



TOWN OF EXETER, NEW HAMPSHIRE

10 FRONT STREET • EXETER, NH • 03833-3792 • (603) 778-0591 • FAX 772-4709

www.exeternh.gov

LEGAL NOTICE EXETER ZONING BOARD OF ADJUSTMENT AGENDA

The Exeter Zoning Board of Adjustment will meet on Tuesday, May 16, 2023 at 7:00 P.M. in the Nowak Room located in the Exeter Town Offices, 10 Front Street, Exeter, to consider the following:

NEW BUSINESS: PUBLIC HEARINGS

The application of Tatiana Roth for a special exception per Article 4, Section 4.2 Schedule I: Permitted Uses and Article 5, Section 5.2 to permit the conversion of an existing single-family residence into three residential dwelling units. The subject property is located at 70 Front Street, in the R-2, Single Family Residential zoning district. Tax Map Parcel #72-187. ZBA Case #23-6.

The application of Christine and Doug Rupp for a variance from Article 9, Section 9.4.5 of the Floodplain Development Ordinance to permit the installation a new individual sewage disposal system within the special flood hazard area (AE Flood zone). The subject property is located at 24 Powder Mill Road, in the R-1, Low Density Residential zoning district. Tax Map Parcel #102-4. ZBA Case #23-7.

OTHER BUSINESS:

- Approval of Minutes: April 11, 2023
- Election of Officers

EXETER ZONING BOARD OF ADJUSTMENT

Kevin M. Baum, Chairman

Posted 05/05/23: Exeter Town Office, Town of Exeter website

Town of Exeter
Zoning Board of Adjustment
April 11, 2023, 7 PM
Town Offices Nowak Room
Draft Minutes

I. **Preliminaries**

Members Present: Chair Kevin Baum, Clerk Esther Olson-Murphy, Laura Davies, Theresa Page, Dave Mirsky - Alternate, and Laura Montagno - Alternate. Deputy Code Enforcement Officer Barb McEvoy was also present.

Members Absent: Vice-Chair Robert Prior, Martha Pennell - Alternate, Joanne Petito - Alternate

Call to Order: Chair Kevin Baum called the meeting to order at 7 PM.

I. **New Business**

A. No public hearings were scheduled.

II. **Other Business**

A. RiverWoods Company of Exeter – ZBA Case #22-15 and #22-16 7 RiverWoods Drive & 5 Timber Lane Request for Rehearing

Mr. Baum said the Board will discuss and deliberate on this request, but there are no comments from the public. The decision is whether there were errors of law made or if there is new information that was not available during the hearing.

Ms. Montagno asked if the intent is to build a new building at RiverWoods for the facility, or are they moving everything to an existing building. Mr. Baum said it would consolidate and be in a new building that is separate from what's existing there now. Ms. Davies said we haven't seen a site plan, but this approval is relative to the use, so it's not really relevant. Our understanding is that it would be a new building on the Ridge campus.

Ms. Page said we should deal with the procedural question of whether we can proceed with a quorum with the option to continue to the next hearing. Mr. Baum said three members is a quorum. The reason we allow applicants to continue when there's three is that you need a unanimous vote with three. He doesn't believe there was any error of law. The applicant went forward with three members which is a quorum. The request for rehearing seems to say that it put them at a disadvantage. This application lingered for six months, and they went forward voluntarily. Having a full Board would provide a broader view and more voices, but would that justify a rehearing? He doesn't think it's a legal obligation. Mr. Mirsky said it's not a due process error. Ms. Montagno said she's reading in the State guidelines that if there's not a full Board, it will not be grounds for rehearing in an appeal, unless there are other grounds. That can't be the sole

45 reason. This is part of the explanation alongside the section in RSA 674:33 that
46 states “The concurring vote of any three members of the board shall be
47 necessary to take any action on any matter on which it is required to pass.” The
48 explanation says that “a hearing before three or four member Boards will not
49 grounds for rehearing in the event the application is denied.” Mr. Baum said
50 that’s not statutory, but the applicant did go forward with that understanding.

51 Ms. Davies said in evidence submitted [by the applicant] on page 2, it
52 says “the ordinance was intended to provide health care in the same locality as
53 the residences and amenities, and not across town.” Ms. Davies said it’s not
54 stated anywhere that it doesn’t have to be across town. The definition of elderly
55 congregate care facility says its primary feature is the provision of lifetime
56 supportive services at each stage of a senior’s life. The facility is intended for
57 persons 55 or older which provides *on-site* nursing home facilities as licensed by
58 the State of NH. It’s quite specific that it does need to be on-site.

59 Ms. Page said she looked up “facility” and “locality” to see what the
60 difference between those words are. A facility is a building and a locality is
61 surrounding or nearby region. Those are two very different terms.

62 Mr. Baum said he read that claim as advocacy. Ms. Davies said she did
63 too. This is the basis for why we don’t agree that we erred. She read the
64 applicant’s claim that “the essential character of the locality and abutting
65 residential area will not be altered because health care will still be available to
66 residents within the RiverWoods Community.” Ms. Davies said she believes the
67 essential character *will* be altered by the construction of an entirely new building
68 that is not residences but a health care facility with staff coming and going, and
69 closer to the public entrance from Route 111. Ms. Olson-Murphy said it would
70 also impact RiverWoods itself as a neighborhood.

71 Mr. Baum said the ordinance does not require that the facility be
72 attached. A new facility on the Ridge could be constructed by right. Ms. Davies
73 said yes, it only says “on-site nursing.” Mr. Baum said he reads that as being on
74 the property, not as a connected building. They do have the right to construct a
75 new building. The question is whether RiverWoods has the right to serve the
76 other campuses with that building. Ms. Davies said she understands, but she still
77 thinks it would change the essential character of the neighborhood. Mr. Baum
78 said certainly there would be more use. Ms. Davies said the centralized care at
79 the Ridge would be across Route 111 from the Woods, and Route 111 has an
80 average daily traffic count of 5,900.

81 Ms. Davies said regarding item J, the applicant mentions that “additional
82 beds will be used to serve new independent apartments.” Ms. Davies said she
83 thinks that there could be a discussion of where and how many. The applicant
84 didn’t discuss the plan for the new independent units.

