



TOWN OF
NEW LONDON, NEW HAMPSHIRE

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APPEAL FROM AN ADMINISTRATIVE DECISION

To: Zoning Board of Adjustment,
Town of New London

Name of applicant: Jeremy Bonin, Bonin Architects

Mailing Address: 210 Main Street, New London State: NH Zip 03257

Home Telephone: NA Work: 603.526.6200 Cell: NA

Email address: jeremy@boninarchitects.com

Owner of property: Ton-Ko-Lah, LLC
(if same as applicant, write "same")

Location of property 18 Camp Sunapee Road

Tax Map Number: 033 Lot Number: 008 Zone: R2

Appeal of a decision made by a Town Official alleging that his or her interpretation of the New London Zoning Ordinance, Site Plan Review Regulations or Land Subdivision Control Regulations is in some way in error such that: See attached

The specific zoning regulation(s) involved in the appeal include the following Article: XX, Section: B.5.b.ii of the zoning ordinance [list all criteria from ordinance] See attached

Applicant(s) signature: *John Muller* Date: 2-6-19

Applicant(s) signature: *[Signature]* Date: 2.8.2019

COPY





BONIN ARCHITECTS

RESIDENTIAL • COMMERCIAL • LANDSCAPE

ATTACHMENT TO: APPEAL FROM ADMINISTRATIVE DECISION

Applicant: Jeremy Bonin

Property Owner: Ton-Ko-Lah, LLC

Property Address: 18 Camp Sunapee Road

We seek an Appeal to the New London Zoning Administrator's interpretation of Article XX Section B.5.b.ii.; the Zoning Administrator's official interpretation is as follows (underlined for clarity) (full email included separately for reference):

"I met with Adam [Ricker, Town Planner] and Kim [Hallquist, Town Administrator] yesterday, and we reviewed our Legal Counsel's response to the question about voluntarily taking down a non-conforming structure. The conclusion is that Article XX Section B.5.b.ii requires that a voluntary tear down of a building, or relocation, would require that the new structure be built to conform with zoning. The same would also apply if a non-conforming structure was altered in that 50% plus capacity described in that section of the ordinance."

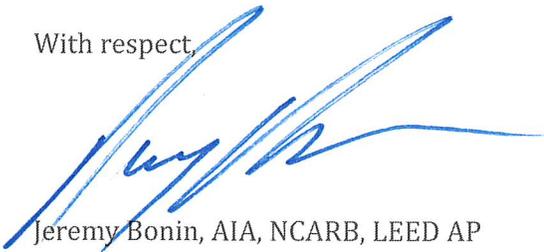
We base the Appeal on following facts:

1. This is a **reversal** of the current Zoning Administrator's interpretation of this article,
 - a. On January 17, 2018 the current Zoning Administrator reviewed and presented for approval, the issuance of building permit number 17-147; a project identical in its application to Article XX Section B.5.b.ii,
 - b. There has been no amendment to this article in the elapsed timeframe.
2. This is a **contrary interpretation** as historically implemented by this Zoning Administrator, the past two Zoning Administrators, the Town Administrator, the Select Board (while they were the entity issuing building permits) AND the New London Zoning Board of Appeals.
 - a. On Sept. 14th, 2015, The New London Zoning Board of Appeals (with current Board members Lyon, Todd, Bedard, Anzalone, and Fischer present) determined variances were not required from sections I.1 & I.2 of Article XVI (since moved to Article XX Sections A & B by 2016 Town Warrant Article 1 B.1, attached for reference) (see attachments). The application and subsequent building permit were for a voluntary replacement of a non-conforming structure straddling the waterfront buffer. **This matter has been before this board and already been ruled upon.**
 - b. The following are examples illustrating only a few projects granted building permits without a variance to either Article XVI Section J1 & J2 or Article XX B.5.b.ii to establish implementation and/or interpretation in a **consistent manner**:
 - i. Building Permit #17-147 issued January 2018,
 - ii. Building Permit #16-075 issued July 2016,
 - iii. Building Permit #15-109 issued Sep. 2015,
 - iv. Building Permit #15-013 issued March 2015,
 - v. Building Permit #13-122a issued Oct. 2013,
 - vi. Building Permit #13-110a issued Sep. 2013.

3. It has been put forth the intent of Article XX Sections B.5 a & b are written to force conformity upon non-conforming structures being rebuilt or prevent "Substantial Improvements" to existing non-conforming structures, regardless the cause or reason (refer to attached Bonin Architects Meeting Minutes dated January 9, 2019). We represent this is not, nor has been, the interpretation. For example:
 - a. Building Permit #16-059 issued June 2016
4. We represent that there is **ambiguity** in this clause, as identified in the Zoning Administrators change of interpretation, meeting minutes (included, with relevant quote below), and emails (included, with relevant quotes below).
 - a. *"It certainly is not as clear as it could be, but we have to deal with what we have."*
 - b. *"...the zoning ordinance doesn't appear to be as clear as it could be."*
 - c. *"Nicole, Adam and I met at least three times on this, working through all of the provisions in Article XX and we agree that it could benefit from some attention to clarify what is intended."*
 - d. *"Discussed that several variances are requested... and that the language in the Ordinance is quite confusing, convoluted, contradictory and circular."*
5. Based on the de facto policy of issuing permits over the past six years at least, without change to the Article in question, AND, based on the ambiguity illustrated; we request the Appeal be granted as this is clearly an instance of "Administrative Gloss". While typically a ruling of court, we ask the Zoning Board, as a quasi-judicial entity, consider the appeal based on the following (underlined for emphasis):
 - a. *"The doctrine of administrative gloss is a rule of statutory construction. An "administrative gloss" is placed upon an ambiguous clause when those responsible for its implementation interpret the clause in a consistent manner and apply it to similarly situated applicants over a period of years without legislative interference. If an "administrative gloss" is found to have been placed upon a clause, the municipality may not change its de facto policy, in the absence of legislative action, because to do so would, presumably, violate legislative intent. Nash Family Inv. Prop. v. Town of Hudson, 139 N.H. 595, 602 (1995)." DHB, INC. v. TOWN OF PEMBROKE Merrimack No. 2004-397. Argued: February 9, 2005. Opinion Issued: June 14, 2005*

In summary, this board has already ruled on this matter. There is no practical purpose in denying the appeal as this is the established practice and interpretation of the article in question. Granting this appeal is not contrary to the public interest and is within the established spirit of the ordinance. We thank you for your consideration and time as volunteers of the Town of New London Zoning Board of Appeals.

