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2BA18-06

Application

APPLICATION FOR A VARIANCE

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

Name of owner/applicant: Continuum Health Services, Inc. c/o Atkins Callahan, PLLC

Mailing Address: 20 Depot Street, Suite 220, Peterborough State: NH Zip: 03458

Home Telephone: _____ Work Telephone: 603-845-1959 Cell: _____

Email address: jcallahan@atkinscallahan.com

Owner of property: The New London Hospital Association, Inc.
(if same as applicant, write "same")

Location of property 273 County Road, New London, New Hampshire

Tax Map Number: 72 Lot Number: 17 Zone: R-1

A variance is requested from the provisions of Article: II Section 5
of the Zoning Ordinance to permit buildings to exceed the 35 foot height
limitation

Facts supporting this request:

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

Please see attached

1. The spirit of the ordinance is observed:

Please see attached

2. Substantial justice is done:

Please see attached

3. The values of surrounding properties are not diminished; and:

Please see attached

4. 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;

Please see attached

and

- (2) The proposed use is a reasonable one;

Please 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.

Please see attached

Owner/applicant(s) Signature: Michael Bael Date: 5/23/18
duly Authorized

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



for Special Exc. Case # ZBA18-05
and Variance Case # ZBA18-06

Town of New London – Zoning Board of Adjustment

Variance Application – Article II, Section 5

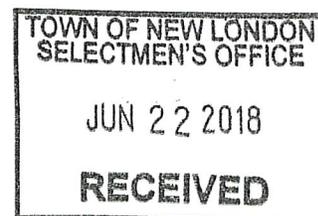
Special Exception – Article XIII, Section E.1

Continuum Health Services, Inc. (“**Continuum**”)

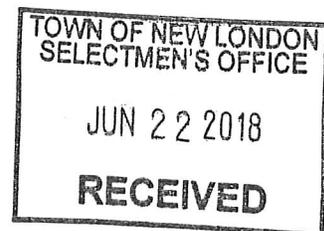
Map 72, Lot 17 – 273 County Road (the “**Property**”)

This statement is intended to supplement Continuum’s Variance and Special Exception Application in connection with its proposed development of the Property into a senior living community (the “**Project**”).

- 1. WHO owns the property? If the applicant is not the owner, this must be explained.**
The New London Hospital Association, Inc. (the “**Hospital**”), owns the Property. Continuum has been working with the Hospital on a plan to develop the Project. Continuum has successfully developed, owned and operated numerous senior living facilities in the State of Maine. The Hospital’s leadership has indicated that its participation in this Project and sale of the Property to Continuum would further the Hospital’s charitable mission and serve the community.
- 2. WHERE is the property located?** The Property is located adjacent to the New London Hospital off of County Road, and Parkside Avenue. Attached is a portion of the New London Tax Map that shows the Property.
- 3. DESCRIBE the property. Provide area, frontage, side and rear lines, slopes and natural features, etc. Plans must include pertinent measurements relative to your request, i.e., measurements from property lines, wetlands, driveways, etc.** The Property consists of approximately 50 acres +/- although the Hospital intends to subdivide off an approximate 6 acre parcel on the northwesterly corner of the Property located within the Commercial Zone. Property features are shown on the Steep Slopes and Wetlands Impact Plan prepared by Jones & Beach Engineers, Inc., included with this application.
- 4. WHAT do you propose to do?** Continuum intends to develop a senior living facility that will be a mix of independent living apartments and cottages, assisted living units, and a memory care unit.
- 5. WHY does your proposed use require an appeal to the Zoning Board of Adjustment?** The Project will require several wetlands crossings. In addition, the large assisted living/independent living (apartments)/memory care unit will exceed the 35’ height limitation imposed under Article II, Section 5 of the New London Zoning Ordinance.



6. **WHY should the appeal(s) be granted?** The site is challenging from a development perspective given steep slopes, soils and wetlands. Continuum, working with the Hospital, has generated over 30 different iterations of the Project development plan taking into consideration site conditions and Hospital input. Given the scope of the Project and Property conditions, the wetlands crossings are very limited in nature and impact less than .005% of the Property. Professional input from the Hospital's and Continuum's consultants have suggested that the large mixed use building will optimize the delivery of services to residences. Site topography with a changing grade has caused this optimized design to exceed the height restriction. Continuum will demonstrate that it has met the special exception and variance standards under New Hampshire law and New London regulations.



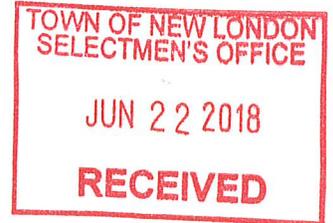
for Variance
Case # ZBA 18-06

**SUPPLEMENTAL SUBMITTAL
TO
THE NEW LONDON ZONING BOARD OF ADJUSTMENT**

CASE NO. _____

CONTINUUM HEALTH SERVICES, INC.

REQUEST FOR A VARIANCE
273 COUNTY ROAD
PARCEL ID NUMBER Map 72, Lot 17
(the "Property")



INTRODUCTION. Continuum Health Services, Inc. (the "Applicant") is seeking a variance from the restriction outlined in Article II, Section 5 of the New London, NH Zoning Ordinance (the "Ordinance") which does not permit buildings in excess of thirty-five (35') feet in height. The Applicant is proposing to construct and operate a single combination assisted living, independent living, and memory care facility on the Property as well as 33 detached independent living "cottages" (the "Project"). The Property is currently owned by The New London Hospital (the "Hospital"). The Applicant is working with the Hospital to create an affiliation that will provide housing to serve the New London senior community.