85 Ms. Davies said item K says that “a degree of discomfort was shared by
86 the residents.” Ms. Davies said it wasn’t discomfort, it was opposition, and it was
87 pretty articulate. There was significant testimony and letters sent. Saying it’s not
88 a detriment or a loss is advocacy. She does recognize that the contracts between

89 the residents and RiverWoods are not the Board's jurisdiction, but her concern
90 regarding "substantial justice" is that RiverWoods residents are individuals that
91 are part of the community who would be negatively impacted by approval of this
92 application. Regarding the facilities being adjacent to each other, "adjacent"
93 means next to, bordering, or with a common point of contact. These are not
94 adjacent properties. Mr. Baum said the Boulders and the Ridge are adjacent.
95 There were two variance requests. Did we conflate the two? We heard the
96 applications together, which he still thinks made sense for efficiency and the way
97 it was presented by the applicant. With respect to the Boulders, did these same
98 failures to meet the criteria apply, given that they are adjacent? Ms. Davies said
99 her recollection is that we denied the Woods application on two points of
100 variance criteria, while the Boulders was just denied on one point, and the
101 difference was that the Boulders was adjacent to the Ridge. Mr. Baum said the
102 denial for the Boulders was for hardship, although there may have been some
103 differing opinions. Mr. Baum said in the minutes [of January 23] line 361, for
104 Esther the issue was more criteria 5, which is hardship, and she asked if they
105 should amend the motion; Ms. Davies said [in the minutes] if she supports one
106 criteria, that's all they need. Ms. Davies asked if she [Ms. Davies] said substantial
107 justice and hardship were not met, and Ms. Olson-Murphy said only hardship?
108 Mr. Baum said that is his understanding.

109 Ms. Davies said regarding item 12 on page 7, "the Board never
110 articulated that the applicant did not meet its burden regarding substantial benefit
111 criteria," she thinks the Board articulated that the benefit to the applicant would
112 be outweighed by the harm to the existing residents.

113 On page 9, item 4 likens RiverWoods to a college in that it's all one
114 community even though it's different campuses. Although they use the word
115 "campuses," it's not like a college because it's for elderly people, many of whom
116 have mobility issues, and distance does matter. Mr. Baum said he thought there
117 was enough crossover between the three campuses to treat it as one overall
118 community or site, but there was conflicting testimony on that point. The
119 applicant indicated that there were certain events that everyone went to, but
120 several residents spoke to the contrary.

121 Mr. Baum said in terms of the transportation plan, one of the criteria for
122 rehearing is that there is additional information available, but this could have
123 been available at the hearing and he wishes it had been. Having more
124 information would have helped in the decision. The plans didn't seem fully
125 thought through. We were asked to make a big decision with limited information.
126 His opinion is that providing the transportation plan on its own, although helpful,
127 is insufficient for a rehearing. Ms. Olson-Murphy said it still seems to be a little
128 vague and incomplete. Ms. Davies said she agreed.

129 Ms. Olson-Murphy said she didn't see any gross errors. That second
130 motion could have benefited from a little extra clarity, but she doesn't think it's not
131 understandable.

132 Mr. Mirsky said the applicant's complaint that there wasn't enough
133 discussion because there weren't enough members there is kind of negated by
134 their application where they raised everything they wanted to raise. They raised
135 things they can put in their appeal to a superior court if they want to. They didn't
136 show any due process violation. They were told they had 30 days to appeal the
137 Board's decision, and they did. They were told they didn't have to go forward,
138 and they did. They went forward thinking they were going to appeal this and
139 include some things that didn't get addressed because they didn't present it, like
140 the transportation plan. That came in at the last minute and wasn't argued or
141 discussed in the hearing. Putting it in that way and having it be vague is a way to
142 not have it properly considered. Hearing the Board members say they didn't feel
143 like things were fully articulated at the time, when the applicant has the ability
144 and the burden to put forward everything, and has excellent Counsel, he doesn't
145 see that as contributing to error. The standard for determining justice given on
146 page 5 shows that it was done properly. It says it's not possible to set up rules
147 that determine justice; each case must be determined by the Board members,
148 and that's what they did. There's mention in paragraph 7 that the Board didn't
149 understand the balancing test and that they relied on their opinions and personal
150 feelings about a small group of residents, but he doesn't think that's what they
151 did. Chairman Baum was on the opposite side of the majority decision and would
152 have pointed out anything legally erroneous in the decision. When an applicant
153 asks for a reconsideration, rather than point to an error, of a case that had
154 months to go forward, and they chose to go forward with that number of people
155 there, that's their decision. It shouldn't give them extra bites at the apple. He
156 doesn't see errors here or people applying prejudicial views or emotionally
157 inappropriate views. When we're weighing substantial justice, people use their
158 perceptions and say what they've decided. He knows Laura [Davies] and Kevin
159 [Baum] well, and he knows that they know all of this. The fact that they came
160 down on opposite sides of this is a sign that it was a fair hearing and legally
161 appropriate.

162 Ms. Page said she doesn't think that proceeding just on a quorum is a
163 basis for rehearing. A parking plan doesn't constitute new evidence. It's not a
164 change in circumstance that has happened since the hearing and it could have
165 been available at the time. Given the amount of discussion on both sides and
166 that the criteria were addressed in a methodical way, there is substantial
167 evidence that was made for the record with the vote. As Board members, we give
168 our interpretation or offer our personal experience, but there were also tempered
169 discussions that were made and the Board was clear that they weren't making
170 emotional decisions. She's not seeing an error that would rise to the level of
171 rehearing.

172 Ms. Montagno said she agrees. The area where she struggles in their
173 petition is page 4 number 2, on the evidence submitted by the applicant. The
174 hearing was the applicant's opportunity to articulate how this change was going
175 to reduce hiring and retention issues and how that would allow for more

176 consistent, stable, high-quality healthcare, and it wasn't clearly articulated. Mr.
177 Baum said there wasn't a lot of questioning of those statements; the difficulty with
178 that was applying it to the variance criteria. Ms. Davies said she does believe that
179 there's a significant challenge of labor shortages in a lot of areas, and we
180 discussed that pretty clearly in the hearing. The purpose of this use being
181 included as a special exception goes to including three levels of care. It's in the
182 definition and seems to be the central purpose of this exception. To try to break
183 that for an operational matter, even if it's significant, is a long way to go.

184 Ms. Page said the ordinance is focused on the elderly care facility. There
185 are special considerations that go along with moving services away that don't
186 exist when you have a college that's able-bodied youthful people that don't have
187 the same considerations. The hardship is not a feature of the land or the
188 property, it's coming from a labor shortage. Ms. Olson-Murphy said that's an
189 organizational issue, not a land issue. Ms. Davies said the property has operated
190 successfully for decades. Ms. Page said even if the second motion could have
191 had more detail, the application really needs to meet all the criteria.
192

193 Ms. Davies moved to deny the request for rehearing from RiverWoods Company of
194 Exeter, ZBA cases #22-15 and #22-16 for properties at 7 RiverWoods Drive and 5
195 Timberwoods Lane. Mr. Mirsky seconded. Mr. Baums said the scope of review is
196 whether an error in law was made in the application of the criteria to the request;
197 whether there was new information that wasn't otherwise available; whether there was a
198 change of circumstances; or whether there was some due process issue. What he heard
199 in discussion was that there were none. Ms. Davies said we reviewed the request for
200 rehearing as well as our minutes, and feel we did not make an error. The new evidence
201 presented is a transportation plan that could have been available at the time the decision
202 was made, and doesn't rise to the level of enough new evidence to challenge the
203 decision. Mr. Baum said he appreciates the applicant's position on having to go forward
204 with three members, but there was a quorum and it's legally binding. Per the State
205 guidance, it's not reason enough on its own to rehear. Ms. Davies, Mr. Mirsky, Ms. Page,
206 Ms. Olson-Murphy, and Mr. Baum voted aye; Ms. Montagno did not vote. The motion
207 passed 5-0 and the rehearing was denied.

