



## City of Keene Zoning Board of Adjustment

### AGENDA

**Monday, August 7, 2023**

**6:30 p.m.**

**City Hall, 2<sup>nd</sup> Floor Council Chambers**

- I. Introduction of Board Members:
- II. Minutes of the Previous Meeting: July 3, 2023
- III. Unfinished Business:
- IV. Hearings:

**Continued ZBA 23-16:** Petitioner, 147-151 Main Street, LLC and represented by Jim Phippard, of Brickstone Land Use Consultants, LLC, requests a Special Exception for property located at 147 Main St., Tax Map #584-060-000 and is in the Downtown Core District. The Petitioner requests to permit a drive-through use in the Downtown Core District at this property, per Chapter 100, Article 8.4.2.C.2 of the Zoning Regulations.

**ZBA 23-19:** Petitioner, Aaron Wiswell of West St. AJ's, LLC, Berwick, ME, and represented by Jim Phippard, of Brickstone Land Use Consultants, LLC, requests a Variance for property located at 348 West St., Tax Map #577-025-000 and is in the Commerce District. The Petitioner requests to permit a side pavement setback of 1.5 feet where eight feet is required per Chapter 100, Article 9.4.2, Table 9-2 of the Zoning Regulations.

**ZBA 23-20:** Petitioner, Aaron Wiswell of A & B, LLC, Berwick, ME, and represented by Jim Phippard, of Brickstone Land Use Consultants, LLC, requests a Variance for properties located at 364 West St. and 12 Pearl St., Tax Map #577-026-000 & 577-027-000 and is in the Commerce District. The Petitioner requests to permit a side pavement setback of two feet where eight feet is required per Chapter 100, Article 9.4.2, Table 9-2 of the Zoning Regulations.

**ZBA 23-21:** Petitioner, Christine Salema of SS Baker's Realty Co., Inc., Keene requests a Variance for property located at 428 Main St., Tax Map #112-004-000 and is in the Low Density District. The Petitioner requests a personal service establishment where it is not currently a permitted use per Chapter 100, Article 3.3.5 of the Zoning Regulations.

**ZBA 23-22:** Petitioner, Casey Cota of Cota & Cota, Inc. of Bellows Falls, VT, requests a Special Exception for property located at 455 Winchester St., Tax Map #115-025-000, is owned by Donald E. Barnes and is in the Industrial District. The Petitioner requests to permit an office use in the Industrial District at this property, per Chapter 100, Table 8-1, Permitted Principal Uses, of the Zoning Regulations.

- V. New Business:  
Rules of Procedure:
- VI. Communications and Miscellaneous:
- VII. Non-Public Session: (if required)
- VIII. Adjournment:

Page intentionally left blank

1 **City of Keene**  
2 **New Hampshire**

3  
4  
5 **ZONING BOARD OF ADJUSTMENT**  
6 **MEETING MINUTES**  
7

8 **Monday, July 3, 2023**

**6:30 PM**

**Council Chambers,  
City Hall**

**Members Present:**

Joseph Hoppock, Vice Chair  
Jane Taylor, Vice Chair  
Joshua Gorman  
Michael Welsh

**Staff Present:**

John Rogers, Zoning Administrator  
Corinne Marcou, Zoning Clerk  
Mike Hagan, Plans Examiner

**Members Not Present:**

Richard Clough

9  
10 **I) Introduction of Board Members**

11  
12 Chair Hoppock called the meeting to order at 6:30 PM and explained the procedures of the  
13 meeting. Roll call was conducted.

14  
15 **II) Minutes of the Previous Meeting: May 1, 2023 and June 5, 2023**

16  
17 Ms. Taylor stated that the approval of the May 1, 2023, meeting minutes had been postponed  
18 because she had a question about the meaning of line 60. [Line 60: “He continued that he was  
19 contacted through his attorney, Tom Hanna, by the Putnams, requesting that this be delayed to  
20 the June meeting.”] Ms. Taylor asked Zoning Clerk Corinne Marcou to address this.

21  
22 Ms. Marcou stated that what the Minute-taker wrote in the minutes is what Mr. Phippard stated.  
23 She continued that they (Community Development Department staff and the Minute-taker)  
24 assume that Mr. Phippard meant that Mr. Phippard was contacted through the Putnams’ attorney,  
25 Tom Hanna. With the way that it was written, it sounded like it was Mr. Phippard’s attorney, but  
26 it was the Putnams’ attorney. Staff have come to that conclusion due to conversations they have  
27 had with Mr. Phippard in the office.

28  
29 Ms. Taylor asked for the minutes to include a parenthetical addition to clarify that, such as,  
30 “...contacted through his (the Putnams’) attorney.” Ms. Marcou replied yes, she can do that.

31  
32 Chair Hoppock asked if any other corrections or changes are needed for the May 1 minutes. Ms.  
33 Taylor replied that the Board discussed the other changes at the June 5 meeting, and those  
34 changes are correctly listed in the June 5 minutes.

35 Mr. Gorman made a motion to approve the May 1, 2023, meeting minutes with the corrections  
36 made by Ms. Taylor to lines 60, 564, and 683. Chair Hoppock seconded the motion, which  
37 passed by a vote of 3-0. Mr. Welsh abstained due to having been absent.

38

39 Chair Hoppock asked for comments on the June 5 minutes. Ms. Taylor stated that she has an  
40 addition to make. She continued that they lost internet partway through the meeting, took a  
41 break, and then Mr. Hanna finished his testimony. Then, two members of the public spoke in  
42 opposition. For purposes of completeness, she would like to insert, after line 640, the names and  
43 addresses of the two people who were opposed and the fact that they opposed the application.

44

45 Zoning Administrator John Rogers replied that staff knows the names and addresses, so yes, they  
46 can insert those. Chair Hoppock asked Ms. Taylor to state what the addition should read. Ms.  
47 Taylor suggested the addition after line 640 read, "John Hillock of 511 Marlboro St. and Penny  
48 Bell of 511 Marlboro St. both stated their opposition to the application."

49

50 Mr. Gorman made a motion to approve the June 5, 2023, meeting minutes with the suggested  
51 edit from Ms. Taylor. Mr. Welsh seconded the motion, which passed by unanimous vote.

52

### 53 **III) Unfinished Business**

54

55 Chair Hoppock asked if there is any unfinished business. Mr. Rogers replied no.

56

### 57 **IV) Hearings**

58

59 **A) Continued ZBA 23-16: Petitioner, 147-151 Main Street, LLC and**  
60 **represented by Jim Phippard, of Brickstone Land Use Consultants, LLC, requests a**  
61 **Special Exception for property located at 147 Main St., Tax Map #584-060-000-000-**  
62 **000 and is in the Downtown Core District. The Petitioner requests to permit a drive-**  
63 **through use in the Downtown Core District at this property, per Chapter 100,**  
64 **Article 8.4.2.C.2 of the Zoning Regulations.**

65

66 Chair Hoppock read ZBA 23-16 aloud and stated that it is being removed from the agenda at the  
67 request of applicant, and continued to the August meeting, because there is not a five-member  
68 Board tonight.

69

70 Ms. Taylor made a motion to continue ZBA 23-16 for 147 Main St. to the next regular meeting  
71 on August 7, 2023. Mr. Gorman seconded the motion, which passed by unanimous vote.

72

73 **B) ZBA 23-18: Petitioner, Lynn Stanford of Keene, requests a Variance for**  
74 **property located at 334 Chapman Rd., Tax Map #241-048-000-000-000 and is in the**  
75 **Rural District. The Petitioner requests to permit the building of a single family**  
76 **home on the substandard lot size of 1.03 acres where five acres are required, per**  
77 **Chapter 100, Article 3.1.2 of the Zoning Regulations.**

78

79 Chair Hoppock asked to hear from staff.

80

81 Plans Examiner Michael Hagan stated that 334 Chapman Rd. is zoned Rural and has 1.03 acres.  
82 He continued that as of the end of June, the Land Development Code (LDC) has changed to only  
83 require two acres in the Rural District instead of five. This significant change happened after the  
84 applicant had submitted their application. This property has had four Variances; on February 7,  
85 2000, it was granted a Variance to allow a single-family home to be built on a substandard lot. It  
86 was granted with two conditions: the existing garage to be removed, and the Variance was  
87 extended for five years, expiring February 7, 2005. In January 2005, the second Variance was  
88 granted with another five-year extension. On December 7, 2009, a third five-year extension was  
89 granted to December 2014. On December 1, 2014, the Board approved the Variance with  
90 another three-year extension.

91

92 Chair Hoppock asked when the three-year extension expired. Mr. Hagan replied December 1,  
93 2019. Chair Hoppock asked if it is correct that there has been no activity on the property since  
94 then, in terms of Variances. Mr. Hagan replied that is correct.

95

96 Ms. Taylor stated that she believes the Board did grant a two-year extension with ZBA 19-13.  
97 Mr. Hagan replied that he did not see that in the file and apologizes. Ms. Taylor replied that it  
98 was the October 7, 2019, meeting. Mr. Hagan replied that they will make sure to get that into the  
99 file. Chair Hoppock replied that he thinks that is the one in their agenda packet tonight.

100

101 Ms. Taylor stated that there were comments in the application about what has taken place on the  
102 property. She asked if there have been any City inspections, permits, or anything like that issued  
103 and asked if they have put in a septic system and a pad. Mr. Hagan replied that there was  
104 nothing in the file currently with any building permits for a septic system or pad.

105

106 Mr. Welsh stated that he has a point of clarity. He continued that the prior Variances were  
107 applied to a Zoning Ordinance that specified five acres in the Rural District, and the current/new  
108 Zoning Ordinance specifies two acres, so this is a Variance that would be to a less substandard  
109 type of lot than the prior Variances would be. Chair Hoppock replied yes.

110

111 Chair Hoppock asked if anyone had further questions for staff. Hearing none, he asked the  
112 applicant to speak.

113

114 Lynn Stanford stated that she owns 344 Chapman Rd. She asked what the Board would like her  
115 to do. Chair Hoppock replied that ideally, she could speak to the criteria for evaluating her  
116 Variance request. He continued that she could tell the Board why she thinks the criteria are met,  
117 and the Board will have questions for her.

118

119 Ms. Stanford stated that she thinks where they left off with Mr. Hagan was that there was  
120 Variance ZBA 19-13, which was active when she purchased the property, fully intending to build

121 a home on it. She continued that she knew it would expire within that year that she was going to  
122 be closing, which was that February. After contracting to buy the property, life “threw her  
123 family a curveball.” Fortunately, everything ended well, but there was a lot of duress, and she  
124 was not involved in thinking about developing property at the time. One of the solutions was to  
125 purchase a home on Court St., because she did not have the time to go through planning and  
126 building a home but needed a residence for a family member to recover. Now, she needs to sell  
127 the property (on Chapman Rd.). She explained that she’s run on Chapman Rd. for many years,  
128 and noticed numerous homes on acreage that were smaller, and always admired this piece of  
129 property.

130  
131 Ms. Stanford continued that there is a precedent set, about 20+ years of this specific plot being  
132 designated for a single-family home. Tim and Christine Symonds, she believes, are the ones  
133 who developed the building pad. It was surveyed, and they even had a septic system plan, which  
134 was enclosed in the application. It was never built, but it was surveyed and approved to be  
135 installed. She assumes that life changed for (the Symonds) as well, and they sold the property to  
136 another owner, whom she purchased it from in 2021. Even though it never came to full fruition  
137 and a house was never built, that is what it was fully intended for as it cannot serve as anything  
138 else. She would like to sell it so that someone can actually get this development of this property  
139 completed and it can reach its full potential as a residence. It would be a hardship for her if the  
140 Board declined the Variance because the real estate value would plummet if it could not be built  
141 on. She needs to be able to sell it at the value she bought it for.

142  
143 Mr. Welsh stated that he has a clarifying question. He continued that Ms. Stanford mentioned  
144 the Symonds, the prior owners. He asked if they are the people Ms. Stanford bought the property  
145 from. Ms. Stanford replied no, there was another owner in between. She continued that the  
146 Symonds held the property for the majority of the time, with all the Variances. She does not  
147 know for sure but believes that when they purchased the property there was a trailer or mobile  
148 home on it and a couple outbuildings. The Symonds cleaned the property up and planned on  
149 building, but it never happened.

150  
151 Ms. Taylor stated that she has a question, since Ms. Stanford has the plans and surveys. Ms.  
152 Stanford replied that she does not actually have them; she has a copy of them that was given with  
153 the closing deed. She continued that it is hard to read, even with reading glasses, but the name of  
154 who surveyed it is on the plot plan that is enclosed with her application. Ms. Taylor stated that  
155 she was curious about whether Ms. Stanford had any information on the current status of those  
156 improvements. Ms. Stanford replied yes, (the current status is) nothing. She continued that it is  
157 dead in the water. Nothing has moved forward, because her time and attention has been on 326  
158 Court St. instead of 344 Chapman Rd. She would have loved to have designed and built on 344  
159 Chapman Rd., but things change.

160  
161 Chair Hoppock asked if it is Ms. Stanford’s view that other than a single-family home of some  
162 sort, no other reasonable use can be put to this property. Ms. Stanford replied that it is a  
163 “postage stamp” (small lot) surrounded by a five-acre plot to one side and a seven-acre plot to

164 the other side. She continued that it is completely landlocked. You cannot even get to the trails  
165 from it, because the property “dog legs” behind it, although there is a right-of-way of way behind  
166 it. It is perfect for a private, modest home, because there is a lot of space between the property  
167 and the neighbors’ homes.

168

169 Chair Hoppock asked if the Board had further questions. Hearing none, he asked if Ms. Stanford  
170 wanted to add anything else. Ms. Stanford replied no. Chair Hoppock asked to hear from the  
171 public, beginning with anyone wishing to speak in opposition. Hearing none, he asked to hear  
172 from anyone wishing to speak in favor.

