitat provided:~~

~~**a.** Said structures are constructed so as to permit the unobstructed flow of water, and;~~

~~**b.** The natural contour of the wetlands is preserved.~~

~~**10.** Alteration of the surface configuration of the land by filling or dredging provided that:~~

~~**a.** The alteration enhances the wetland wildlife aspect of the site; and~~

~~**b.** The natural contour of the wetland is preserved.~~

~~**11.** Construction of streets, roads and other access ways, and pipelines, powerlines and other transmission lines.~~ ***7.*** *Maintaining, repairing or replacing existing and lawfully located structures, public utilities, streets, roads, and accessways, provided that the work conforms to the general standards adopted in this section.*

Map 209 Lot 4 is 6.88 Acres and meets frontage requirements. Please refer to the plan for the exact location of the proposed wetland crossing.

Map 209 Lot 1 is 19 acres and meets frontage requirements. Please refer to the plan for the exact location of the proposed wetland crossing. There is a proposed subdivision of this lot scheduled for the Planning Board meeting on February 27. If approved, the lot would still meet minimum requirements of the Industrial Park zone.

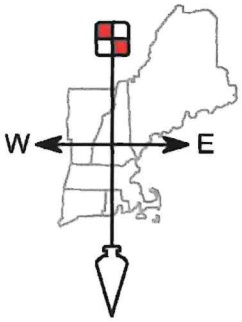
Department Head and Staff Review:

Department Heads were notified of the application on February 11. No comments have been received at the time of this memo.

Attachments:

A. Variance Application
B. Dept. Head Review
C. Aerial Map and Tax Map

LETTER OF TRANSMITTAL



FIELDSTONE LAND CONSULTANTS, PLLC

Surveying ✦ Engineering
Land Planning ✦ Septic Designs

206 Elm Street, Milford, NH 03055 - Phone: 603-672-5456 - Fax: 603-413-5456
www.FieldstoneLandConsultants.com

To: Mr. Stephon Mehu
Town of Swanzey
620 Old Homestead Highway
Swanzey, NH 03446

Date: February 3, 2025

Re: Asher Construction, LLC - Applicant
Sapphire Business Park, LLC - Owner
Variance Application
Tax Map Parcel 209-4 - Safford Drive - Swanzey, NH

WE ARE SENDING YOU ■ Attached ❒ Under separate cover via _____ the following items:

❒ Shop drawings ■ Prints ■ Plans ❒ Samples ❒ Specifications

❒ Copy of letter ❒ Change order ❒ _____.

COPIES	DATE	NO.	DESCRIPTION
1			Variance Application & Narrative
1			Submission Fees (To be determined by Swanzey Planning Department)
1			Abutters List & Labels
1			Letters of Authorization
1			ZBA Exhibit (22"x34")
1			Electronic Copy of all submittals above

THESE ARE TRANSMITTED as checked below:

■ For approval ❒ Approved as submitted ❒ Resubmit ____ copies for approval

❒ For your use ❒ Approved as noted ❒ Submit ____ copies for distribution

❒ As requested ❒ Returned for corrections ❒ Return ____ corrected copies

■ For review and comment ❒ _____.

❒ FOR BIDS DUE: ❒ PRINTS RETURNED AFTER LOAN TO US

REMARKS:
We are submitting the above listed items for the next Zoning Board meeting on February 24th. Please let me know if you need any additional submission materials or have any questions. Thank you,

Daniel E Barowski
Daniel Barowski

Project No. 3738.00

APPLICATION FOR VARIANCE
TOWN OF SWANZEY (New 1/10; Revised 8/22)

MAP: 209 **LOT:** 4

To: Board of Adjustment, Town of Swanzey:

NAME OF APPLICANT:	**MAILING ADDRESS OF APPLICANT:**
Asher Construction, LLC	77 Nashua Road - PO Box 705 Sharon, NH 03458
Contact phone number:	
OWNER OF PROPERTY: (If same as applicant, write "same")	**MAILING ADDRESS OF OWNER:** (If same as applicant, write "same")
Sapphire Business Park	77 Nashua Road - PO Box 705 Keene, NH 03431
LOCATION OF PROPERTY (Give Zoning District in which located & current street address)	
Safford Drive - Industrial Park District, ERZ & TIF district	

FEES:

- Application fee: $75
- Current rates for Keene Sentinel Legal Notices
- $10/abutter certified mail notice

Fees will be billed and **must** be paid prior to public hearing.

1. ☑ **SITE PLAN –** The site plan need not be done professionally, but **must** be to scale; the scale should be appropriate for the size of the project & the plan must be readable. Plans must indicate the size of the lot in acres or square feet, show the placement of all **existing** and **proposed** buildings on the lot and include setbacks required by the zoning ordinance. The plan must include a written and visual depiction of the scale used.

2. ☑ If applicable, indicate on the Site Plan the location of:
   - septic system and/or leach field
   - water supply
   - curb cuts
   - parking area (and size of parking spaces)
   - waterways
   - wetland areas
   - tree lines
   - drainage ways
   - loading docks
   - underground tank locations
   - impervious surfaces

It is the applicant's responsibility for including all information on the plan that is pertinent to their application and proposed project.

3. ☑ Attach completed and up-to-date listing of ALL abutters with addresses.

4. ☑ Provide a brief description of the project/request.

A Variance is requested from the terms of Section VII, Article D of the Zoning Regulations of the Town of Swanzey.

FACTS IN SUPPORT OF GRANTING THE VARIANCE:

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

Please see attached narrative

2. Granting the variance would observe the spirit of the ordinance because:

Please see attached narrative

3. Granting the variance would do substantial justice because:

Please see attached narrative

4. Granting the variance would not diminish the values of surrounding properties because:

Please see attached narrative

5. Unnecessary Hardship
Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because:

The "Special Conditions" of this property that distinguish it from other properties in the area are as follows:

Please see attached narrative

A. Owing to the special conditions of the property as set forth above 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 because:

Please see attached narrative

and

ii. The proposed use is a reasonable one because:

Please see attached narrative

If the criteria in subparagraph A.i. **and** A.ii. are not established, an unnecessary hardship will be deemed to exist if, and only if:

B. Owing to special conditions of the property as set forth above 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 the property because:

Please see attached narrative

Note: The definition of "unnecessary hardship" set forth in subparagraph 5 shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

David E Baranski Date: 2/3/25
Signature of Applicant

- SEE ATTACHED LETTERS OF AUTHORIZATION -

David E Baranski Date: 2/3/25
Signature of Property Owner

THIS VARIANCE IS HEREBY:

☐ **GRANTED** ☐ **DENIED**

by the Swanzey Zoning Board of Adjustment. The following are reasons and/or conditions:

CHECKLIST FOR GRANTING A VARIANCE
(for use by Swanzey Zoning Board of Adjustment)

1. Could the variance be granted without being contrary to the public interest?

_____ Yes _____ No

2. Would the spirit of the ordinance be observed if the variance were granted?

_____ Yes _____ No

3. Would granting the variance do substantial justice?

_____ Yes _____ No

4. Could the variance be granted without diminishing surrounding property values?

_____ Yes _____ No

5. Do special conditions of the property exist that distinguish it from other properties in the area?

_____ Yes _____ No

A.i. Owing to the special conditions of the property that distinguish it from other property in the area, there is not a fair and substantial relationship between the general public purpose of the ordinance and the specific application of the provision to the property?

