TOWN OF SWANZEY

OFFICE OF PLANNING AND COMMUNITY DEVELOPMENT

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Swanzey Zoning Board of Adjustment
Meeting Agenda for May 19, 2025
7:00 p.m.

The regular meeting of the Swanzey Zoning Board of Adjustment will be held on Monday, May 19, 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. April 21, 2025

3) Public Hearings

   a. **ZBA 25-008: Variance** – Nathan Jacobs has requested a Variance pursuant to Section VIII, Article C of the Town of Swanzey Zoning Ordinance to build a structure within the Shoreland Protection District at 71 Wilson Pond Road. The subject property is shown at Tax Map 106, Lot 18 and is located in the Residence District.

   b. **ZBA 25-009: Variance –** Nathan Jacobs has requested a Variance pursuant to Section IV, Article B.3 of the Town of Swanzey Zoning Ordinance to build a structure 8' into the front setback at 71 Wilson Pond Road. The subject property is shown at Tax Map 106, Lot 18 and is located in the Residence District.

4) Other Business

5) Adjournment

Town of Swanzey, New Hampshire
Swanzey Zoning Board of Adjustment (ZBA)
Meeting Minutes – April 21, 2025
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 Jay Ward called to order the meeting at Whitcomb Hall at 7:05 p.m. Members present: Lisa Thorne, Jay Ward, Ann Karasinski, and Alternates Joe Parisi, and Pete Delaney. Also present was Town Planner Adam Paquette and Assistant Town Planner Stephon Mehu.

ABSENT:
Adam Mulhearn, Jessica Ramsey-Sanchez, Bryan Rudgers

OTHERS PRESENT:
Wayne Lechlider

SEATING ALTERNATES:
The chair seated Parisi for Rudgers and Delaney for Mulhearn.

MINUTES:
The meeting Minutes of February 24, 2025 were considered. **Motion** was made by Delaney to approve the minutes as presented. There was a second made by Parisi. All were in favor. ***Motion passed.***

The meeting minutes of March 17, 2025 were considered. **Motion** was made by Karasinski to approve the minutes as presented. There was a second made by Thorne. All were in favor. ***Motion passed.***

NOMINATION OF WAYNE LECHLIDER AS AN ALTERNATE
Wayne is willing to participate on the ZBA as an alternate. **Motion** made by Delaney to accept Lechlider as an alternate. Second by Thorne. All 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:
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.

- **Ward opens the public hearing.**
- Abutter Gunseth asks about application fees, and who those are paid by. Ward and Paquette answer that the applicant pays those fees.

- Matt Goodnow asks why a traffic study wasn't submitted with the application. Paquette and Ward explain the timeline and why it could take a long time.
- Goodnow asks about a new septic location. Ward and Paquette explain that a new septic location has not been approved yet and how the ZBA approval process works.
- Parisi states he would not support another continuance beyond May 19.
- **The public hearing is closed.**
- The Board discusses the applicant's request for continuance. Thorne **motions** to continue hearing until May 19. There was a second by Parisi. The Board agrees that this will be the last continuance granted. There was no further discussion. ***Motion passes.***

ZBA 25-005: Variance – Keith Krchak and Amanda Lewis have requested a variance pursuant to Section VIII, Article C of the ordinance to allow construction in the Shoreland Protection District. The subject property is at Tax Map 247 Lot 58.

- Paquette presents the application and Conservation Commission comments.
- Krchak explains the health concerns that support the need for an addition. The addition would be completely handicap accessible.
- Lewis explains the location is ideal for utilities and is on the existing impervious surface.
- Parisi asks if the addition is any closer to the water than the existing property. Lewis answers no and references the plan in the packet.
- Parisi asks about approval with the State of New Hampshire DES. The Board answered that the applicant will need a shoreland permit.
- Delaney agrees there may be a need for a shoreland protection permit with the State.
- **Ward opens the public hearing.**
- Barbara Skully says that the state Shoreland Protection zone is 250 feet. She explains the need for a state permit. Skully continues to explain the process with the State.
- Ward explains his history with permitting with the State.
- Parisi makes a recommendation to hire an engineering firm to streamline the process. Lewis states her qualifications and states that she feels prepared to tackle this application.
- Skully recommends the Board ask for conditions if the application is approved.
- Bruce Bergstrom is in attendance in support of the project.
- Karasinski inquires about the second floor and the applicant states it would function as a rec room for grandkids and similar uses.
- The current space is being used as a parking area.
- The Board and Staff discuss impervious surface requirements.
- **The public hearing is closed.**
- The Board discusses the merits of the application.
- Parisi gives kudus to the applicants' acceptance of the conservation commission comments.
- Parisi would like to see a more detailed site plan. Karasinski agrees with Joe but says conditions can be attached to an approval to ensure compliance with Conservation Commission requirements.
- The Board deliberated questions from the checklist for granting a variance.