173

174 Amy Abel of 341 Chapman Rd. stated that she lives across the street from the property Ms.  
175 Stanford owns and has lived there for at least 27 years. She continued that she remembers the  
176 people who lived in the trailer on the property and remembers the Symonds and how excited they  
177 were about the idea of building on the property. Someone owned the property between (the  
178 Symonds and Ms. Stanford), and she was hoping she was coming to this meeting to meet her  
179 new neighbor. While the property sits empty, it has a driveway off Chapman Rd., which many  
180 of the local youth are well aware of. She continued that a vagrant camped there most of last  
181 summer and this spring, she has called the police a couple of times because there have been  
182 people driving up (to 344 Chapman Rd.), playing loud music, from pick-up trucks. She admits  
183 that she herself has trespassed on the property while walking her dogs and has discovered that  
184 beer cans and trash have been left there. She feels that continuing the Variance and giving them  
185 a fighting chance of having a house on that property, with neighbors who will be able to keep an  
186 eye on it, is probably in the best interest of the entire neighborhood. The houses on the  
187 properties next door on either side of 344 Chapman Rd. are well away, so having a small house  
188 on 344 Chapman Rd. will not impact them much. Ms. Abel added that present with her tonight  
189 is her other next-door neighbor.

190

191 Chair Hoppock asked if there was further public comment. Hearing none, he closed the public  
192 hearing and asked the Board to deliberate.

193

194 Ms. Taylor stated that she took the time to look up what the Board had done in 2019. She  
195 continued that one of the concerns they had, one of the primary concerns they always have, is the  
196 question of what the hardship is. At the time - at least according to the meeting minutes, and it  
197 does not appear that anything has changed – the Board determined under Section B. of the  
198 hardship criterion that there was no other reasonable use for this property other than as a  
199 residential parcel, given the Zoning, the neighborhood, and all the other considerations. She  
200 appreciates the neighbor’s testimony, because it is very valuable to know what some of the issues  
201 are, and it seems to her that it would be in the public interest to have something done with this  
202 property, rather than have vagrants and teenage beer parties. She thinks it is probably well  
203 within the spirit of the Ordinance, especially with the reduction in the parcel size to two acres.  
204 She continued that this is 1.03 acres, so it is not as much out of compliance as the past Variances  
205 have been.

206

207 Mr. Gorman stated that he reiterates what Ms. Taylor said. He continued that she touched on  
208 criteria 1., 2., and 5. Regarding the fourth criterion, about the devaluation of property, he thinks  
209 the testimony of the abutter speaks volumes to that. He thinks the property has more value for  
210 all parties surrounding it as a residence. Regarding the substantial justice criterion, he does not  
211 think there is any negative effect to the public and there is plenty of gain to the applicant here.  
212

213 Mr. Welsh stated that he remembers this from last time. He continued that he thinks one of the  
214 things he articulated (at the previous meeting regarding this property) was that if four prior  
215 Zoning Boards had approved this Variance and they have seen no evidence that conditions have  
216 changed significantly, he sees no reason to go against the rulings of those four prior Boards, with  
217 the caveat that things have changed a bit. It is now two acres instead of five (that the updated  
218 LDC requires), so they are approving a Variance that is less out of compliance. Generally  
219 speaking, he is inclined positively.  
220

221 Chair Hoppock stated that for the record, he agrees with what everyone has said. He continued  
222 that he would add that in terms of substantial justice, there would be no gain to the public that  
223 would justify the harm to the applicant, in this analysis/balancing test. He agrees with Mr.  
224 Welsh's comments about the four prior Board's actions. The only thing that has changed is the  
225 acreage criteria. He agrees with Ms. Taylor that subparagraph B. of the fifth criterion would be  
226 appropriate here, since the only reasonable use of this property is a residential use. The public  
227 interest in developing it in such a use is clear in light of what they just heard from the neighbor.  
228 He will vote to approve this application, and he is looking for a motion.  
229

230 Mr. Gorman made a motion to approve ZBA 23-18. Ms. Taylor seconded the motion.  
231

232 1. *Granting the Variance would not be contrary to the public interest.*  
233

234 Met with a vote of 4-0.  
235

236 2. *If the Variance were granted, the spirit of the Ordinance would be observed.*  
237

238 Met with a vote of 4-0.  
239

240 3. *Granting the Variance would do substantial justice.*  
241

242 Met with a vote of 4-0.  
243

244 4. *If the Variance were granted, the values of the surrounding properties would not be*  
245 *diminished.*  
246

247 Met with a vote of 4-0.  
248

249 5. *Unnecessary Hardship*



- 250 A. *Owing to special conditions of the property that distinguish it from other properties in the*  
251 *area, denial of the variance would result in unnecessary hardship because*  
252 i. *No fair and substantial relationship exists between the general public purposes of the*  
253 *ordinance provision and the specific application of that provision to the property because*  
254 *and*  
255 ii. *The proposed use is a reasonable one.*  
256

257 Chair Hoppock stated he is inclined to go right to 5.B., but they probably need to address 5.A.  
258 Ms. Taylor replied that if they feel 5.A does not apply, the record should at least reflect that.  
259 Chair Hoppock asked if anyone thought 5.A. applied. Hearing no reply, he moved on to 5.B.

- 260  
261 B. *Explain how, if the criteria in subparagraph (A) are not established, an unnecessary*  
262 *hardship will be deemed to exist if, and only if, owing to special conditions of the property that*  
263 *distinguish it from other properties in the area, the property cannot be reasonably used in strict*  
264 *conformance with the ordinance, and a variance is therefore necessary to enable a reasonable*  
265 *use of it.*  
266

267 Chair Hoppock stated that the lot size is the special condition. He continued that he agrees with  
268 the applicant that there is no other reasonable use other than a single-family residence.

269 Met with a vote of 4-0.

270

271 The motion to approve ZBA 23-18 passed with a vote of 4-0.

272

273  
274 **V) New Business**  
275

276

277 Chair Hoppock asked staff if there was any new business. Mr. Rogers replied that the new  
278 business is potentially a long conversation and does not need to be brought forward tonight.

279

280  
281 **VI) Communications and Miscellaneous**  
282

283

284  
285 **VII) Non-public Session (if required)**  
286

287

288  
289 **VIII) Adjournment**  
290

291

292 There being no further business, Chair Hoppock adjourned the meeting at 7:04 PM.

293

294 Respectfully submitted by,  
295 Britta Reida, Minute Taker

296

297 Reviewed and edited by,  
298 Corinne Marcou, Board Clerk

Page intentionally left blank

# 147 MAIN ST. ZBA 23-16



**Petitioner requests a drive through use in the Downtown Core District per Chapter 100, Article 8.4.2.C.2 of the Zoning Regulations.**



NOTICE OF HEARING

ZBA 23-16

A meeting of the Zoning Board of Adjustment will be held on **Monday, June 5, 2023, at 6:30 PM** in City Hall Council Chambers, 2<sup>nd</sup> floor, 3 Washington St, Keene, New Hampshire to consider the following petition.

**ZBA 23-16:** Petitioner, 147-151 Main Street, LLC and represented by Jim Phippard, of Brickstone Land Use Consultants, LLC, requests a Special Exception for property located at 147 Main St., Tax Map #584-060-000-000-000 and is in the Downtown Core District. The Petitioner requests to permit a drive-through use in the Downtown Core District at this property, per Chapter 100, Article 8.4.2.C.2 of the Zoning Regulations.

**This meeting is open to the public, and anyone wishing to speak on the proposal will be given an opportunity to be heard during the public hearing for this application. The application for this proposal is available for public review in the Community Development Department on the 4<sup>th</sup> floor of City Hall between the hours of 8:00 am and 4:30 pm or online at <https://keenenh.gov/zoning-board-adjustment>**

Corinne Marcou, Zoning Clerk  
Notice issuance date May 26, 2023

# Zoning Board of Adjustment Special Exception Application



<b>For Office Use Only:</b>	
Case No.	ZBA23-10
Date Filled	5/11/2023
Rec'd By	CM
Page	1 of 10
Rev'd by	

If you have questions on how to complete this form, please call: (603) 352-5440  
or email: [communitydevelopment@keeneh.gov](mailto:communitydevelopment@keeneh.gov)

### SECTION 1: CONTACT INFORMATION

I hereby certify that I am the owner, applicant, or the authorized agent of the owner of the property upon which this appeal is sought and that all information provided by me is true under penalty of law. If applicant or authorized agent, a signed notification from the property owner is required.

#### OWNER / APPLICANT

NAME/COMPANY: 147-151 Main Street LLC

MAILING ADDRESS: PO Box 575 West Swanzey NH 03469

PHONE:

EMAIL:

SIGNATURE:

PRINTED NAME:

MIKE PAPPAS

#### APPLICANT (if different than Owner/Applicant)

NAME/COMPANY: Same as above

MAILING ADDRESS:

PHONE:

EMAIL:

SIGNATURE:

PRINTED NAME:

#### AUTHORIZED AGENT (if different than Owner/Applicant)

NAME/COMPANY: James Phippard / Brickstone Land Use Consultants LLC

MAILING ADDRESS: 185 Winchester St Keene NH 03431

PHONE: 6

EMAIL: [jhippard@ne.rr.com](mailto:jhippard@ne.rr.com)

SIGNATURE:

PRINTED NAME:

James P Phippard

**SECTION 2: GENERAL PROPERTY INFORMATION**

Property Address: **147 Main Street**

Tax Map Parcel Number: **584-060-000**

Zoning District: **Downtown - Core**

Lot Dimensions: Front: **63'**      Rear: **63'**      Side: **176'**      Side: **176'**

Lot Area: Acres: **.25**      Square Feet: **11,088'**

% of Lot Covered by Structures (buildings, garages, pools, decks, etc): Existing: **0**      Proposed: **40.7%**

% of Impervious Coverage (structures plus driveways and/or parking areas, etc): Existing: **0**      Proposed: **82.8%**

Present Use: **Vacant**

Proposed Use: **Mixed Use: Commercial / Residential**

**SECTION 3: WRITTEN NARRATIVE**

**Article 25.6.4.A.:** Describe the property location, owner of the subject property, and explain the purpose and effect of, and justification for, the proposed special exception.

See Attached

**SECTION 4: APPLICATION CRITERIA**

*Article of the Zoning Ordinance under which the Special Exception is sought:*

**See Attached**

**The Zoning Board of Adjustment shall have the authority to hear and decide special exceptions from the provisions of the Zoning Regulations of the City's Land Development Code, subject to the requirements of Article 25.6, Zoning Special Exception, 25.6.3 Authority and NH RSA 674:33.**

*Briefly describe your responses to each criteria, using additional sheets if needed:*

**1. The nature of the proposed application is consistent with the spirit and intent of the Zoning Regulations, this LDC and the City's Comprehensive Master Plan, and complies with all applicable standards in this LDC for the particular use.**

**PROPERTY ADDRESS 147 MAIN STREET**

**APPLICATION FOR A SPECIAL EXCEPTION**

- A Special Exception is requested under Section (s) 8.4.2 C.2 of the Land Development Code of the Keene Zoning Ordinance to permit: A Drive-Through use in the Downtown-Core district at 147 Main Street.

**Background:** 147-151 Main Street LLC is the owner of the property at 147 Main Street in the Downtown-Core district. This is the property where a mixed use building burned and had to be completely removed. The owner wishes to construct a new, three story mixed use building on the site. The existing site is 63' x 130' = 8190 sf (0.19 ac). The owner is proposing to do a boundary line adjustment with the vacant property to the rear of this site which will add to this site, making the expanded lot 63' x 176' = 11,088 sf (0.25 ac.). The proposed mixed uses will include commercial spaces on the ground floor with residential apartments on the second and third floors.

The commercial spaces will include a restaurant use with a drive-through lane and a pickup window on the west side of the building. A Special Exception is required for the drive-through use. The proposed restaurant will be takeout only. There will be no seats inside or out.

DESCRIBE BRIEFLY YOUR RESPONSE TO EACH CONDITION:

1. **The nature of the proposed application is consistent with the spirit and intent of the Zoning Regulations, this LDC and the City's Comprehensive Master Plan, and complies with all applicable standards in this LDC for the particular use.**

The LDC allows a drive-through use in the Downtown-Core district by Special Exception. The DT-C district encourages high intensity mixed uses including commercial, residential, civic and cultural uses. The proposed mixed use building will add to the vibrancy of downtown and is encouraged by the Keene Master Plan. The drive-through use with a pickup window offers the convenience today's customers want and will add to the viability of this business in a downtown location.

2. **The proposed use will be established, maintained and operated so as not to endanger the public health, safety or welfare.**

Since the pandemic, a restaurant with a drive-through lane and pickup window has become the latest trend in food service. Customers order food online or by phone, pay the bill remotely, and when the order is ready, they can then drive through to the pickup window to pick up their food. There will be no order board on the site. no lengthy delays and no long queues waiting to place their orders, waiting for the food to be prepared and paying the bill at the window. This system avoids the safety issues created by long queues. The driveway to the site will be located on Davis Street and



will provide 145 feet for queueing in the drive-through lane. This is more than adequate for this type of drive-through with a pickup window. As proposed, this use will not endanger the public health, safety or welfare.

- 3. The proposed use will be established, maintained and operated so as to be harmonious with the surrounding area and will not impede the development, use and enjoyment of the adjacent property.**

The proposed use will be operated in a new, three story brick building designed to be compatible with the downtown architecture. There will no outside seating and there will be no noises, fumes or vibrations which would disturb the abutting properties. There is on-site parking for up to five cars and there is public parking on Mian Street and on Davis Street. Business hours are typically 10:30 AM to 9:00 PM seven days a week. This proposal will have no significant effect on the abutting land uses.

- 4. The proposed use will be of a character that does not produce noise, odors, glare and/or vibration that adversely affects the surrounding area.**

The proposed drive-thru use will not utilize an order board. It will provide access to a pickup window only. There will be no customer seating inside or outside the restaurant. It will not generate excess traffic, excess noise, or cause a disturbance to neighbors. The proposed use will have no adverse effects on the surrounding area.