With respect,



Jeremy Bonin, AIA, NCARB, LEED AP

Bonin Architects

I, John Muller, MANAGING PARTNER of Ton-Koh-Lah, LLC. authorize Jeremy Bonin of Bonin Architects, PLLC. to represent me in the Appeals to the New London Zoning Board for the property of 18 Camp Sunapee Road.

John Muller MANAGING PARTNER

(Print, name and title)

John Muller 2.12.19

(Signature & Date)



Subject: Voluntary Replacement of a Legal Non-Conforming Structure

Date: Wednesday, January 23, 2019 at 10:12:32 AM Eastern Standard Time

From: Nicole Gage

To: Jeremy Bonin

CC: Town Administrator, Adam Ricker

Hi Jeremy.

I met with Adam and Kim yesterday, and we reviewed our Legal Counsel's response to the question about voluntarily taking down a non-conforming structure. The conclusion is that Article XX Section B.5.b.ii requires that a voluntary tear down of a building, or relocation, would require that the new structure be built to conform with zoning. The same would also apply if a non-conforming structure was altered in that 50% plus capacity described in that section of the ordinance.

As you know, we are tied to the constraints of the ordinance as it is written. However if you disagree with my interpretation of the ordinance, I encourage you to file an Appeal of an Administrative Decision. The Zoning Board of Adjustment has the authority to reverse this interpretation, should they determine there is an error in the interpretation of reading Article XX Section B. Please see New London Zoning Ordinance Article XXI Section E & F and RSA 674:33 and 676:5 for more information on the appeal process.

-
Should you wish to file an Appeal of an Administrative Decision, you would need to do so within 20 days of receipt of this email, which is the "reasonable time" mentioned in XXI.E and then defined in the Zoning Board of Adjustment's Rules of Procedure.

Please let me know if you have any questions about the appeal application process. Or if you have any questions or need help with anything else at this time. Thanks Jeremy.

CC: Kimberly Hallquist, Town Administrator / Adam Ricker, Town Planner

Nicole Gage
Zoning Administrator
Town of New London, NH
Email zoning@nl-nh.com / Web www.nl-nh.com
Direct (603) 526-1246 / Town Office (603) 526-4821

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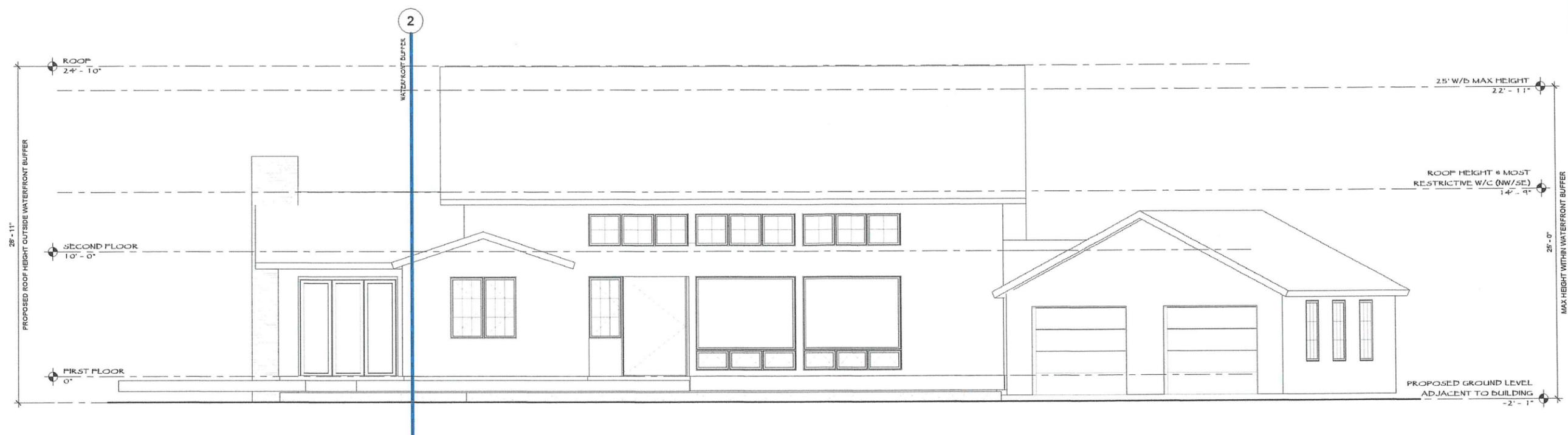
Bonin Architects

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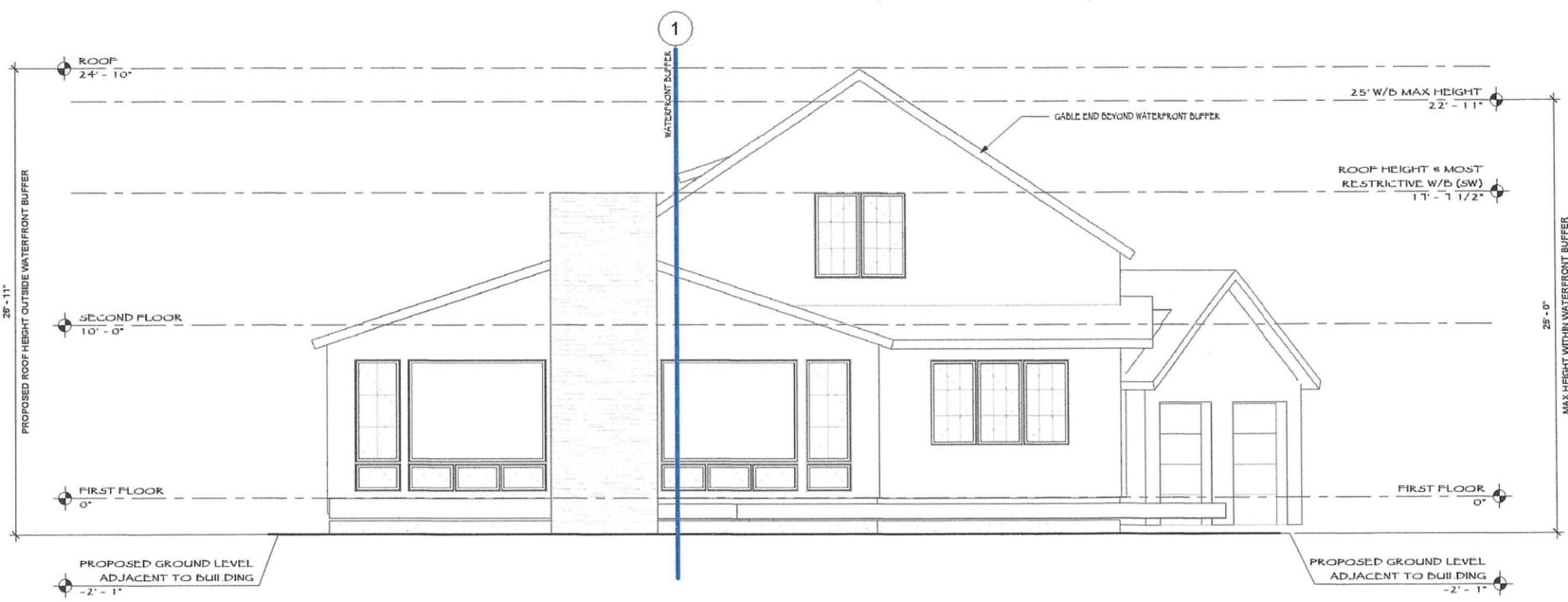
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Associates PLLC.