- Granting the variance would not be in contrary to the public interest:
    - KARASINSKI – **YES, if there is a condition requiring state approval prior to building permit.**
    - THORNE - **YES**
    - DELANEY - **YES**

- PARISI **- YES**
- WARD **- YES**

- Granting the variance would observe the spirit of the ordinance:
  - THORNE **- YES,** if the shoreland permit is approved.
  - DELANEY - **YES,** agrees with Thorne.
  - PARISI - **YES, if a stormwater mitigation plan is submitted and approved by the Code Enforcement Officer prior to building permit.**
  - WARD – **YES,** agrees with Parisi.
  - KARASINSKI – **YES,** agrees with Parisi and Thorne

- Granting the variance would do substantial justice:
  - DELANEY **– YES**, it does substantial justice. Allows applicant to use property as intended.
  - PARISI - **YES,** applicant would have an injustice if this wasn't granted.
  - KARASINSKI - **YES,** applicant is taking proper steps to protect environment, and agrees with Delaney.
  - THORNE **- YES**
  - WARD - **YES,** being able to live on their property without doing harm to the region is important. The size of the lot is small, and this has minimal impact.

- Granting the variance would not diminish the values of surrounding properties:
  - PARISI **- YES,** there is no evidence to the contrary and there is an abutter in support of the project.
  - KARASINSKI **- YES,** agrees with Parisi.
  - THORNE **- YES,** agrees with the previous comments.
  - DELANEY **- YES**
  - WARD **– YES,** application references neighboring property increasing in value after renovations.

- Do special conditions of the property exist that distinguish it from other properties in the area?
  - KARASINSKI **– YES,** the lake properties are more confined.
  - THORNE - **YES,** agrees with Karasinski
  - DELANEY - **YES**
  - PARISI - **NO**
  - WARD - **YES**

- 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?
  - THORNE - **YES**
  - DELANEY - **YES**
  - PARISI – **YES,** citing special personal circumstances
  - KARASINSKI **- YES**
  - WARD **– YES,** only if conditions are met and wetlands are not harmed.

- Is the proposed use a reasonable one?
  - PARISI – **YES**

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- DELANEY – **YES**
- THORNE – **YES**
- KARASINKSI – **YES,** it is reasonable to want to stay in your home and make accommodations to ensure that happens
- WARD – **YES,** citing similar reasons to Karasinski

- Parisi asks clarifying questions regarding septic system. Asks if it should be a condition. Ward and Mehu state that the septic system will go through building permit approval. Parisi again asks if we need to add a condition to the approval. Ward again clarifies that the condition doesn't need to be added because the septic system will need to be part of the building permit process. Parisi would like to see a condition added.

- Karasinski makes a **motion** to approve the variance with the following conditions:

1. All relevant state permits must be approved prior to the issuance of the building permit.
2. A stormwater mitigation plan must be approved by the Code Enforcement Officer prior to the issuance of the building permit.

There was a second by Delaney. Mehu and Parisi discuss septic requirements. No further discussion. The votes are as follows:

- Yes – 4
- No – 1

Motion Passes.

ZBA 25-006: Special Exception – Keith Krchak and Amanda Lewis have requested a special exception pursuant to Section IX of the ordinance to allow development within the Floodplain District. The subject property is at Tax Map 247 Lot 58.

- Ward reads the floodplain ordinance. The applicant seems to be meeting the requirements of the ordinance.
- **The public hearing is open.**
- Skully notes that space is no longer able to accommodate water, compensatory storage may be required. The Board discusses.
- Ward states that this structure would not change the devastation of 100-year flood.
- Karasinski asks about the impervious surface, and the applicants state it is crushed rock. Applicants state rain runs down the driveway.
- Ward states that Skully's point is valid, but he's not sure that it increases potential damage that could be caused.
- Parisi asks the source of the floodplain data. Applicant states it's from FEMA, per application requirements.
- The applicant states the damage would be mitigated because the structure is built up.
- Abutter Bergstrom hired a consultant for a project of his and stated that due to the elevation of the house, it lessens the impact of the floodplain.
- Delaney asks what happened to the property during the large storm in 2023. The applicant states the water was over the dock, but water never entered the property.
- Skully asks a clarifying question on house elevation, the applicant answers how it is raised.
- The applicant discusses the age of the property and reiterates it sits "quite high".

- Karasinski asks how the applicant would prove it wouldn't worsen flooding. The Board discusses.
- Bergstrom states the house is situated higher than the dam, so flooding would be improbable.
- **The public hearing is closed.**
- Parisi states he doesn't believe the house is in the flood zone, the Board and Paquette dispute that. The conclusion was that it is in the flood zone per FEMA.
- Lechlider and Ward discuss the intent of the ordinance.
- Delaney states he can't see the lake ever flooding the property, speaking from experience. Parisi agrees with this.
- The board deliberated items from the special exception checklist:

- 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.
    - **All members answered in the affirmative.** The Board agrees that the use is authorized.

- Such approval would not reduce the value of any property within the district, nor otherwise be injurious, obnoxious, or offensive to the neighborhood.
    - **All members answered in the affirmative.** The Board agrees there is no evidence to the contrary.

- There will be no nuisance or serious hazard to vehicle or pedestrians
    - **All members answered in the affirmative.** The Board agrees that no evidence exists to the contrary.

- Adequate and appropriate facilities will be provided for the proper operations of the proposed use
    - **All members answered in the affirmative.**

- Does this increase the risk of flooding?
    - **All members answered that this does not increase the risk of flood.** The Board cites evidence presented at the meeting.