208
209 B. Approval of Minutes

210 1. January 23, 2023

211 Corrections: Ms. Davies said in lines 39-40, where it reads "the Board asked
212 whether Insurance Commissioner review was required; Attorney McCue
213 definitively indicated that it was not," it should read "Attorney Somers
214 characterized Attorney McCue's opinion as definitively indicating it was not".
215 It also says "Attorney McCue said it was not practical that it would be divided
216 in the future," but she doesn't believe he commented on that in his letter. Mr.
217 Baum said he thinks that was Attorney Somers speaking. Attorney McCue's
218 letter only indicated that it didn't need to be reviewed by the Insurance
219 Commissioner.

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Ms. Olson-Murphy moved to approve the January 23, 2023 minutes as amended. Ms. Davies seconded. Ms. Davies, Mr. Baum, and Ms. Olson-Murphy voted aye; Mr. Mirsky, Ms. Page, and Ms. Montagno abstained, as they were not present on January 23. The motion passed 3-0-3.

2. March 21, 2023

Ms. Olson-Murphy said on line 181, it reads “Ms. Petito said she doesn’t see new evidence in the letter,” but it should read “Ms. Olson-Murphy said she doesn’t see new evidence in the letter.”

Ms. Olson-Murphy moved to approve the March 21, 2023 minutes as amended. Ms. Page seconded. Mr. Mirsky, Ms. Page, Ms. Olson-Murphy, and Ms. Montagno voted aye; Mr. Baum and Ms. Davies abstained, as they were not present on March 21. The motion passed 4-0-2.

III. Adjournment

Ms. Davies moved to adjourn. Mr. Baum seconded. All were in favor and the meeting was adjourned at 7:45 PM.

Respectfully Submitted,
Joanna Bartell
Recording Secretary

Tatiana Roth

70 Front Street
Exeter, NH 03833
845-729-3947
Lillyofparadise@mac.com

April 2, 2023

Kevin Baum, Chair
Exeter Zoning Board of Adjustment
10 Front Street
Exeter, NH 03833

RECEIVED

APR 3 2023

Re: 70 Front street, Tax Map 72, Lot 187

EXETER PLANNING OFFICE

Dear Chair Baum and Board Members,

Enclosed please find the application for 'Special Exemption' to convert the single family home at 70 Front St. into three units. The 3 three units will be within the existing building envelope of the main house on the property. Also enclosed will be supporting information, abutter list with labels, and a check in the amount of \$130 which includes the \$100.00 application fee and \$10 per abutter with a total of three abutters.

We would like to request that this be placed on the Board's April 18, 2023 agenda. Please feel free to reach out with any questions.


Sincerely yours,

Tatiana Roth

Letter of authorization

I, Tatiana ROTH, owner of property depicted on tax map 72, lot 187, here by authorize Peter Johnson to execute any land-use applications to the town of Exeter and to take any action necessary for the application in permitting process including but not limited to attendance and presentation at public hearings of the said property, 70 Front St., Exeter, NH 03833

Dated: 04/02/2023



Tatiana Roth

Town of Exeter
APPLICATION FOR

SPECIAL EXCEPTION

Case Number:	<u>2BA # 23-6</u>
Date Filed:	<u>4/3/23</u>
Application Fee:	\$ <u>100.00</u>
Abutter Fees:	\$ <u>30.00</u>
Legal Notice Fee:	\$ _____
TOTAL FEES:	\$ <u>130.00</u>
Date Paid:	<u>4/3/23</u>
Check #:	<u>1050</u>
	<i>bsm</i>

Name of Applicant Tatiana Roth
(If other than property owner, a letter of authorization will be required from property owner)

Address 70 Front Street, Exeter, NH 03833

Telephone Number (845) 729-3947

Property Owner Same

Location of Property 70 Front Street, Map 72, Lot 187
R-2

(number, street, zone, map and lot number)

Applicant Signature *Tatiana Roth*

Date 04/02/2023

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

APPLICATION FOR A SPECIAL EXCEPTION

1. Currently existing use and/or situation: _____

Single Family home w/ Detached 2 car
garage

2. Proposed use and/or situation: _____

Conversion to an owner occupied
3 unit dwelling, within the existing home

Note: Proposed change of use may result in applicable impact fees.

3. List all maps, plans and other accompanying material submitted with the application:

Existing Conditions Plan/site Plan

Tax Map

Tax Card

Abutters List

APPLICATION FOR SPECIAL EXCEPTION:

Special Exceptions:

A local zoning ordinance may provide that the zoning board of adjustment, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the ordinance. All special exceptions shall be made in harmony with the general purpose and intent of the zoning ordinance and shall be in accordance with the general or specific rules contained in the ordinance.

Special Exceptions, as enumerated in Article 4.2, Schedule I, shall be permitted only upon authorization by the board of adjustment. Such exceptions shall be found by the board of adjustment to comply with the following requirements and other applicable requirements as set forth in this ordinance.

NOTE: Please use a separate piece of paper if additional space is needed to complete the following information:

4. Explain the justification for special exception by addressing the following criteria:

A. That the use is a permitted special exception as set forth in Article 4.2, Schedule I hereof;

See Attached

B. That the use is so designed, located and proposed to be operated that the public health, safety, welfare and convenience will be protected;

See Attached

C. That the proposed use will be compatible with the zone district and adjoining post 1972 development where it is to be located;

Note: Adjoining principal uses in existence prior to 1972 (generally referred to as grand-fathered uses) that are not permitted uses as listed in 4.1 Schedule I: Permitted Use, shall not be considered in determining the compatibility of an applicant's proposed use.

See Attached

D. That adequate landscaping and screening are provided as required herein;

See Attached

E. That adequate off-street parking and loading is provided and ingress and egress is so designed as to cause minimum interference with traffic on abutting streets;

See Attached

F. That the use conforms with all applicable regulations governing the district where located, except as may otherwise be determined for large-scale developments;

See Attached

G. As a condition of Special Exception approval, the applicant may be required to obtain Town Planner review and/or Planning Board approval of the site plan. Additionally, the Board of Adjustment may require the applicant to obtain Planning Board approval of the site plan prior to rendering a decision on an application for Special Exception.

See Attached

H. That the use shall not adversely affect abutting or nearby property values;

See Attached

I. If the application is for a Special Exception for the bulk storage of a material which is, in the opinion of the Planning Board, potentially explosive, than landscaping, per Article 5.20, shall be deemed to include such blast containment, blast dampening or blast channeling features as the Board may require;

N/A

J. If the application is for a use in the “Professional/Tech Park District,” such exception will not:

- 1. Affect the water quality of Water Works Pond or other water supplies;**
- 2. Constitute a health hazard to the community;**
- 3. Permit temporary structures;**
- 4. Permit the recycling, disposal or transfer of materials defined as hazardous waste and set forth in Article 5.10.5 of this ordinance;**

N/A

Note: The applicant shall demonstrate that handling, storage and containment of any chemicals or substances defined as “hazardous” will be handled in strict accordance with the regulations and recommendations of the EPA and/or any other governmental body charged with enforcing compliance with any laws or statutes regulating hazardous substances.