- 5. The proposed use will not place an excessive burden on public improvements, facilities, services or utilities.**

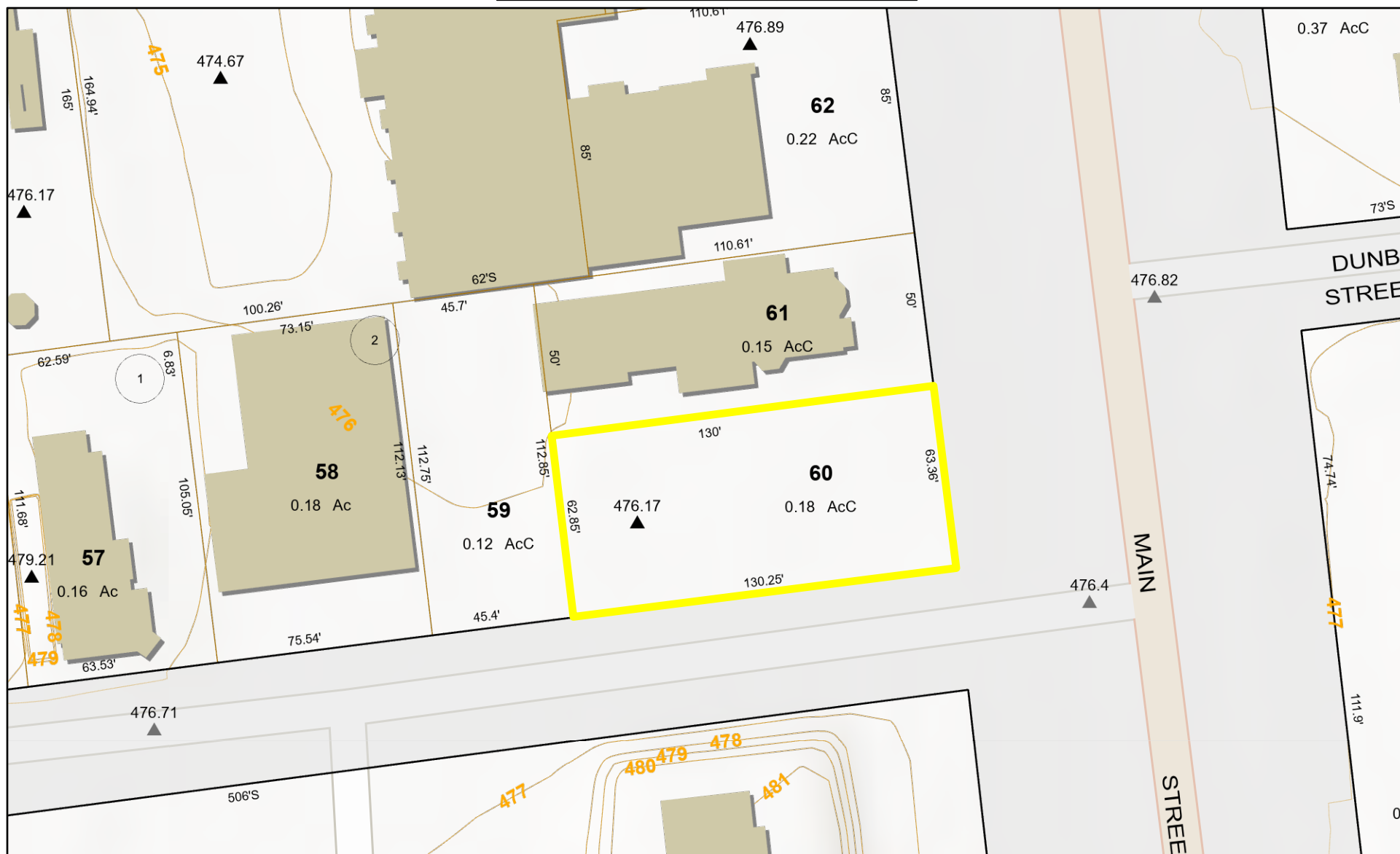
The proposed use will not generate excess traffic and will not use excessive amounts of city water and will not generate significant wastewater. There is adequate on-site parking existing at the site. Customer sales are expected to average approximately 200 sales per day with approximately 60 sales during the peak hour from 5:30 – 6:30 PM. 60 vehicle trips will not diminish the safety or capacity of Davis Street at Main Street.

- 6. The proposed use will not result in the destruction, loss or damage of any feature determined to be of significant natural, scenic or historic importance.**

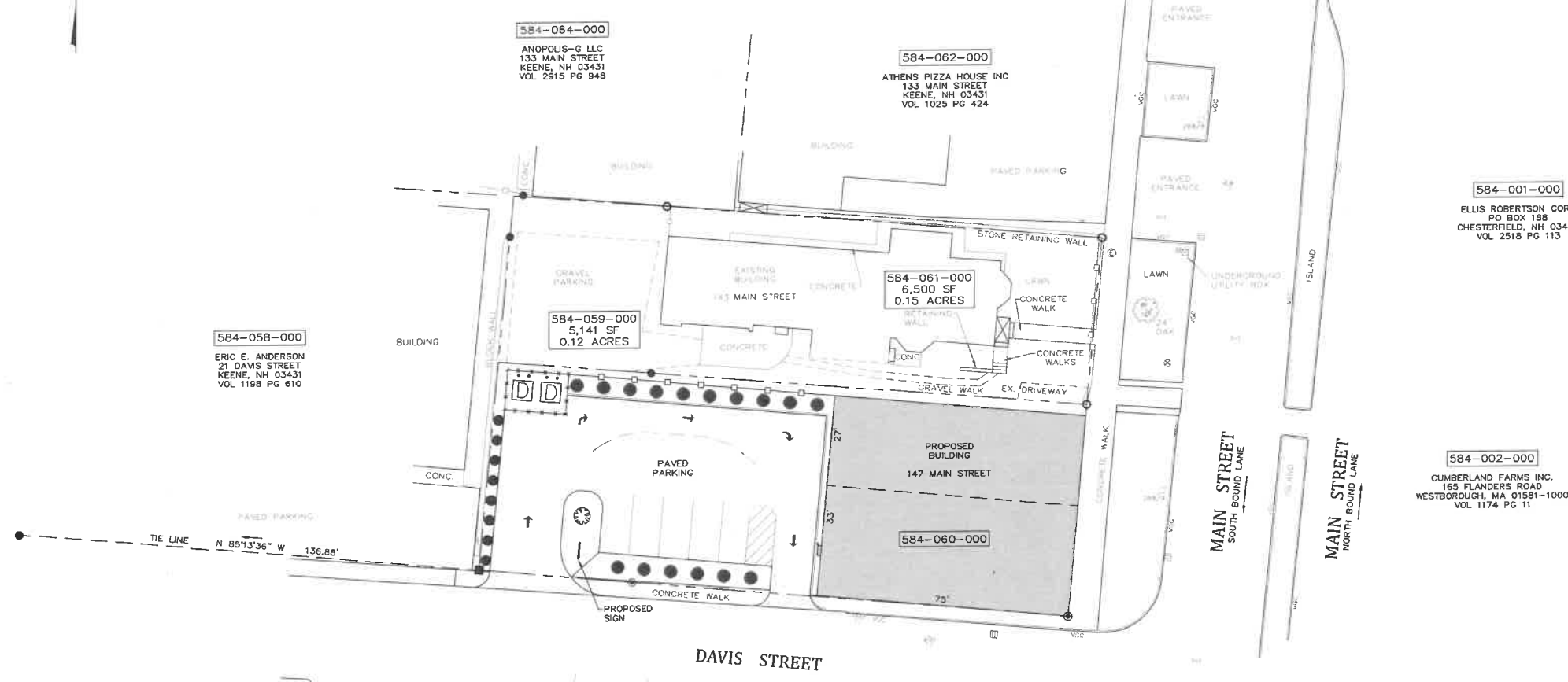
There are no existing natural, scenic or historic features at the site. This is a vacant site where the previous building on the site burned and was removed.

- 7. The proposed use will not create a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity of the use.**

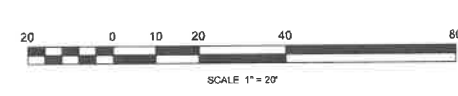
The proposed restaurant will have up to 20 employees with a maximum of 4 employees per shift. Customer sales are expected to average approximately 200 sales per day with approximately 60 sales during the peak hour from 5:30 – 6:30 PM. The intersection at Main Street is right-in right-out only. 60 vehicle trips during peak hour will not diminish the safety or capacity of Davis Street at Main Street.



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



- LEGEND**
- - PIN FOUND
  - - MONUMENT FOUND
  - - CAPPED REBAR (RBS) / SPIKE SET (SS)
  - ⊙ - DRILL HOLE SET (DHS)
  - ⊕ - SIGN
  - ⊞ - UNDERGROUND UTILITY BOX
  - - UTILITY POLE
  - - LIGHT POLE
  - - ELECTRIC MANHOLE
  - - IRRIGATION VALVE
  - - WATER VALVE
  - - MONITOR WELL
  - - WATER SHUT OFF
  - - DRAIN MANHOLE
  - - CATCH BASIN
  - - SEWER MANHOLE
  - - SEWER CLEAN OUT
  - - VERTICAL GRANITE CURB
  - - WOOD FENCE
  - - - - - APPROXIMATE ABUTTER LINE



**LOT DATA**


ZONING	DOWNTOWN CORE DISTRICT
TAX MAP #	584-060-000
EXISTING LOT SIZE	8,204 SF ± - 0.19 AC ±
EXISTING LOT COVERAGE	VACANT LAND
PROPOSED LOT SIZE	11,059 SF ± - 0.25 AC ±
PROPOSED LOT COVERAGE	BUILDINGS/AWNING
	4,503 SF - 40.7%
	4,850 SF - 42.0%
	9,153 SF - 82.8%
	PAVEMENT/CONCRETE
	TOTAL

REVISIONS:

---

OWNER/DEVELOPER:  
**143 MAIN LLC & 147-151 MAIN STREET LLC**  
 PO BOX 575  
 WEST SWANZEY, NH 03469

---

PLANNER:  
  
**Brickstone Land Use Consultants LLC**  
 Site Planning, Permitting and Development Consulting  
 165 Winchester Street, Keene, NH 03431  
 Phone: (603) 357-0118

---

143 MAIN STREET,  
 147 MAIN STREET &  
 0 DAVIS STREET  
 KEENE, NH

---

**PRELIMINARY PLAN**

---

SCALE: 1"=20'

---

DATE: MAY 2, 2023

---

SHEET 1

348 WEST ST.  
ZBA 23-19



Petitioner requests to permit a side pavement setback of 1.5 feet where 8 feet is required, per Chapter 100, Article 9.4.2 of the Zoning Regulations.



## NOTICE OF HEARING

### ZBA 23-19

A meeting of the Zoning Board of Adjustment will be held on **Monday, August 7, 2023, at 6:30 PM** in City Hall Council Chambers, 2<sup>nd</sup> floor, 3 Washington St, Keene, New Hampshire to consider the following petition.

**ZBA 23-19:** Petitioner, Aaron Wiswell of West Street AJ's, LLC, 9 White Pine Way, Berwick, ME and represented by Jim Phippard, of Brickstone Land Use Consultants, LLC, requests a Variance for property located at 348 West St., Tax Map #577-025-000 and is in the Commerce District. The Petitioner requests to permit a side pavement setback of 1.5 feet where 8 feet is required, per Chapter 100, Article 9.4.2 of the Zoning Regulations.

**This meeting is open to the public, and anyone wishing to speak on the proposal will be given an opportunity to be heard during the public hearing for this application. The application for this proposal is available for public review in the Community Development Department on the 4<sup>th</sup> floor of City Hall between the hours of 8:00 am and 4:30 pm or online at <https://keenenh.gov/zoning-board-adjustment>**

Corinne Marcou, Zoning Clerk  
Notice issuance date July 21, 2023

City of Keene, NH

# Zoning Board of Adjustment Variance Application



<b>For Office Use Only:</b>	
Case No.	ZBA 23-19
Date Filled	6/15/23
Rec'd By	MF
Page	1 of 13
Rev'd by	

If you have questions on how to complete this form, please call: (603) 352-5440 or  
email: [communitydevelopment@keenenh.gov](mailto:communitydevelopment@keenenh.gov)

## SECTION 1: CONTACT INFORMATION

I hereby certify that I am the owner, applicant, or the authorized agent of the owner of the property upon which this appeal is sought and that all information provided by me is true under penalty of law. If applicant or authorized agent, a signed notification from the property owner is required.

NAME/COMPANY: West Street AJ's LLC

MAILING ADDRESS: 9 White Pine Way Berwick ME 03906

PHONE: 202-252-5145

EMAIL:

SIGNATURE:

PRINTED NAME: Aaron Wiswell

NAME/COMPANY:

MAILING ADDRESS: SAME

PHONE:

EMAIL:

SIGNATURE:

PRINTED NAME:

NAME/COMPANY: Brickstone Land Use Consultants LLC

MAILING ADDRESS: 185 Winchester St Keene NH 03431

PHONE: 603-357-0116

EMAIL: [jphippard@ne.rr.com](mailto:jphippard@ne.rr.com)

SIGNATURE:

PRINTED NAME: James P Phippard

**SECTION 2: PROPERTY INFORMATION**

Property Address: **348 West Street**

Tax Map Parcel Number: **577-025-0000-000-000**

Zoning District **Commercial**

Lot Dimensions: Front: **74' +/-** Rear: Side: **131' +/-** Side: **131' +/-**

Lot Area: Acres: **.23** Square Feet: **9,738**

% of Lot Covered by Structures (buildings, garages, pools, decks, etc): Existing: **10%** Proposed: **9%**

% of Impervious Coverage (structures plus driveways and/or parking areas, etc): Existing: **65.6%** Proposed: **68.9%**

Present Use: **Aroma Joes**

Proposed Use: **Aroma Joes**

**SECTION 3: WRITTEN NARRATIVE**

**Article 25.5.4.A.:** Describe the property location, owner of the subject property, and explain the purpose and effect of, and justification for, the proposed variance.