- **Motion** by Parisi to grant the special exception. There was a second by Thorne. All in favor. ***Motion passes.***

ZBA 25-007: Special Exception – David Roy has requested a special exception pursuant to Section III-AA, Article B of the ordinance to construct a DADU at Tax Map 107 Lot 18.

- Paquette gives an application overview.
- The Board discusses the merits of the conditions of approval presented by Paquette.
- **Lisa Thorne recuses herself.**
- The Board discussed a potential conflict of interest with Delaney, but it was determined that he could vote.
- Karasinski asks about aesthetic continuity and the applicant discusses the style of the ADU.
- **The public hearing is open.**
- Skully asks about business impact. The applicant states the DADU has nothing to do with the business.
- The applicant states the occupant of the DADU already lives with him, meaning no increased traffic.

- Skully explains the truck traffic is extensive.
- An abutter asks if the parcel is being subdivided. The applicant answers no.
- The Board asks a clarifying question regarding parking. The applicant and Paquette answer that parking is adequate.
- Skully says she is in support, along with other abutters.
- **The public hearing is closed.**
- The Board deliberates items from the special exception checklist:

- 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.
    - **All members answered in the affirmative.** Karasinski cites DADU's in the area.

- Such approval would not reduce the value of any property within the district, nor otherwise be injurious, obnoxious, or offensive to the neighborhood.
    - **All members answered in the affirmative.** Delaney states it could improve value, Parisi cites input from abutters, all Board members agree.

- There will be no nuisance or serious hazard to vehicle or pedestrians
    - **All members answered in the affirmative.** No evidence suggests the contrary.

- Adequate and appropriate facilities will be provided for the proper operations of the proposed use
    - **All members answered in the affirmative.** Ward cites conditions from the ordinance.

- **Motion** by Parisi to approve the special exception. There was a second by Delaney. All in favor. ***Motion passed.***

ADJOURNMENT
Motion to adjourn was made by Delaney. and seconded by Karasinski. and all were in favor. ***Motion passed.*** Adjournment occurred at 9:11.

Respectfully Submitted,

Adam Paquette, Town Planner

DRAFT

TOWN OF SWANZEY

OFFICE OF PLANNING AND ECONOMIC DEVELOPMENT

Phone: 603-352-7411 ext. 108
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Memorandum – Office of Planning & Economic Development

TO: Zoning Board of Adjustment

FROM: Adam Paquette, Town Planner

DATE: **May 12, 2025**

RE: ZBA **25-008** & **25-009** – Variances – Tax Map 106 Lot 18

Background:

Nathan Jacobs has requested a **Variance** pursuant to **Section VIII, Article C** of the Town of Swanzey Zoning Ordinance to **build a structure within the Shoreland Protection District** at **71 Wilson Pond Road**. The subject property is shown at Tax Map 106, Lot 18 and is located in the Residence District. Notice of Public Hearing was mailed to abutters on May 12 and notice was published in the Keene Sentinel on May 17.

Nathan Jacobs has requested another **Variance** pursuant to **Section IV, Article B.3** of the Town of Swanzey Zoning Ordinance to **build a structure 8' into the front building setback**.

Discussion:

The applicant requests two variances from:

- Section VIII, Article C of the Zoning Ordinance.

> **C. PRIMARY BUILDING LINE/SETBACK:** No primary structure as defined by RSA 483-B, shall be built, placed or erected within one hundred twenty-five feet from the reference line as defined by RSA 483-B:4, XVII as may be amended.

- Section IV, Article B.3 of the Zoning Ordinance.

> **3.** All lots shall be of at least one (1) acre in size with one hundred fifty (150) feet of frontage on a Town or State maintained road. The front setback is 30 feet from the front property line and 20 feet from the side and rear property lines. (Amended March 11, 2008)

Other land use regulations that apply to these variances are:

Section XI, Article C:

> **C. Non-conforming Lot:** A non-conforming lot may be developed for the uses permitted in the district in which it is located provided that the use proposed for such lot will comply with all health and sanitary regulations for water and sewage systems as required by the State and Town and provided that it complies with all other requirements of this Ordinance or amendments thereto, including but not limited to Sections III.E. and III.M
>
> **1.** In addition to the above requirements, a non-conforming lot located in the Shorelands Protection Overlay District shall comply with the current regulations of the Department of Environmental Services without waivers as of the date of application for a building permit.

Department Head and Staff Review (SHORELAND):

Department Heads were notified of the application on May 1. The Conservation Commission has submitted the following comments regarding the shoreland variance:

1. The applicants should first obtain a required shoreland permit from the state.
2. This is a nonconforming lot, and the proposed home is much larger than the original one, with a proposed deck closer to the shore. There are no plans offered to mitigate an increase in impervious surface and the resulting runoff to the pond. The entirety of the property is also in a more restrictive part of the Shoreland District, within 125' of the pond. A variance for this project, as proposed, would not seem to support the spirit of the ordinance or the public interest of protecting the pond.

