



FOUNDED DECEMBER 15, 1727

CHARTED JANUARY 1, 1991

NEWMARKET ZONING BOARD OF ADJUSTMENT

MONDAY, JANUARY 11, 2021

7:00 PM MEMBERS OF THE PUBLIC MAY ATTEND THE MEETING IN PERSON AT THE TOWN HALL AUDITORIUM OR ATTEND REMOTELY USING ZOOM. IF ATTENDING IN PERSON, PLEASE WEAR A MASK AND MAINTAIN SOCIAL DISTANCE. IF ATTENDING BY TELEPHONE, THE BOARD WILL BE USING ZOOM. USE THE FOLLOWING INFORMATION TO JOIN THE MEETING: [HTTPS://ZOOM.US/J/98886121609](https://zoom.us/j/98886121609) CALL THIS NUMBER: 1 646 558 8656 MEETING ID CODE 988 8612 1609 ANY PROBLEMS CALL 603-659-3617 EXT 1321

7:00 PM

AGENDA

- 1. Pledge of Allegiance**
- 2. Review and Approval of Minutes**
 - a. Minutes 11/16/20**
- 3. Regular Business**
 - a. Peter Bergeron - Public hearing for an application for a Spereference Section 32-5(2) (B), of the Newmarket Zoning Ordinance, to permit the upward expansion of a structure that is 8' from the property line, where 25' is permitted. The property is located at 63 Packers Falls Road, Tax Map U1, Lot 18, R1 Zone.**
- 4. New/Old Business**
- 5. Adjourn**



Town Hall
186 Main Street
Newmarket, NH 03857

Tel: (603) 659-3617
Fax: (603) 659-8508

Founded December 15, 1727
Chartered January 1, 1991

TOWN OF NEWMARKET, NEW HAMPSHIRE

ATTACHMENTS:

Description	Upload Date	Type
Draft Minutes	12/10/2020	Backup Material

Draft
NEWMARKET ZONING BOARD OF ADJUSTMENT

NOVEMBER 16, 2020

MINUTES

Present: Bob Daigle (Vice Chairman), Wayne Rosa, James Drago, Steven Minutelli, Al Zink (Alternate)

Absent: Jonathan Sack (Alternate)

1. Pledge of Allegiance

2. Review and Approval of Minutes

a. 09/28/20

b. 10/05/20

c. 10/19/20

Action

Motion: James Drago made a motion to approve all of the minutes as above

Second: Wayne Rosa

Vote: Al Zink abstained

Steve Minutelli abstained for 9/28

Steve Minutelli aye for 10/5 and 10/19, Wayne Rosa, James Drago, Bob Daigle in favor all three dates

Diane Hardy stated the meeting time on 10/5, the adjournment time was 7:40 pm.

Action

Motion: James Drago made a motion to amend to include the above

Second: Wayne Rosa

Vote: Steve Minutelli, Wayne Rosa, James Drago, Bob Daigle in favor

3. Regular Business

a. Election of Officers

This will be taken up after the applications.

b. William Baillargeon - Public hearing for an application for a Variance, reference Section 32-89 Dimensions Table (R1 Zone) to permit the replacement and enlargement of a portico. The existing structure is 41 feet from the front property line and the new structure will be 37 feet from the front property line, where a minimum 40 foot setback is permitted. The property is located at 368 Wadleigh Falls Road, Tax Map R5, Lot 75-1A, R1 Zone.

Willian Baillargeon stated the portico was starting to collapse and they were putting on a new roof. They would like to put an 8' x 8' porch on. The existing structure is 41' from the property line. The new one will be 37' from the property line, where 40' is allowed. This is important, because the current structure needs to come down. The new one will be ADA compliant and will stay within the spirit of the ordinance. It will increase the property values and make the house more in line with others in the area.

Bob Daigle opened the public hearing.

No comments.

Bob Daigle closed the public hearing.

Bob Daigle asked about hardship. William Baillargeon stated parts of the structure were built in the 1820s to 1870s prior to the road being there. In order to do any work at the front of the house, you are going to run into setback issues. It is the main access for the Fire Dept. If they put the portico back the way it is now, it would detract from the house. The measurements were taken from granite markers.