See Attached

**SECTION 4: APPLICATION CRITERIA**

*A Variance is requested from Article (s) of the Zoning Regulations to permit:*

**See Attached**

*Briefly describe your responses to each criteria, using additional sheets if necessary:*

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



**PROPERTY ADDRESS 348 West Street**

**APPLICATION FOR A VARIANCE**

- A variance is requested from Section (s) 9.4.2, Table 9-2 of the Land Development Code of the Keene Zoning Ordinance to permit: A side pavement setback of 1.5 feet where 8 feet is required.

Background: This is the site of the recently opened Aroma Joe's on West Street in Keene. The property is an existing nonconforming lot of 9738 sf in the Commerce district where 15,000 sf is the minimum lot size required. A variance was granted in 2022 to allow the lot to be developed. Aroma Joe's is a drive-through business with a pickup window. The existing drive-through lane can accommodate up to a 10 car queue on the site. When the restaurant opened in April of 2023, the queues were as long as 14 cars and extending into West Street. In order to prevent this from happening the owner is proposing to add a second entry lane on the west side of the site. To accomplish this a boundary line adjustment with the lot to the west is proposed. Both lots are owned by the same owners. Variances would then be needed to allow reduced side pavement setbacks for both lots.

**DESCRIBE BRIEFLY YOUR RESPONSE TO EACH CONDITION:**

- 1. Granting the Variance would not be contrary to the public interest because:**  
It is in the public interest to correct the safety problem that has resulted from the length of the queues at the Aroma Joe's site. The applicant is proposing this at his own expense before an accident happens and people get hurt.
- 2. If the variance were granted, the spirit of the ordinance would be observed because:** The spirit of the ordinance in this case is to protect the health, safety and welfare of the public. This proposal will increase the queueing on site from 10 to 15 cars and greatly improve public safety on West Street. A solid fence will be erected along the new property line to screen the drive-thru lanes as required by the zoning ordinance. The only new nonconformities created will be the reduced side pavement setbacks. This proposal meets the spirit of the ordinance and is consistent with one of the community goals to promote commercial growth within the bypass system.
- 3. Granting the variance would do substantial justice because:** This is an existing successful business operation which is doing what it has to do to correct a serious safety problem. The applicant owns many other Aroma Joe's restaurants and has never seen this happen at any of their other sites. The proposed changes will greatly benefit the public and will improve the operation of this business at this site. It will do substantial justice for the property owner and will not result in negative impacts to the public.

4. **If the variance were granted, the values of the surrounding properties would not be diminished because:** The reduced pavement setbacks will not result in harm to the surrounding properties. By increasing the queue lengths on the site public safety will be improved. The erection of a 6' high solid fence along the new property line will adequately screen the drive thru lanes from the adjacent properties. There will be no significant effect on surrounding property values resulting from this proposal.

5. **Unnecessary Hardship**

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

i. **No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:**

The small lot size of 9738 sf with a width of only 74 feet results in a special condition of the property which severely limits the ability of the owner to add the needed entry lane. The owner has purchased the property to the west and has received a conditional site plan approval to construct a new carwash on that site. They are willing to do a boundary line adjustment with the Aroma Joe's lot to add approximately 8 feet to the width of that lot. This will provide adequate room to add the needed entry lane, however, a variance is needed to allow a reduced pavement setback along the sideline with the carwash site. It serves no public purpose to deny the variance when all of the other dimensional requirements can be met.

**And**

ii. **The proposed use is a reasonable one because:** This is an existing business which needs an additional entry lane to accommodate queueing of customer cars on the site. The Planning Board approved the original site plan in April 2023. Granting this variance will allow the additional entry lane and improve safety on West Street at this site. The expanded lot and the modified site plan will conform to the screening requirements and continue to meet lot coverage requirements.

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

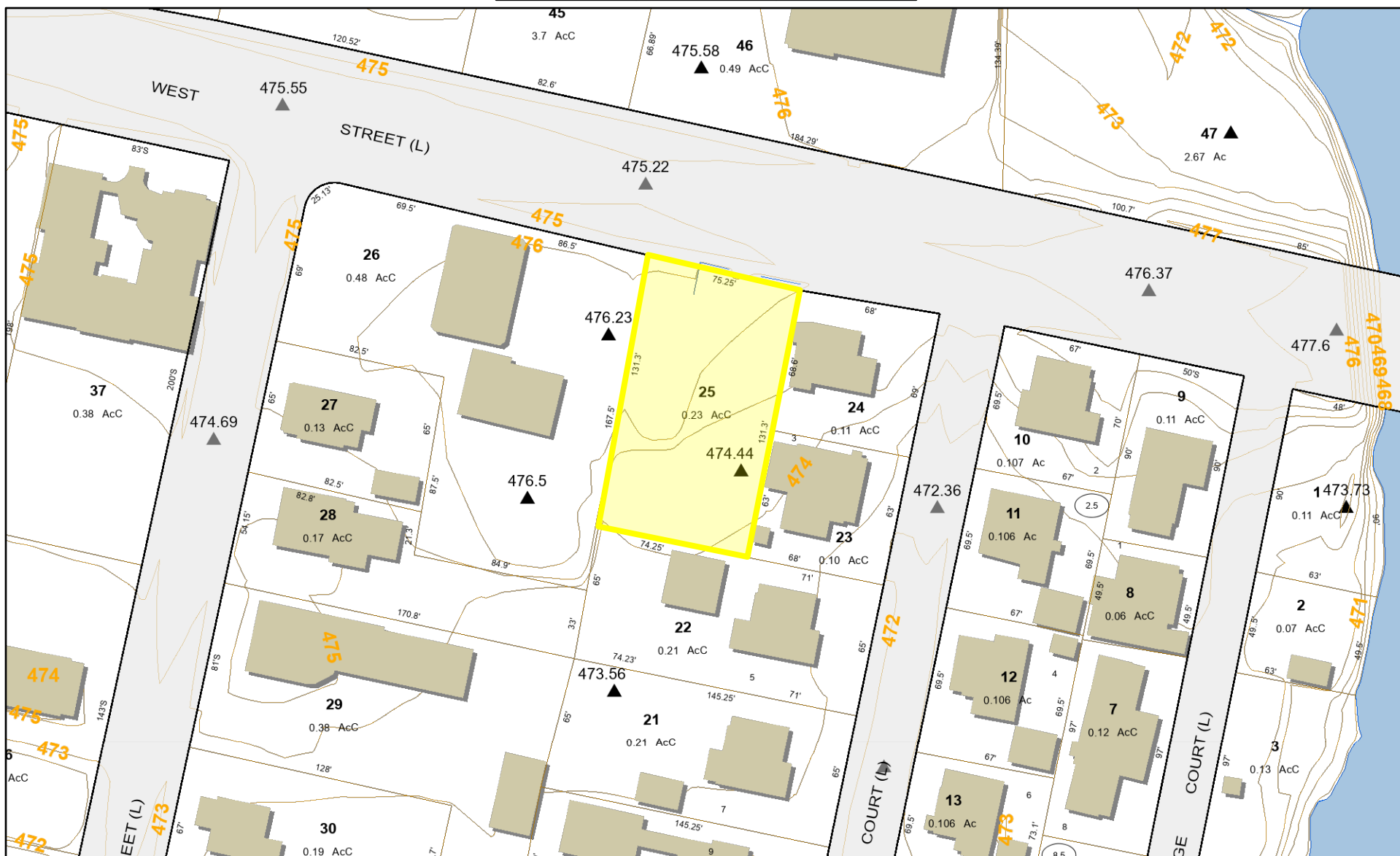
The small lot size of 9738 sf with a width of only 74 feet results in a special condition of the property which severely limits the ability of the owner to add the needed entry lane. The owner has purchased the property to the west and has received a conditional site plan approval to construct a new carwash on that site. They are willing to do a boundary line adjustment with the Aroma Joe's lot to add approximately 8 feet to the width of that lot. This will provide adequate room to add the needed entry lane, however, a variance is needed to allow a reduced pavement setback along the sideline with the carwash site. It serves no public purpose to deny the variance when this is necessary to improve public safety.



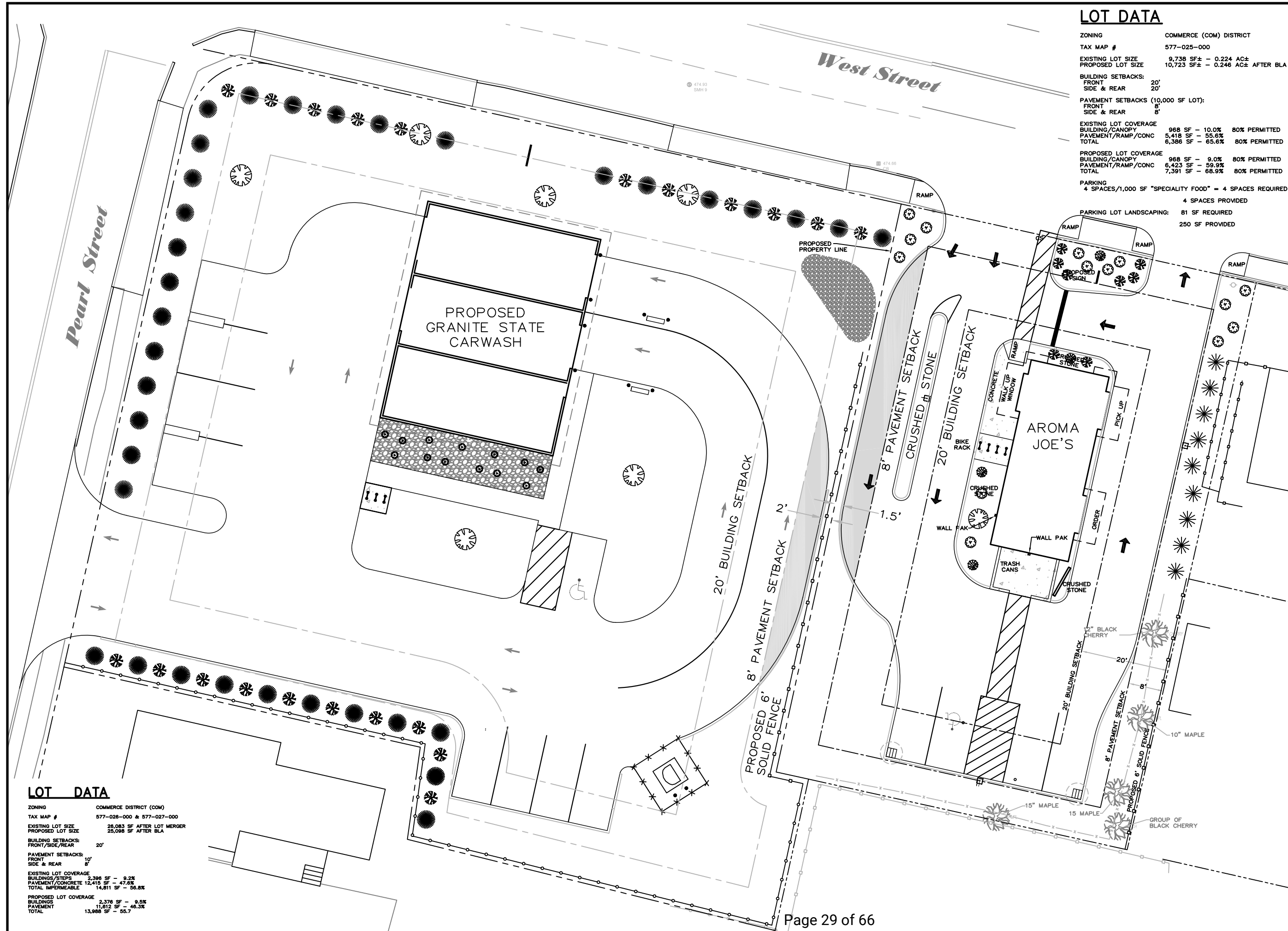
June 20, 2023

1 inch = 68 Feet

www.cai-tech.com



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



**LOT DATA**

ZONING	COMMERCE (COM) DISTRICT		
TAX MAP #	577-025-000		
EXISTING LOT SIZE	9,738 SF ±	- 0.224 AC ±	
PROPOSED LOT SIZE	10,723 SF ±	- 0.246 AC ±	AFTER BLA
<b>BUILDING SETBACKS:</b>			
FRONT	20'		
SIDE & REAR	20'		
<b>PAVEMENT SETBACKS (10,000 SF LOT):</b>			
FRONT	8'		
SIDE & REAR	8'		
<b>EXISTING LOT COVERAGE</b>			
BUILDING/CANOPY	968 SF - 10.0%	80% PERMITTED	
PAVEMENT/RAMP/CONC	5,418 SF - 55.6%	80% PERMITTED	
TOTAL	6,386 SF - 65.6%	80% PERMITTED	
<b>PROPOSED LOT COVERAGE</b>			
BUILDING/CANOPY	968 SF - 9.0%	80% PERMITTED	
PAVEMENT/RAMP/CONC	6,423 SF - 59.9%	80% PERMITTED	
TOTAL	7,391 SF - 68.9%	80% PERMITTED	
<b>PARKING</b>			
4 SPACES/1,000 SF "SPECIALITY FOOD" = 4 SPACES REQUIRED			
4 SPACES PROVIDED			
<b>PARKING LOT LANDSCAPING:</b>			
81 SF REQUIRED			
250 SF PROVIDED			

REVISIONS:

ENGINEER:

**SVE**  
 Engineering  
 Planning  
 Landscape Architecture  
 Surveying

SVE Associates  
 P.O. Box 1818  
 439 West River Road  
 Brattleboro, VT 05302  
 T 802.257.0561  
 F 802.257.0721  
 www.sveassoc.com

OWNERS:

348 WEST STREET  
 WEST STREET  
 AJ'S LLC

364 WEST STREET  
 A&B LLC

9 WHITE PINE WAY  
 BERWICK, ME 03906

PLANNER:

**Brickstone**  
 Land Use Consultants LLC

Site Planning, Permitting and Development Consulting  
 185 Winchester Street, Keene, NH 03431  
 Phone: (603) 577-0116

AROMA JOE'S  
 348 WEST STREET  
 KEENE, NH

**SITE PLAN**

SCALE: 1"=20'

DATE: JUNE 15, 2023

SHEET ZBA 1

**LOT DATA**

ZONING	COMMERCE DISTRICT (COM)		
TAX MAP #	577-026-000 & 577-027-000		
EXISTING LOT SIZE	26,083 SF	AFTER LOT MERGER	
PROPOSED LOT SIZE	25,098 SF	AFTER BLA	
<b>BUILDING SETBACKS:</b>			
FRONT/SIDE/REAR	20'		
<b>PAVEMENT SETBACKS:</b>			
FRONT	10'		
SIDE & REAR	8'		
<b>EXISTING LOT COVERAGE</b>			
BUILDINGS/STEPS	2,396 SF - 9.2%		
PAVEMENT/CONCRETE	12,415 SF - 47.6%		
TOTAL IMPERMEABLE	14,811 SF - 56.8%		
<b>PROPOSED LOT COVERAGE</b>			
BUILDINGS	2,376 SF - 9.5%		
PAVEMENT	11,612 SF - 46.3%		
TOTAL	13,988 SF - 55.7%		

# 364 WEST ST. ZBA 23-20



Petitioner requests to permit a side pavement setback of 2 feet where 8 feet is required, per Chapter 100, Article 9.4.2 of the Zoning Regulations.