Planning staff agree with Conservation Commissions review. Although there is no requirement to obtain state approval prior to seeing the ZBA, this project is in the most restrictive portion of the Shoreland Protection District, so in order for the ZBA to have all of the information needed to make an informed decision, they should either:

1. Conditionally approve the application pending state approval.
2. Deny the application without prejudice due to lack of information provided (state feedback). This would give the applicant a chance to resubmit the same application with feedback from the state.

Department Head and Staff Review (SETBACK):

Planning staff have the following comments:

1. The proposed structure does not need to encroach into the front setback to be functional. The home can be reduced in size, built up higher to reduce the footprint, or could be reconfigured in a way that conforms with all setbacks.

Department Head and Staff Review (GENERAL COMMENTS):

2. The height of the structure is not indicated on the site plan. If approval is given, it should be conditional upon receiving architectural drawings prior to building permit. The applicant should state the height of the structure during the ZBA meeting, at least.

Attachments:

A. Variance Application
B. Site Plan
C. Tax Map

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

MAP: 106 **LOT:** 18

To: Board of Adjustment, Town of Swanzey:

NAME OF APPLICANT:	**MAILING ADDRESS OF APPLICANT:**
Nathan Jacobs and Danielle Jacobs	69 Wilson Pond Rd North Swanzey NH 03431
Contact phone number: 860-885-4849	email- 4755650@GMAIL.com
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)
71 Wilson Pond Rd
North Swanzey NH 03431

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 VIII, Article C 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:

See attached; facts and supporting of granting the variance page

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

See attachment; facts of supporting of granting the variance page

3. Granting the variance would do substantial justice because:

See attachment; facts of supporting of granting the variance page

4. Granting the variance would not diminish the values of surrounding properties because:
See attachment; facts of supporting granting the variance page

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:
See attachment; fax in support of granting the variance page

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:
See attachment; facts, in support of granting the variance page

and

ii. The proposed use is a reasonable one because:
See attachment facts in support of granting the variance page

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:

See attachment, fax, and supportive, granting the variance.

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: 4/28/2025

Signature of Property Owner Date: 4/28/2025

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.

Brief description of project /request

Nathan and Danielle Jacobs would like to build a new single family home with an attached garage on their property, 71 Wilson Pond Rd Swanzey. The proposed variance request is due to the road setback requirements due to the non conforming lot.

The requested variance is necessary to allow for the reasonable and beneficial use of the property while still respecting the character and intent of the surrounding neighborhood. The special conditions of the property, including its small size and unique layout, make strict compliance with the ordinance impractical and unnecessary. Granting the variance will allow for the construction of a modern, environmentally responsible home and garage that will enhance the property and improve the overall aesthetics of the neighborhood. The proposed development will not negatively impact public safety, the environment, or surrounding property values. Instead, it will provide a quality residential improvement that aligns with the goals of the zoning ordinance while addressing the unique characteristics of this lot.

FACTS IN SUPPORT OF GRANTING THE VARIANCE:

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

Granting the variance would not be contrary to the public interest because the property is located on a lightly used road within a quiet residential neighborhood, where the proposed setback reduction will not affect traffic flow, pedestrian safety, or emergency vehicle access. The new home and garage will significantly improve the appearance of the property compared to the existing outdated and deteriorated structure, enhancing the overall character and aesthetics of the neighborhood. Additionally, the proposed project remains consistent with the residential nature of the area and will likely be welcomed by neighbors who prefer a modern, well-maintained home to replace the current condition. The variance will allow reasonable use of the lot without causing any negative impacts on public health, safety, or welfare.

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

Granting the variance would not be contrary to the public interest because the property is located on a lightly used road within a quiet residential neighborhood, where the proposed setback reduction will not affect traffic flow, pedestrian safety, or emergency vehicle access. The new home and garage will significantly improve the appearance of the property compared to the existing outdated and deteriorated structure, enhancing the overall character and aesthetics of the neighborhood. Additionally, the proposed project remains consistent with the residential nature of the area and will likely be welcomed by neighbors who prefer a modern, well-maintained home to replace the current condition. The variance will allow reasonable use of the lot without causing any negative impacts on public health, safety, or welfare.

3. Granting the variance would do substantial justice because:

Substantial justice would be done because granting the variance allows the property owner to make reasonable and beneficial use of the lot while improving the property and the surrounding neighborhood. Denying the variance would result in a hardship that is not outweighed by any meaningful public benefit, especially given that the encroachment into the setback is minor, does not affect public safety, and is consistent

with the character of the area. Approving the variance helps balance the rights of the individual property owner with the interests of the public, especially where the project replaces an unsightly, deteriorated structure with a new, attractive home that enhances the neighborhood. The Jacobs are current foster parents and work with New Hampshire DCYF to help children and families within the community. the additional bedrooms in the new home will be added space for family and potential foster children.The Jacobs are good neighbors, law-abiding town residents who would like to continue to live in this community. Denying the variance would result in a significant hardship to the property owner, preventing any beneficial use of land. While granting the variances will create no loss to the general public and there would be no gain to the public if the variance is denied. However granting the variance will allow the owner of 16 years to remain in the town they live in.