_____ _____

Yes/Agree No

And

A.ii. Is the proposed use a reasonable one?

_____ _____

Yes No

If the criteria in subparagraph A.i. **and** A.ii. are not met, an unnecessary hardship will be deemed to exist if, and only if:

B. Owing to the 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 necessary to enable a reasonable use of the property:

_____ _____

Yes No

If the answer to questions 1, 2, 3, 4 and 5 (5A or 5B) is "yes," the variance should be granted.

If the applicant fails to meet any one of the five variance requirements (1, 2, 3, 4 and/or 5), it cannot be legally granted and should be denied. Note: The applicant only needs to meet either 5A or 5B to satisfy criteria 5.

FIELDSTONE
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206 Elm Street, Milford, NH 03055 - Phone: 603-672-5456 - Fax: 603-413-5456
www.FieldstoneLandConsultants.com

VARIANCE CRITERIA

(VARIANCE FROM ARTICLE VII, SECTION D – Wetland Conservation District Permitted Uses)
Tax Map Parcel 209-4
Safford Drive, Swanzey, NH

January 31, 2025

Prepared For:
Sapphire Business Park, LLC
Asher Construction, LLC

A Variance is requested under Article VII, Section D - Wetland Conservation District Permitted Uses - of the Swanzey Zoning Ordinance to permit a wetland crossing to access a large dry upland area of Tax Map Parcel 209-4. The lot is located in the Industrial Park District, as well as the Wetlands Conservation District, the Economic Revitalization Zone and the Tax Increment Financing District. The subject property is vacant and consists of 6.88 acres of land with frontage on Safford Drive. The lot is bisected by jurisdictional wetlands. There is a small neck of wetlands extending into the dry upland area, which serves to separate two large dry buildable areas. A commercial development is proposed, utilizing both dry upland areas. A wetland crossing will be necessary to join the two usable portions of lot 209-4, requiring relief from the proposed warrant article which strikes construction of access ways as a permitted use in the Wetlands Conservation District.

The numbered items below correlate to the questions asked in the Town Application for a Variance.

1. Granting the variance would not be contrary to the public interest because:
   The zoning of lot 209-4 is the Industrial Park district, as well as the ERZ and TIF districts. These districts exist to stimulate economic growth and facilitate business development. Lot 209-4 is well situated between Route 32 and Route 12, with a suitable area for commercial development and infrastructure on the lot. It serves the public interest to make the most of the tax investment that has been put into this area over the past decade. Granting this variance will allow for the productive use of this lot. Town voters approved the creation of a property tax exemption program for new commercial and industrial construction in 2020, indicating the expansion of commercial opportunities in Swanzey is something the voters would like to see. Allowing for a wetland crossing to access to best utilize this lot will not change the character of the neighborhood or threaten the health safety or general welfare of the public. It is our belief that this proposal will have no negative impacts to the public – the proposed wetland crossing will meet all other local and state requirements. The crossing will be designed to minimize impacts, will utilize Best Management Practices and will require a permit from the Department of Environmental Services Wetlands Bureau. For all these reasons we believe granting this variance will not be contrary to public interest.

2. <u>If the variance were granted, the spirit of the ordinance would be observed because:</u>
We believe this proposed wetland crossing is reasonable and meets the spirit of the ordinance especially when you consider the responsible manner in which the crossing is proposed. One of the purposes of the Wetlands Conservation Ovelay district is to prevent development of structures and land uses on wetlands which would contribute to the pollution of surface and groundwater. By meeting all other local and state requirements with the proposed crossing, we believe we can safely join the usable portions of lot 209-4 without polluting or destroying wetlands. Another stated purpose of this district is to encourage those uses that can be appropriately and safely located in wetland areas – a responsibly built crossing would satisfy this purpose and would prevent the destruction of wetlands. State regulations would closely govern the installation and maintenance of any approved crossing. The wetland crossing will not threaten the health, safety, or welfare of the public. For these reasons we believe granting the variance required for our proposal would observe the spirit of the ordinance.

3. <u>Granting the variance would do substantial justice because:</u>
Granting this variance would allow for the productive development of a 6.88-acre lot. The proposal is to access the dry upland portion of the lot, where the most contiguous developable land exists. Denying this variance would essentially result in a land taking from the owner as a considerable portion of their property would be rendered useless since it is inaccessible in any meaningful way. The gain realized by the public in denying this wetland crossing is far outweighed by the benefit realized by both the property owner and the public by granting it. Allowing commercial development will stimulate economic growth and improve job-creating infrastructure. Granting this variance will not alter the essential character of the neighborhood or threaten the health safety or general welfare of the public. For this and all the reasons noted above we believe granting this variance would do substantial justice and allow for the productive use of a large tract of land. The current proposal is certainly a reasonable use of the property.

4. <u>If the variance were granted, the values of the surrounding properties would not be diminished because:</u>
This proposal consists of commercially developing a 6.88-acre parcel located in the TIF and ERZ districts – zones that were created specifically to facilitate business development and economic opportunities. The use is consistent with the zoning and the surroundings and will have no negative impacts on the surrounding properties. New development in these districts has helped increase the job base and increase property values. Since this proposal is consistent with neighboring properties and for the reasons stated above, we do not believe that this proposal would have any negative impact on the surrounding properties. It is our experience that new construction and development generally increases the surrounding property values.