Steve Minutelli stated the relief is diminimus he did not have a problem with this.

Action

Motion:	James Drago made a motion to grant the variance and use the testimony as findings of fact
Second:	Wayne Rosa
Vote:	James Drago, Wayne Rosa, Steve Minutelli, Bob Daigle, Al Zink in favor

c. Leo Manseau - Public hearing for an application for a Variance, reference Sections 32-51(b) Permitted Uses B3 District, of the Newmarket Zoning Ordinance, to permit a residential use in the B3 zone where residential uses are not allowed. The property is located at 435 Wadleigh Falls Road, Tax Map R3, Lot 4-1, B3 Zone.

Leo Manseau stated the lot is about 14 acres. He considers B3 to be a failed zone. He has owned the property for a number of years. He is looking to build a residential structure. There is 10.08 acres in current use. He has mapped out a 4 acre lot. He went over the criteria. He stated the residential use would enhance the tax base. The spirit of the ordinance would be observed with a residential use. The ordinance was written to promote commercial business in that area. Only two commercial uses have been developed in 24+ years. This would extend the tax base and not alter the character of the neighborhood. The proposed use is consistent with current uses in the B3 district. Out of three abutters, two are preexisting nonconforming uses. The third was granted a variance to allow a residential use. The purpose of this ordinance is to provide land, where commercial businesses can thrive. Since the Town has limited the use of truck traffic on Ash Swamp Road where this lot has frontage, it has limited its commercial use to thrive. The proposed use is reasonable, because there are residential abutters on three sides. \\\\residential uses. The property cannot be reasonably used in strict conformance of the ordinance, because of its unique shape and it is surrounded by residential uses. It is directly affected by trucks not being allowed on Ash Swamp Road.

Diane Hardy stated the Town Council and Planning Board have been working on some Gateway proposals and Route 152 is a Gateway. They are looking at the area zoned as B3. The question came up whether it makes sense to have land on Ash Swamp Road zoned B3. One recommendations is for that area to be rezoned residential. It would be consistent with what the Planning Board is considering.

Bob Daigle opened the public hearing.

Cas Bennett, co-owner of Seacoast Materials at 421 Wadleigh Falls Road, stated he was not in favor of this. There is a reason why residential is not in that zone. There are three abutters that have construction equipment. Backup alarms make noise, there is blasting. Commercial development brings in more tax dollars. Leo Manseau stated it borders areas that are active commercial uses, but there are times a variance is necessary and this is one of them. Cas Bennett stated, if the Zoning Board is looking for the best interests of Newmarket, keeping it commercial is the bigger tax base and less impact on the community. If he gets this approved, what is stopping him from turning the remaining acres into residential. Leo Manseau stated it was access.

Diane Hardy stated the assumption that every single family house is going to draw two kids to the school and cost \$20000 is overestimated. If you look at the current demographics, it

is a fraction of that. School enrollment is down. Some of these taxes will be offset by residential impact fees.

Leo Manseau stated access will keep him from turning the rest into house lots. The frontage is 175' on Ash Swamp Road. It would not be suitable for a road. There is 43' frontage on Wadleigh Falls Road. The remainder will remain in current use.

Chris Bennett, co-owner of Seacoast, stated he did not get any plans or elevations with the certified notice. Diane Hardy stated there are online agendas with the materials. Rather than mail the entire application to each abutter, it is on the website. There is also a letter of support there from the Whitcombs, who also went through the variance process for their home. Chris Bennett stated for the record he was not in favor.

Gabby Brown, 33 Kimball Way, stated she is Leo Manseau's granddaughter and was in support. The plans mentioned would not be presented as part of the application was the point is to bring upon the variance and not the site work. It is not relevant. They followed the requirements of the application.

Bob Daigle closed the public hearing.

Bob Daigle explained the ZBA has to rule on the merits of the application and not on whether it was good for the town.

Wayne Rosa stated Mr. Manseau has a definite hardship. He has been paying taxes for almost 30 years on property. The list of permitted uses is such that he cannot find a use for the property. The hardship is the Town has been charging these taxes and has held RSA 155A over the heads of landowners out there.