Tatiana ROTH-70 Front St.
Application for conversion of existing single Family home into three dwelling units.

Introduction

Tatiana ROTH is the owner of 70 Front Street, map 72, lot 187, Exeter New Hampshire. The property is located in the R-2 zone. The property is shown on exhibit 1 existing conditions/site plan. The property consists of a single family home approximately 4263 ft.². The property is listed as having four bedrooms, and four baths. The property also includes an oversized detached 2/3 car garage, a small garden shed located behind the detached garage. The property also has a small gazebo located at the far end of the property. If the requests for relief are granted then a total of three residential units will exist on the property with the owner occupying the larger unit. Access to Front Street is provided by an existing driveway that leads to a large parking area in the back and the 2/3 existing car garage. The property is serviced by municipal water and sewer.

Criteria for Special Exception
Set forth in article 4.2, schedule 1

The building to be converted are all existing and are the principal residential structure, no more than three dwelling units will result from the requested conversion.

Adequate off-street parking complies with article 5, section 5.6, off-street parking, which requires two spaces for each 2+ bedroom unit, and 1 space for each 1 bedroom unit. Total required parking is 4 spaces. The garage will support space for 2/3 owner cars. There are 2 additional brick parking areas that will support 2 cars, and there is a large asphalt area that will support at least 3 additional cars.

The minimum lot size in the district is 4500 ft.² per dwelling unit. The total lot size is 14,375 ft.². Each proposed dwelling unit shall have 4791 ft.² meeting the requirement.

The existing residential structure has been a resident since 1840, see tax card.

The applicant intends for two 1 bedroom units to be used as rental units, with the main 2 bedroom unit being occupied by the owner.

Criteria for Special Exception
Set forth in article 5, section 5.2, Special Exception Criteria

- A. The use is a permitted special exception under article 4, section 4.2, section 1
- B. The use is designed, located and proposed to be operated so as to protect the public help, safety and welfare in that adequate off-street parking is available in the property is served by municipal water and sewer.
- C. The proposed use of stand alone residential units are compatible with the zone district. Adjacent lots contain residential uses and all but one adjacent lot, Map 72 Lot 188, contain more than one residence, Map 72, Lot 185 (2 Units), Map 72 lot 186 (multiple units-PEA faculty housing), Map 72 Lot 184 (faculty housing), Map 72 Lot 209 (PEA 2 large dorms with separate units).
- D. Adequate landscaping in screening is in existence.
- E. Adequate off street parking is provided
- F. The use conforms with all applicable regulations governing the district and the structure will be converted to conform to use and dimensional regulations.
- G. Planning board approval will not be required.
- H. The use will not adversely affect abiding or nearby property values because the proposed use will remain residential and adjacent properties contain either single-family residences or residence containing two or more units.

ZONING BOARD OF ADJUSTMENT

**APPLICATIONS SKETCH PLAN
REQUIREMENTS/CHECKLIST**

1. Title Block – descriptive name of project, north arrow (approximate), street address, date and scale (not less than 1" = 40').
2. Location map showing relevant streets and zoning district boundaries.
3. Names and addresses of applicant, record owner and abutting property owners, including those across the street.
4. Existing and proposed streets, driveways, parking areas (with delineation of spaces) and sidewalks.
5. Location of existing and proposed buildings and property lines.
6. Distances on all sides between buildings and property lines.
7. Existing and proposed tree lines, landscape buffers, screening and fences.
8. Location of existing landmarks including streams, brooks, wetlands, rock outcroppings, wooded areas and other significant environmental features.
9. Generalized floor plans showing dimensions and the square footage of areas for proposed uses.

Plans should be no larger than 11" x 17" in size. They need not be prepared by an architect or land surveyor but they must be legibly drawn with printed labels.

- PLANS MUST CONTAIN ALL OF THE ABOVE INFORMATION IN ORDER FOR THE APPLICATION TO BE PLACED ON THE AGENDA FOR A ZONING BOARD OF ADJUSTMENT HEARING.

**ABUTTER LIST
70 FRONT STREET
TAX MAP 72, LOT187**

**Owner/Applicant:
72/187**

**Tatiana Roth
70 Front Street
Exeter, NH 03833**

**Abutters:
72/188**

**David Bohn
72 Front Street
Exeter, NH 03833**

72/185

**Andrew Hertig
11 Elliot Street
Exeter, NH 03833**

**72/186
72/184
72/209**

**Phillips Exeter Academy
20 Main Street
Exeter, NH 03833**

Book: 6295 Page: 2644

21041468 06/28/2021 10:14:56 AM
Book 6295 Page 2644 Page 1 of 2
Register of Deeds, Rockingham County



LCHIP	ROA570693	25.00
RECORDING		14.00
SURCHARGE		2.00



Return to:
Sheliah M. Kaufold, Esquire
Russman Law
14 Center Street
Exeter New Hampshire 03833



QUITCLAIM DEED

EXEMPT FROM TRANSFER TAX PURSUANT TO NH RSA 78-B:2(IX)

I, **TATIANA B. ROTH**, a single person, a single person of 70 Front Street, Exeter, Rockingham County and State of New Hampshire, 03833, for consideration paid, grant to **TATIANA B. ROTH**, as Trustee of **THE TATIANA B. ROTH REVOCABLE TRUST OF 2021**, having an address of a single person of 70 Front Street, Exeter, Rockingham County and State of New Hampshire, 03833, with Quitclaim Covenants, all of my right, title and interest in the following property located in **EXETER**, Rockingham County, New Hampshire:

A lot of land, with the buildings thereon, situated in Exeter, County of Rockingham, State of New Hampshire on the Southerly side of Front Street, bounded and described as follows:

Commencing at a point on the Southerly side of Front Street at the Northwesterly corner of the within described premises and at the Northeasterly corner of land now or formally of David Lane and Julianne S. Lane;

1. Easterly along the Southerly side of said Front Street 54 feet, 1 inch, more or less, to a point at land now or formally of Helen L. Gilbert;
2. Southerly along land now were formally of said Gilbert 249 feet, 10 inches, more or less, to a point at land now or formally of Judith Fiske Gross;
3. Westerly along land now are formally of Gross 54 feet, 2 inches, more or less, to land of said Lanes;
4. Northerly along land of said Lanes 247 feet, 10 inches, more or less, to the Southerly side of said Front Street at the point of beginning.

