



TOWN OF
NEW LONDON, NEW HAMPSHIRE

375 MAIN STREET • NEW LONDON, NH 03257 • WWW.NL-NH.COM

Date: August 14, 2019

To: Zoning Board of Adjustment

From: Nicole Gage, Zoning Administrator

Re: Case #ZBA19-13 - Variance
Parcel ID 139-001-000, 41 Stonehouse Rd.
Zoned ARR, 0.71 Acres
Owner/Applicant: Jacob Messer & Mollie Messer

SEE ATTACHMENTS

References for the ZBA

New London Zoning Ordinance:

1. Page 35, Art. VI (Agricultural & Rural Residential District), Section A (Uses Permitted)
2. Page 77, Art. XX (Legal Nonconforming Uses...), Section A.1 (Resumption after Discontinuance)
3. Page 77, Art. XX (Legal Nonconforming Uses...), Section A.2 (Change or Expansion: Any Legal Nonconforming Use)
4. Page 22, Art. III (Definitions), Sect. 81 (Legal Nonconforming Use)
5. Page 24, Art. III (Definitions) Sect. 105 (Nonconforming Use)

Overview:

Since December 2017, I have visited the site, met with owner and the Planner and Town Administrator, and sent a letter stating that the town has received complaints that a business was being conducted that is not permitted in the ARR zone.

Back in 2016, the former Zoning Administrator had looked into this same issue and met with the owners and stated that it was an “existing non-conforming use.”

My understanding is that the former owner, Joe Messer, had lived there for many years and ran a business, but for sometime before he passed in 2014 the business stopped running for at least a year, requiring the property to now conform with the ordinance (see P. 77 Article XX, Section A.1 and A.2). We have property cards on file from the Assessor’s office back in 2013 stating broken windows and mostly used for storage. However, we received complaints not only that business activity resumed on the property, but more intensely than had been used in the past.

The town has not received enough information from the current owners to show that the activity did *not* stop for 12-months, and we do not have enough information from the current owners showing that the activity today is the same level as it has always been. We also do not have enough information from the owners showing that the use could be considered a “Legal Nonconforming Use” as opposed to a Nonconforming Use today. Therefore, I recommended to the applicant during our meeting in July to seek a Variance for use in the ARR.

Should the ZBA grant the Variance, next step would be to go for Site Plan Review with the Planning Board. The ZBA could also deem the Variance unnecessary. Should the Variance *not* be granted, the expectation is that business operations will have to cease on the property.

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Description of Property:

The property is located at 41 Stonehouse Road in the ARR District (Agricultural & Rural Residential District). The lot is approximately 0.71 acres and the Property Card shows a reference to Well and Septic and a note from the year 2000 “no well, has water rights to abutters.” The property card shows the house built around 1900 and notes about the second and third levels not being used, heated by woodstove/coal, portion of the 1st floor not being used, and some broken windows.

The town assessing maps show a shed straddling the property line between this property and 131-006-000; that same shed is also straddling the line on the official subdivision recorded at the Registry of Deeds in 2014 (Plan #20254).

Land Use History:

- 6/6/2018: Letter sent to owners from Zoning Administrator SEE ATTACHED
- 8/29/2018: Materials received from owner, per request in 6/6/18 letter SEE ATTACHED
- 2/11/2016: Email from Zoning Administrator re Nonconforming Use SEE ATTACHED
- 9/28/2004: Street address changed from 5 Stonehouse Road to 41 Stonehouse Road
- 10/2/1985: ZBA Case #85-6 - No vote taken by ZBA for an Application for Special Exception to change from “storage” to “6 dwelling units” because nobody showed up that evening to present the case.
- 1972: ZBA Case #72-7. The ZBA GRANTED a Special Exception and Variance to change use of “boarding house, 6 or 8 families” to “convert to 2 apartments for own use one for renting”

CURRENT OWNER		TOPO.	UTILITIES	STRT./ROAD	LOCATION	CURRENT ASSESSMENT			
MESSER JACOB & MOLLIE MESSER		4 Rolling	5 Well	1 Paved	3 Rural	Description	Code	Appraised Value	Assessed Value
PO BOX 974			6 Septic			RESIDNTL	1010	65,800	65,800
NEW LONDON, NH 03257		SUPPLEMENTAL DATA				RES LAND	1010	101,625	101,600
Additional Owners:						Other ID: 00139 00004 00000 ZONE UTILITY Ward Prec. ROADFF GIS ID: 139-001-000			
						Total		167,425	167,400