The large building will independently house assisted living and memory care facilities. Healthcare and supportive services will be provided in this building. This building is of a specific size and scope in order to deliver services efficiently and economically. This building will be approximately 47 feet in height. The size and scope of the building is reflective of a well designed and often utilized prototype

New Hampshire law provides that an applicant must meet a five-point test in order to be granted a variance. The facts support the Applicant's request, as outlined below:

- 1. Granting the variance will not be contrary to the public interest.** The proposed use will not necessitate public expenditure for transportation, water, sewer, or life safety. Buildings on the site will be fully sprinkled
- 2. If the variance were granted, the spirit of the ordinance would be observed.** The purpose of this provision of the Ordinance, while not explicitly stated, is to insure that fire apparatus can adequately service the upper levels of the building. The site will provide an access road for fire apparatus to be accommodated in order to service the building. In addition, the building will be fully sprinkled and built up to all current and state of the art life safety code considerations. Through discussions, we believe that New

London Fire Chief Jason Lyon is satisfied with the Project design from a life safety perspective.

Another purpose of the Ordinance may be to preserve the aesthetics of New London by not having tall buildings dominate the sky line. The large building that is the subject of this variance request is adjacent to the New London Hospital and, from a scale perspective will not be incongruous. Additionally, we believe that that there will be a minimal visual impact from other directions, including Lyons Brook.

3. Granting the variance would do substantial justice. The concept of substantial justice is nebulous:

“It is not possible to set up rules that can measure or determine justice. Each case must be individually determined by board members. Perhaps the only guiding rule is that any loss to the individual that is not outweighed by a gain to the general public is an injustice. The injustice must be capable of relief by the granting of a variance that meets the other qualifications. A Board of Adjustment cannot alleviate an injustice by granting an illegal variance.” *The Board of Adjustment in New Hampshire* (2005).

In this case there is no public benefit that would outweigh the hardship to the Applicant. As stated above, life safety concerns have been satisfied. There is a lack of adequate housing for New London’s seniors, many of whom who have left the community. These citizens not only provide for a robust and diverse community, but also are not-for-profit volunteers, board members and donors. The loss to the community due to this migration is significant.

4. If the variance were granted, the values of surrounding properties would not be diminished. The Applicant has consulted with real estate professionals and valuation experts and will provide at public hearing evidence that the value of surrounding properties will not be diminished if the variance is granted.

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. The purposes of the Ordinance is to insure that fire apparatus can service the upper reaches of a tall building and to protect views of the New London skyline. An access road will accommodate fire apparatus. And, as stated above, construction will include a fully sprinkled building with

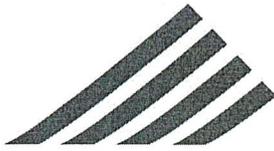
additional fire suppression details. This building will not incongruous next to the Hospital and will not be materially visible from surrounding areas.

ii. **The proposed use is a reasonable one.** The Applicant is proposing to construct a building with a health care component and which is compatible with the New London Hospital and which is supportive of its charitable mission.

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 the 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 New London Master Plan contemplates that a senior living facility be located on the Property given its proximity to New London Hospital. Given the health care components of the proposed use and need to utilize certain systems and designs to accommodate those needs (not dissimilar to hospital services) this is a unique use that cannot be accommodated in another way. The large building will include shared dining and recreational facilities that will allow elderly residents to access without the need to face the elements.

CONCLUSION. In light of the foregoing, the Applicant respectfully requests that its application for a variance be granted.





New London Hospital

Dartmouth-Hitchcock

Nicole Gage
Zoning Administrator
Town of New London
375 Main Street
New London, NH 03257

TOWN OF
NEW LONDON
JUN 22 2018
PLANNING & ZONING

Ms. Gage,

This letter authorizes James Callahan, Esq. to represent The New London Hospital Association, Inc. at the New London Zoning Board of Adjustment for the purpose of seeking a variance and special exception for the Senior Living Community Project.

If you have any questions or concerns, please do not hesitate to contact me at 603-526-5241.

Thank you,

Bruce P. King
President and CEO



TOWN OF
NEW LONDON, NEW HAMPSHIRE

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

Mr. Mike Black
Continuum Development
250 Goddard Road
Lewiston, ME 04240

May 24, 2018

RE: Continuum Development: New London Place/Retirement Care Community

Dear Mr. Black,

The Planning Board has determined that prior to approval of the New London Place development, you will need to seek two Variances and one Special Exception from the New London Zoning Board of Adjustment (ZBA). They are as follows:

Variances:

1. The height of the proposed building exceeds the maximum height of thirty-five (35) feet as defined in Article II, 5 of the New London Zoning Ordinance.
2. The proposal includes slopes that are greater than the 25% allowed as defined by Article XIV, C, 1 of the New London Zoning Ordinance.

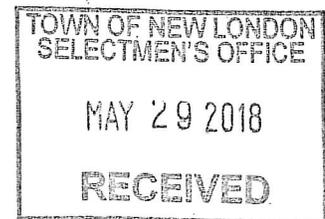
Special Exception:

1. The proposal includes wetlands crossing which are required to seek a Special Exception from the ZBA per Article XIII, E of the New London Zoning Ordinance:

For further discussion of the ZBA process and to file an application, please contact Nicole Gage, Zoning Administrator, at 526-1246 or zoning@nl-nh.com. Her office hours are Monday-Wednesday from 8:00 AM to 4:00 PM.

Respectfully,

Adam Ricker
Town Planner
New London, NH



CC: Nicole Gage, Zoning Administrator