John & Robyn Muller
18 Camp Sunapee Rd. New London, NH.

GENERAL NOTES:
1. ELEVATION DIMENSIONS ARE TO TOP OF SUBFLOOR OR CONCRETE, SI AB AND DO NOT REFLECT FLOOR FINISHES.
2. SEE EXTERIOR MATERIALS SCHEDULE ON SHEET A200.



1 SOUTH ELEVATION
1/4" = 1'-0"



2 WEST ELEVATION
1/4" = 1'-0"

TOWN OF
NEW LONDON
FEB 13 2019
PLANNING & ZONING

JEREMY K. BONIN
Schematic
Design

SHLIC. NO. 2009

REVISION SCHEDULE

No.	Date	Description

DATE: Issue Date

SCALE: 1/4" = 1'-0"

DRAWING SET REVISION

Project Number

SHEET TITLE

ELEVATIONS

SHEET NUMBER

A200



TOWN OF
NEW LONDON, NEW HAMPSHIRE

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NOTICE OF DECISION
Zoning Board of Adjustment (ZBA)
Monday, September 14, 2015

The Zoning Board of Adjustment made the following decision(s) at the Monday, September 14, 2015 meeting. Refer to the agenda, public hearing notice and meeting minutes for additional details of the discussion.

- ✓ Variance application for Anne and David Wustrow. Property located at 575 Forest Acres Road. Tax Map 119-020-000. Property zoned Residential, R-2. Variances requested to Article XVI, Shoreland Overlay District – C. Permitted Uses (C.2); G. Waterfront Buffer (G.2. b); and J. Nonconforming Buildings and Structures- (J.1 and J2); and Article XX Nonconforming – (B.1.) and (B.3.b.2.). The Board determined that variances were only required to Article XVI, Shoreland Overlay District provisions C.2 and G.2.b. The Board concurred that the five conditions for approving the variances were met. The variances were approved with the following conditions:
1. The tree (1) to be cut and approved by the Planning Board can be removed but the stump must remain. The stump may be grinded and filled over with earthen materials but no digging of the stump or roots shall be permitted.
 2. No wing walls may be used to support the porch areas, precast support piers shall be used.
 3. No future building expansion is permitted for any part of the new structure including any part of the structure that is conforming or any part of the structure which is nonconforming.
 4. Areas of disturbance shall be replanted with non-invasive plants per the NH Department of Environmental Services (NHDES) list.
 5. As-built plans shall be recorded at the Merrimack County Registry of Deeds (MCRD) upon completion and within one (1) year from the date the building permit is issued by the Town. The recorded as-built plan shall include a plan note stating the conditions of the September 14, 2015 ZBA approval.
 6. The survey plan submitted with the application shall be stamped and signed by the surveyor, include the conditions of the ZBA approval and be recorded at the Merrimack County Registry of Deeds (MCRD).

Respectfully Submitted:

Lucy A. St. John, AICP
Planning and Zoning Administrator

Per RSA 674:33 (as may be amended) the concurring vote of 3 members of the board shall be necessary to reverse any action of the administrative official or to decide in favor of the applicant on any matter on which it is required to pass. Persons who are aggrieved by the decision of the ZBA are advised to seek legal counsel as they deem appropriate and to review applicable laws including but not limited to RSA 677 Rehearing and Appeal Procedures, RSA 674:33 Powers of the Zoning Board of Adjustment, RSA 676:3 Issuance of Decision and other NH State Statutes and Laws which may apply. This notice is for general informational purposes and in no way shall convey any legal advice.

THE STATE OF NEW HAMPSHIRE
TOWN OF NEW LONDON
2016 TOWN WARRANT

To the inhabitants of the Town of New London in the County of Merrimack and State of New Hampshire, qualified to vote in town affairs:

You are hereby notified to meet at the Whipple Memorial Town Hall in New London on Tuesday, March 8, 2016, at 8:00 in the forenoon to act upon the subjects below. By law, the meeting must open before voting starts. Therefore, the meeting and polls will open at 8:00 AM for the consideration of Article 1. At 12:00 noon, the meeting will recess and the polls will remain open until 7:00 PM. The meeting will reconvene at the Kearsarge Learning Campus/Outing Club Gymnasium in New London on Wednesday, March 9, 2016 at 7:00 PM to act upon Articles 2-20.