# 12 PEARL ST. ZBA 23-20



Petitioner requests to permit a side pavement setback of 2 feet where 8 feet is required, per Chapter 100, Article 9.4.2 of the Zoning Regulations.



## NOTICE OF HEARING

### ZBA 23-20

A meeting of the Zoning Board of Adjustment will be held on **Monday, August 7, 2023, at 6:30 PM** in City Hall Council Chambers, 2<sup>nd</sup> floor, 3 Washington St, Keene, New Hampshire to consider the following petition.

**ZBA 23-20:** Petitioner, Aaron Wiswell of A & B, LLC, 9 White Pine Way, Berwick, ME and represented by Jim Phippard, of Brickstone Land Use Consultants, LLC, requests a Variance for property located at 364 West St. and 12 Pearl St., Tax Map #577-026-000 and 577-027-000 and is in the Commerce District. The Petitioner requests to permit a side pavement setback of 2 feet where 8 feet is required, per Chapter 100, Article 9.4.2 of the Zoning Regulations.

**This meeting is open to the public, and anyone wishing to speak on the proposal will be given an opportunity to be heard during the public hearing for this application. The application for this proposal is available for public review in the Community Development Department on the 4<sup>th</sup> floor of City Hall between the hours of 8:00 am and 4:30 pm or online at <https://keenenh.gov/zoning-board-adjustment>**

Corinne Marcou, Zoning Clerk

Notice issuance date July 21, 2023



City of Keene, NH

# Zoning Board of Adjustment Variance Application



For Office Use Only:	
Case No.	ZBA 23-20
Date Filled	6/15/23
Rec'd By	mf
Page	1 of 14
Rev'd by	

If you have questions on how to complete this form, please call: (603) 352-5440 or email: [communitydevelopment@keeneh.gov](mailto:communitydevelopment@keeneh.gov)

## SECTION 1: CONTACT INFORMATION

I hereby certify that I am the owner, applicant, or the authorized agent of the owner of the property upon which this appeal is sought and that all information provided by me is true under penalty of law. If applicant or authorized agent, a signed notification from the property owner is required.

NAME/COMPANY: **A&B LLC**

MAILING ADDRESS: **9 White Pine Way Berwick ME 03906**

PHONE: **202-252-5145**

EMAIL:

SIGNATURE:

PRINTED NAME: **Adam Wiswell**

NAME/COMPANY:

MAILING ADDRESS:

PHONE:

EMAIL:

SIGNATURE:

PRINTED NAME:

NAME/COMPANY: **Brickstone Land Use Consultants LLC**

MAILING ADDRESS: **185 Winchester St Keene NH 03431**

PHONE: **603-357-0116**

EMAIL: **jphippard@ne.rr.com**

SIGNATURE:

PRINTED NAME: **James P Phippard**

**SECTION 2: PROPERTY INFORMATION**

Property Address: 364 West Street & 12 Pearl St

Tax Map Parcel Number: 577-026-000 & 577-027-000

Zoning District Commerce

Lot Dimensions: Front: 145' +/- Rear: 169' +/- Side: 143' +/- Side: 166' +/-

Lot Area: Acres: .48 Square Feet: 20,908.00 +/-

% of Lot Covered by Structures (buildings, garages, pools, decks, etc): Existing: 9.2% Proposed: 9.5%

% of Impervious Coverage (structures plus driveways and/or parking areas, etc): Existing: 56.8% Proposed: 55.7%

Present Use: Vacant Gas Station & vacant Single family home

Proposed Use: Car Wash

**SECTION 3: WRITTEN NARRATIVE**

**Article 25.5.4.A.:** Describe the property location, owner of the subject property, and explain the purpose and effect of, and justification for, the proposed variance.

See Attached

**SECTION 4: APPLICATION CRITERIA**

A Variance is requested from Article (s)

of the Zoning Regulations to permit:

See Attached

*Briefly describe your responses to each criteria, using additional sheets if necessary:*

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

PROPERTY ADDRESS 364 West Street

APPLICATION FOR A VARIANCE

- A variance is requested from Section (s) 9.4.2, Table 9-2 of the Land Development Code of the Keene Zoning Ordinance to permit: A side pavement setback of 2 feet where 8 feet is required.

Background: This is the site of the proposed Granite State Carwash which recently received conditional site plan approval from the Planning Board. This is a former gas station site at the corner of Pearl Street and West Street and is abutting the Aroma Joe's on the west side. The property is being merged with an adjacent lot at 12 Pearl Street to form a 0.60 acre lot in the Commerce district. The owner is proposing a boundary line adjustment with the Aroma Joe's lot to add an 8 foot strip of land to the west sideline of the Aroma Joe's lot. The Aroma Joe's lot will increase in size from 9738 sf to approximately 10,786 sf. The carwash lot will decrease in size from 25,098 sf to approximately 24,050 sf. The minimum lot size in the Commerce district is 15,000 sf. The purpose of the boundary line adjustment is to add enough land to the Aroma Joe's lot to allow the addition of a second entry lane from West Street into the Aroma Joe's site. To accommodate the second entry lane a variance is required to allow a pavement setback of 2 feet on both sides of the adjusted boundary line. (See application for variance for 348 West Street) The conditionally approved site plan for Granite State Carwash will not be affected by the boundary line adjustment other than reducing the lot size and reducing the pavement setback along the east side of the lot. The carwash site will remain in compliance with building setbacks and lot coverage requirements.

DESCRIBE BRIEFLY YOUR RESPONSE TO EACH CONDITION:

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

It is in the public interest to correct the safety problem that has resulted from the length of the queues at the Aroma Joe's site. The applicant is proposing this at his own expense before an accident happens and people get hurt. Reducing the pavement setback will have no negative impact to the public. A six foot high solid fence will provide screening of the drive thru lanes on both lots.

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

The spirit of the ordinance in this case is to protect the health, safety and welfare of the public. This proposal will increase the queuing on the Aroma Joe's site from 10 to 15 cars and greatly improve public safety on West Street. A solid fence will be erected along the new property line to screen the drive-thru lanes as required by the zoning ordinance. The only new nonconformities created will be the reduced side pavement setbacks. This proposal meets the spirit of the ordinance and is consistent with one of the community goals to promote commercial growth within the bypass system.

3. **Granting the variance would do substantial justice because:** The property owner is taking steps to correct a serious safety problem. This proposal will make the Aroma Joe's lot more conforming by increasing the lot size. The proposed changes will greatly benefit the public and will improve the operation of the Aroma Joe's at this site. It will do substantial justice for the property owner and will not result in negative impacts to the public.

4. **If the variance were granted, the values of the surrounding properties would not be diminished because:** The reduced pavement setbacks will not result in harm to the surrounding properties. By increasing the queue lengths on the Aroma Joe's site public safety will be improved. The erection of a 6' high solid fence along the new property line will adequately screen the drive thru lanes from the adjacent properties. There will be no significant effect on surrounding property values resulting from this proposal.

5. **Unnecessary Hardship**

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

i. **No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:**

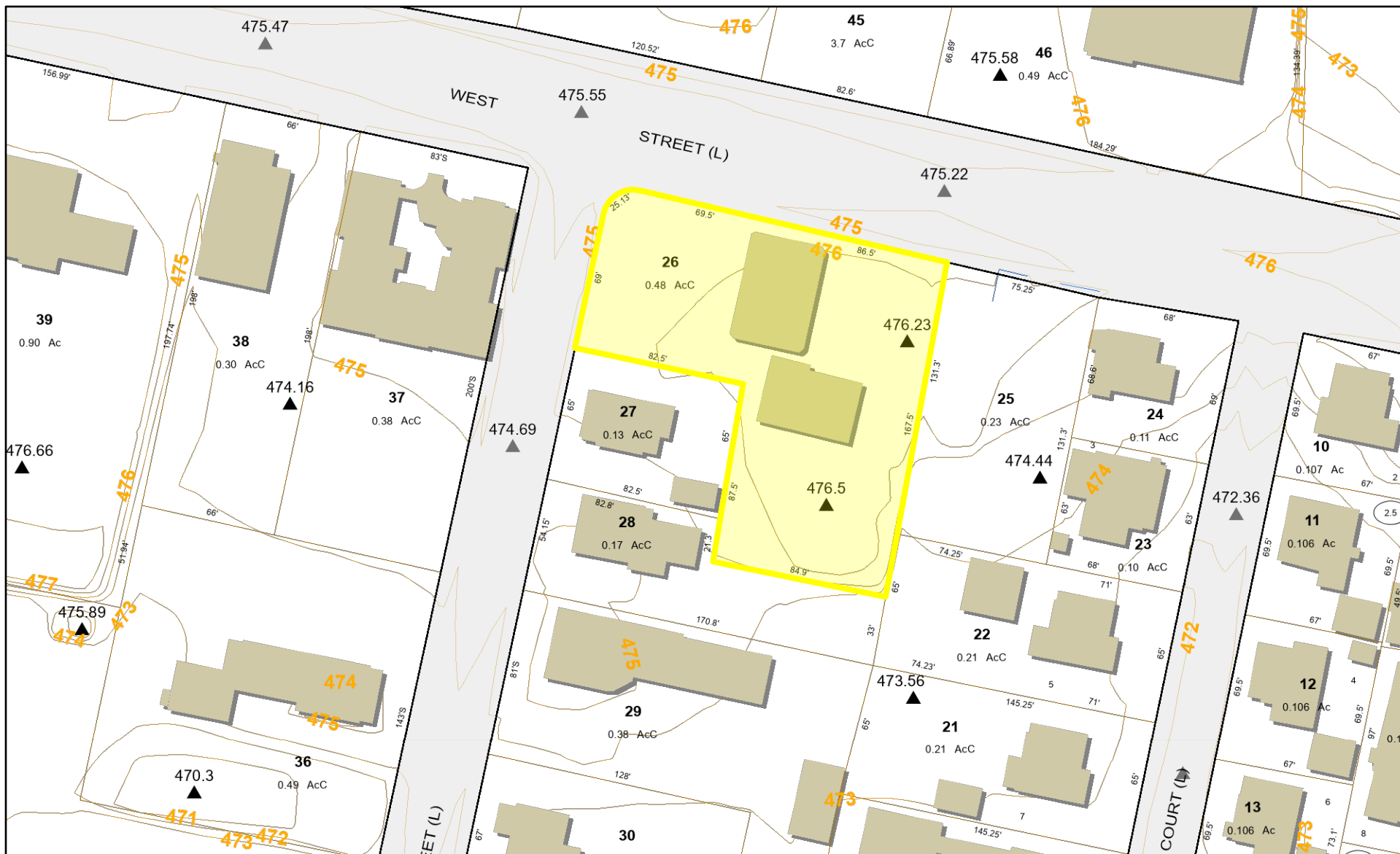
This is a unique situation at this location on West Street and creates a special condition affecting these two properties. The small lot size of the Aroma Joe's site makes it impossible to add a second entry lane from West Street. The owners of the property to the west are willing to do a boundary line adjustment to add a strip of land to the Aroma Joe's site, making it possible to add a second entry lane and alleviating the traffic safety issue which has resulted from the long queues at Aroma Joe's during the business peak hours. The site plan for the carwash site can remain unchanged provided a variance is granted for the side pavement setback. It serves no public purpose to deny the variance when all of the other dimensional requirements can be met.