Meaning and intending to describe convey the same premises conveyed to John F. Roth and Tatiana B. Roth as joint tenants with rights of survivorship by Warranty Deed of Michael A. Lampert and Allyson M. Lampert, Trustees of the Lampert Family Revocable Trust of 2012 by Deed dated August 16, 2018 and recorded in the Rockingham County Registry of Deeds at Book 5939 Page 645. John F. Roth died on December 7, 2020, and Tatiana B. Roth is the surviving joint tenant. See John F. Roth's Death Certificate recorded in the Rockingham County Registry of Deeds at Book 6220 Page 579.

This conveyance is exempt from transfer tax pursuant to NH RSA 78-B:2(IX).

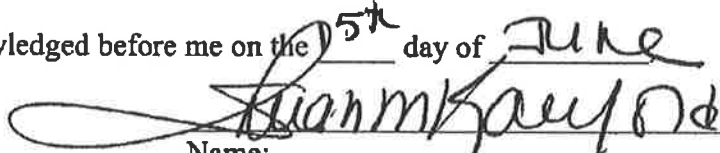
Dated this 15th day of JUNE, 2021.



TATIANA B. ROTH

STATE OF NEW HAMPSHIRE
COUNTY OF ROCKINGHAM

This instrument was acknowledged before me on the 15th day of JUNE 2021, by TATIANA B. ROTH.


Name:
Justice of the Peace / Notary Public
My Commission Expires: _____

Shelliah M. Kaufold
Notary Public, State of New Hampshire
My Commission Expires May 1, 2024

CURRENT OWNER		TOPO	UTILITIES	STRT / ROAD	LOCATION	CURRENT ASSESSMENT				2211 EXETER, NH VISION
ROTH TATIANA B REV TR		1 Level	1 All Public	1 Paved	1 Urban	Description	Code	Assessed	Assessed	
ROTH TATIANA B TRUSTEE						RESIDNTL	1010	678,400	678,400	
70 FRONT ST						RES LAND	1010	294,300	294,300	
EXETER NH 03833		SUPPLEMENTAL DATA				RESIDNTL	1010	14,400	14,400	
Alt Prcl ID 0072 0187 0000		A12:								
Easement:		Historic: YES								
Book/Page		Antenna/T								
TIF Dist:		79E Dist:								
TIF Value:		Assoc Pid#								
A9:										
GIS ID 072-187-0000										
						Total		987,100	987,100	

RECORD OF OWNERSHIP		BK-VOL/PAGE	SALE DATE	Q/U	V/I	SALE PRICE	VC	PREVIOUS ASSESSMENTS (HISTORY)											
ROTH TATIANA B REV TR		6295 2644	06-15-2021	U	I		38	Year	Code	Assessed	Year	Code	Assessed V	Year	Code	Assessed			
ROTH JOHN F		5939 0644	08-16-2018	Q	I	1,160,000	00	2022	1010	678,400	2021	1010	678,400	2020	1010	678,400			
LAMPERT FAMILY REVOCABLE TRUST		5687 0354	01-21-2016	Q	I	725,000	00		1010	294,300		1010	294,300		1010	294,300			
KOLLMORGEN FREDERICK J REV TR		4580 1308	11-04-2005	U	I	0			1010	14,400		1010	14,400		1010	14,400			
KOLLMORGEN FREDERICK		2413 1843		U		0		Total			987,100			Total			987,100		

EXEMPTIONS				OTHER ASSESSMENTS				APPRAISED VALUE SUMMARY																										
Year	Code	Description	Amount	Code	Description	Number	Amount	Comm Int	This signature acknowledges a visit by a Data Collector or Assessor																									
									<table border="1"> <tr> <td>Appraised Bldg. Value (Card)</td> <td>662,200</td> </tr> <tr> <td>Appraised Xf (B) Value (Bldg)</td> <td>16,200</td> </tr> <tr> <td>Appraised Ob (B) Value (Bldg)</td> <td>14,400</td> </tr> <tr> <td>Appraised Land Value (Bldg)</td> <td>294,300</td> </tr> <tr> <td>Special Land Value</td> <td>0</td> </tr> <tr> <td>Total Appraised Parcel Value</td> <td>987,100</td> </tr> <tr> <td>Valuation Method</td> <td>C</td> </tr> <tr> <td>Total Appraised Parcel Value</td> <td>987,100</td> </tr> </table>										Appraised Bldg. Value (Card)	662,200	Appraised Xf (B) Value (Bldg)	16,200	Appraised Ob (B) Value (Bldg)	14,400	Appraised Land Value (Bldg)	294,300	Special Land Value	0	Total Appraised Parcel Value	987,100	Valuation Method	C	Total Appraised Parcel Value	987,100
Appraised Bldg. Value (Card)	662,200																																	
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Appraised Land Value (Bldg)	294,300																																	
Special Land Value	0																																	
Total Appraised Parcel Value	987,100																																	
Valuation Method	C																																	
Total Appraised Parcel Value	987,100																																	
Total			0.00																															

ASSESSING NEIGHBORHOOD		Tracing		Batch	
Nbhd	Nbhd Name	B			
0001					

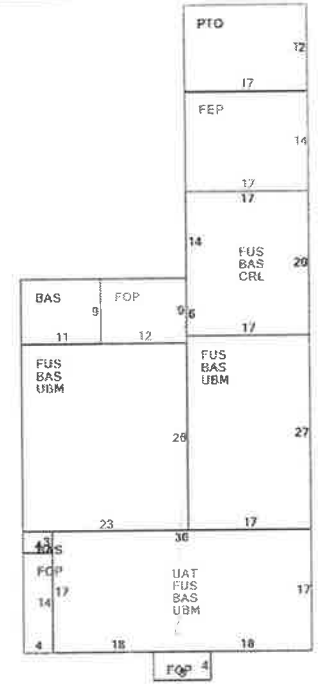
NOTES									
WHITE I=VG 2019.									
"RETIRE H PARKER TANNER ,C.1840									
NOTE: HISTORIC DISTRICT PLAN:									

BUILDING PERMIT RECORD								VISIT / CHANGE HISTORY							
Permit Id	Issue Date	Type	Description	Amount	Insp Date	% Comp	Date Comp	Comments	Date	Id	Type	Is	Cd	Purpost/Result	
16-039	01-28-2016	RE	Remodel	70,000	04-03-2017	100	04-03-2017	RENOVATE KIT, NEW WINDO	02-21-2019	PGM			21	Sale Review Int	
									01-28-2019	PGM			15	Res Field Reww	
									01-17-2019	ET			25	Sale Review-Suprvsr	
									09-12-2018	PGM			21	Sale Review Int	
									04-03-2017	MP			60	BP Review - Ext	
									05-06-2016	PM			62	BP Review - At Door	
									07-02-2010	PP			15	Res Field Reww	

LAND LINE VALUATION SECTION															
B	Use Code	Description	Zone	Land Type	Land Units	Unit Price	Size Adj	Site Index	Cond.	Nbhd.	Nbhd. Adj	Notes	Location Adjustment	Adj Unit P	Land Value
1	1010	Single Fam MDL	R-2		14,375 SF	10.24	1.00000	5	1.00	90	2.000		1.0000	20.47	294,300
Total Card Land Units					0.33 AC	Parcel Total Land Area					0.33	Total Land Value			294,300