ARTICLE 1

A. To choose by ballot all necessary Town Officers for the ensuing year:

1 Selectman	(3-year term)	3 Budget Committee Members	(3-year term)
1 Town Moderator	(2-year term)	1 Budget Committee Member	(1-year term)
1 Trustee of Trust Funds	(3-year term)	2 Tracy Library Trustees	(3-year term)
1 Supervisor of the Checklist	(6-year term)	1 Cemetery Commissioner	(3-year term)

B. To vote by ballot on the following amendments to the New London Zoning Ordinance:

1. Are you in favor of the adoption of Amendment No. 1 as proposed by the Planning Board for the New London Zoning Ordinance? YES _____ NO _____

The Planning Board proposes to amend Article XVI, Shore Land Overlay District. The major change is Sections J and Section K will be deleted and moved into Article XX, Legal Non-Conforming Uses, Legal Non-conforming Buildings and Structures and Legal Non-conforming Lots for the purpose of placing all requirements related to non-conformity in one place, and includes replacing the words "Normal High Water" in Section J 2 (b) with the words "Reference Line". Provisions to Section G, Waterfront Buffer will be changed to allow for the removal of diseased vegetation; to require replanting when dead, diseased or unsafe trees and saplings are removed and to provide for the use of points for shrubs and groundcover when replanting. Provisions to Section H, Natural Woodland Buffer will include percentage requirements exclusive of impervious surfaces. Provisions of Section E, Development with Waterfront Access will be changed pertaining to waterfront access and common areas. In addition other minor editorial changes such as removing references to previous amendment dates and renumbering are included.

2. Are you in favor of the adoption of Amendment No. 2 as proposed by the Planning Board for the New London Zoning Ordinance? YES _____ NO _____

The Planning Board proposes to amend Article XX, Legal Nonconforming Uses, Legal Non-conforming Buildings and Structures, and Legal Non-conforming Lots. Section C. Legal Nonconforming Lots will be revised to include a new item C (1), as the existing language of C 1 and C 3 are no longer needed.

3. Are you in favor of the adoption of Amendment No. 3 as proposed by the Planning Board for the New London Zoning Ordinance? YES _____ NO _____

The Planning Board proposes to amend Article II, General Provisions, Section 5, Height Regulations. The proposed amendment is to delete the last sentence of # 5 Height Regulations and include it with the other nonconforming



TOWN OF
NEW LONDON, NEW HAMPSHIRE

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ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
Thursday, September 14, 2015
6:30 PM

MEMBERS PRESENT: Douglas W. Lyon (Chair), W. Michael Todd (Vice-Chair), Vahan Sarkisian, Ann Bedard, Cheryl Devoe, Paul Vance, Frank Anzalone (Alternate), Katherine Fischer (Alternate), and Jerry Coogan (Alternate).

STAFF PRESENT: Lucy St. John, Planning and Zoning Administrator.

OTHERS PRESENT: Charles Hirschberg (CLD Consulting Engineers), Paul Raynor (Lane River Design), Bill Helm (Chair of Planning Board), Bob Brown (Chair of Conservation Commission and abutter), and John & Mary Doyle (abutters).

Call to Order: Chair Lyon called the meeting to order at 6:30 pm.

Roll Call: Chair Lyon called the roll. He said the meeting had been properly noticed.

Approval of Minutes

IT WAS MOVED (Chair Lyon) AND SECONDED (Vahan Sarkisian) to approve the minutes of August 18, 2015, as circulated. THE MOTION WAS APPROVED UNANIMOUSLY.

Chair Lyon appointed the following to be voting members for tonight's discussion: Chair Douglas Lyon, Michael Todd, Vahan Sarkisian, Ann Bedard and Cheryl Devoe.

Public Hearing

- **Variance application for Anne and David Wustrow.** Property located at 575 Forest Acres Road. Tax Map 119-020-000. Zoned Residential, R-2. Owner proposes to tear down and reconstruct a nonconforming three bedroom dwelling partially within the existing footprint within the 50' waterfront buffer, and with some disturbance within the 50' waterfront buffer.
- Variance to Article XVI, Shoreland Overlay District – C. Permitted Uses (C.2); G. Waterfront Buffer (G.2.b); and J. Nonconforming Buildings and Structures-(J.1 and J2)
 - Variance to Article XX Nonconforming – (B.1.) and (B.3.b.2.)

Charlie Hirschberg, CLD Engineering and Paul Raynor presented the application on behalf of the owners who lives in California and were not able to attend. Key points of the presentation included:

- ✓ Been in the family since 1968.
- ✓ Daughter, Anne Wustrow (now owner and applicant) owned it since 1991.
- ✓ Existing building footprint is about 820 sq. ft., of that is a 240 sq. ft. screened porch on the lake side and 600 sq. ft. of living space with some unique features.
- ✓ Approximately 330 square feet of the existing structure is located in the waterfront buffer.
- ✓ Septic System is a new Clean Solution System that meets the setbacks of wetlands and the abutter well; effecting where the lot is buildable.
- ✓ What is being proposed is to rebuild on the existing footprint a single level with a porch.

- ✓ Noted that back in 1991 determined not it was unbuildable, as there are wetland on the lot, which is located on the other side of the road (not the lakeside).
- ✓ In the nonconforming area, the living space will be reduced.
- ✓ Run off going along the lake side will be minimized with the new roof, moving most of the run off away from the lake.
- ✓ Nonconforming structure, and uncertain of the variances required due to the confusing language in the ordinance and not sure if they really need all the variances.
- ✓ State Shoreland permit has been granted.
- ✓ Will stay in the existing building footprint.
- ✓ Tree removal approved by the Planning Board, and will discuss removing the stump with the ZBA. They would like to remove the massive stump and its roots, which are running under the house and effecting the steps. The technique to be used will be done within the foot print of the house. Mr. Hirschberg said they would pull the tree in a direction so to not disturb the other trees. Mr. Hirschberg said that this is negotiable and the porch's plate form could be moved over slightly or built on top of the stump, although, it will rot over time.
- ✓ The intent is to rebuild on the same foot print and put a foundation under the house without a full basement, instead, put a frost wall with a crawl space 1 ft. below grade and layered with stone for drainage. The three wing walls will be positioned to support the porch, instead of support piers. Also, they are asking for a single bay garage at ground level.
- ✓ A storm water management was approved from the State Shoreland and submitted to the Town.
- ✓ The lot does not have much vegetation on the outer limits however, once graded, they will improve the amount of vegetation on the lot.
- ✓ Impervious 14%, which complies with Town and State requirements.
- ✓ Need dip line will reduce the amount of runoff toward the lake.
- ✓ Stones to be placed under the porch area.
- ✓ They are staying within the foot print and when they expand they are meeting the 25 ft. setback, the road setback and 30 ft. setback. So as they expand, they are conforming.
- ✓ Expanding a nonconforming structure that straddles the waterfront. He noted that the building is on said foot print within 50' & 60' buffer and already has land disturbance.
- ✓ Discussed that this is a nonconforming structure, not a nonconforming use.
- ✓ Nothing is going to be constructed in the flood plain.
- ✓ Discussed it the provisions of voluntary replacement of substantial improvement apply and how much of the structure, said the existing is 840' including porch but not including second floor (600').
- ✓ Explained that the portion of the lot on the other side of the road has wetlands and approximately only 9% of the whole lot is non-wetlands (both sides).
- ✓ Asked the Board for clarification on what provisions really apply, and if Article XVI, J.3 (page 70) supersedes the other provisions. He noted that the ordinance is quite confusing and difficult to understand.