**And**

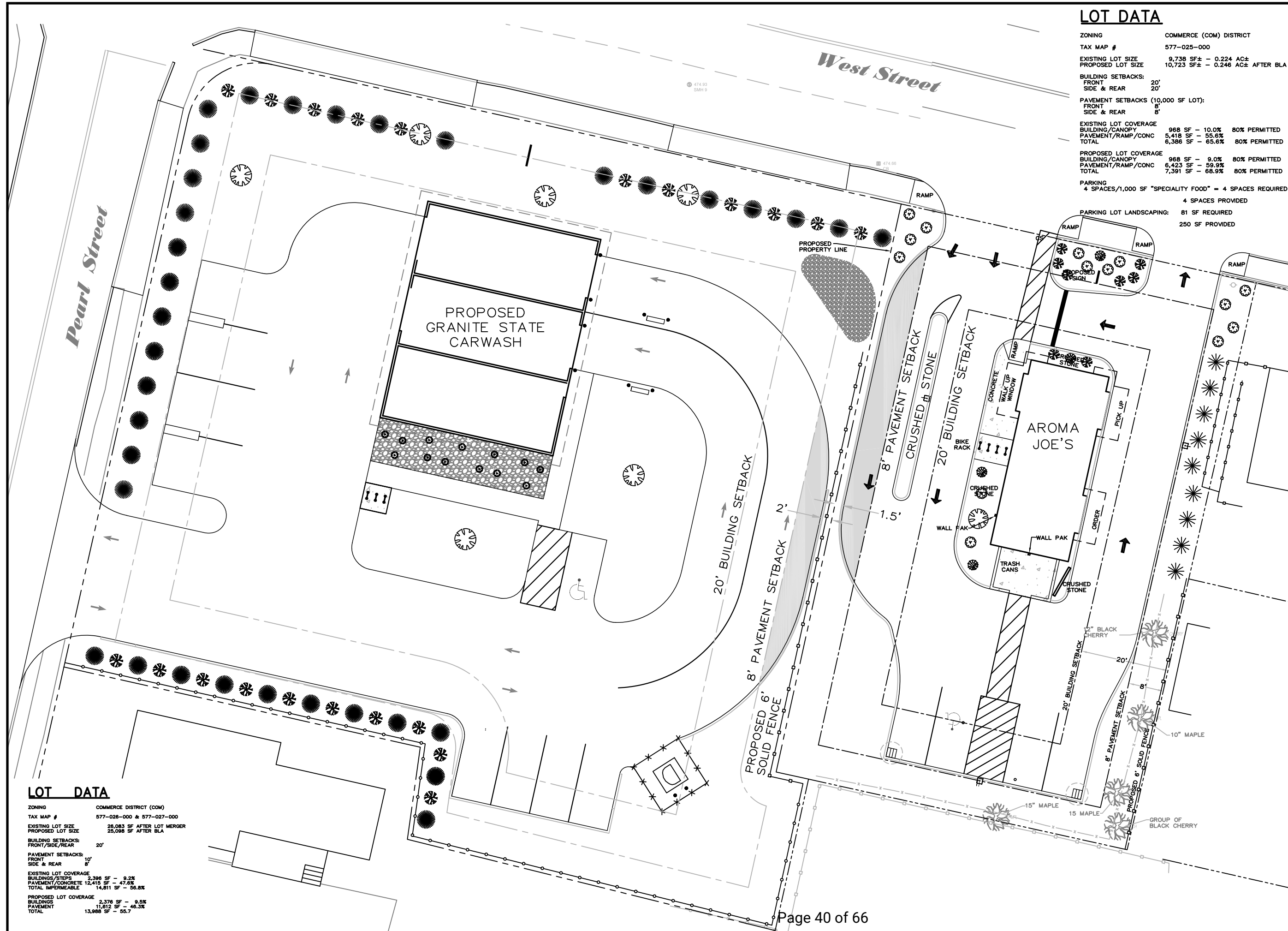
ii. **The proposed use is a reasonable one because:** The carwash and the Aroma Joe's restaurant are permitted uses in the Commerce district. Both uses have received Planning Board approval. Granting this variance will allow the additional entry lane at Aroma Joe's and improve safety on West Street at this site. The modified lot for the carwash will conform to the screening requirements and continue to meet lot coverage requirements.

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

The carwash site plan has received conditional approval from the Planning Board and the Aroma Joe's has been operating at the site since April of 2023. The queueing during peak business hours at Aroma Joe's has created a traffic safety problem at this location on West Street. This is a special condition which can best be alleviated by adding a second entry lane in the Aroma Joe's site. The narrow lot size makes it impossible to add the second entry lane without a boundary line adjustment with the carwash site. In order to preserve the approved site plan for the carwash site variances are needed to allow reduced pavement setbacks along the common sideline. It serves no public purpose to deny the variances when this is necessary to improve public safety.



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



**LOT DATA**

ZONING	COMMERCE (COM) DISTRICT		
TAX MAP #	577-025-000		
EXISTING LOT SIZE	9,738 SF ±	- 0.224 AC ±	
PROPOSED LOT SIZE	10,723 SF ±	- 0.246 AC ±	AFTER BLA
<b>BUILDING SETBACKS:</b>			
FRONT	20'		
SIDE & REAR	20'		
<b>PAVEMENT SETBACKS (10,000 SF LOT):</b>			
FRONT	8'		
SIDE & REAR	8'		
<b>EXISTING LOT COVERAGE</b>			
BUILDING/CANOPY	968 SF - 10.0%	80% PERMITTED	
PAVEMENT/RAMP/CONC	5,418 SF - 55.6%	80% PERMITTED	
TOTAL	6,386 SF - 65.6%	80% PERMITTED	
<b>PROPOSED LOT COVERAGE</b>			
BUILDING/CANOPY	968 SF - 9.0%	80% PERMITTED	
PAVEMENT/RAMP/CONC	6,423 SF - 59.9%	80% PERMITTED	
TOTAL	7,391 SF - 68.9%	80% PERMITTED	
<b>PARKING</b>			
4 SPACES/1,000 SF "SPECIALITY FOOD" = 4 SPACES REQUIRED			
4 SPACES PROVIDED			
<b>PARKING LOT LANDSCAPING:</b>			
81 SF REQUIRED			
250 SF PROVIDED			

**LOT DATA**

ZONING	COMMERCE DISTRICT (COM)		
TAX MAP #	577-026-000 & 577-027-000		
EXISTING LOT SIZE	26,083 SF	AFTER LOT MERGER	
PROPOSED LOT SIZE	25,098 SF	AFTER BLA	
<b>BUILDING SETBACKS:</b>			
FRONT/SIDE/REAR	20'		
<b>PAVEMENT SETBACKS:</b>			
FRONT	10'		
SIDE & REAR	8'		
<b>EXISTING LOT COVERAGE</b>			
BUILDINGS/STEPS	2,396 SF - 9.2%		
PAVEMENT/CONCRETE	12,415 SF - 47.6%		
TOTAL IMPERMEABLE	14,811 SF - 56.8%		
<b>PROPOSED LOT COVERAGE</b>			
BUILDINGS	2,376 SF - 9.5%		
PAVEMENT	11,612 SF - 46.3%		
TOTAL	13,988 SF - 55.7%		

REVISIONS:

ENGINEER:

**SVE**  
 Engineering  
 Planning  
 Landscape Architecture  
 Surveying

SVE Associates  
 P.O. Box 1818  
 439 West River Road  
 Brattleboro, VT 05302  
 T 802.257.0561  
 F 802.257.0721  
 www.sveassoc.com

OWNERS:

348 WEST STREET  
 WEST STREET  
 AJ'S LLC

364 WEST STREET  
 A&B LLC

9 WHITE PINE WAY  
 BERWICK, ME 03906

PLANNER:

**Brickstone**  
 Land Use Consultants LLC

Site Planning, Permitting and Development Consulting  
 185 Winchester Street, Keene, NH 03431  
 Phone: (603) 357-0116

AROMA JOE'S  
 348 WEST STREET  
 KEENE, NH

**SITE PLAN**

SCALE: 1"=20'

DATE: JUNE 15, 2023

SHEET ZBA 1



# 428 MAIN ST. ZBA 23-21



Petitioner requests to permit a personal service establishment where it is not a permitted use per Chapter 100, Article 3.3.5 of the Zoning Regulations.



## NOTICE OF HEARING

### ZBA 23-21

A meeting of the Zoning Board of Adjustment will be held on **Monday, August 7, 2023, at 6:30 PM** in City Hall Council Chambers, 2<sup>nd</sup> floor, 3 Washington St, Keene, New Hampshire to consider the following petition.

**ZBA 23-21:** Petitioner, Christine Salema of SS Baker's Realty Co., Inc., Keene requests a Variance for property located at 428 Main St., Tax Map #112-004-000 and is in the Low Density District. The Petitioner requests a personal service establishment where it is not currently a permitted use per Chapter 100, Article 3.3.5 of the Zoning Regulations.

**This meeting is open to the public, and anyone wishing to speak on the proposal will be given an opportunity to be heard during the public hearing for this application. The application for this proposal is available for public review in the Community Development Department on the 4<sup>th</sup> floor of City Hall between the hours of 8:00 am and 4:30 pm or online at <https://keenenh.gov/zoning-board-adjustment>**

---

Corinne Marcou, Zoning Clerk  
Notice issuance date July 21, 2023

# Zoning Board of Adjustment Variance Application



<b>For Office Use Only:</b>	
Case No.	<u>2BA23-21</u>
Date Filled	<u>7/7/23</u>
Rec'd By	<u>CJM</u>
Page	<u>1</u> of <u>13</u>
Rev'd by	_____

If you have questions on how to complete this form, please call: (603) 352-5440 or  
email: [communitydevelopment@keenenh.gov](mailto:communitydevelopment@keenenh.gov)

## SECTION 1: CONTACT INFORMATION

I hereby certify that I am the owner, applicant, or the authorized agent of the owner of the property upon which this appeal is sought and that all information provided by me is true under penalty of law. If applicant or authorized agent, a signed notification from the property owner is required.

### OWNER / APPLICANT

NAME/COMPANY: SS BAKER'S REALTY CO. LLC

MAILING ADDRESS: 428 MAIN ST KEENE

PHONE: (603) 352-4077

EMAIL: ssbakers@myfairpoint.net

SIGNATURE: Christine Salema, Manager

PRINTED NAME: CHRISTINE SALEMA

### APPLICANT (if different than Owner/Applicant)

NAME/COMPANY:

MAILING ADDRESS:

PHONE:

EMAIL:

SIGNATURE:

PRINTED NAME:

### AUTHORIZED AGENT (if different than Owner/Applicant)

NAME/COMPANY:

MAILING ADDRESS:

PHONE:

EMAIL:

SIGNATURE:

PRINTED NAME:

## SECTION 2: PROPERTY INFORMATION

Property Address: 428 MAIN ST KEENE NH. 03431  
Tax Map Parcel Number: # 112004000000000 ACT # 000003146  
Zoning District LOW DENSITY  
Lot Dimensions: Front: 138.25 Rear: 90 Side: 186.80 Side: 206.10  
Lot Area: Acres: .51 Square Feet: ~~22215.6~~ 22215.6  
% of Lot Covered by Structures (buildings, garages, pools, decks, etc): Existing: 49% Proposed: SAME  
% of Impervious Coverage (structures plus driveways and/or parking areas, etc): Existing: 80% Proposed: SAME  
Present Use: OFFICE  
Proposed Use: PERSONAL SERVICES ESTABLISHMENT

## SECTION 3: WRITTEN NARRATIVE

**Article 25.5.4.A.:** Describe the property location, owner of the subject property, and explain the purpose and effect of, and justification for, the proposed variance.

428 MAIN ST IS CURRENTLY OWNED AND MANAGED BY SS BAKER'S REALTY CO., LLC, SINCE 2007. THIS PROPERTY RENTS TO BUSINESS OWNERS WHO MAINTAIN OFFICES WITHIN.

WE WOULD LIKE TO RENT A VACANT FIRST FLOOR OFFICE TO AN ESTABLISHED HAIR STYLIST, IN NEED OF A NEW SPACE. SHE WORKS ALONE AND THE OFFICE HAS A PRIVATE ENTRYWAY THAT IF PERMITTED, SHE AND HER CLIENTS WOULD USE.

SS BAKER'S REALTY CO IS MANAGED BY:  
CHRISTINE SALEMA

## SECTION 4: APPLICATION CRITERIA

A Variance is requested from Article (s) \_\_\_\_\_ of the Zoning Regulations to permit:

3.3.5 (CURRENT)

A PERSONAL SERVICE  
ESTABLISHMENT

WHERE IT IS NOT CURRENTLY A PERMITTED  
USE

Briefly describe your responses to each criteria, using additional sheets if necessary:

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

THIS IS A PRIVATE OFFICE WITH PRIVATE ENTRY,  
OPEN DURING BUSINESS HOURS AND CREATES NO  
REAL CHANGE TO CURRENT BUILDING USE,  
THEREFORE NO REAL CHANGE TO NEIGHBORS OR  
THE PUBLIC.

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

PROPOSED TENANT DEALS WITH ELDERLY CLIENTS AND THEIR ALDPECIA ISSUES. THIS SPACE WOULD GREATLY IMPROVE THE ACCESSIBILITY , DIFFICULTIES HER CLIENTS NOW FACE.

3. Granting the variance would do substantial justice because:

I SEE NO HARM TO THE PUBLIC, NEIGHBORS OR EXISTING BUILDING TENANTS.

4. If the variance were granted, the values of the surrounding properties would not be diminished because:

PROPOSED CLIENTS HOURS WOULD BE IN KEEPING WITH THE CURRENT TENANTS, NORMAL BUSINESS HOURS.

5. Unnecessary Hardship

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

i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:

WORKING REMOTELY, OR FROM HOME, HAS BECOME INCREASINGLY MORE POPULAR OVER THE PAST FEW YEARS AND APPEARS TO BE TRENDING TOWARD MORE ADVANTAGEOUS FOR BUSINESSES AND EMPLOYEES. THEY LIKE IT!

AS SUCH, OFFICE SPACE ISN'T IN DEMAND AND COMPANIES LIKE MINE ARE FINDING IT HARD TO ATTRACT TENANTS. THIS PROPOSED CHANGE WILL OBVIOUSLY HELP OPEN THE PROSPECTIVE TENANT POOL.

and

ii. The proposed use is a reasonable one because:

THIS VARIANCE HAS BEEN PERMITTED FOR A SIMILAR PROPERTY, ACROSS MAIN ST. AND APPEARS TO WORK WELL.