CONSTRUCTION DETAIL			CONSTRUCTION DETAIL (CONTINUED)		
Element	Cd	Description	Element	Cd	Description
Style:	03	Colonial			
Model	01	Residential			
Grade:	09	Excellent			
Stories:	2	2 Stories			
Occupancy	1				
Exterior Wall 1	11	Clapboard			
Exterior Wall 2					
Roof Structure:	03	Gable/Hip			
Roof Cover	03	Asph/F Gls/Cmp			
Interior Wall 1	03	Plastered			
Interior Wall 2					
Interior Flr 1	12	Hardwood			
Interior Flr 2	14	Carpet			
Heat Fuel	03	Gas			
Heat Type:	05	Hot Water			
AC Type:	03	Central			
Total Bedrooms	06	6 Bedrooms			
Total Bthrms:	2				
Total Half Baths	3				
Total Xtra Fixtrs					
Total Rooms:	12				
Bath Style:	03	Modern			
Kitchen Style:	03	Good			
MHP					

CONDO DATA				
Parcel Id	C	Owne	0.0	
		B	S	
Adjust Type	Code	Description	Factor%	
Condo Flr				
Condo Unit				
COST / MARKET VALUATION				
Building Value New		752,482		
Year Built		1840		
Effective Year Built		2007		
Depreciation Code		E		
Remodel Rating				
Year Remodeled				
Depreciation %		12		
Functional Obsol		0		
External Obsol		0		
Trend Factor		1		
Condition				
Condition %				
Percent Good		88		
RCNLD		662,200		
Dep % Ovr				
Dep Ovr Comment				
Misc Imp Ovr				
Misc Imp Ovr Comment				
Cost to Cure Ovr				
Cost to Cure Ovr Comment				



OB - OUTBUILDING & YARD ITEMS(L) / XF - BUILDING EXTRA FEATURES(B)										
Code	Description	L/B	Units	Unit Price	Yr Blt	Cond. Cd	% Gd	Grade	Grade Adj.	Appr. Value
FPL3	2 STY	B	3	4800.00	2007		88		0.00	12,700
FPG	EXTRA FPL O	B	2	1500.00	2007		88		0.00	2,600
FGR1	GARAGE-AVE	L	660	24.00	1996		75		0.00	11,900
SHD1	SHED FRAME	L	96	14.00	2004		75		0.00	1,000
CNP1	CANOPY-AVG	B	96	12.00	2007		75		0.00	900
RPV2	PAVED DRIVE	L	1	1500.00	2000		100		0.00	1,500

BUILDING SUB-AREA SUMMARY SECTION						
Code	Description	Living Area	Floor Area	Eff Area	Unit Cost	Undeprec Value
BAS	First Floor	2,120	2,120	2,120	150.68	319,437
CRL	Crawl Space	0	340	17	7.53	2,562
FEP	Porch, Enclosed, Finished	0	238	167	105.73	25,163
FOP	Porch, Open, Finished	0	196	39	29.98	5,876
FUS	Upper Story, Finished	2,009	2,009	2,009	150.68	302,712
PTO	Patio	0	204	20	14.77	3,014
UAT	Attic, Unfinished	0	612	61	15.02	9,191
UBM	Basement, Unfinished	0	1,669	334	30.15	50,326
Ttl Gross Liv / Lease Area		4,129	7,388	4,767		718,281



Map 72 Lot 186 Mult Family - Faculty PEA

Map 72 Lot 185
Hertig mult Family

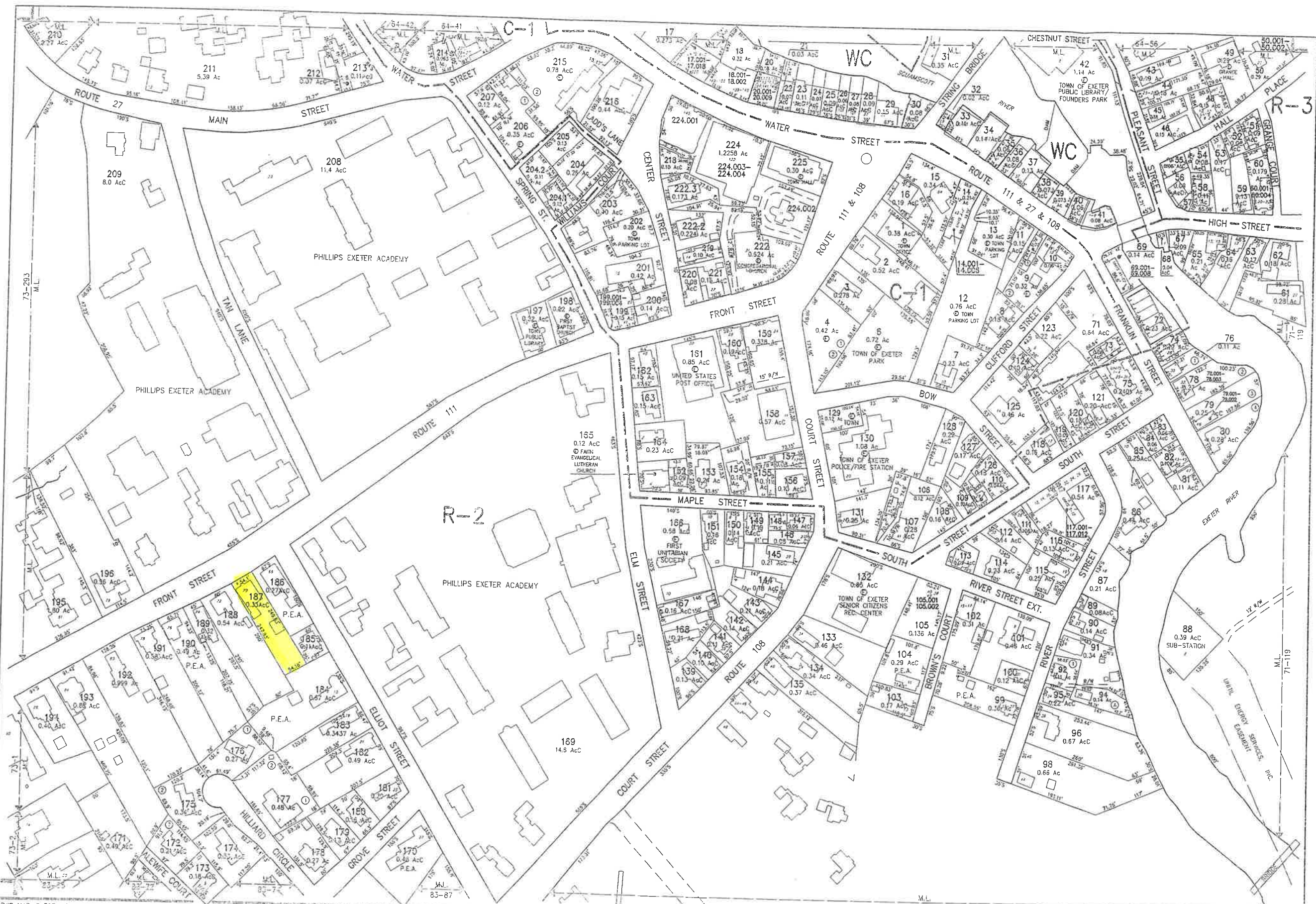


Front Street ← 54.1

Drive way Map 72 Lot 188 Bohn

NOT TO SCALE
 DRAWN BY Peter Johnson
 978-337-7944
 4/1/23
 owner TATIAN ROTH
 70 Front St.
 map 72 Lot 187

map 72 Lot 184 Faculty housing PEA



THIS MAP IS FOR ASSESSMENT PURPOSES. IT IS NOT VALID FOR LEGAL DESCRIPTION OR CONVEYANCE.