Steve Minutelli stated he mentions the unique shape of the parcel, the frontage and trucking restrictions. He meets the hardship criteria well. He has concerns about the other criteria. He is inclined to support this request primarily because of the comments about the Planning Board looking too make changes to this zone. He would approve this if future applications are judged on individual merit.

James Drago asked Diane Hardy to repeat what she had stated earlier about the Planning Board and the B3 zone. Diane Hardy stated the Town Council had been discussing the Gateway project for a while now. They have been looking at B3. It has been long recognized that the character of that road is residential. There have been a couple of proposals for commercial there and abutters have expressed concerns. The truck traffic is an issue. The B3 zone never materialized into what they had envisioned. They had a consultant look at it with the water and sewer extended there. They will come up with some zoning changes to that area. Mr. Manseau has made good points.

Bob Daigle read the Purpose of the B3 zone.

Bob Daigle asked if he was going to subdivide the parcel. Leo Manseau stated no, you would end up with a landlocked parcel. Bob Daigle asked if this was a lot line adjustment. Leo Manseau showed the lot plan and explained portions of it. It is all part of that one lot. No subdivision.

Al Zink stated he supported the variance.

Chris Bennett had a comment and it was allowed. He wondered why it took Leo Manseau 24 years to come get a variance. Diane Hardy stated this wasn't the first request. Chris Bennett asked why they were denied. Diane Hardy stated they were not denied. One was approved.

Action

Motion: Wayne Rosa made a motion to approve the application of Leo Manseau for a Variance, reference Sections 32-51(b) Permitted Uses B3 District, of the Newmarket Zoning Ordinance, to permit a residential use in the B3 zone where residential uses are not allowed for property is located at 435 Wadleigh Falls Road, Tax Map R3, Lot 4-1, B3 Zone based on the Findings of Fact and representations made.

Second: Al Zink

Vote: James Drago, Wayne Rosa, Steve Minutelli, Al Zink, Bob Daigle in favor

Election of Officers

Wayne Rosa nominated Bob Daigle for Chairman, Steve Minutelli second, all voted in favor.

Al Zink nominated Wayne Rosa, James Drago seconded, all in favor.

4. New/Old Business

None.

5. Adjourn

Action

Motion: James Drago made a motion to adjourn

Second: Wayne Rosa

Vote: All in favor



Town Hall
186 Main Street
Newmarket, NH 03857

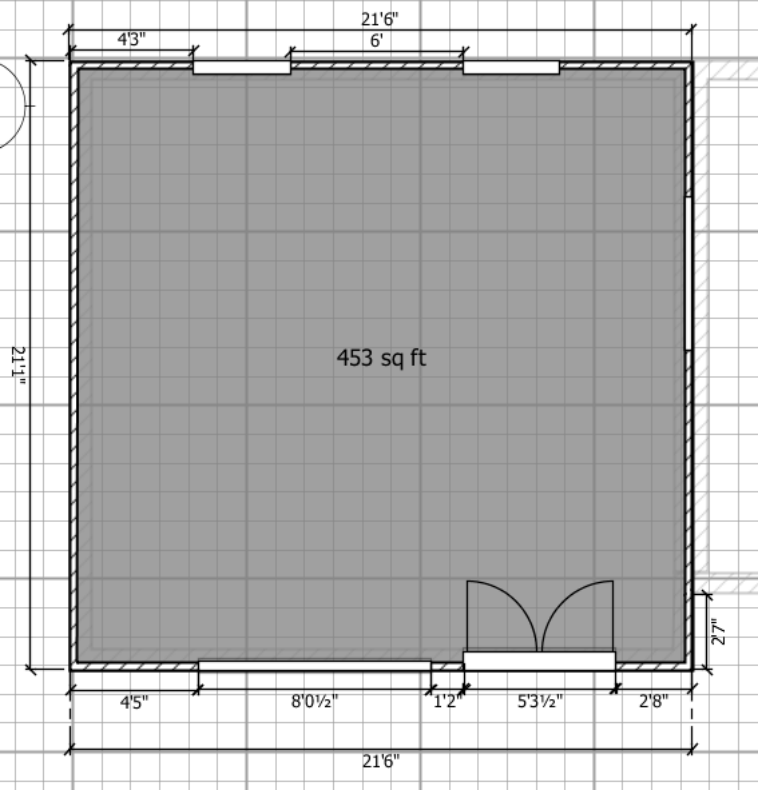
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Founded December 15, 1727
Chartered January 1, 1991