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

N/A





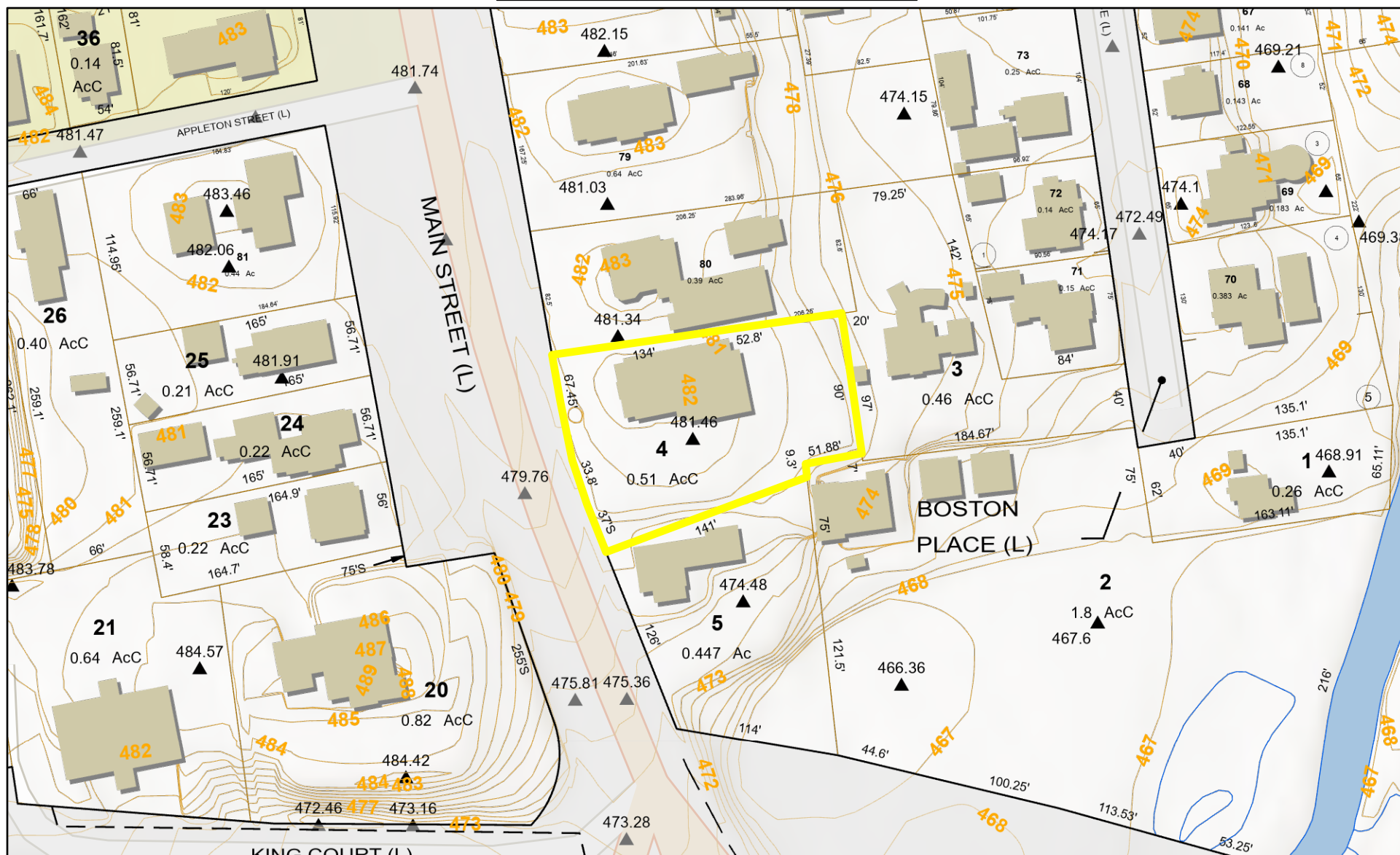
City of Keene, NH

1 inch = 94 Feet



July 19, 2023

www.cai-tech.com

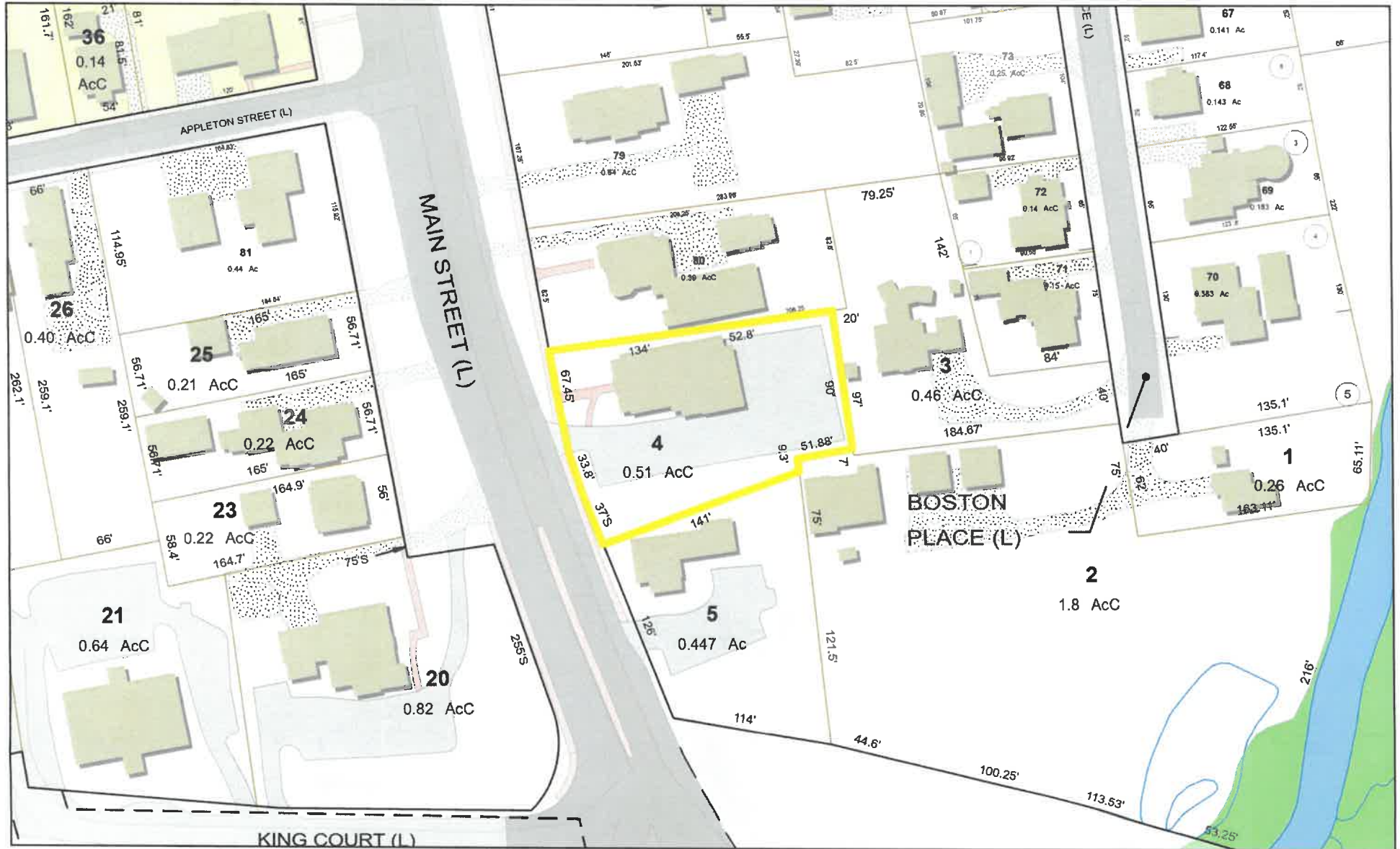


Data shown on this map is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this map.



July 7, 2023

www.cai-tech.com



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

# 455 WINCHESTER ST. ZBA 23-22



Petitioner requests to permit an office use in the Industrial District at this property per Chapter 100, Table 8-1 of the Zoning Regulations.



NOTICE OF HEARING

ZBA 23-22

A meeting of the Zoning Board of Adjustment will be held on **Monday, August 7, 2023, at 6:30 PM** in City Hall Council Chambers, 2<sup>nd</sup> floor, 3 Washington St, Keene, New Hampshire to consider the following petition.

**ZBA 23-22:** Petitioner, Casey Cota of Cota & Cota, Inc. of Bellows Falls, VT, requests a Special Exception for property located at 455 Winchester St., Tax Map #115-025-000, is owned by Donald E. Barnes and is in the Industrial District. The Petitioner requests to permit an office use in the Industrial District at this property, per Chapter 100, Table 8-1, Permitted Principal Uses, of the Zoning Regulations.

**This meeting is open to the public, and anyone wishing to speak on the proposal will be given an opportunity to be heard during the public hearing for this application. The application for this proposal is available for public review in the Community Development Department on the 4<sup>th</sup> floor of City Hall between the hours of 8:00 am and 4:30 pm or online at <https://keeneh.gov/zoning-board-adjustment>**

Corinne Marcou, Zoning Clerk

Notice issuance date July 21, 2023

# Zoning Board of Adjustment Special Exception Application



<b>For Office Use Only:</b>	
Case No.	<u>ZBA 23-22</u>
Date Filled	_____
Rec'd By	<u>AM</u>
Page	<u>1</u> of _____
Rev'd by	_____

If you have questions on how to complete this form, please call: (603) 352-5440  
or email: [communitydevelopment@keenenh.gov](mailto:communitydevelopment@keenenh.gov)

## SECTION 1: CONTACT INFORMATION

I hereby certify that I am the owner, applicant, or the authorized agent of the owner of the property upon which this appeal is sought and that all information provided by me is true under penalty of law. If applicant or authorized agent, a signed notification from the property owner is required.

### OWNER / APPLICANT

NAME/COMPANY: DONALD E. BARNES

MAILING ADDRESS: 455 CHAPMAN RD. KEENE, NH 03431

PHONE: 603-757-6403

EMAIL:

SIGNATURE:

*Donald E Barnes*

PRINTED NAME:

Donald E Barnes

### APPLICANT (if different than Owner/Applicant)

NAME/COMPANY: CASEY COTA COTA & COTA INC.

MAILING ADDRESS: 4 GREEN ST. BELLOWS FALLS, VT 05101

PHONE: 802-463-0000

EMAIL: CASEY.COTA@COTAOIL.COM

SIGNATURE:

*Casey K Cota, President*

PRINTED NAME:

CASEY K COTA

### AUTHORIZED AGENT (if different than Owner/Applicant)

NAME/COMPANY:

MAILING ADDRESS:

PHONE:

EMAIL:

SIGNATURE:

PRINTED NAME: CASEY COTA

**SECTION 2: GENERAL PROPERTY INFORMATION**

Property Address: 455 WINCHESTER ST KEENE NH, 03431

Tax Map Parcel Number: 115 / / 025/000 000/000

Zoning District: Industrial

Lot Dimensions: Front: 100' Rear: 225' Side: 200' Side: 299.97'

Lot Area: Acres: .95 Square Feet: 41,382

% of Lot Covered by Structures (buildings, garages, pools, decks, etc): Existing: 3.30 Proposed: SAME

% of Impervious Coverage (structures plus driveways and/or parking areas, etc): Existing: 45.56 Proposed: SAME

Present Use: EMPTY WAS U SAVE CAR RENTAL OFFICE

Proposed Use: COTA & COTA HEATING FUEL OFFICE

**SECTION 3: WRITTEN NARRATIVE**

**Article 25.6.4.A.:** Describe the property location, owner of the subject property, and explain the purpose and effect of, and justification for, the proposed special exception.

THE BUILDING AT 455 WINCHESTER ST IS AN EMPTY SMALL OFFICE BUILDING LAST USED AS THE U SAVE CAR RENTAL OFFICE. IT IS DIAGONAL FROM KRIF RD NEXT TO THE VFW. THIS BUILDING WOULD BE USED AT A OFFICE FOR COTA & COTA TO ASSIST CUSTOMERS AS WELL AS STORE INVENTORY FOR SERVICE OF HEATING UNITS, DISPATCH SERVICE TECHNICIANS AND DELIVERY DRIVERS TO HELP LOCAL CUSTOMERS.

## SECTION 4: APPLICANTION CRITERIA

*Article of the Zoning Ordinance under which the Special Exception is sought:*

**The Zoning Board of Adjustment shall have the authority to hear and decide special exceptions from the provisions of the Zoning Regulations of the City's Land Development Code, subject to the requirements of Article 25.6, Zoning Special Exception, 25.6.3 Authority and NH RSA 674:33.**

*Briefly describe your responses to each criteria, using additional sheets if needed:*

**1. The nature of the proposed application is consistent with the spirit and intent of the Zoning Regulations, this LDC and the City's Comprehensive Master Plan, and complies with all applicable standards in this LDC for the particular use.**

THIS BUILDING WOULD BE USED AS A OFFICE FOR COTA & COTA TO ASSIST OUR CUSTOMERS AS WELL AS STORE INVENTORY FOR SERVICE OF HEATING UNITS, DISPATCHING SERVICE TECHNICIANS AND DELIVERY DRIVERS TO HELP LOCAL CUSTOMERS.

2. The proposed use will be established, maintained and operated so as not to endanger the public health, safety or welfare.

THE PROPERTY AND BUILDING WILL BOTH BE WELL MAINTAINED AND KEPT CLEAN AND CLEAR OF ANY DEBRIS YEAR ROUND, TRASH, LEAVS, SNOW, ETC...



3. The proposed use will be established, maintained, and operated so as to be harmonious with the surrounding area and will not impede the development, use and enjoyment of adjacent property.

THE BUILDING WILL BE USED AS A OFFICE AND WILL NOT INTERFERE WITH ANY OF THE SURROUNDING PROPERTIES OR BUSINESSES.

4. The proposed use will be of a character that does not produce noise, odors, glare, and/or vibration that adversely affects the surrounding area.