THE HORIZONTAL DATUM IS THE NEW HAMPSHIRE STATE PLANE COORDINATE SYSTEM.

PHOTOGRAPHY DATE: APRIL 25, 1995

COMPLETION DATE: MARCH 29, 1996

PRODUCED BY 1199 BY

AREA SURVEYED
AREA CALCULATED
TERRAIN DIMENSION
SCALED DIMENSION
MATCH LINE
WATER

LEGEND

EXEMPT PROPERTY
SUBDIVISION LOT NO.
ZONING LIMIT
LIGHT OF WAY
COMMON OWNERSHIP
BUILDING
WETLANDS

SCALE 1" = 100'

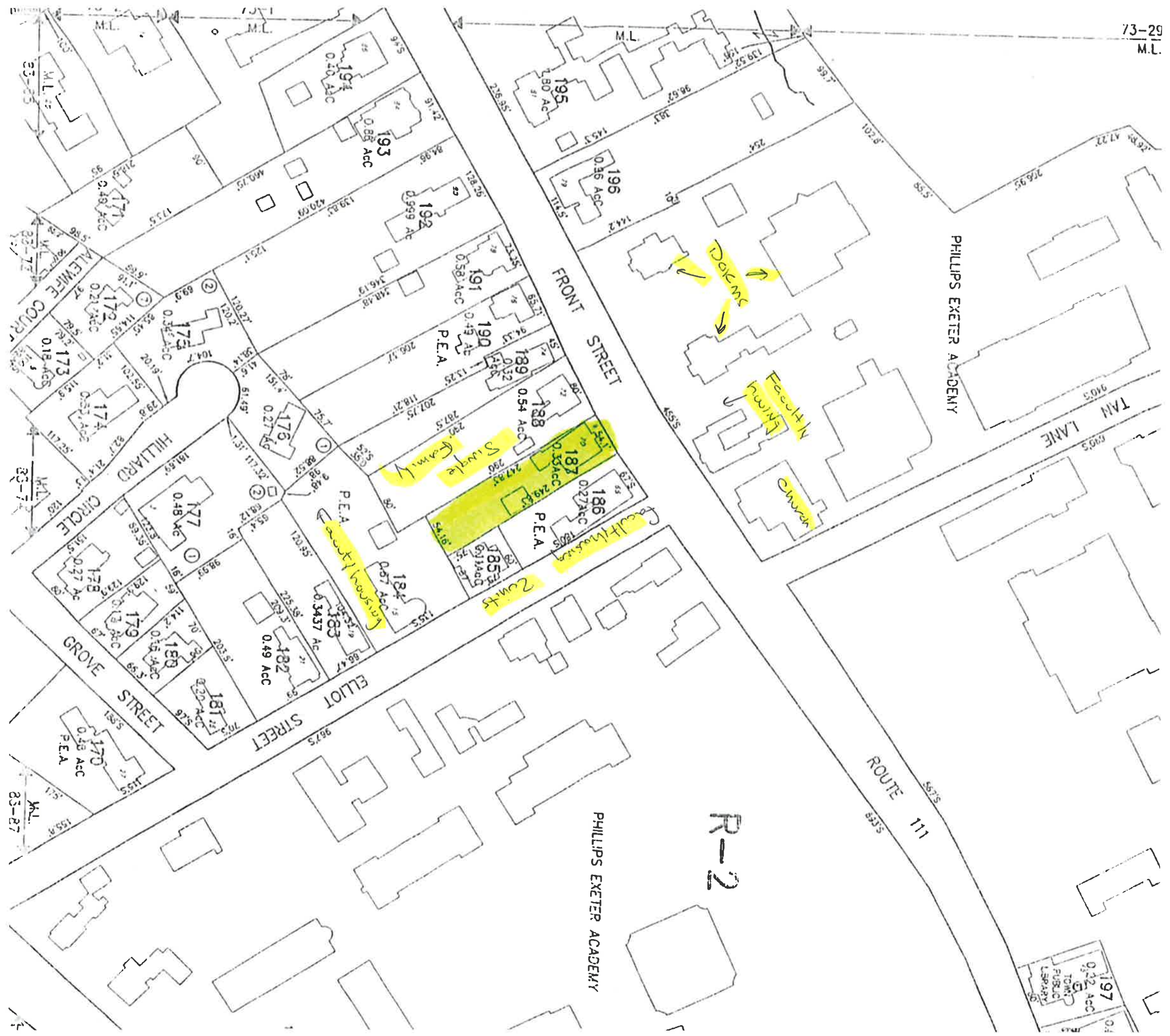
REVISOR TO: APRIL 1, 2022

PROPERTY MAPS
EXETER
NEW HAMPSHIRE

INDEX DIAGRAM

MAP NO. 72

NO. PARCEL 5, 19, 47, 66, 70, 97, 122, 137, 138, 217, 223



PHILLIPS EXETER ACADEMY

FRONT STREET

HILLIARD CIRCLE

GROVE STREET

ELLIOT STREET

ROUTE 111

TAN LANE

R-2

PHILLIPS EXETER ACADEMY

DOKMS

Faculty Housing

Church

Single

2 units

Cult Houses

P.E.A.

P.E.A.

P.E.A.

P.E.A.

197
0.22 AC
TOWN
PUBLIC
LIBRARY



LIZABETH M. MACDONALD
 JOHN J. RATIGAN
 DENISE A. POULOS
 ROBERT M. DEROSIER
 CHRISTOPHER L. BOLDT
 SHARON CUDDY SOMERS
 DOUGLAS M. MANSFIELD
 KATHERINE B. MILLER
 CHRISTOPHER T. HILSON
 HEIDI J. BARRETT-KITCHEN
 JUSTIN L. PASAY
 ERIC A. MAHER
 CHRISTOPHER D. HAWKINS
 ELAINA L. HOEPPNER
 WILLIAM K. WARREN
 BRIANA L. MATUSZKO

May 1, 2023

CELEBRATING OVER 35 YEARS OF SERVICE TO OUR CLIENTS

Hand Delivery

Kevin Baum, Chairman
 Zoning Board of Adjustment
 Town of Exeter
 10 Front Street
 Exeter, NH 03801

RETIRED
 MICHAEL J. DONAHUE
 CHARLES F. TUCKER
 ROBERT D. CIANDELLA
 NICHOLAS R. AESCHLIMAN

Re: Request for Variance

Dear Chairman Baum and Board Members –

Enclosed herewith please find a Variance Application regarding property located at 24 Powder Mill Road (Tax Map 102, Lot 4), which property lies within the R-1 Zoning District and a Special Flood Hazard Area, along with supporting materials, owner authorization, abutter labels, requisite copies, and a check to cover filing fees. We respectfully request to be placed on the agenda for the next ZBA hearing, which we understand will be 16 May 2023.