2119
NEW LONDON, NH

VISION

RECORD OF OWNERSHIP		BK-VOL/PAGE	SALE DATE	q/u	v/i	SALE PRICE	V.C.	PREVIOUS ASSESSMENTS (HISTORY)									
MESSER JACOB & MOLLIE MESSER		1631/ 548	01/24/2017	U	I	0	1H	Yr.	Code	Assessed Value	Yr.	Code	Assessed Value	Yr.	Code	Assessed Value	
MESSER JOSEPH E								2019	1010	65,800	2018	1010	65,800	2018	1010	65,800	
								2019	1010	101,600	2018	1010	101,000	2018	1010	101,000	
Total:								167,400		Total:		166,800		Total:		166,800	

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
99/A				

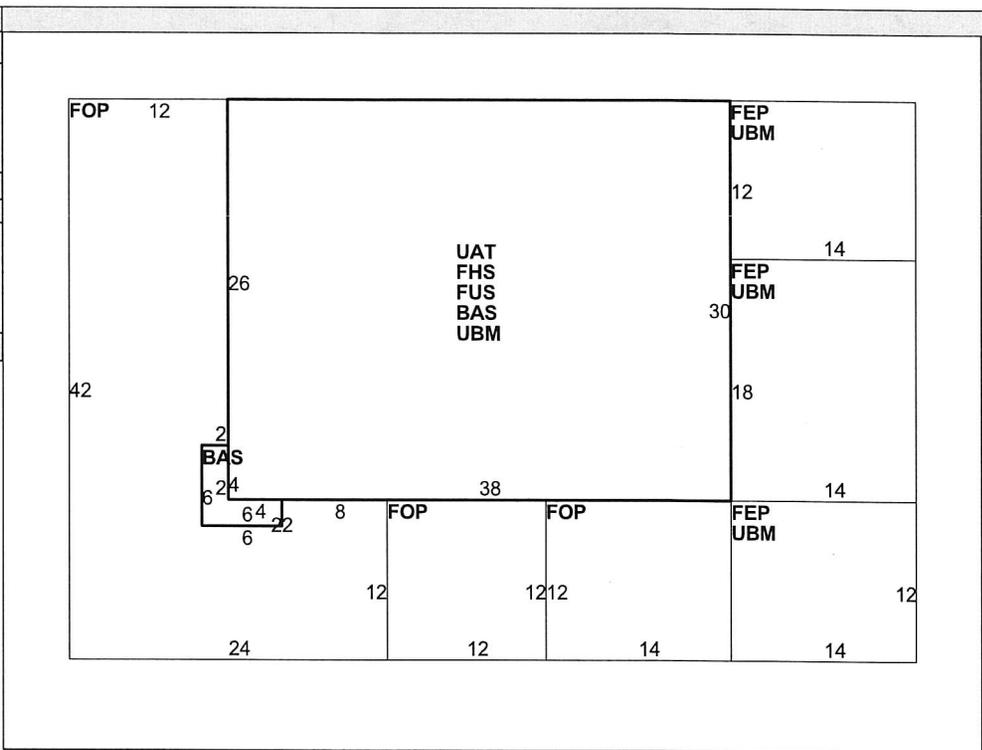
APPRAISED VALUE SUMMARY	
Appraised Bldg. Value (Card)	63,800
Appraised XF (B) Value (Bldg)	2,000
Appraised OB (L) Value (Bldg)	0
Appraised Land Value (Bldg)	101,625
Special Land Value	0
Total Appraised Parcel Value	167,425
Valuation Method:	C
Adjustment:	0
Net Total Appraised Parcel Value	167,425

NOTES	
3/00 NO WELL, HAS WATER RIGHTS TP ABUTTERS 2ND & 3RD LEVELS NOT USED/ PORTION OF 1ST FLR NOT USED. 5/13 SOME BROKEN WINDOWS SEE PB PLAN 2011//MOSTLY STORAGE	
FUNCT.=INT FINISH	

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	
									12/21/2018			KM	LC	LAND CHANGE	
									01/31/2017			AR	AC	ADMIN DATA ENTRY	
									08/31/2014			NB	FR	IN FIELD REVIEW	
									05/13/2013			RE	M	MEASURE	
									03/13/2013			KM	AC	ADMIN DATA ENTRY	

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	1010	Single Fam MDL-01	ARR		339		30,928 SF	2.63	1.0000	4	1.0000	1.00		0.00		VW1	1.25	2.63	101,625