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

Granting the variance would not diminish the value of surrounding properties because the new home and garage will replace an outdated, unattractive structure with a modern, well-designed residence that will improve the overall appearance and desirability of the neighborhood. A newly constructed, well-maintained home will enhance property values by contributing to the general quality and curb appeal of the area. The slight reduction in the road setback will have no negative impact on neighboring properties' use, privacy, or enjoyment, and will not create any visual or functional detriment to the surroundings. Instead, the improvement to the lot will likely have a positive influence on nearby property values.

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 property is a relatively small lot, approximately 100 feet by 100 feet, which limits the ability to meet the full 30-foot road setback while still constructing a reasonably sized home with a garage. Unlike larger lots in the area, the limited size and shape of this

parcel make it difficult to place a modern home and attached garage within the required setbacks without significantly compromising the design, functionality, or livability of the structure. Additionally, the construction of an attached garage promotes environmental protection by preventing oils, chemicals, and other automotive fluids from leaking directly onto the ground, which could otherwise occur if vehicles were parked outdoors year-round. This helps preserve the soil and groundwater quality of the property and surrounding area. Strict enforcement of the setback would prevent reasonable use of the property, would interfere with practical and environmentally responsible development, and would impose a disproportionate burden compared to similarly situated properties in the neighborhood, many of which have varying setbacks.

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:

The general purpose of the setback ordinance is to maintain public safety, visual openness, and neighborhood character. However, due to the small size of the lot (approximately 100 feet by 100 feet) and the desire to responsibly site a new home and garage, applying the full 30-foot setback requirement to this property would impose an unnecessary burden without achieving those public goals. The proposed home will still maintain a substantial distance from the roadway, ensuring safety and preserving the residential character of the area. Because the road is lightly traveled and the neighborhood is low-density, a modest reduction in the setback will not negatively impact traffic, sightlines, or the orderly appearance of the area. Instead, the variance will allow for reasonable, environmentally sound use of the property consistent with the surrounding neighborhood, fulfilling the spirit and intent of the ordinance without rigid and unfair application to a uniquely constrained lot.

and
ii. The proposed use is a reasonable one because:

The proposed use as a reasonable one because, constructing a single-family home with an attached garage on a residentially zoned lot is fully consistent with the character, zoning, and intended use of the area. The new home will replace an outdated structure, improving the property and benefiting the surrounding neighborhood. The size and design of the proposed home and garage are appropriate for the size of the lot and will allow for modern, safe, and environmentally responsible use of the property without negatively impacting neighboring properties or the general public. The slight reduction in the road setback is a minor adjustment that enables a practical and attractive development of the lot while remaining fully in harmony with the surrounding residential uses.

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:

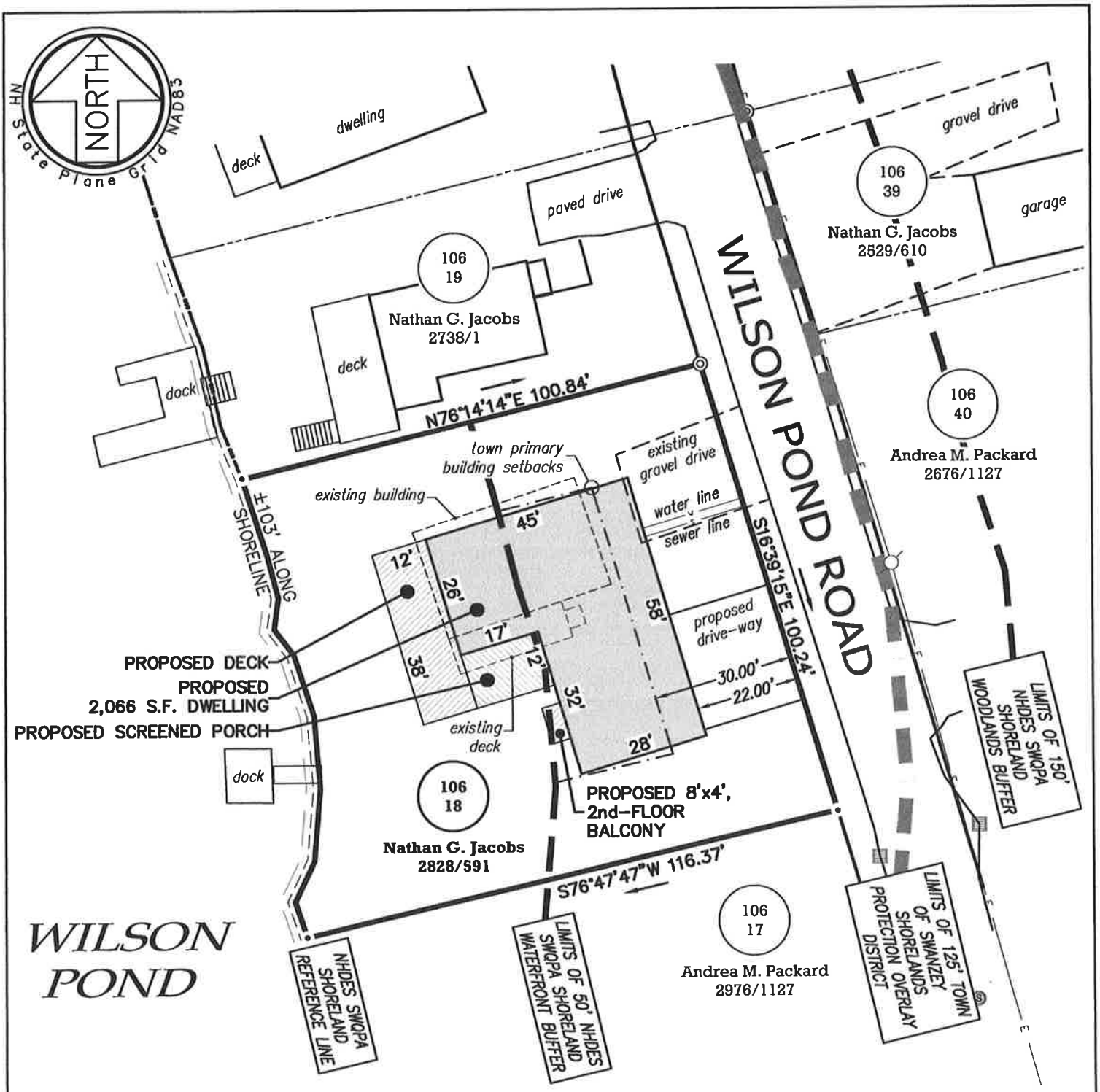
The lot is relatively small at approximately 100 feet by 100 feet, which makes full compliance with the 30-foot road setback requirement impractical without severely limiting the size, design, and functionality of the proposed new home and garage. Strict enforcement of the setback would prevent the construction of a reasonably sized and properly designed home that is consistent with the character of the neighborhood and with modern standards of residential living. Without the variance, the property owner would be forced into an impractical and unreasonable design that would compromise both the usability of the property and the ability to make responsible improvements, including environmentally protective measures such as an attached garage to shield vehicles from the