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 purpose of the ordinance provision and the specific application of that provision to the property because:

The subject property is unique given its shape and location. Granting this variance would allow for the productive use of the property. The zoning for the proposed lot is the Industrial Park district, as well as the TIF and ERZ districts. It is our belief that the development of this property is reasonable and fair when you contemplate the purpose of the ordinance provision and the specific application of that provision to the property. This proposal seeks a variance to permit the creation of a wetland crossing to join the buildable portions of an existing 6.88-acre lot. The unique shape of the wetland areas on the lot requires a crossing, and denial of one would pose an unnecessary hardship for the owner. The strict application of the proposed zoning ordinance change would require the property owner to relinquish access and use of a large portion of their commercial/industrial land. The owner has a right to use and develop their land. Typically the New Hampshire Department of Environmental Services Wetlands Bureau is the governing entity on wetland impacts as they are granted permission from the Army Corps of Engineers to regulate this. The crossing as designed will meet all state and federal guidelines and minimizes impacts to jurisdictional wetlands. The proposed crossing can be constructed safely and responsibly, following state and local regulations. We therefore believe there is no fair and substantial relationship between the general public purpose of the ordinance provision and the specific application of that provision to the property. The regulation should seek to minimize wetland impacts but should not seek to violate landowners rights to access and reasonably use or develop properties.

      ii. The proposed use is a reasonable one because:

As stated above we believe that this proposal meets the spirit and intent of the ordinance as safe access can be provided via a wetland crossing. This proposal will also be consistent with its surroundings and will result in no negative impact to the public. It is our opinion that the proposed commercial development is reasonable as it will allow the utilization of the buildable dry portions of the property. The proposed use is allowed and encouraged in the industrial park district, and the proposed lot is suitable for such development. For this and all the reasons previously stated we believe that the proposed use and development are reasonable.

   B. If the criteria in subparagraph (A) are not established, explain how 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 the property because:

The subject parcel is 6.88-acres with frontage on Safford Drive, between Route 32 and Route 12. It is currently a vacant lot, and proposed to be commercially developed. We believe that the shape and location of the property, and the fact that it is bisected by large areas of wetlands are special conditions that distinguish it from other properties in the area. The unique shape of the wetlands limits the property's reasonable use and therefore a variance is necessary to cross them. Denying this variance would limit the development potential for a property in the town's ERZ and TIF districts where development should be promoted as significant resources have been spent and allocated to provide municipal sewer and water services to this area. Not allowing reasonable development would contradict all the past efforts and result in significant losses to the Town from a taxbase basis. The financial loss would also be significant to the landowner with no good cause as reasonable access to and use of one's property should always be contemplated in local regulations. Utilizing the entirety of the dry upland on the lot is the most sensible way to develop this property, as the owner has a right to do. We believe the proposed development is a reasonable use of the land and harmonious with the surrounding neighborhood. This crossing would minimize environmental impacts and would be designed to meet local, state, and federal requirements.

This information was prepared by:
Fieldstone Land Consultants, PLLC

David E Barowski

Daniel Barowski, SIT
Survey Project Manager

FIELDSTONE
LAND CONSULTANTS, PLLC
Surveying ✦ Engineering
Land Planning ✦ Septic Designs
206 Elm Street, Milford, NH 03055 - Phone: 603-672-5456 - Fax: 603-413-5456
www.FieldstoneLandConsultants.com

January 31, 2025

RE: Asher Construction, LLC – ZBA Variance Application (Applicant)
Safford Drive - Swanzey, NH
Tax Map 209 Lot 4

To Whom It May Concern:

The undersigned hereby authorizes Fieldstone Land Consultants, PLLC to act as their agent in filing and seeking the necessary local, state and federal approvals for the above referenced project.

Very truly yours,

Signature: _____ Print: Bow Olson Date 1/31/25

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206 Elm Street, Milford, NH 03055 - Phone: 603-672-5456 - Fax: 603-413-5456
www.FieldstoneLandConsultants.com

January 31, 2025

RE: Sapphire Business Park, LLC – ZBA Variance Application (Owner)
Safford Drive - Swanzey, NH
Tax Map 209 Lot 4

To Whom It May Concern:

The undersigned being the owner of the above referenced lot hereby authorizes Fieldstone Land Consultants, PLLC to act as their agent in filing and seeking the necessary local, state and federal approvals for the above referenced project.

Very truly yours,

Signature: _____ Print: Bon Olson Date 1/31/25

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February 03, 2025

FLC#3738.00 / JPA

List of Abutters
Tax Map 209 Lot Number 4
Swanzey, New Hampshire

Map 209 Lot 4
Sapphire Business Park, LLC
77 Nashua Road
P.O. Box 705
Sharon, NH. 03458

Map 209 Lot 20
Cheshire Fair Association
247 Monadnock Hwy
Swanzey, NH 03446-2143

Map 106 Lot 53
AOLIN Properties, LLC
P.O. Box 429
Keene, NH 03431

Map 106 Lot 52
Monadnock Homestead, LLC
233 Monadnock Hwy
Swanzey, NH 03446-2146

Map 106 Lot 78
James J. Murdough
32 James Rd
Swanzey, NH 03446-2000

State of NH Trails Bureau
172 Pembroke Road
Concord, NH 03301

Applicant:
Asher Construction, LLC
77 Nashua Rd
Sharon, NH 03458

Engineer:
Fieldstone Land Consultants, PLLC
206 Elm Street
Milford, NH 03055

CONTACT DIG SAFE
72 HOURS PRIOR
TO CONSTRUCTION
DIGSAFE.COM
OR DIAL 811
IT'S SMART, IT'S FREE, IT'S THE LAW
811 DigSafe MA ME NH RI VT

CONST. DETENTION BASIN
BOT.=600.0
BERM=604.0

INSTALL SILT FENCE (TYP)

CONST. OS1
RIM=603.0
4" ORIFICE=600.0
12" ORIFICE=601.0

40 LF, 12" HDPE,
S=0.025'/'
INV.IN=599.0
INV.OUT=598.0

INSTALL RIP-RAP APRON (TYP)

15" HDPE, 80 LF,
S=0.01'/'
INV.IN=604.5
INV.OUT=603.7

INSTALL DMH1
RIM=608.0
INV.IN=603.5
INV.OUT=604.5

INSTALL CB3
RIM=607.45
INV.OUT=603.5
15" PERF.HDPE,
45 LF, LAID LEVEL

NOTE: ALL STORMDRAIN LINES UNDER THE PARKING LOT ARE TO BE PERFORATED HDPE PLACED IN 1.5" STONE AND WRAPPED IN FILTER FABRIC.

