

APPLICATION FOR A VARIANCE



To: Zoning Board of Adjustment, Town of New London, 375 Main Street

Name of owner/applicant: Jacob Messer

Mailing Address: Po Box 974 New London State: NH Zip: 03257

Home Telephone: _____ Work Telephone: _____ Cell: 526 6666

Email address: _____

Owner of property: Same
(if same as applicant, write "same")

Location of property 41 Stonhouse Road

Tax Map Number: 139 Lot Number: 001-0 Zone: ARR

A variance is requested from the provisions of Article: VI Section: A
of the Zoning Ordinance to permit Continued use of
pre-existing nonconforming use.

Facts supporting this request:

1. The variance will not be contrary to the public interest:
See attached

2. The spirit of the ordinance is observed: See attached

3. Substantial justice is done: See attached

4. The values of surrounding properties are not diminished; and:
see attached

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

A. For purposes of this subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:

(1) 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;

See attached

and

(2) The proposed use is a reasonable one;

See attached

B. 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.

Owner/applicant(s) Signature: 

Date: 9-11-19

NOTE:

This application is not acceptable unless all required statements have been made. Additional information may be supplied on a separate sheet if the space provided is inadequate.

For questions or assistance in completing these forms, please contact:

Zoning Administrator

603-526-1246

Email: zoning@nl-nh.com

Or

Assessing Coordinator

603-526-1243

Email: landuse@nl-nh.com

Attachment to Application for Variance
41 Stonehouse Road
Applicant: Jacob Messer



Introduction and History:

The property in question was formerly owned by Jacob Messer's father, Joseph Messer, who passed away in 2014. Joseph Messer ran his business and kept his equipment on the property for at least thirty years. His business was called Kinghill Construction and the nature of the business was varied. Among the work Joseph did on and from the property was selling firewood, commercial mowing, snow-plowing, brush-hogging, landscaping, and general excavation. Jacob and his father began living on the premises in 2007. Jacob sometimes worked for his father and in 2010 started his own landscaping and firewood business that he operated on the premises. He has never moved his business elsewhere and has operated on the property non-stop since 2010. Jacob and his father sometimes worked together on jobs but most often operated their own businesses individually. Joseph's business started slowing down the year or so before he died due to illness but during that time Jacob continued to operate his business on the property utilizing much of the same type of equipment as his father. The property has been used commercially for several decades and has been in continuous use as a construction and landscaping business non-stop for at least thirty years (see attach email of Lucy St. John dated February 11, 2016).

1. The variance will not be contrary to the public interest:

Granting this variance will in no way bring harm or danger to the public or jeopardize the public welfare. The business has operated safely for years.

Granting the variance will neither conflict with the zoning objectives or further increase the non-conformity.

2. The spirit of the ordinance is observed:

Granting the variance will not impact the public or the private rights of others and will not alter the essential character of the neighborhood as the property has been used in this same manner and has been part of the neighborhood for decades. A common spirit of a zoning ordinance is to not deny people the right to carry on with operations that pre-exist the ordinance and to not cause an increase in non-conforming uses. This variance will meet those goals.

3. Substantial justice is done:

No harm will come to public welfare. As no harm will come, the benefit to the applicant outweighs any potential harm to the public.

4. The values of the surrounding properties are not diminished:

By granting the variance the property will remain in the same type of usage that it has been used for for over thirty years thereby maintaining the character of the neighborhood.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship:

A. (1). 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:

The property is well-suited for its current use as is evident by the fact that the property has been used in the same manner for many years. The location is near to where many of Jacob's customers are and the traffic pattern is such that the type of equipment Jacob uses can be conveniently bought on and off the property with

no danger to Jacob or the public. All in all, the property is ideal for an operation such as Jacob's.

A. (2). The proposed use is a reasonable one:

The property is located in an agricultural and rural residential district. It is common for there to be small farms and similar uses made of land in such districts. The past and current use of the land is similar in nature to such usage in that the type of equipment used on it is similar to agricultural equipment.

~~Nicole Gage~~

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: ~~Lucy St. John~~
Cc: Town Administrator
Subject: King Hill Road and Stonehouse Road NL Joe Messer property TM 139-001-000 zoned ARR

~~Lucy St. John~~
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