Motion to discuss

**IT WAS MOVED (Chair Lyon) AND SECONDED (Vahan Sarkisian) to discuss.
THE MOTION WAS APPROVED UNANIMOUSLY.**

Board comments

- ✓ The house slightly impinging on the existing foot print on the 30 ft. side set back, it would not be increasing, but maintaining the setback.

- ✓ Discussed the details submitted on the survey plan which needs to be signed by the surveyor. Referred to past ZBA discussion on the need to have a current and correct survey and recording of survey plans.
- ✓ Discuss how they were planning to remove the stump, considering the proximity of the other trees and not have other disturbance to the waterfront buffer. Suggested that the stump be ground in place and filled over with earthen materials so not to cause any further disturbance to the waterfront buffer, and cut the roots if they interfere with the foundation. Leaving the stump doesn't compromise the integrity of the proposed structure. What is understood of application, is that while the intention is to remove the stump, it is also their intention to put that section of the property back into its "original condition" by filling and planting on it. Chair Lyon suggested, that for purposes of their continued discussion, the board discuss whether or not removing the stump will be a deal breaker or not.
- ✓ Discussed that several variances are requested, per the provisions identified and that the language in the Ordinance is quite confusing, convoluted, contradictory and circular. Each of the provisions were discussed. Discussed Article XVI, Shoreland provisions specifically J 1 and J2, and if J3 negates J 1 and J2. Ms. Devoe stated that in her opinion, if they are asking for a variance to Article XVI, J.2, they do not need one, except for J.1, because it also represents it. Therefore, A. and B. need to be met and all of J.1 and J.2.d. The board discussed this further.
- ✓ Discussed if the provisions of voluntary replacement of substantial improvement apply and how much of the structure. Referred to the 1977 property card and that the structure was improved over the years, some improvements without permits, and that it had morphed from a one bedroom house to a three bedroom house and how should the Board calculate the useable areas. Discussed the issue of previous construction that happened in the past without a permit. This bring up the fact that the board periodically run into situations where things have been constructed long ago in the past without permits. Noted that getting building permits in the past wasn't the same as it is now, and someone may had needed a variance, but the Town may not had required them. Discuss that old tax cards may not be correct and reliance on them just complicates the issue, and discussed that the current building footprint should be used as the point of discussion relative to expanding.
- ✓ Discussed how much of the land was unbuildable because it is wetlands.
- ✓ Discussed that the location of the chimney and that it won't be adding to the overall footprint of the proposed structure.
- ✓ Agreed that Article XX doesn't apply, they are dealing with Article XVI, Shoreland Overlay District, Section 16.G.2.b, rock and stump issue, 50' set back plus 10' issue and J.1 & J.2, has a series of requirements which appears to have been met, only permitted within the existing footprint and outside dimensions and that is the case for the parts within the wet land buffer area. Existing decks & porches, cannot be enclosed or covered expanded, but they're already enclosed, and are not in the overlay district. Include a new foundation, the structure is already partially in the buffer. No living space or basement are increased and that the construction of the house is a permitted use, per C. 2.

Public Hearing Opened

Chair Lyon asked the audience if there was anyone who had testimony, thoughts or information they want to provide. Ms. St. John referred to the letters received from John and Mary Doyle, at 533 Forest Acres Road.

Robert Brown, an abutter and Chair of Conservation Committee commented:

- ✓ He is fundamentally supportive of this project.

on the other side of the road, which has been discussed as having unusual topography and the use is reasonable.

Motion

IT WAS MOVED (Doug Lyon) AND SECONDED (Cheryl Devoe) that variances were only required to Article XVI, Shoreland Overly District provisions C.2 and G.2.b. The Board concurred that the five conditions for approving the variances were met. The variances were approved with the following conditions:

1. The tree (1) to be cut and approved by the Planning Board can be removed but the stump must remain. The stump maybe grinded and filled over with earthen materials but no digging of the stump or roots shall be permitted.
2. No wing walls may be used to support the porch areas, precast support piers shall be used.
3. No future building expansion is permitted for any part of the new structure including any part of the structure that is conforming or any part of the structure which is nonconforming.
4. Areas of disturbance shall be replanted with non-invasive plants per the NH Department of Environmental Services (NHDES) list.
5. As-built plans shall be recorded at the Merrimack County Registry of Deeds (MCRD) upon completion and within one (1) year from the date the building permit is issued by the Town. The recorded as-built plan shall include a plan note stating the conditions of the September 14, 2015 ZBA approval.
6. The survey plan submitted with the application shall be stamped and signed by the surveyor, include the conditions of the ZBA approval and be recorded at the Merrimack County Registry of Deeds (MCRD).

THE MOTION PASSED UNANIMOUSLY

Other Business

There was no further business.

Motion to Adjourn

IT WAS MOVED (Chair Lyon) AND SECONDED (Vahan Sarkisian) to adjourn the meeting. THE MOTION WAS APPROVED UNANIMOUSLY.

Meeting adjourned at 8:20 pm.