CONST. HW1
INV.IN=604.25

INSTALL CB2
(DOUBLE GRATE)
RIM=607.0'
INV.OUT=603.5
15" PERF. HDPE,
100 LF, LAID LEVEL

INSTALL CB1
(DOUBLE GRATE)
RIM=607.0
INV.OUT=603.5
15" PERF. HDPE,
180 LF, LAID LEVEL

PROPOSED FOUNDATION DRAIN
INV.=607.0

FOUNDATION DRAIN
INV.=605.0

F.F.=608.5

F.F.=609.0

209-2

209-4
6.88 ACRES
299,569 SQ.FT.
696 FT. FRONTAGE

209-20

22E

22B

SAFFORD DRIVE

BENCHMARK

BENCHMARK

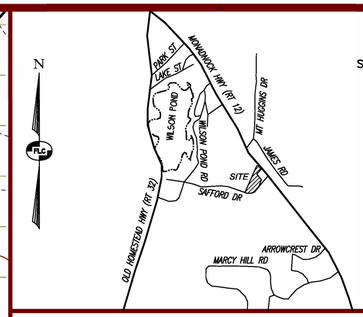
Change to correct owner

LEGEND:

PROPOSED FEATURES

- LOT LINE
- PAVEMENT SAWCUT LINE
- EDGE OF PAVEMENT
- CAPE COD BERM (CCB)
- (2) PARKING COUNT
- 492 2 FT. CONTOUR
- 490 10 FT. CONTOUR
- (492.5) SPOT ELEVATION
- CB# STORM WATER DRAINAGE
- DMH #1 STORM DRAIN MANHOLE
- LIMITS OF CLEARING
- DRAINAGE SWALE
- TEMPORARY SILT FENCE
- POLE MOUNTED LIGHT
- WALL MOUNTED LIGHT
- UGE UNDERGROUND ELECTRIC
- W WATER LINE
- UTILITY POLE
- UTILITY BOX LOCATION
- WATER SERVICE SHUT-OFF
- FLARED END SECTION (FES)
- TRAFFIC FLOW (NOT PAINTED ARROWS)
- SIGN
- STONE CHECK DAM
- INLET PROTECTION
- PROPOSED BUILDING
- S SEWER LINE
- SEWER MANHOLE

LOCUS
SCALE: 1"=1,000'±



CONSTRUCTION NOTES:

1. ALL WORK SHALL CONFORM TO THE APPLICABLE REGULATIONS AND STANDARDS OF THE TOWN OF SWANZEY AND SHALL BE BUILT IN ACCORDANCE WITH THE PLANS AND SPECIFICATIONS. THE TOWN OF SWANZEY DEPARTMENT OF PUBLIC WORKS SPECIFICATIONS FOR ROAD CONSTRUCTION AND SEWERS AND DRAINS AND THE NHDOT STANDARDS FOR ROAD AND BRIDGE CONSTRUCTION, LATEST EDITION ARE HEREBY INCORPORATED BY REFERENCE.
2. ROAD AND DRAINAGE CONSTRUCTION SHALL CONFORM TO THE TYPICAL SECTIONS AND DETAILS SHOWN ON THE PLANS AND THE SPECIFICATIONS NOTED ABOVE. ANY ALTERATION OF THIS DESIGN OR CHANGE DURING CONSTRUCTION MAY REQUIRE APPROVAL OF VARIOUS TOWN/CITY BOARDS OR AGENCIES AND SHALL BE DISCUSSED WITH THE OWNER AND ENGINEER PRIOR TO CONSTRUCTION.
3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING THE LOCATION, SIZE, AND ELEVATION OF ALL EXISTING UTILITIES SHOWN OR NOT SHOWN ON THESE PLANS AND SHALL VERIFY THAT ALL THE INFORMATION SHOWN HEREON IS CONSISTENT, COMPLETE, ACCURATE, AND CAN BE CONSTRUCTED PRIOR TO AND/OR DURING CONSTRUCTION. THE ENGINEER SHALL BE NOTIFIED IN WRITING OF ANY DISCREPANCIES, ERRORS, OMISSIONS, OR EXISTING UTILITIES FOUND INTERFERING WITH THE PROPOSED CONSTRUCTION SO THAT REMEDIAL ACTION MAY BE TAKEN BEFORE PROCEEDING WITH THE WORK.
4. THE CONTRACTOR SHALL BE RESPONSIBLE FOR CONTACT "DIGSAFE" AT LEAST 72 HOURS PRIOR TO THE START OF CONSTRUCTION (1-888-344-7233)
5. THE CONTRACTOR IS RESPONSIBLE FOR CONTACTING THE APPROPRIATE TOWN DEPARTMENTS PRIOR TO CONSTRUCTION TO ARRANGE FOR NECESSARY INSPECTIONS.
6. BLASTING, IF REQUIRED, SHALL BE PERFORMED IN ACCORDANCE WITH THE TOWN OF SWANZEY FIRE DEPARTMENT REGULATIONS
7. ALL DISTURBED NON-PAVED AREAS SHALL BE LOAMED AND SEEDED IMMEDIATELY UPON BEING CONSTRUCTED THE RETAINING WALLS SHOWN SHALL BE DESIGNED BY OTHERS UNLESS OTHERWISE NOTED
8. ALL TRAFFIC SIGNS SHALL CONFORM TO THE MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES LATEST EDITION
9. EXISTING PAVEMENT SHALL BE SAW-CUT AS NECESSARY. THE CONTRACTOR SHALL ENSURE A SMOOTH TRANSITION BETWEEN EXISTING AND NEW PAVEMENT.
10. ALL POWER WORK SHALL CONFORM TO EVERSOURCE STANDARDS.
11. ALL TELEPHONE WORK SHALL CONFORM TO CONSOLIDATED COMMUNICATIONS SPECIFICATIONS.

GRAPHIC SCALES
30' 15' 0 30' 60' 90'
IMPERIAL: 1"=30'

REV.	DATE	DESCRIPTION	C/O	DR	CK
A	5/2/24	REVS PER CLIENT	---	JEN	CEB

ZONING EXHIBIT PLAN

TAX MAP 209 LOT 4
SAFFORD DRIVE
SWANZEY, NEW HAMPSHIRE
PREPARED FOR:

ASHER CONSTRUCTION, LLC
77 NASHUA ROAD, SHARON, NH 03458
LAND OF:

234 OLD HOMESTEAD HIGHWAY REALTY, LLC
P.O. BOX 705, KEENE, NH 03431

SCALE: 1"=30' FEBRUARY 22, 2024

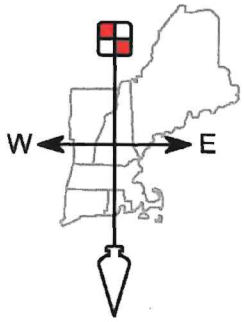
Surveying ✦ Engineering ✦ Land Planning ✦ Permitting ✦ Septic Designs

FIELDSTONE LAND CONSULTANTS, PLLC

206 Elm Street, Milford, NH 03055
Phone: (603) 672-5456 Fax: (603) 413-5456
www.FieldstoneLandConsultants.com

FILE: 3738CN002A.DWG	PROJ. NO. 3738.00	SHEET NO. 2E-1	PAGE 1 OF 1

LETTER OF TRANSMITTAL



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www.FieldstoneLandConsultants.com

To: Mr. Stephon Mehu
Town of Swanzey
620 Old Homestead Highway
Swanzey, NH 03446

Date: February 3, 2025

Re: 234 Old Homestead Highway Realty, LLC
Variance Application
Tax Map Parcel 209-1 - Safford Drive - Swanzey, NH

WE ARE SENDING YOU ■ Attached ❒ Under separate cover via _____ the following items:

❒ Shop drawings ■ Prints ■ Plans ❒ Samples ❒ Specifications

❒ Copy of letter ❒ Change order ❒ _____.