TOWN OF NEWMARKET, NEW HAMPSHIRE

ATTACHMENTS:

Description	Upload Date	Type
first addition	12/23/2020	Backup Material
Application	12/10/2020	Backup Material
2nd addition only	12/23/2020	Backup Material
addition only full scope	12/23/2020	Backup Material
back view with text	12/23/2020	Backup Material
back view	12/23/2020	Backup Material
property map edited 1	12/23/2020	Backup Material
Szabo view	12/23/2020	Backup Material
window & door specs 4d	12/23/2020	Backup Material
yard view with text	12/23/2020	Backup Material
yard view with window text	12/23/2020	Backup Material
yard view	12/23/2020	Backup Material



ppl 170-
scj

**APPLICATION – ZONING BOARD OF ADJUSTMENT
TOWN OF NEWMARKET, NH**

Applicant: Peter Bergeron

Mailing Address: 63 Packers Falls RD
Newmarket NH 03857

Property owner: Peter Bergeron

Mailing Address: 63 Packers Falls RD Newmarket, NH,

Telephone: 603-395-7897 Cell Phone: _____

Email Address: Bergeroncc@gmail.com

Location of property: 63 Packers Falls RD Tax Map U1 Lot 18 Zone R1

Description of property: Tan House with Green Metal Roof Next
To Tan Garage with Green Metal Roof on 1/3 Acre

Proposed use or existing use affected: A one story Existing structure
is Being Replaced Due To A Failed Foundation AND Rot.
I would Like To ADD AN ADDITIONAL story TO the New
structure TO ADD A New BED ROOM AND Bath Room. The
ADDITIONAL space is Needed For our Second child ON the way.

~~~~~

The following pages contain forms for Appeal from Administrative Decision, Special Exception, Variance, & Equitable Waiver. Please fill out appropriate request sheet. All applications will need completed abutters list.

~~~~~

Do not write in
this space

Date filed

12/8/20

Initials SCJ

SECTION 1 APPEAL FROM ADMINISTRATIVE DECISION

Relating to the interpretation and enforcement of the provision of the zoning ordinance.

Decision of the Building Official to be reviewed:

The Home is 8ft +/- From the
Northerly side Property Line. 25ft is
Required in the R-1 Zone. The structure Being
Replaced Did Not Have A Second Floor, Therefore
A Special Exception From The Zoning Board
of Adjustment is Needed per section 32-5(2)B.

Section 32-5B of the Newmarket Zoning Ordinance in question: Portions of
structures within a setback may be enclosed or
expanded upwards if granted a special exception
by the Zoning Board of Adjustment.

SECTION 2 APPLICATION FOR SPECIAL EXCEPTION

32-5 The undersigned hereby requests a Special Exception as provided in Section of the Newmarket Zoning Ordinance.

Explain how the proposal meets the special exception criteria as specified (list responses to all criteria from the ordinance. For example "Criterion 1: then your response", etc.) Use a separate sheet if necessary:

Criterion 1: The Proposed Project would not block
views or sunlight of any of the abutters.

Criterion 2: The Proposed Project would not exceed
the maximum height limitations. The height of the structure
will be the same height as the main portion of the
house. The main portion of the house measures 23'
above grade.

Criterion 3: No part of the structure is located in
the 100 year floodplain.

Criterion 4: The expansion will improve the overall
value of the lot.

Please sign below for all applications:

Applicant Peter Bergeron
Signature

Applicant Peter Bergeron
Please Print

Owner Peter Bergeron
Signature

Owner Peter Bergeron
Please Print

Date 12/07/20



TOWN OF NEWMARKET, NEW HAMPSHIRE

Peter Bergerone
63 Packers Falls Road
Newmarket, NH 03857

November 17, 2020

RE: Second Story Addition to Legal-Non-Conforming Residence

VIA EMAIL

Dear Mr. Bergeron,

As discussed, as your home is 8 feet +/- from the northerly side property line where 25 is required in the R-1 Zone, the expansion of your building permit to include a second floor on the rear portion of your house will require a Special Exception from the Zoning Board of Adjustment per Newmarket Municipal Code 32-5(2)b, which states:

b. Portions of structures within a setback may be enclosed or expanded upwards if granted a special exception by the zoning board of adjustment. The zoning board of adjustment shall grant the special exception only if the following conditions are met:

- 1. If an upward expansion, it shall not have any adverse impact on any neighboring property, including but not limited to blocking of views and/or sunlight.*
- 2. If an upward expansion, it shall not exceed the maximum height limitations specified in this chapter.*
- 3. No part of the structure is located within the 100-year floodplain.*
- 4. The expansion shall not render the lot proportionally less adequate.*

This letter is to serve as your letter of DENIAL of your Building Permit Application. You may Contact Sue Jordan in our office who can assist you with the Special Exception application process.

Mike Hoffman
Building Safety, Zoning Compliance and Health Officer

Peter Bergeron
63 Packers Falls Road
Newmarket NH, 03857

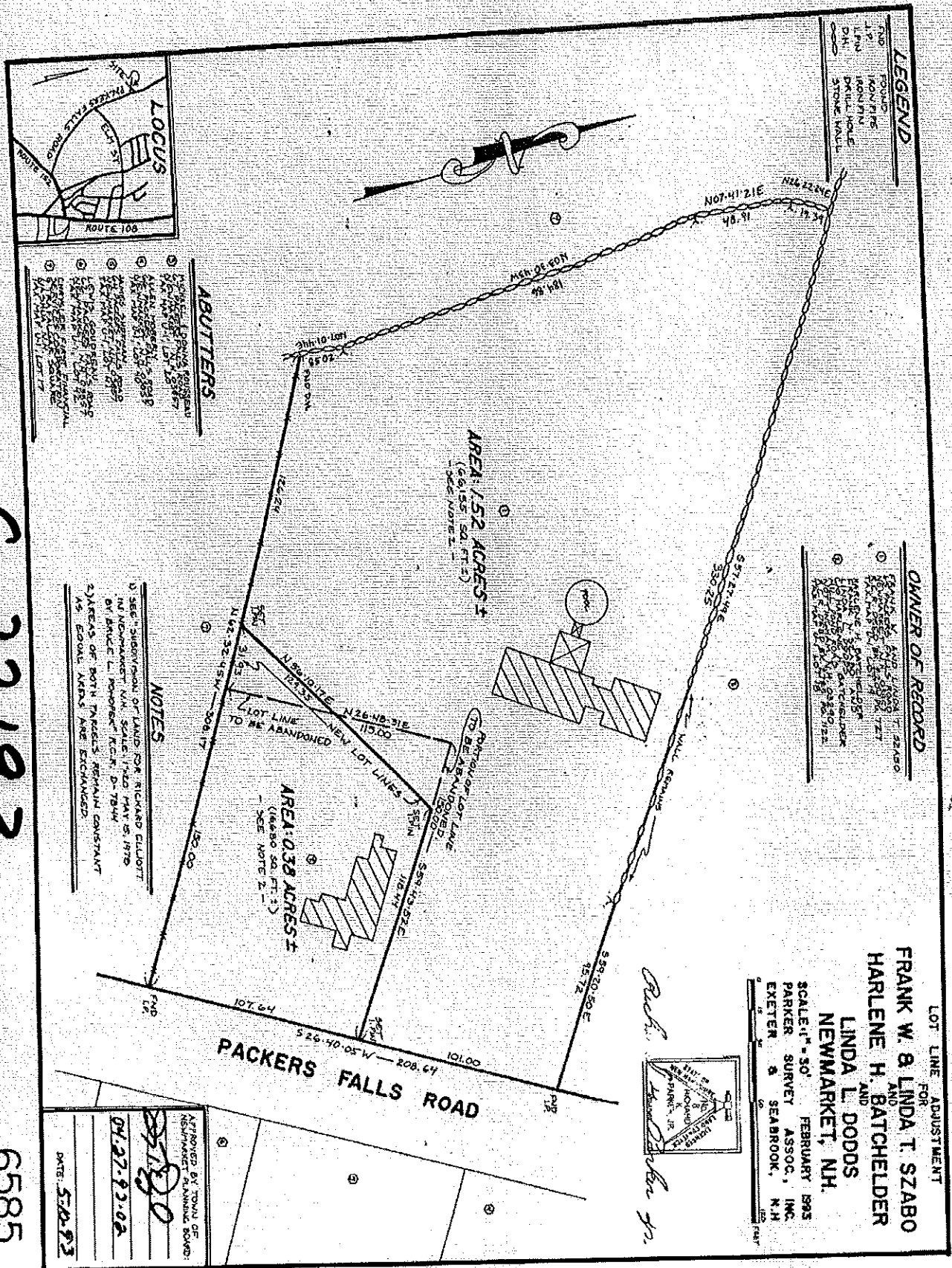
LIST OF ABUTTERS

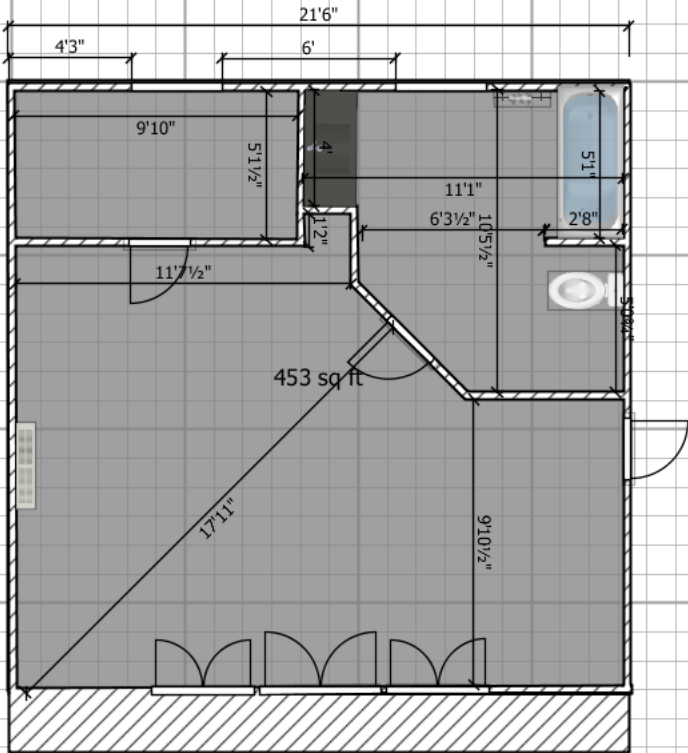
U1-17 – Tom and Sarah Thomas
61 Packers Falls Road
Newmarket NH, 03857

U1-19 – Frank and Linda Szabo
65 Packers Falls Road
Newmarket NH, 03957

U1-41 – John and Jane Deziel
64 Packers Falls Road
Newmarket NH, 03857
P.O. Box17

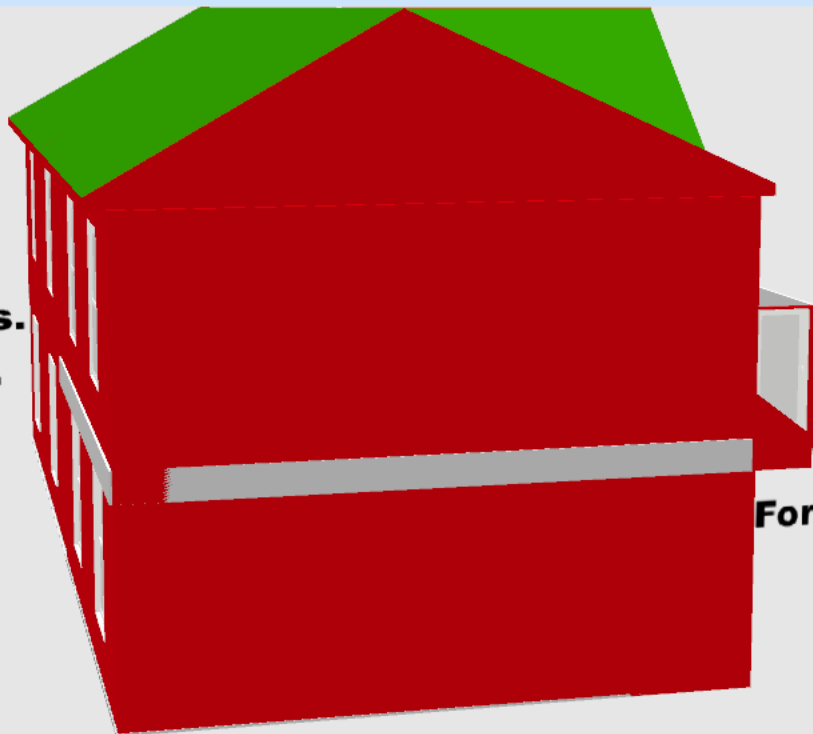
U1-42 – Janice Pierson and Arlene Goudreau
62 Packers Falls Road
Newmarket NH, 03857