Respectfully submitted,

Dianne Richtmyer, Recording Secretary
Town of New London

Friday, February 8, 2019 at 3:18:21 PM Eastern Standard Time

Subject: Re: Camp Sunapee Road

Date: Wednesday, January 9, 2019 at 5:37:22 PM Eastern Standard Time

From: Town Administrator

To: Jeremy Bonin

CC: Kim Bonin

Hi Jeremy -

Sure, I'm happy to meet with you. Adam, Nicole and I had a conversation about the issue - **the zoning ordinance doesn't appear to be as clear as it could be.**

Let me know when you would like to meet-

Kim

Kimberly A. Hallquist
Town Administrator
Town of New London
375 Main Street
New London, NH 03257
603-526-1240

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Friday, February 8, 2019 at 3:17:51 PM Eastern Standard Time

Subject: RE: Camp Sunapee Road
Date: Thursday, January 10, 2019 at 4:44:10 PM Eastern Standard Time
From: Town Administrator
To: Jeremy Bonin
Attachments: image001.jpg

Hi Jeremy –

Adam and I chatted after you left and I am more comfortable with supporting the interpretation we have used for the other projects we discussed. I will discuss it further with Nicole and get back to you. **It certainly is not as clear as it could be but we have to deal with what we have.**

Thanks for coming in – always appreciate thoughtful conversations about zoning!

Kim

Kimberly A. Hallquist
Town Administrator
Town of New London
375 Main Street
New London, New Hampshire 03257
Direct Line: (603)526-1240

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Subject: RE: Camp Sunapee Road
Date: Wednesday, January 23, 2019 at 12:02:10 PM Eastern Standard Time
From: Town Administrator
To: Jeremy Bonin
Attachments: image001.jpg

Hi Jeremy –

I was surprised as well, however, after my last review of the provision, town counsel had an opportunity to review it and he did not see the argument for allowing voluntary replacement as being a strong one. As our prior discussions indicated, I see the argument for saying no to voluntary replacement (outside of a fire or other natural disaster) in the same nonconforming fashion. **Nicole, Adam and I met at least three times on this, working through all of the provisions, in Article XX and we agree that it could benefit from some attention to clarify what is intended.**

For now, If the property owner would like to voluntarily replace (as opposed to altering or expanding) their nonconforming building, and they do not want to build the structure to meet current zoning regulations, then they will either need to be successful in applying for: (1) an administrative appeal, overturning the zoning interpretation that voluntarily replacement of, and continuing the nonconformance, is not allowed or (2) a variance from the zoning requirement requiring nonconforming structures to come into compliance when voluntarily replaced. As you know, there is a time limitation on the appeal of administrative decision, you should check with Nicole on that to ensure you apply in time.

Kim

Kimberly A. Hallquist
Town Administrator
Town of New London
375 Main Street
New London, New Hampshire 03257
Direct Line: (603)526-1240

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BONIN ARCHITECTS

RESIDENTIAL • COMMERCIAL • LANDSCAPE

January 9, 2019

RE: Minutes of January 8th meeting, for 18 Camp Sunapee Road

Attendees: Jeremy Bonin (BA&A), Gregory Rusnica (BA&A), Nicole Gage [NG] (Zoning Administrator), Adam Ricker [AR] (Town Planner)

Purpose of meeting:

Discuss, in broad terms, the proposed primary structure at 18 Camp Sunapee Road and the project's compliance with the New London Zoning Ordinance.

Notes:

- BA&A presented simple plans and elevations of the proposed building as well as an outline document stating why the structure complies with applicable articles of the zoning ordinance,
- Group reviewed typical zoning requirements including septic, shoreland, wetland, and flood plain regulations,
- Buildings on this property have been removed from the Special Flood Hazard Area by FEMA through a Letter of Mapping Amendment. Documentation was presented by BA&A,
- No major concerns were raised regarding Articles XIII, XV, XVI,
- Interpretation varies among attendees on Article XX - LEGAL NONCONFORMING USES, LEGAL NON-CONFORMING BUILDINGS AND STRUCTURES, and LEGAL NON-CONFORMING LOTS
 - BA&A - believes that in accordance with Article XX B.5.b.ii, the existing structure, which straddles the 50' waterfront buffer, can be replaced and expanded up to 50% of the usable floor area in conformance with the other applicable articles of the zoning ordinance,
 - BA&A - believes, and has evidence, this is the historical interpretation of this ordinance and can cite recent permitted and constructed examples that support this interpretation, inclusive of a project issued a permit under the current Zoning Administrator,
 - NG - indicates that Article XX, Sections B1, B2, B4 and B4 are intended to force the entire building be made conforming to all articles of the zoning ordinance,
 - NG - contests that voluntary replacement of the building requires that the entire building be made conforming to all articles of the zoning ordinance, including those, which make it non-conforming; and that the 50% clause ONLY applies to Alterations,
 - NG - stated the recent previously issued permit was "lucky",
 - AR - indicates he can see how the section could be interpreted either way,
 - AR - indicated he did not think the article's intent was to prohibit people from replacing what they have or to rebuild what they have
- NG - would like to confer with the Zoning Board and Town Administrator on their interpretation, as she believes this has been recently discussed regarding other projects,
- AR - was open to BA&A's interpretation but did not commit in either direction,
- All parties - acknowledge that this article of the ordinance should be clarified in future revisions to the Zoning Ordinance as sections are redundant, confusing and have poor grammar (commas),
- BA&A - requests that parties try to resolve issues with open discussion and informal meetings before taking case to a zoning hearing if necessary.

Conclusions:

All parties agree to the need for attention/clarification by the Planning Board on Article XX

BA&A - to compile historic examples of similar projects

NG - to informally Review plans with Town Administrator/ZBA and advise BAA of those discussions