COPIES	DATE	NO.	DESCRIPTION
1			Variance Application & Narrative
1			Submission Fees (To be determined by Swanzey Planning Department)
1			Abutters List & Labels
1			Letter of Authorization
1			ZBA Exhibit (22"x34")
1			Electronic Copy of all submittals above

THESE ARE TRANSMITTED as checked below:

■ For approval ❒ Approved as submitted ❒ Resubmit ____ copies for approval

❒ For your use ❒ Approved as noted ❒ Submit ____ copies for distribution

❒ As requested ❒ Returned for corrections ❒ Return ____ corrected copies

■ For review and comment ❒ _____.

❒ FOR BIDS DUE: ❒ PRINTS RETURNED AFTER LOAN TO US

REMARKS:
We are submitting the above listed items for the next Zoning Board meeting on February 24th. Please let me know if you need any additional submission materials or have any questions. Thank you,

Daniel E Barowski
Daniel Barowski

Project No. 3738.03

APPLICATION FOR VARIANCE
TOWN OF SWANZEY (New 1/10; Revised 8/22)

MAP: 209 **LOT:** 1

To: Board of Adjustment, Town of Swanzey:

NAME OF APPLICANT:	**MAILING ADDRESS OF APPLICANT:**
234 Old Homestead Highway Realty, LLC	PO Box 705 Keene, NH 03431
Contact phone number:	
OWNER OF PROPERTY: (If same as applicant, write "same")	**MAILING ADDRESS OF OWNER:** (If same as applicant, write "same")
Same	Same

LOCATION OF PROPERTY (Give Zoning District in which located & current street address)
Safford Drive & Wilson Pond Road - Industrial Park District, ERZ & TIF district

FEES:

- Application fee: $75
- Current rates for Keene Sentinel Legal Notices
- $10/abutter certified mail notice

Fees will be billed and **must** be paid prior to public hearing.

1. ☑ **SITE PLAN** – The site plan need not be done professionally, but **must** be to scale; the scale should be appropriate for the size of the project & the plan must be readable. Plans must indicate the size of the lot in acres or square feet, show the placement of all **existing** and **proposed** buildings on the lot and include setbacks required by the zoning ordinance. The plan must include a written and visual depiction of the scale used.

2. ☑ If applicable, indicate on the Site Plan the location of:
   - septic system and/or leach field
   - water supply
   - curb cuts
   - parking area (and size of parking spaces)
   - waterways
   - wetland areas
   - tree lines
   - drainage ways
   - loading docks
   - underground tank locations
   - impervious surfaces

If the criteria in subparagraph A.i. **and** A.ii. are not established, an unnecessary hardship will be deemed to exist if, and only if:

B. Owing to special conditions of the property as set forth above 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 the property because:

Please see attached narrative

Note: The definition of "unnecessary hardship" set forth in subparagraph 5 shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

David E Bascomb Date: 2/3/25
Signature of Applicant

- SEE ATTACHED LETTER OF AUTHORIZATION -

David E Bascomb Date: 2/3/25
Signature of Property Owner

THIS VARIANCE IS HEREBY:

☐ **GRANTED** ☐ **DENIED**

by the Swanzey Zoning Board of Adjustment. The following are reasons and/or conditions:

CHECKLIST FOR GRANTING A VARIANCE
(for use by Swanzey Zoning Board of Adjustment)

1. Could the variance be granted without being contrary to the public interest?

_____ Yes _____ No

2. Would the spirit of the ordinance be observed if the variance were granted?

_____ Yes _____ No

3. Would granting the variance do substantial justice?

_____ Yes _____ No

4. Could the variance be granted without diminishing surrounding property values?

_____ Yes _____ No

5. Do special conditions of the property exist that distinguish it from other properties in the area?

_____ Yes _____ No

A.i. Owing to the special conditions of the property that distinguish it from other property in the area, there is not a fair and substantial relationship between the general public purpose of the ordinance and the specific application of the provision to the property?

_____ Yes/Agree

_____ No

And

A.ii. Is the proposed use a reasonable one?

_____ Yes

_____ No

If the criteria in subparagraph A.i. **and** A.ii. are not met, an unnecessary hardship will be deemed to exist if, and only if:

B. Owing to the 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 necessary to enable a reasonable use of the property:

_____ Yes

_____ No

If the answer to questions 1, 2, 3, 4 and 5 (5A or 5B) is "yes," the variance should be granted.

If the applicant fails to meet any one of the five variance requirements (1, 2, 3, 4 and/or 5), it cannot be legally granted and should be denied. Note: The applicant only needs to meet either 5A or 5B to satisfy criteria 5.

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VARIANCE CRITERIA

(VARIANCE FROM ARTICLE VII, SECTION D – Wetland Conservation District Permitted Uses)
Tax Map Parcel 209-1
Safford Drive, Swanzey, NH

January 31, 2025

Prepared For:
234 Old Homestead Highway Realty, LLC

A Variance is requested under Article VII, Section D - Wetland Conservation District Permitted Uses - of the Swanzey Zoning Ordinance to permit a wetland crossing to access a large dry upland area of Tax Map Parcel 209-1. The lot is located in the Industrial Park District, as well as the Wetlands Conservation District, the Economic Revitalization Zone and the Tax Increment Financing District. The subject property is vacant and consists of 19.00 acres of land, 9.8 acres of which is dry upland area, with frontage on both Safford Drive and Wilson Pond Road. The lot is bisected by jurisdictional wetlands. There is a small existing natural bridge which serves to separate two large wetland areas, with a culvert running underneath. A commercial/industrial development will be proposed, utilizing the 5.9 acres of dry upland area located in the rear of the property, beyond the bridge. A wetland crossing will be necessary to access the large usable portion of lot 209-1, requiring relief from the proposed warrant article which strikes construction of access ways as a permitted use in the Wetlands Conservation District.

The numbered items below correlate to the questions asked in the Town Application for a Variance.

1. Granting the variance would not be contrary to the public interest because:
   The zoning of lot 209-1 is the Industrial Park district, as well as the ERZ and TIF districts. These districts exist to stimulate economic growth and facilitate business development. Lot 209-1 is a larger lot compared to many that surround it, with a suitable area for commercial/industrial development and infrastructure in the rear of the lot. It serves the public interest to make the most of the tax investment that has been put into this area over the past decade. Granting this variance will allow for the productive use of this lot. Town voters approved the creation of a property tax exemption program for new commercial and industrial construction in 2020, indicating the expansion of commercial/industrial opportunities in Swanzey is something the voters would like to see. Allowing for a wetland crossing to access the rear of this lot will not change the character of the neighborhood or threaten the health safety or general welfare of the public. It is our belief that this proposal will have no negative impacts to the public – the proposed wetland crossing will meet all other local and state requirements. The crossing will be designed to minimize impacts, will utilize Best Management Practices and will require a permit from the Department of

Environmental Services Wetlands Bureau. For all these reasons we believe that granting this variance will not be contrary to the public interest.