elements and reduce ground contamination. A modest variance is therefore necessary to permit reasonable and beneficial use of the property in a way that is consistent with neighboring properties and the goals of the zoning ordinance.

Abutters:

Andrea M. Packard
72 Wilson Pond Rd
Swanzey NH 03431

Nathan Jacobs
69 Wilson Pond Rd
Swanzey NH 03431



SKETCH TO ACCOMPANY VARIANCE APPLICATION

Prepared For

NATHAN G. JACOBS

Tax Map 106 Lot 18

#71 Wilson Pond Road

Swanzey, Cheshire County, New Hampshire

YORK LAND SERVICES, LLC
3 TWELFTH STREET, BERLIN, NH 03570 (603) 752-7282

Scale	1 INCH = 30 FEET
Date	APRIL 28, 2025
Drawn By	CSL
Job/Sketch No.	20-120

STATE OF NEW HAMPSHIRE
No. 939
BURKE J. YORK
LICENSED LAND SURVEYOR
SIGNATURE

NOTE: THIS SKETCH WAS COMPILED FROM VARIOUS EXISTING AND MEASURED DATA AND IN NO WAY CONSTITUTES A PROPERTY SURVEY. MEASUREMENTS SHOWN ARE SUBJECT TO VERIFICATION AND MAY CHANGE.

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

MAP: 106 **LOT:** 18

To: Board of Adjustment, Town of Swanzey:

NAME OF APPLICANT:	**MAILING ADDRESS OF APPLICANT:**
Nathan Jacobs and Danielle Jacobs	69 Wilson Pond Rd North Swanzey NH 03431
Contact phone number: 860-885-4849	email- 4755650@GMAIL.com
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)
71 Wilson Pond Rd
North Swanzey NH 03431

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 IV, Article B.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:

See attached; facts and supporting of granting the variance page

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

See attachment; facts of supporting of granting the variance page

3. Granting the variance would do substantial justice because:

See attachment; facts of supporting of granting the variance page

4. Granting the variance would not diminish the values of surrounding properties because:
See attachment; facts of supporting granting the variance page

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:
See attachment; fax in support of granting the variance page

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:
See attachment; facts, in support of granting the variance page

and

ii. The proposed use is a reasonable one because:
See attachment facts in support of granting the variance page

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:

See attachment, fax, and supportive, granting the variance.

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: 4/28/2025

Signature of Property Owner Date: 4/28/2025

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.

Brief description of project /request

Nathan and Danielle Jacobs would like to build a new single family home with an attached garage on their property, 71 Wilson Pond Rd Swanzey. The proposed variance request is due to the road setback requirements due to the non conforming lot.

The requested variance is necessary to allow for the reasonable and beneficial use of the property while still respecting the character and intent of the surrounding neighborhood. The special conditions of the property, including its small size and unique layout, make strict compliance with the ordinance impractical and unnecessary. Granting the variance will allow for the construction of a modern, environmentally responsible home and garage that will enhance the property and improve the overall aesthetics of the neighborhood. The proposed development will not negatively impact public safety, the environment, or surrounding property values. Instead, it will provide a quality residential improvement that aligns with the goals of the zoning ordinance while addressing the unique characteristics of this lot.