TOTAL Elevation: 22'9"
Second floor vaulted ceilings.
Collar tie span 4' or greater.
Hurricane clips installed.
12" TGI Floor joists.
12" LVL rim board.



6.5 Pitch roof.
Dormer 5'8" tall.
12" LVL ridge beams.
10in LVL Valleys.
2x10KD rafters.
1x8Azek fascia
8-10inch over hang
Forest Green METAL roofing



FIND	FOUND
I.P.	IRON PIPE
I.FIN	IRON FIN
DH.	DRILL HOLE
SW	STONE WALL

① FRANK J. AND LINDA T. SZABO
48 PALMER PARK ROAD
SCHECTERVILLE, N.Y. 10590
TAX MAP OF CATTARAUGUS CO. P. 727

② MARLENE H. BATHCHELDER
FRANK J. SZABO AND
LINDA T. SZABO
BATHCHELDERS
HIS ADDRESS IS N. 63240
CATTARAUGUS COUNTY, N.Y.
P.O. BOX 122

LOT LINE ADJUSTMENT
FOR
FRANK W. & LINDA T. SZABO
AND
HARLENE H. BATCHELDER
AND
LINDA L. DODDS
NEWMARKET, N.H.

SCALE: 1" = 30' FEBRUARY 1993
PARKER SURVEY ASSOC., INC.
EXETER & SEABROOK, N.H.



HighLighted area: Portion of house being rebuilt. Height will match the portion of the house not being rebuilt. Height of portion of house being rebuilt will increase by 7ft to include 2nd floor living space. total structure height will be 22'9".

Area Not conforming
Distance of 8ft

AREA: 0.38 ACRES ±
(16680 SQ. FT. ±)
- SEE NOTE 2. -

- ③ DANIEL E. DUNN, JR.
1000 W. 10TH AVE. N.W.
WASH. STATE, U.S. LOT 40
- ④ ALAN HUBERT
1000 W. 10TH AVE. N.W.
WASH. STATE, U.S. LOT 40
- ⑤ JAMES HUBERT
1000 W. 10TH AVE. N.W.
WASH. STATE, U.S. LOT 40
- ⑥ LEWIS HUBERT
1000 W. 10TH AVE. N.W.
WASH. STATE, U.S. LOT 40
- ⑦ CAROL ANN FINE FURBER
1000 W. 10TH AVE. N.W.
WASH. STATE, U.S. LOT 40

3) AREAS OF BOTH PARCELS REMAIN CONSTANT
ALL OTHER AREAS ARE EXCHANGED

APPROVED BY TOWN OF
CANTON, MASSACHUSETTS BOARD

04.27.93.02

DATE: 5-10-93

C-22192

6585



Yard View

second floor

window rough opening:

2'10"x4'10"

Dormer window

Rough Opening:

2'10"x2'10"

1st floor picture window

Rough opening" 8'x4'5"

French Door

Rough openings:

5'3"x6'11"



6.5 Pitch roof.
Dormer 5'8" tall.
12" LVL ridge beams.
10in LVL Valleys.
2x10KD rafters.
1x8Azek fascia
8-10inch over hang
Forest Green METAL roofing



Yard View

second floor

window rough opening:

2'10"x4'10"

Dormer window

Rough Opening:

2'10"x2'10"

1st floor picture window

Rough opening" 8'x4'5"

French Door

Rough openings:

5'3"x6'11"