2. <u>If the variance were granted, the spirit of the ordinance would be observed because:</u>
We believe this proposed wetland crossing is reasonable and meets the spirit of the ordinance especially when you consider the responsible manner in which the crossing is proposed. One of the purposes of the Wetlands Conservation Overlay district is to prevent development of structures and land uses on wetlands which would contribute to the pollution of surface and groundwater. By meeting all other local and state requirements with the proposed crossing, we believe we can safely access the usable portion of lot 209-1 without polluting or negatively impacting wetlands. Another stated purpose of this district is to encourage those uses that can be appropriately and safely located in wetland areas – a responsibly built crossing would satisfy this purpose and would prevent the destruction of wetlands. State regulations would closely govern the installation and maintenance of any approved crossing. This crossing will provide access to an otherwise land locked property and access to property has to be contemplated in the TIF District where the community has chosen to promote commercial/industrial development. The wetland crossing will not threaten the health, safety, or welfare of the public. For all of these reasons we believe granting the variance required for our proposal would observe the spirit of the ordinance.

3. <u>Granting the variance would do substantial justice because:</u>
Granting this variance would allow for the productive development of a 19-acre lot. The proposal is to access the dry upland portion of the lot, where the most contiguous developable land exists. Denying this variance would result in a land taking from the owner as 5.9 acres of their property would be rendered useless as it is inaccessible in any meaningful way. The gain realized by the public in denying this wetland crossing is far outweighed by the benefit realized by both the property owner and the public by granting it. Allowing commercial/industrial development will stimulate economic growth and improve job-creating infrastructure and will be consistent with the ERZ and TIFF Districts. Granting this variance will not alter the essential character of the neighborhood or threaten the health safety or general welfare of the public. For this and all the reasons noted above we believe granting this variance would do substantial justice and allow for the productive use of a large tract of land. The current proposal is certainly a reasonable use of the property.

4. <u>If the variance were granted, the values of the surrounding properties would not be diminished because:</u>
This proposal consists of commercially developing a 19-acre parcel located in the TIF and ERZ districts – zones that were created specifically to facilitate business development and economic opportunities. The use is consistent with the zoning and the surroundings and will have no negative impacts on the surrounding properties. New development in these districts has helped increase the job base and increase property values. Since this proposal

is consistent with neighboring properties and for the reasons stated above, we do not believe that this proposal would have any negative impact on the surrounding properties. It is our experience that new construction and development generally increases the surrounding property values.

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 purpose of the ordinance provision and the specific application of that provision to the property because:

The subject property is unique given its size and location. Granting this variance would allow for the productive use of the property. The zoning for the proposed lot is the Industrial Park district, as well as the TIF and ERZ districts. It is our belief that the development of this large acreage property is reasonable and fair when you contemplate the purpose of the ordinance provision and the specific application of that provision to the property. This proposal seeks a variance to permit the creation of a wetland crossing to access the rear of an existing 19-acre lot. The unique shape of the wetland areas on the lot requires a crossing, and denial of one would pose an unnecessary hardship for the owner. The strict application of the proposed zoning ordinance change would require the property owner to relinquish access and use of almost 6 acres of their commercial/industrial land. The owner has a right to use and develop their land. Typically the New Hampshire Department of Environmental Services Wetlands Bureau is the governing entity on wetland impacts as they are granted permission from the Army Corps of Engineers to regulate this. The crossing as designed will meet all state and federal guidelines and minimizes impacts to jurisdictional wetland areas. The proposed crossing can be constructed safely and responsibly, following state and local regulations. We therefore believe there is no fair and substantial relationship between the general public purpose of the ordinance provision and the specific application of that provision to the property. The regulation should seek to minimize wetland impacts but should not seek to violate landowners rights to access and reasonably use or develop properties.

      ii. The proposed use is a reasonable one because:

As stated above we believe that this proposal meets the spirit and intent of the ordinance as safe access can be provided via a wetland crossing. This proposal will also be consistent with its surroundings and will result in no negative impact to the public. It is our opinion that the proposed commercial development is reasonable as it will allow the utilization of the largest contiguous dry portion of the property. The proposed use is allowed and encouraged in the industrial park district, and the proposed lot is suitable for such development. For this and all the reasons previously stated we believe that the proposed use and development are reasonable.

B. If the criteria in subparagraph (A) are not established, explain how 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 the property because:

The subject parcel is 19-acres with frontage on Safford Drive and Wilson Pond Road. It is currently a vacant lot, and proposed to be commercially developed. We believe that the size of the property and the fact that it is bisected by large areas of wetlands are special conditions that distinguish it from other properties in the area. The unique shape of the wetlands limits the property's reasonable use and therefore a variance is necessary to cross them. Only a small, narrow piece of land near the lot's frontage would be usable if this variance were denied. Constricting development to only that portion of the lot is not reasonable. This would limit the development potential of a property in the Town's ERZ and TIF Districts where development should be promoted as significant resources have been spent and allocated to provide municipal sewer and water services to this area. Not allowing reasonable development would contradict all the past efforts and result in significant losses to the Town from a taxbase basis. The financial loss would also be significant for the landowner with no good cause as reasonable access to one's property should always be contemplated in local regulations. Utilizing the 5.9 acres up dry upland in the rear of the lot is the most sensible way to develop this property, as the owner has a right to do. We believe the proposed development is a reasonable use of the land and harmonious with the surrounding neighborhood. This crossing and development would minimize environmental impacts and would be designed to meet local, state and federal requirements.

This information was prepared by:
Fieldstone Land Consultants, PLLC

David E Barowski

Daniel Barowski, SIT
Survey Project Manager

FIELDSTONE
LAND CONSULTANTS, PLLC
Surveying ◆ Engineering
Land Planning ◆ Septic Designs
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www.FieldstoneLandConsultants.com

January 31, 2025

RE: 234 Old Homestead Highway Realty, LLC – ZBA Variance Application
Safford Drive - Swanzey, NH
Tax Map 209 Lot 1

To Whom It May Concern:

The undersigned being the owner of the above referenced lot hereby authorizes Fieldstone Land Consultants, PLLC to act as their agent in filing and seeking the necessary local, state and federal approvals for the above referenced project.