FACTS IN SUPPORT OF GRANTING THE VARIANCE:

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

Granting the variance would not be contrary to the public interest because the property is located on a lightly used road within a quiet residential neighborhood, where the proposed setback reduction will not affect traffic flow, pedestrian safety, or emergency vehicle access. The new home and garage will significantly improve the appearance of the property compared to the existing outdated and deteriorated structure, enhancing the overall character and aesthetics of the neighborhood. Additionally, the proposed project remains consistent with the residential nature of the area and will likely be welcomed by neighbors who prefer a modern, well-maintained home to replace the current condition. The variance will allow reasonable use of the lot without causing any negative impacts on public health, safety, or welfare.

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

Granting the variance would not be contrary to the public interest because the property is located on a lightly used road within a quiet residential neighborhood, where the proposed setback reduction will not affect traffic flow, pedestrian safety, or emergency vehicle access. The new home and garage will significantly improve the appearance of the property compared to the existing outdated and deteriorated structure, enhancing the overall character and aesthetics of the neighborhood. Additionally, the proposed project remains consistent with the residential nature of the area and will likely be welcomed by neighbors who prefer a modern, well-maintained home to replace the current condition. The variance will allow reasonable use of the lot without causing any negative impacts on public health, safety, or welfare.

3. Granting the variance would do substantial justice because:

Substantial justice would be done because granting the variance allows the property owner to make reasonable and beneficial use of the lot while improving the property and the surrounding neighborhood. Denying the variance would result in a hardship that is not outweighed by any meaningful public benefit, especially given that the encroachment into the setback is minor, does not affect public safety, and is consistent

with the character of the area. Approving the variance helps balance the rights of the individual property owner with the interests of the public, especially where the project replaces an unsightly, deteriorated structure with a new, attractive home that enhances the neighborhood. The Jacobs are current foster parents and work with New Hampshire DCYF to help children and families within the community. the additional bedrooms in the new home will be added space for family and potential foster children.The Jacobs are good neighbors, law-abiding town residents who would like to continue to live in this community. Denying the variance would result in a significant hardship to the property owner, preventing any beneficial use of land. While granting the variances will create no loss to the general public and there would be no gain to the public if the variance is denied. However granting the variance will allow the owner of 16 years to remain in the town they live in.

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

Granting the variance would not diminish the value of surrounding properties because the new home and garage will replace an outdated, unattractive structure with a modern, well-designed residence that will improve the overall appearance and desirability of the neighborhood. A newly constructed, well-maintained home will enhance property values by contributing to the general quality and curb appeal of the area. The slight reduction in the road setback will have no negative impact on neighboring properties' use, privacy, or enjoyment, and will not create any visual or functional detriment to the surroundings. Instead, the improvement to the lot will likely have a positive influence on nearby property values.

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 property is a relatively small lot, approximately 100 feet by 100 feet, which limits the ability to meet the full 30-foot road setback while still constructing a reasonably sized home with a garage. Unlike larger lots in the area, the limited size and shape of this

parcel make it difficult to place a modern home and attached garage within the required setbacks without significantly compromising the design, functionality, or livability of the structure. Additionally, the construction of an attached garage promotes environmental protection by preventing oils, chemicals, and other automotive fluids from leaking directly onto the ground, which could otherwise occur if vehicles were parked outdoors year-round. This helps preserve the soil and groundwater quality of the property and surrounding area. Strict enforcement of the setback would prevent reasonable use of the property, would interfere with practical and environmentally responsible development, and would impose a disproportionate burden compared to similarly situated properties in the neighborhood, many of which have varying setbacks.

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:

The general purpose of the setback ordinance is to maintain public safety, visual openness, and neighborhood character. However, due to the small size of the lot (approximately 100 feet by 100 feet) and the desire to responsibly site a new home and garage, applying the full 30-foot setback requirement to this property would impose an unnecessary burden without achieving those public goals. The proposed home will still maintain a substantial distance from the roadway, ensuring safety and preserving the residential character of the area. Because the road is lightly traveled and the neighborhood is low-density, a modest reduction in the setback will not negatively impact traffic, sightlines, or the orderly appearance of the area. Instead, the variance will allow for reasonable, environmentally sound use of the property consistent with the surrounding neighborhood, fulfilling the spirit and intent of the ordinance without rigid and unfair application to a uniquely constrained lot.

and
ii. The proposed use is a reasonable one because:

The proposed use as a reasonable one because, constructing a single-family home with an attached garage on a residentially zoned lot is fully consistent with the character, zoning, and intended use of the area. The new home will replace an outdated structure, improving the property and benefiting the surrounding neighborhood. The size and design of the proposed home and garage are appropriate for the size of the lot and will allow for modern, safe, and environmentally responsible use of the property without negatively impacting neighboring properties or the general public. The slight reduction in the road setback is a minor adjustment that enables a practical and attractive development of the lot while remaining fully in harmony with the surrounding residential uses.