CONSTRUCTION DETAIL				CONSTRUCTION DETAIL (CONTINUED)			
Element	Cd.	Ch.	Description	Element	Cd.	Ch.	Description
Style	06		Conventional				
Model	01		Residential				
Design/Appeal	03		Average				
Stories	2.5		2 1/2 Stories				
Occupancy	1			MIXED USE			
Exterior Wall 1	14		Wood Shingle	Code	Description		Percentage
Exterior Wall 2	11		Clapboard	1010	Single Fam MDL-01		100
Roof Structure	03		Gable/Hip	COST/MARKET VALUATION			
Roof Cover	03		Asph/F Gls/Cmp	Adj. Base Rate:			64.89
Interior Wall 1	05		Drywall/Sheet	Net Other Adj:			255,018
Interior Wall 2	07		K PINE/A WD	Replace Cost			0.00
Interior Flr 1	02		Minimum/Plywd	AYB			255,018
Interior Flr 2				EYB			1900
Heat Fuel	01		Coal or Wood	Dep Code			1969
Heat Type	01		None	Remodel Rating			P
AC Type	01		None	Year Remodeled			
Total Bedrooms	04		4 Bedrooms	Dep %			45
Total Bthrms	1			Functional Obslnc			30
Total Half Baths	0			External Obslnc			0
Total Xtra Fixtrs				Cost Trend Factor			1
Total Rooms	10		10 Rooms	Condition			
Bath Style	02		Average	% Complete			
Kitchen Style	02		Average	Overall % Cond			25
				Apprais Val			63,800
				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
FPL3	2 STORY CHIM		B	2	4,000.00	1969		1		100	2,000

BUILDING SUB-AREA SUMMARY SECTION						
Code	Description	Living Area	Gross Area	Eff. Area	Unit Cost	Undeprec. Value
BAS	First Floor	1,160	1,160	1,160		75,272
FEP	Enclosed Porch	0	588	412		26,735
FHS	Half Story, Finished	570	1,140	570		36,987
FOP	Open Porch	0	940	188		12,199
FUS	Upper Story, Finished	1,140	1,140	1,140		73,975
UAT	Attic, Unfinished	0	1,140	114		7,397
UBM	Unfinished Basement	0	1,728	346		22,452
Ttl. Gross Liv/Lease Area:		2,870	7,836	3,930		255,018



1058

456.7'

300.0'

KING

477'

2

1.8 Ac

5

5.05 Ac

1047

162'

342'

212'

41

1

31477

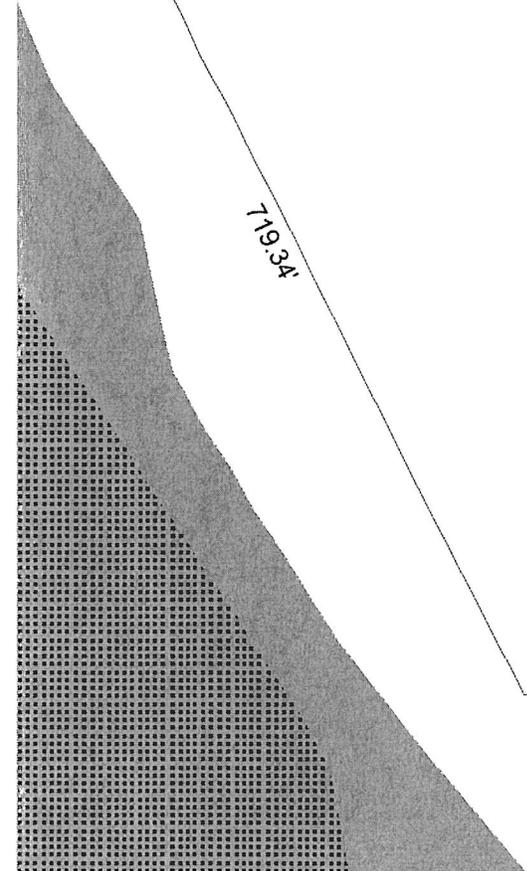
STONEHOUSE

103'

719.34'

152.8'

117.66'



rec'd
8-29-18

KING RIDGE EXCAVATING

Joseph E. Messer & Son, Proprietors
(603) 763-5377, King Hill Road, New London, NH 03257

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NEW LONDON, NH

763-5377

TOWN OF
NEW LONDON

AUG 29 2018

PLANNING & ZONING

**J.E. MESSER & SON
INC.
EXCAVATING
NEW LONDON, N.H. 763-5377**

PETER STANLEY DESIGNED FOR JOE

CUT HERE — DETACH AND RETAIN PERMIT — CUT HERE

STATE OF NEW HAMPSHIRE
DEPT. OF ENVIRONMENTAL SERVICES



WATER DIVISION

INSTALLER PERMIT
Renewal (Not Transferable)

Joseph E. Messier
Sign Here

is hereby authorized to install sewage disposal systems pursuant to RSA 485-A.