18 Camp Sunapee Road

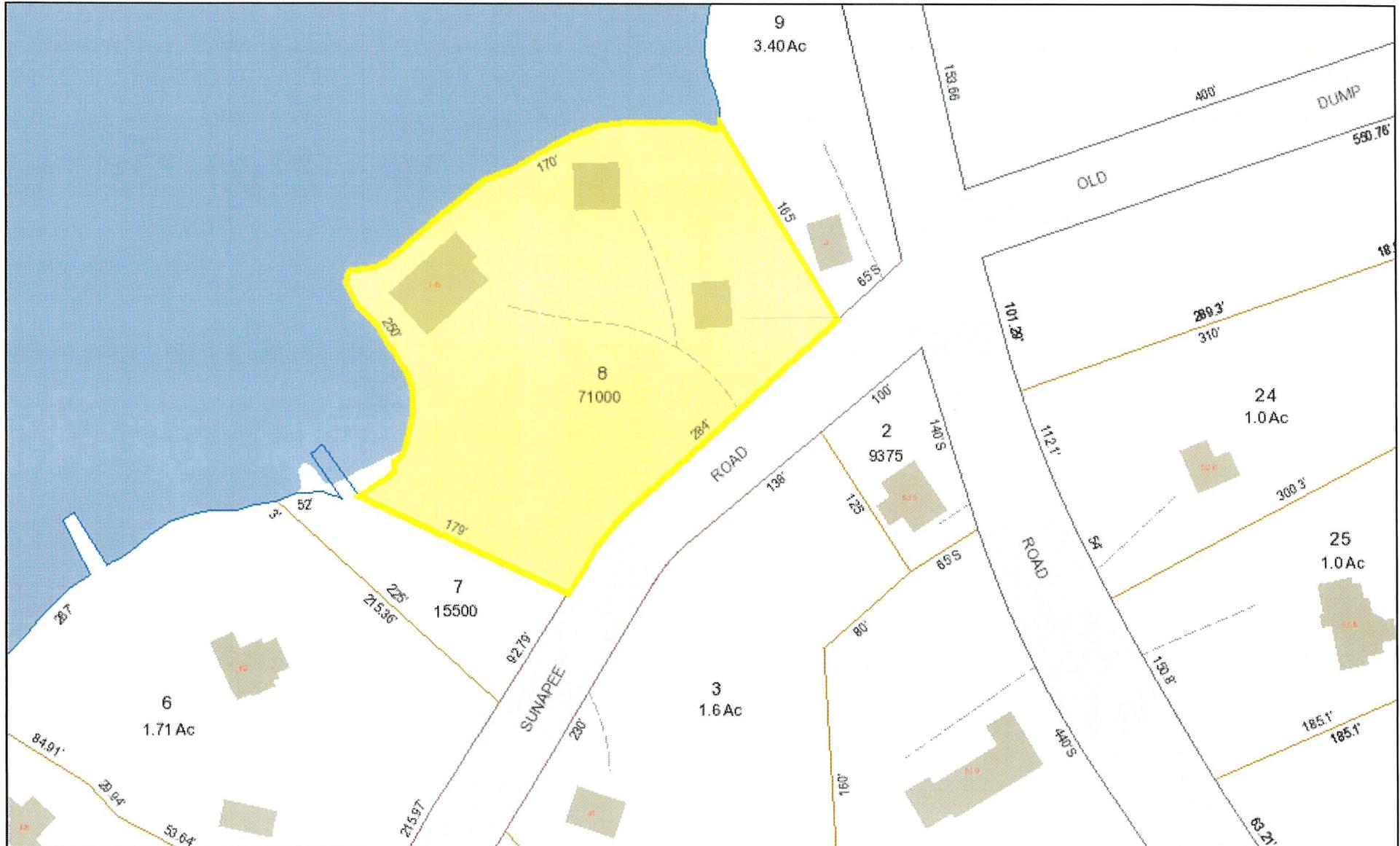
Tri Town, NH



February 8, 2019

1 inch = 100 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.

Property Location: 18 CAMP SUNAPEE ROAD

MAP ID: 033/ 008/ 000/ /

Bldg Name:

State Use: 1015

Vision ID: 171

Account #

Bldg #: 1 of 2

Sec #: 1 of 1 Card 1 of 2

Print Date: 09/27/2018 13:11

CURRENT OWNER		TOPO.	UTILITIES	STRT./ROAD	LOCATION	CURRENT ASSESSMENT			
TON-KO-LAH LLC		1 Level	5 Well	3 Unpaved	7 Waterfront	Description	Code	Appraised Value	Assessed Value
73 MALIA TERRACE			6 Septic			RESIDENTL	1015	193,100	193,100
NEWBURY, NH 03255						RES LAND	1015	485,300	485,300
Additional Owners:						RESIDENTL	1015	14,400	14,400
SUPPLEMENTAL DATA									
Other ID: 00033 00009 00000		Septic Infor							
ZONE		MP							
UTILITY		WF 420							
Ward		CONSERVA1							
Prec.									
ROADFF									
GIS ID: 033-008-000		ASSOC PID#							
Total								692,800	692,800

2119
NEW LONDON, NH

VISION

RECORD OF OWNERSHIP	BK-VOL/PAGE	SALE DATE	q/t	w/i	SALE PRICE	V.C.	PREVIOUS ASSESSMENTS (HISTORY)								
TON-KO-LAH LLC	3586/ 508	02/20/2018	U	I	1,142,000	1G	Yr.	Code	Assessed Value	Yr.	Code	Assessed Value	Yr.	Code	Assessed Value
ANDREWS M B REV TRUST					0		2018	1015	193,100	2017	1015	193,100	2017	1015	193,100
							2018	1015	485,300	2017	1015	485,300	2017	1015	485,300
							2018	1015	14,400	2017	1015	14,400	2017	1015	14,400
Total:									692,800	Total:		692,800	Total:		692,800

EXEMPTIONS				OTHER ASSESSMENTS			
Year	Type	Description	Amount	Code	Description	Number	Amount
							0
							0
							0
							0
Total:							0

This signature acknowledges a visit by a Data Collector or Assessor

ASSESSING NEIGHBORHOOD				
NBHD/ SUB	NBHD Name	Street Index Name	Tracing	Batch
13/A				

APPRAISED VALUE SUMMARY	
Appraised Bldg. Value (Card)	143,000
Appraised XF (B) Value (Bldg)	0
Appraised OB (L) Value (Bldg)	14,400
Appraised Land Value (Bldg)	485,300
Special Land Value	0
Total Appraised Parcel Value	692,800
Valuation Method:	C
Adjustment:	0
Net Total Appraised Parcel Value	692,800