COTA & COTA USING THIS BUILDING AND PROPERTY WILL DO NOTHING TO PRODUCE ANY OF THE ABOVE ISSUES

5. The proposed use will not place an excessive burden on public improvements, facilities, services or utilities.

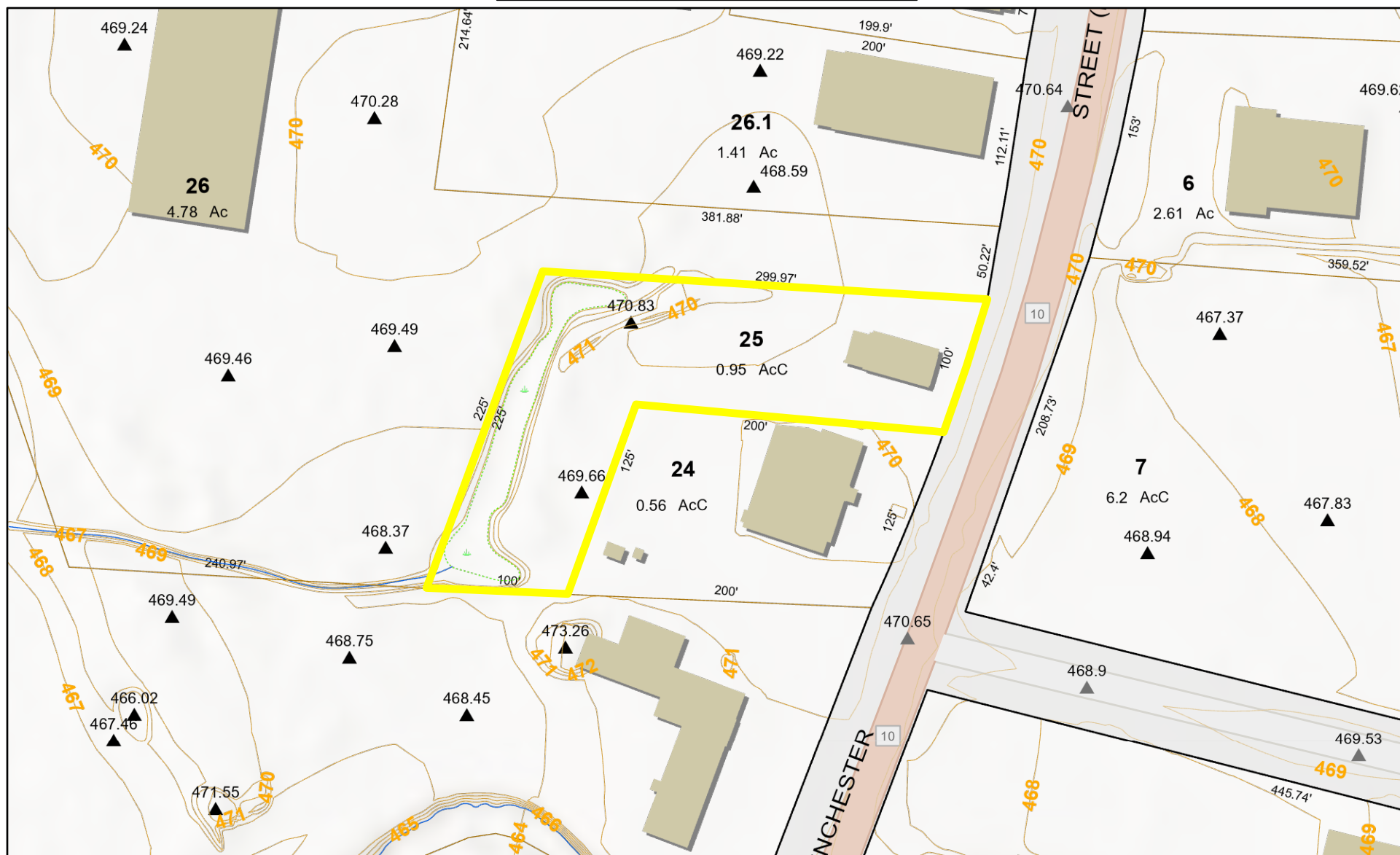
THIS BUILDING AND PROPERTY BECOMING AN OFFICE WILL NOT BE A BURDEN OF ANY KIND, IT IS ALREADY EQUIPPED WITH ALL PUBLIC UTILITIES NEED

6. The proposed use will not result in the destruction, loss, or damage of any feature determined to be of significant natural, scenic or historic importance.

NOTHING IS GOING TO BE CHANGED TO THE EXISTING BUILDING AND PROPERTY THAT COULD IMPACT ANY OF THE CONCERNS ABOVE

7. The proposed use will not create a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity of the use.

THE OFFICE BUILDING ON WINCHESTER ST WILL HAVE LITTLE NO INCREASE TO TRAFFIC, MOST LIKELY WILL BE LESS TRAFFIC THAN THE PREVIOUS BUSINESS OF U SAVE CAR RENTAL



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

**455 WINCHESTER ST.**

**Location** 455 WINCHESTER ST.

**Map/Lot #** 115 / / 025/000 000/000

**Acct#** 115025000000000

**Owner** BARNES DONALD E.

**Building Name**

**Assessment** \$209,600

**Appraisal** \$209,600

**PID** 3418

**Building Count** 1

**Current Value**

Appraisal			
Valuation Year	Improvements	Land	Total
2023	\$71,300	\$138,300	\$209,600

Assessment			
Valuation Year	Improvements	Land	Total
2023	\$71,300	\$138,300	\$209,600

**Parcel Addresses**

Additional Addresses
No Additional Addresses available for this parcel

**Owner of Record**

**Owner** BARNES DONALD E.

**Sale Price** \$0

**Co-Owner**

**Book & Page** 1262/0580

**Address** 455 CHAPMAN RD.  
KEENE, NH 03431-4379

**Sale Date** 09/01/1988

**Ownership History**

Ownership History			
Owner	Sale Price	Book & Page	Sale Date
BARNES DONALD E.	\$0	1262/0580	09/01/1988
	\$2	/	07/01/1984

**Building Information**

**Building 1 : Section 1**

**Year Built:** 1970  
**Living Area:** 1,368  
**Replacement Cost:** \$117,173  
**Building Percent Good:** 60  
**Replacement Cost Less Depreciation:** \$70,300

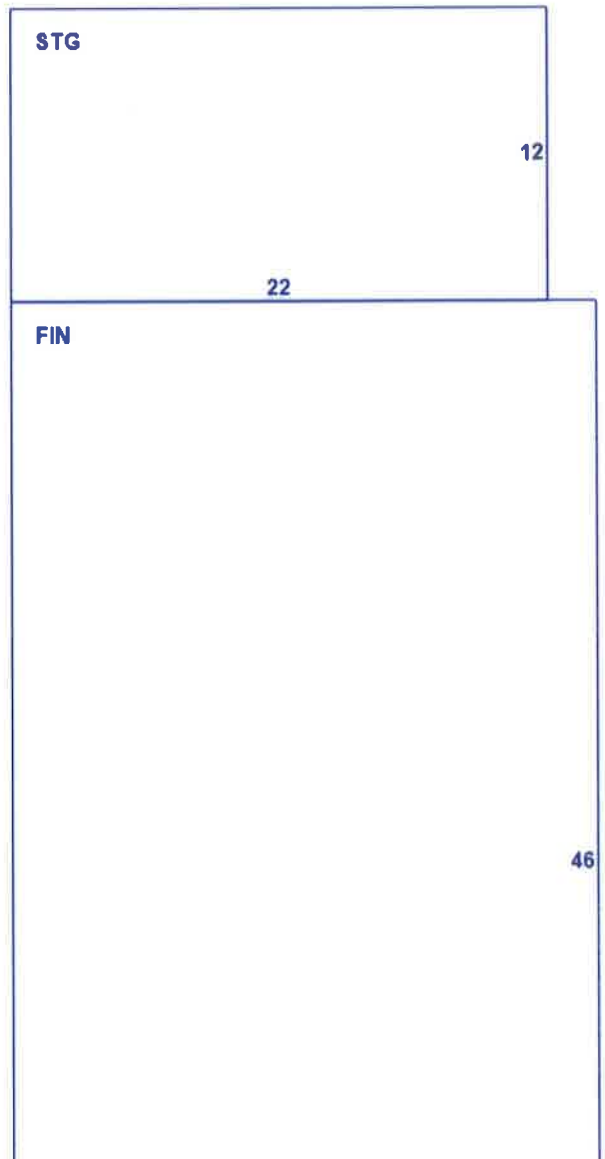
Building Attributes	
Field	Description
Style:	Commercial
Model:	Commercial
Grade	D
Stories:	1
Occupancy	1.00
Exterior Wall 1	Glass & Masonry
Exterior Wall 2	Glass
Roof Structure	Gable
Roof Cover	Asphalt
Interior Wall 1	Drywall/Sheetrock
Interior Wall 2	Typical
Interior Floor 1	Concrete
Interior Floor 2	Vinyl/Tile
Heating Fuel	Oil
Heating Type	Hot Water
Air Conditioning	Unit
Bldg Use	Commercial Improved
Bedrooms	
Full Baths	
Half Baths	
Frame	Wood Frame/Joist/Beam
Plumbing	Normal
Partitions	Normal
Wall Height	10.00
FBLA	
Condo Complex	
Cov Park Spaces	0

**Building Photo**



([https://images.vgsi.com/photos2/KeeneNHPhotos/0017\IMG\\_0026\\_17](https://images.vgsi.com/photos2/KeeneNHPhotos/0017\IMG_0026_17))

**Building Layout**







(ParcelSketch.ashx?pid=3418&bid=3418)

Building Sub-Areas (sq ft)			Legend
Code	Description	Gross Area	Living Area
FIN	Finished Area	1,104	1,104
STG	Storage	264	264
		1,368	1,368

**Extra Features**

Extra Features	Legend
No Data for Extra Features	

**Land**

Land Use	Land Line Valuation
<b>Use Code</b> 201	<b>Size (Acres)</b> 0.95
<b>Description</b> Commercial Improved	<b>Depth</b>
<b>Zone</b> IND	<b>Assessed Value</b> \$138,300
<b>Category</b>	<b>Appraised Value</b> \$138,300

**Outbuildings**

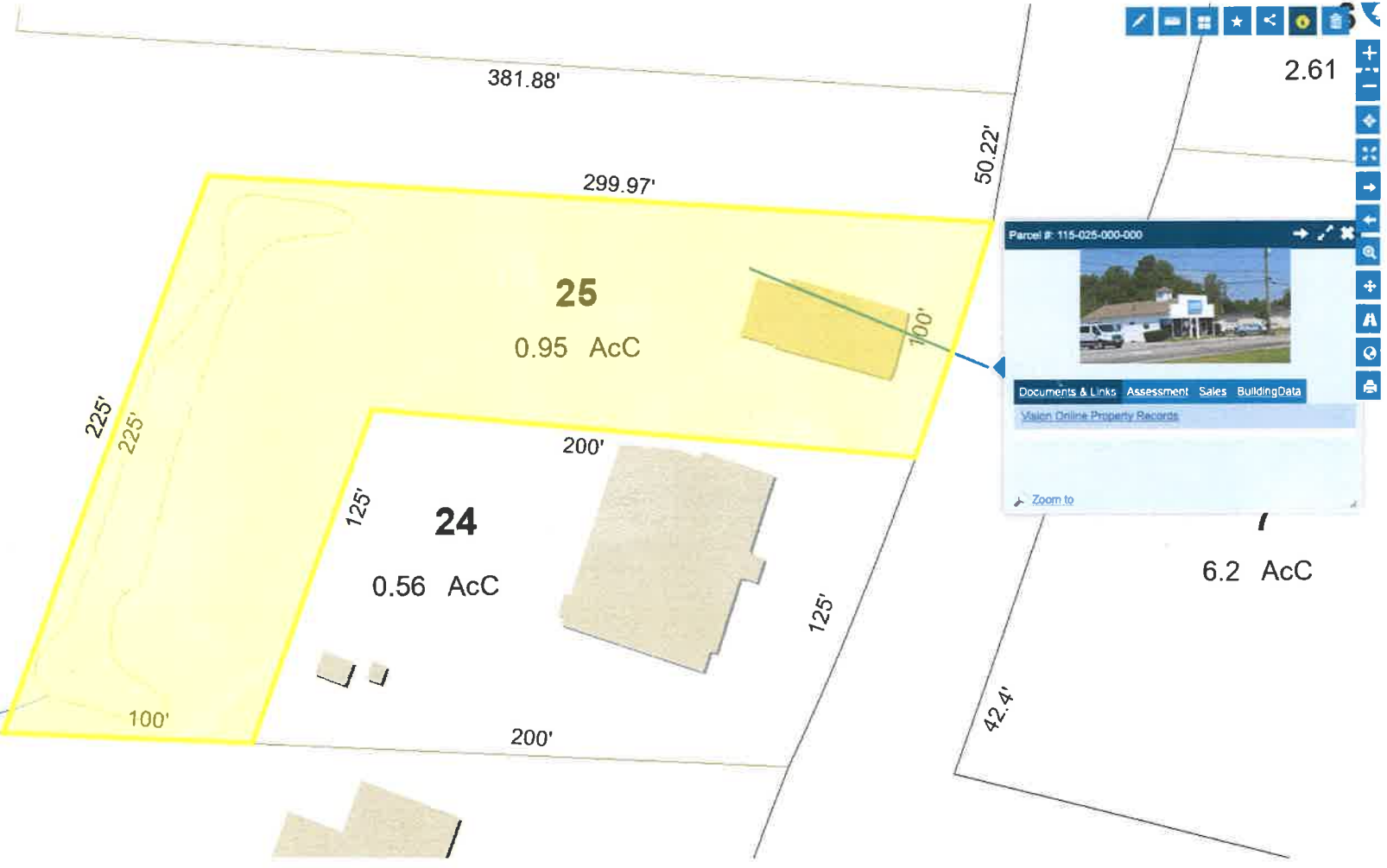
Outbuildings						Legend
Code	Description	Sub Code	Sub Description	Size	Assessed Value	Bldg #
PAV1	PAVING- ASPHALT			1000.00 S.F.	\$1,000	1

**Valuation History**

Appraisal			
Valuation Year	Improvements	Land	Total
2022	\$71,300	\$138,300	\$209,600

Assessment			
Valuation Year	Improvements	Land	Total
2022	\$71,300	\$138,300	\$209,600

Ac



Parcel #: 115-025-000-000

Documents & Links Assessment Sales BuildingData

[View Online Property Records](#)

Zoom to