Installer's # **0138**

Expires **December 31, 2014**

Mark O. T. J.

From Jake Messier

Will call you on Monday.

TOWN OF
NEW LONDON
AUG 06 2018
PLANNING & ZONING



TOWN OF
NEW LONDON, NEW HAMPSHIRE

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June 6, 2018

VIA FIRST CLASS MAIL & CERTIFIED RETURN/RECEIPT MAIL

Mollie Messer
Jacob Messer
PO Box 974
New London, NH 03257

RE: 41 Stonehouse Rd., Parcel ID 139-001-000

Dear Mollie and Jacob:

The Town received a complaint about a business being conducted at your 41 Stonehouse Road property. This property is located in the ARR (Agricultural Rural Residential) zone and commercial activity is not permitted. As such, please contact me to arrange a meeting to discuss. Please be prepared to show evidence of the type of business being conducted at this location and the history of use. For your reference see below, Article XX, Section A.1 and A.2, of the New London Zoning Ordinance:

ARTICLE XX

*LEGAL NONCONFORMING USES, LEGAL NON-CONFORMING
BUILDINGS AND STRUCTURES, AND LEGAL NON-CONFORMING LOTS*

A. Legal Nonconforming Uses: Any Legal Nonconforming Use may be continued indefinitely subject to the following limitations:

- 1. Resumption after Discontinuance: When a Legal Nonconforming Use of land, Structures or Buildings has been discontinued for one year, then the land, Structures and Buildings shall be used thereafter only in conformity with this Ordinance.*
- 2. Change or Expansion: Any Legal Nonconforming Use shall not be changed to another Nonconforming Use. Any Legal Nonconforming Use shall not be expanded.*

Your prompt attention to this matter would be appreciated. **Please respond no later than Wednesday, June 27, 2018.** I can be reached at the phone number or email listed below.

Sincerely,

Nicole Gage

Zoning Administrator

(603) 526-1246 | zoning@nl-nh.com

CC: Kimberly Hallquist, Town Administrator



12/4/2017

~~Nicole Gagne~~

From: Lucy St. John
Sent: Thursday, February 11, 2016 10:21 AM
To: Town Administrator
Cc: Richard Lee (E-mail) (nlhd@tds.net); Norm Bernaiche
Subject: King Hill Road and Stonehouse Road NL Joe Messer property TM 139-001-000 zoned ARR

Kim,

I met with Jake Messer and his step brother Tom, on Thursday, Jan 28th following the email from Mr. Feins. He said the property (his dad's and formerly grandfathers) was a B& B for years, they sold firewood and hay their whole life. His dad's business (King Hill Construction) did all kinds of things- septic's, excavation, sold firewood, included all kinds of equipment (farm, excavation, snow removal, tree removal and etc.). The piles on the site are sand piles which are used for the snow removal business. They also sell fire wood, and heat the house with wood. The equipment used for Jake' "landscaping business" includes similar types of equipment. Jake also conveyed that the use is not any different than what he dad did for many, many years. Jake said he mows lawns, and how is this different from a farm equipment used to mow fields and other general farming operation and what his dad did. My understanding is that there has been all sorts of equipment on the property for many, many years. I talked with Richard and he conveyed the property has been used this way for 30-40 years. Norm also noted that most if not all the equipment has been there for years. Lucy

Lucy A. St. John, AICP
Planning and Zoning Administrator
Town of New London
375 Main Street
New London, NH 03257
(603) 526-4821, ext 16
(603) 526- 9494 (fax)
zoning@nl-nh.com

From: Lucy St. John
Sent: Thursday, February 11, 2016 9:51 AM
To: ~~XXXXXXXXXXXX~~
Cc: Town Administrator
Subject: King Hill Road and Stonehouse Road NL Joe Messer property TM 139-001-000 zoned ARR

~~XXXXXXXXXX~~
The property is located in the Agricultural and Rural Residential District (ARR), Article VI of the New London Zoning Ordinance. I have looked into your concerns, and believe the operation of the business is an existing non-conforming use. As noted in your email, you state that Joe Messer ran the construction business under the name King Hill Construction since 1965. Joe Messer's son (Jake) is continuing the use of the property. The use of the property runs with the land, not the owner. I understand the property has been used this way for 30-40+ years. Your concerns have been brought to the attention of the Town Administrator as well. Lucy

Lucy A. St. John, AICP