If the criteria in subparagraph A.i. and A.ii. are not established, an unnecessary hardship will be deemed to
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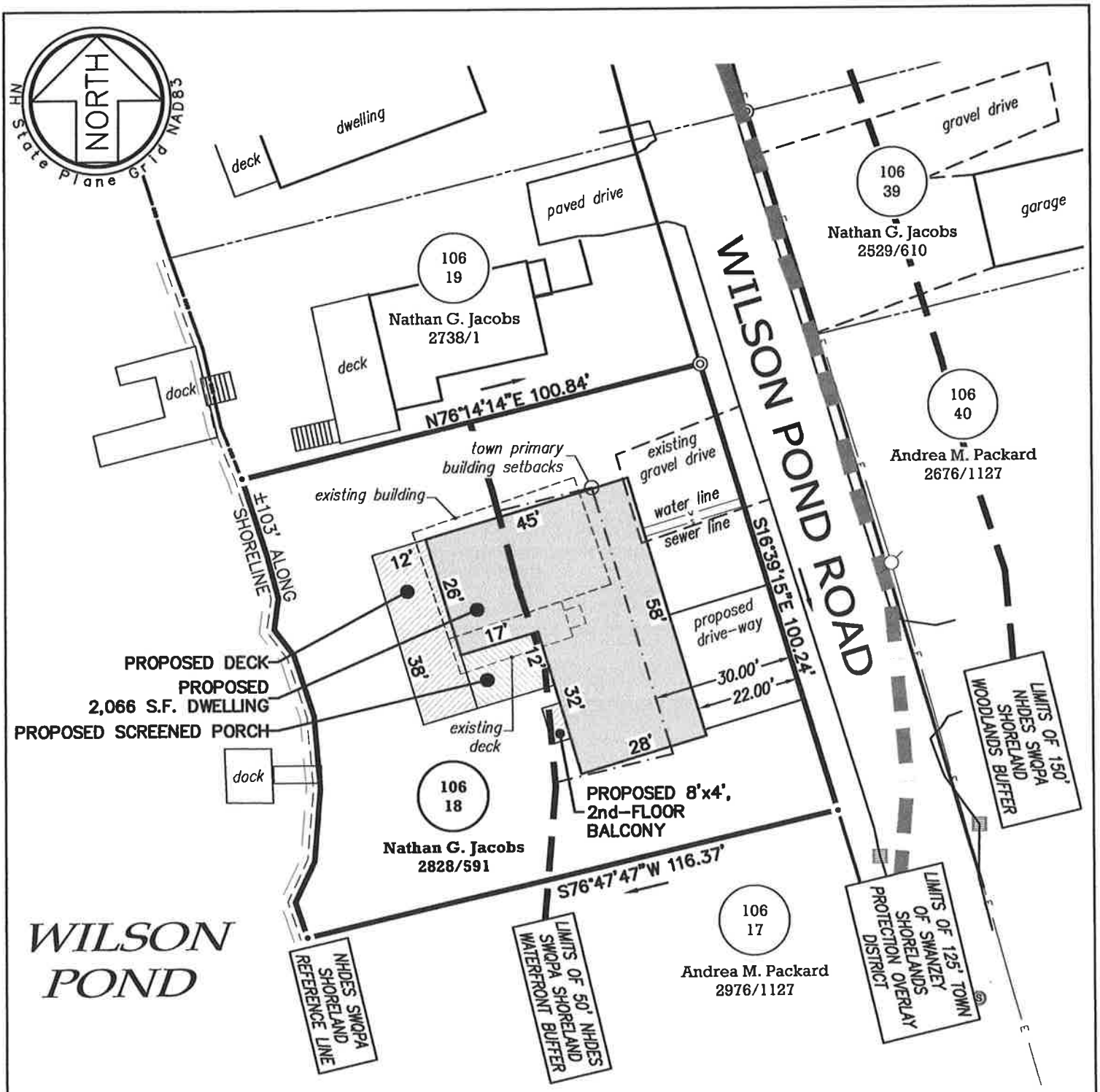
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NATHAN G. JACOBS

Tax Map 106 Lot 18

#71 Wilson Pond Road

Swanzey, Cheshire County, New Hampshire

YORK LAND SERVICES, LLC
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THIS MAP IS FOR ASSESSMENT PURPOSES. IT IS NOT VALID FOR LEGAL DESCRIPTION OR CONVEYANCE.

THE HORIZONTAL DATUM IS THE NEW HAMPSHIRE STATE PLANE COORDINATE SYSTEM, NAD 83.

PHOTOGRAPHY DATE: APRIL 2021

COMPLETION DATE: DECEMBER 31, 2023

PRODUCED IN 2023 BY

CAI Technologies
Precision Mapping. Geospatial Solutions
11 Pleasant Street, Littleton, NH 03561
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LEGEND

AREA SURVEYED ..... Ac
AREA CALCULATED ..... AcC
RECORD DIMENSION ..... 100'
SCALED DIMENSION ..... 100'S
MATCH LINE 9A
WATER ..... -W-
BUILDING
EXEMPT PROPERTY ..... E
SUBDIVISION LOT NO. 2
RIGHT OF WAY/ACCESS ..... 66'W
COMMON OWNERSHIP
WETLANDS

FEET 100 50 0 100 200 300
METERS 25 12.5 0 25 50 75
SCALE: 1" = 100'

REVISED TO: APRIL 1, 2023

PROPERTY MAPS

SWANZEY

NEW HAMPSHIRE

INDEX DIAGRAM

MAP NO. 106