Very truly yours,

Signature: John Burk Print: John Burk Date 1/31/25

FIELDSTONE
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January 3, 2025

FLC#3738.03 / JPA

List of Abutters
Tax Map 209 Lot Number 1
Swanzey, New Hampshire

Map 209 Lot 1, 2, 21
234 Old Homestead Hwy Rlty LLC
C/O John Burk
P.O. Box 705
Keene, NH. 03431

Map 105 Lot 12
Mnts Land LLC
230 Old Homestead Hwy
Swanzey, NH. 03446

Map 105 Lot 14
Stephanie M. Normand &
James H. Aron
11 Page Ct.
North Swanzey, NH. 03431

Map 106 Lot 48, 64
Trenna Ingalls &
Chad Corbeil
106 Wilson Pond Road.
North Swanzey NH. 03431

Map 106 Lot 49, 50
Russell Page
108 Wilson Pond Road
North Swanzey, NH. 03431

Map 106 Lot 53
Aolin Properties LLC
P.O. Box 429
Keene, NH 03431

Map 106 Lot 55
Page Homestead Sr.Housing Inc.
P.O. Box 603
Keene, NH. 03431

Map 106 Lot 56
Andrew G. Crowder
183 Monadnock Hwy
Swanzey, NH. 03446

Map 106 Lot 63
Town of Swanzey
P.O. Box 10009
Swanzey, NH. 03446

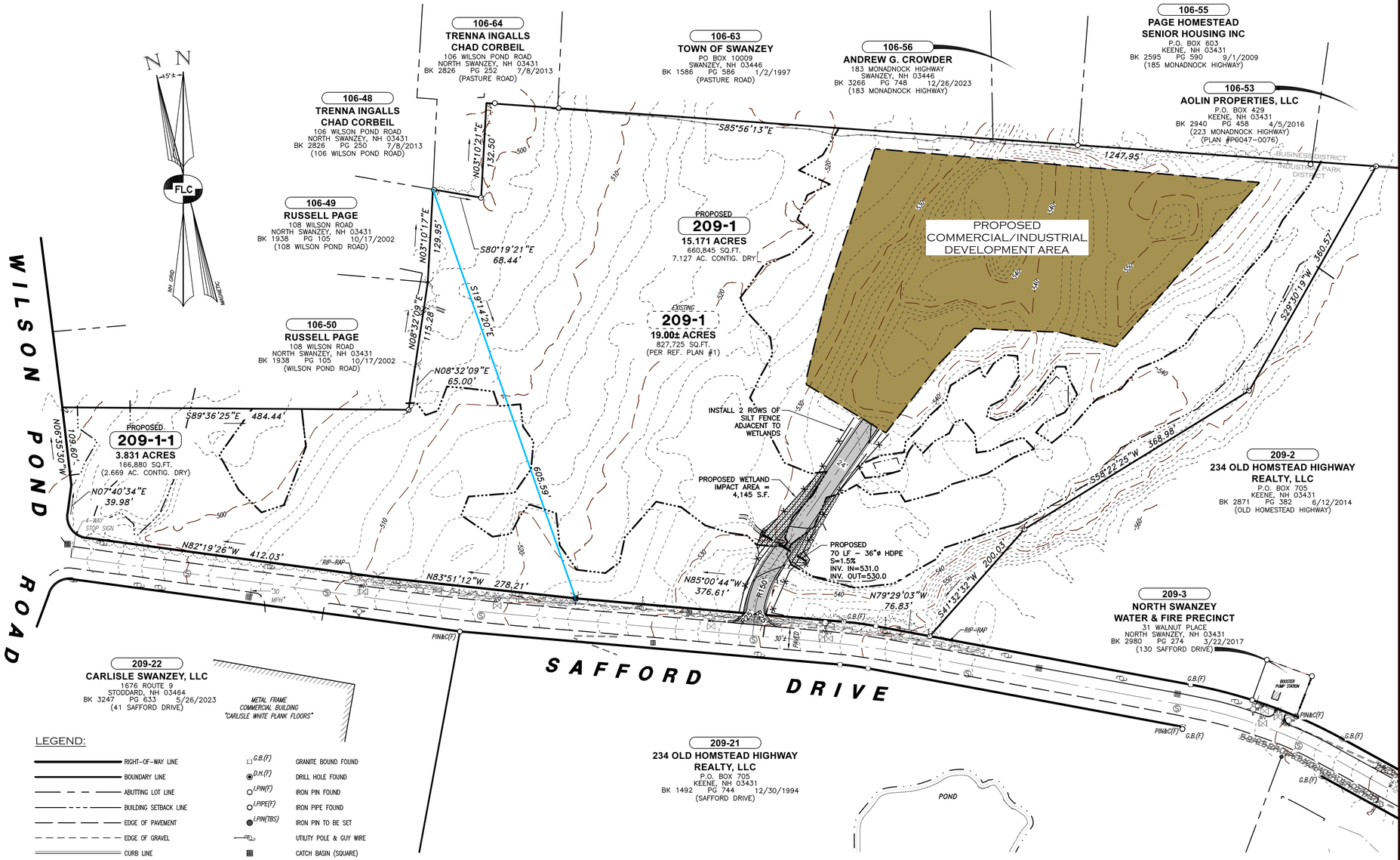
Map 209 Lot 21
End Zone Investment Properties
36 South Road
Swanzey, NH. 03446

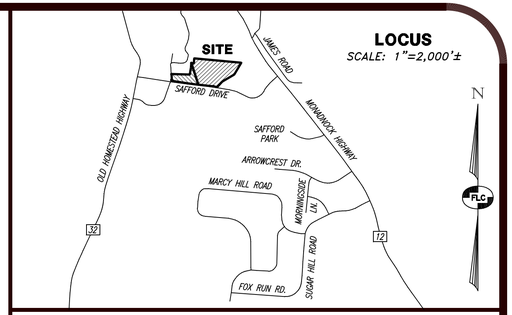
Map 209 Lot 22
Carlisle Swanzey LLC
1676 Route 9
Stoddard, NH. 03464

Engineer:
Fieldstone Land Consultants, PLLC
206 Elm Street
Milford, NH 03055

REFERENCE PLANS:

1. "THREE LOT SUBDIVISION – LAND OF – 234 OLD HOMESTEAD HIGHWAY REALTY, LLC – LOCATED AT – TAX MAP 19 LOT 97-6 – SAFFORD DRIVE, SWANZEY, CHESHIRE COUNTY, NEW HAMPSHIRE" SCALE: 1"=100', DATED 7/5/2022, PREPARED BY HUNTLEY SURVEY & DESIGN, PLLC AND RECORDED AT THE C.C.R.D. AS PLAN NO. 22099.
2. "ROADWAY PLAN – 5 LOT SUBDIVISION AND SAFFORD DRIVE – EXTENSION LAYOUT PLAN – LANDS LOCATED AT – TAX MAP 19, LOTS 97-5 & 94 – SWANZEY, CHESHIRE COUNTY, NEW HAMPSHIRE" SCALE: 1"=40', DATED 3/14/2014, PREPARED BY SVE ASSOCIATES AND RECORDED AT THE C.C.R.D. AS PLAN NO. 14056.