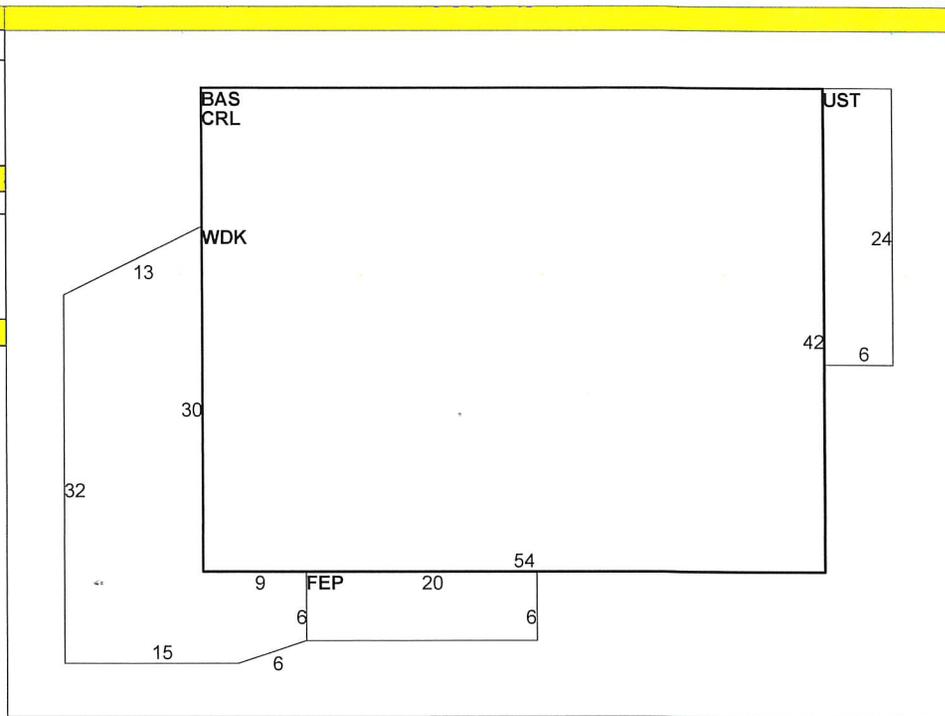
NOTES	
I-A,SEPTIC ON MAP 33/LOT 3	IN LAST 5 YEARS, BIDET=NV
05/03 CORRECT SKETCH,UNUSUAL LAYOUT=FUNC	6/17- \$1,165,000
2 POORLY FINISHED ROOMS	
1 IS FURNACE RM OTHER IS STORAGE	
2015 OUTDATED THROUGHOUT-APPEARS TO	
HAVE NEVER BEEN RENOVATED, ROOF REPLACED	

BUILDING PERMIT RECORD									VISIT/ CHANGE HISTORY					
Permit ID	Issue Date	Type	Description	Amount	Insp. Date	% Comp.	Date Comp.	Comments	Date	Type	IS	ID	Cd.	Purpose/Result
									01/06/2016			KM	AC	ADMIN DATA ENTRY
									07/10/2015			RE	M	MEASURE
									08/31/2014			NB	FR	IN FIELD REVIEW
									06/28/2010			KM	FR	IN FIELD REVIEW
									05/06/2003			JS	CB	CALL BACK

LAND LINE VALUATION SECTION																				
B #	Use Code	Use Description	Zone	D	Front	Depth	Units	Unit Price	I. Factor	S.A.	Acre Disc	C. Factor	ST. Idx	Adj.	Notes- Adj	Special Pricing	S Adj Fact	Adj. Unit Price	Land Value	
1	1015	LL SUNAPEE	R2		284		43,560	SF	1.99	1.0000	4	1.0000	1.00	13	5.50	NEXT TO PUBLIC BEACH/F		1.00	10.95	477,000
1	1015	LL SUNAPEE	R2				0.60	AC	5,000.00	1.0000	0	1.0000	0.50	13	5.50	WET		1.00	13,750.00	8,300

Total Card Land Units:			1.60	AC	Parcel Total Land Area:			1.6	AC	Total Land Value:										485,300
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CONSTRUCTION DETAIL			CONSTRUCTION DETAIL (CONTINUED)				
Element	Cd.	Ch.	Description	Element	Cd.	Ch.	Description
Style	01		Ranch				
Model	01		Residential				
Design/Appeal	04		Average +				
Stories	1		1 Story				
Occupancy	1						
MIXED USE							
Exterior Wall 1	13		Pre-Fab Wood	Code	Description	Percentage	
Exterior Wall 2				1015	LL SUNAPEE	100	
Roof Structure	03		Gable/Hip				
Roof Cover	03		Asph/F Gls/Cmp				
Interior Wall 1	05		Drywall/Sheet				
Interior Wall 2							
COST/MARKET VALUATION							
Interior Flr 1	14		Carpet	Adj. Base Rate:		86.81	
Interior Flr 2				Net Other Adj:		210,350	
Heat Fuel	03		Gas	Replace Cost		0.00	
Heat Type	04		Forced Air-Duc	AYB		210,350	
AC Type	01		None	EYB		1973	
Total Bedrooms	02		2 Bedrooms	Dep Code		1987	
Total Bthrms	2			Remodel Rating		A	
Total Half Baths	0			Year Remodeled			
Total Xtra Fixtrs				Dep %		27	
Total Rooms	7		7 Rooms	Functional Obslnc		5	
Bath Style	02		Average	External Obslnc		0	
Kitchen Style	02		Average	Cost Trend Factor		1	
				Condition			
				% Complete			
				Overall % Cond		68	
				Apprais Val		143,000	
				Dep % Ovr		0	
				Dep Ovr Comment			
				Misc Imp Ovr		0	
				Misc Imp Ovr Comment			
				Cost to Cure Ovr		0	
				Cost to Cure Ovr Comment			



OB-OUTBUILDING & YARD ITEMS(L) / XF-BUILDING EXTRA FEATURES(B)											
Code	Description	Comment	L/B	Units	Unit Price	Yr	Gde	Dp Rt	Cnd	%Cnd	Apr Value
FGRI	GARAGE-AVE	24X32	L	768	25.00	2003		0		75	14,400
SOL	SOLAR PANEL		B	3	600.00	1987		1		0	0

BUILDING SUB-AREA SUMMARY SECTION						
Code	Description	Living Area	Gross Area	Eff. Area	Unit Cost	Undeprec. Value
BAS	First Floor	2,268	2,268	2,268		196,894
CRL	Crawl Space	0	2,268	0		0
FEP	Enclosed Porch	0	120	84		7,292
UST	Utility, Storage, Unfinished	0	144	22		1,910
WDK	Deck	0	486	49		4,254
Ttl. Gross Liv/Lease Area:		2,268	5,286	2,423		210,350