NOTES:

1. THE OWNER OF RECORD FOR TAX MAP 209 LOT 1 IS 234 OLD HOMESTEAD HIGHWAY REALTY, LLC – PO BOX 705, KEENE, NH 03431. SEE C.C.R.D. BK. 1492, PG. 744, DATED JUNE 13, 1994 AND BK. 2871 PG. 380 DATED JUNE 4, 2014.
2. THE PURPOSE OF THIS PLAN IS TO DEPICT A TWO-LOT SUBDIVISION OF MAP 209 LOT 1, AS SHOWN, AS WELL AS A PROPOSED WETLAND CROSSING THAT REQUIRES A VARIANCE
3. THE TOTAL EXISTING AREA OF TAX MAP 209 LOT 1 IS 19.00± ACRES PER REFERENCE PLAN #1. THE TOTAL PROPOSED AREA OF REVISED LOT 209-1 IS 15.171 ACRES WITH 498.79 FT. OF FRONTAGE ALONG SAFFORD DRIVE. THE TOTAL PROPOSED AREA OF NEW LOT 209-1-1 IS 3.831 ACRES WITH 737.37 FT. OF FRONTAGE ALONG SAFFORD DRIVE AND 149.60 FT. OF FRONTAGE ALONG WILSON POND ROAD.
4. ZONING FOR THE SUBJECT PARCELS IS THE INDUSTRIAL PARK DISTRICT:
   INDUSTRIAL PARK DISTRICT:

   MIN. LOT SIZE = 2 ACRES
   MIN. LOT FRONTAGE = 150'
   SETBACKS INCLUDE:
   50' FRONT (30 FT. RT.12)
   AND 20' SIDE & REAR
   MIN. PAVED SURFACE SETBACK: 25'
   MIN. WIDTH AT BUILDING LINE: 150'

   WETLANDS CONSERVATION DISTRICT REQUIRES NO LEACH FIELD WITHIN 125 FT. OF ANY JURISDICTIONAL WETLAND
5. THE BOUNDARY INFORMATION SHOWN WAS DEVELOPED FROM THE REFERENCE PLANS NOTED HEREON TOGETHER WITH A PRECISE FIELD SURVEY BY PERFORMED BY THIS OFFICE DURING THE MONTHS OF DECEMBER, 2024 & JANUARY, 2025.
6. HORIZONTAL ORIENTATION AND VERTICAL DATUM ARE NAD83 & NAVD88 PER A GPS CORS SOLUTION.
7. THE LOCATION OF UTILITIES SHOWN HAVE BEEN COMPILED IN PART FROM PLANS OF RECORD AND FIELD LOCATION. THE LOCATION OF UNDERGROUND UTILITIES SHOULD BE CONSIDERED APPROXIMATE AND SHOULD BE FIELD VERIFIED PRIOR TO ANY EXCAVATION OR CONSTRUCTION ACTIVITIES.
8. SUBJECT PARCEL IS NOT LOCATED IN THE 100 YEAR FLOOD HAZARD AREA AS DETERMINED FROM THE FLOOD INSURANCE STUDY (FIRM), CHESHIRE COUNTY, TOWN OF SWANZEY, NEW HAMPSHIRE, COMMUNITY NO.330026, PREPARED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, MAP NUMBER: 33005C0269E, DATED: MAY 23, 2006.
9. THE SUBDIVISION REGULATIONS OF THE TOWN OF SWANZEY ARE A PART OF THIS PLAT AND APPROVAL OF THIS PLAT IS CONTINGENT UPON COMPLETION OF ALL REQUIREMENTS OF SAID REGULATIONS, EXCEPT ONLY ANY VARIANCES OR MODIFICATIONS MADE IN WRITING BY THE BOARD AND ATTACHED HERETO.
10. TAX MAP 106 LOT 52 IS SUBJECT TO A STATE OF NH MAINTENANCE EASEMENT RELATED TO ROUTE 12 IMPROVEMENTS. SEE C.C.R.D. BK. 2871 PG. 1243 FOR FURTHER DESCRIPTION.
11. DELINEATED WETLANDS ARE DEPICTED HEREON PER REFERENCE PLAN NO. 1 AS DELINEATED BY RUSSELL J. HUNTLEY, C.W.S. AND WERE FIELD VERIFIED BY CHRISTOPHER GUIDA, C.W.S., C.S.S. IN JANUARY, 2025.

GRAPHIC SCALE
80' 40' 0 80' 160' 240'
IMPERIAL: 1"=80'

LEGEND:

RIGHT-OF-WAY LINE		G.B.(F)	GRANITE BOUND FOUND
BOUNDARY LINE		D.H.(F)	DRILL HOLE FOUND
ABUTTING LOT LINE		I.PIN(F)	IRON PIN FOUND
BUILDING SETBACK LINE		I.PIPE(F)	IRON PIPE FOUND
EDGE OF PAVEMENT		I.PIN(TBS)	IRON PIN TO BE SET
EDGE OF GRAVEL			UTILITY POLE & GUY WIRE
CURB LINE			CATCH BASIN (SQUARE)
STONE WALL		D	DRAIN MAN-HOLE
EDGE OF TREE LINE		S	SEWER MAN-HOLE
EDGE OF WETLANDS		S	SEWER CLEAN-OUT
EXISTING EASEMENT LINE		W	WATER VALVE
590 10' CONTOUR INTERVAL		209-1	TAX MAP & LOT NUMBER
592 2' CONTOUR INTERVAL			
CULVERT			EXISTING BUILDING
OH OVERHEAD UTILITY LINE			

REV.	DATE	DESCRIPTION	C/O	DR	CK

ZONING EXHIBIT
TAX MAP 209 LOT 1
(SAFFORD DRIVE & WILSON POND ROAD)
SWANZEY, NEW HAMPSHIRE

PREPARED FOR & LAND OF:

234 OLD HOMESTEAD HIGHWAY REALTY, LLC
PO BOX 705 KEENE, NH 03431

SCALE: 1" = 80' FEBRUARY 3, 2025

Surveying ⌖ Engineering ⌖ Land Planning ⌖ Permitting ⌖ Septic Designs

FIELDSTONE
LAND CONSULTANTS, PLLC
206 Elm Street, Milford, NH 03055
45 Roxbury Street, Keene, NH 03431
Phone: (603) 672-5456 Fax: (603) 413-5456
www.FieldstoneLandConsultants.com

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