Thank you very much for your time and please do not hesitate to reach out with any comments or questions in the interim.

Sincerely,

DONAHUE, TUCKER & CIANDELLA, PLLC

Justin L. Pasay
jpasay@dtclawyers.com

JLP/lwh
 cc: Henry Boyd
 Doug and Christine Rupp
 Richard and Debbi Schaefer

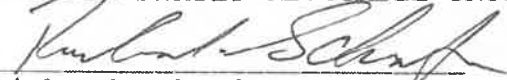
DONAHUE, TUCKER & CIANDELLA, PLLC
 16 Acadia Lane, P.O. Box 630, Exeter, NH 03833
 111 Maplewood Avenue, Suite D, Portsmouth, NH 03801
 Towle House, Unit 2, 164 NH Route 25, Meredith, NH 03253
 83 Clinton Street, Concord, NH 03301

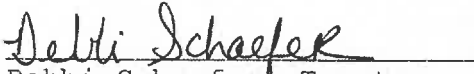
LETTER OF AUTHORIZATION

We, Richard & Debbi Schaefer, Trustees of the Schaefer Family Revocable Trust, owners of property depicted on Tax Map 102, Lot 4, do hereby authorize Christine and Doug Rupp and Donahue, Tucker and Ciandella, PLLC, to execute any land use applications to the Town of Exeter and to take any action necessary for the application and permitting process, including but not limited to, attendance and presentation at public hearings, of the said property.

Dated: 4/13/23

~~SHAEFER~~ FAMILY REVOCABLE TRUST


Richard Schaefer, Trustee


Debbi Schaefer, Trustee

ZONING BOARD OF ADJUSTMENT
APPLICATION CHECKLIST

For an application to be considered complete, you must have the following:

- ✓ Application Form.
- ✓ Complete Abutters List.
- ✓ Three (3) pre-printed 1" x 2 5/8" labels for each abutter, the applicant and all consultants.
- ✓ Letter of Explanation.
- ✓ Vicinity Ownership Map.
- ✓ Ten (10) copies of Entire Application. (10 plus original)
- ✓ Letter from Owner Authorizing Applicant to file on Owner's behalf.
- ✓ Filing Fees: *effective January 1, 2008*
 - \$100.00 Application Fee.
 - \$10.00 Per Abutter
 - Legal Notice Fee: Actual Cost of Advertisement.

Note: All of the above referenced items must be submitted to the Planning Office on or before deadline dates. See Schedule of Deadlines and Public Hearings for more information.

Town of Exeter
APPLICATION FOR A

VARIANCE

Case Number: _____

Date Filed: _____

Application Fee: \$ _____

Abutter Fees: \$ _____

Legal Notice Fee: \$ _____

TOTAL FEES: \$ _____

Date Paid _____ Check # _____

Name of Applicant Christine & Doug Rupp
(If other than property owner, a letter of authorization will be required from property owner)

Address 69 Newburyport Turnpike, Newbury, MA 01951

Telephone Number (978) 476-1359

Property Owner Richard & Debbi Schaefer, Trustees, Schaefer Family Revocable Trust

Location of Property 24 Powder Mill Road

Map 102, Lot 4, R-1 Zone

(Number, street, zone, map and lot number)

Applicant Signature Christine & Doug Rupp, by their attorneys, Donahue, Tucker & Ciandella

Justin L. Pasay, Esq.

Date 1 May 2023

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

APPLICATION FOR A VARIANCE

A variance is requested from article 9 section 9.4.5 of the Exeter zoning ordinance to permit:
An Enviro-Septic pipe or similar septic system to be constructed on a proposed 5.01 acre lot which will be located within a Special Flood Hazard Area.

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;

see attached

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

see attached

ABUTTER LABELS AND LISTS:

Abutter labels and lists must be attached to this application. Please contact the Planning Office if you have any questions.

ADDITIONAL MATERIALS:

If provided with the application, additional submission materials will be sent to the ZBA members in their monthly packet of information. Please contact the Planning Office if you have any questions regarding additional submission materials.

ZONING BOARD OF ADJUSTMENT

**APPLICATIONS SKETCH PLAN
REQUIREMENTS/CHECKLIST**

- 1. Title Block – descriptive name of project, north arrow (approximate), street address, date and scale (not less than 1" = 40').
- 2. Location map showing relevant streets and zoning district boundaries.
- 3. Names and addresses of applicant, record owner and abutting property owners, including those across the street.
- 4. Existing and proposed streets, driveways, parking areas (with delineation of spaces) and sidewalks.
- 5. Location of existing and proposed buildings and property lines.
- 6. Distances on all sides between buildings and property lines.
- 7. Existing and proposed tree lines, landscape buffers, screening and fences.
- 8. Location of existing landmarks including streams, brooks, wetlands, rock outcroppings, wooded areas and other significant environmental features.
- 9. Generalized floor plans showing dimensions and the square footage of areas for proposed uses.

Plans should be no larger than 11" x 17" in size. They need not be prepared by an architect or land surveyor but they must be legibly drawn with printed labels. **PLANS MUST CONTAIN ALL OF THE ABOVE INFORMATION IN ORDER FOR THE APPLICATION TO BE PLACED ON THE AGENDA FOR A ZONING BOARD OF ADJUSTMENT HEARING.**

VARIANCE APPLICATION OF

Christine and Doug Rupp (the “Applicants” or the “Rupps”) for a 21-acre property located at 24 Powder Mill Road, Exeter, NH 03833, which is further identified as Town of Exeter Tax Map 102, Lot 4, R-1 Zone (the “Property”). The Property is designated as a Special Flood Hazard Area by the Federal Emergency Management Agency (FEMA) in its “Flood Insurance Study for the county of Rockingham, NH” dated May 17, 2005 and January 29, 2021, together with the associated Flood Insurance Rate Maps, dated May 17, 2005 and January 29, 2021 and associated amendments and revisions.

A. Introduction and Factual Context

- **Property Description, Proposed Project and Existing Conditions**

Christine Rupp is the daughter of Richard and Debbi Schaefer, who are the Trustees of the Schaefer Family Revocable Trust (the “Schaefers”) and the owners of the Property. The Rupps and the Schaefers are seeking to subdivide the large Property into two lots in order to build an additional home to accommodate the Rupps and their children on the new lot. More specifically, and as depicted on the subdivision plan prepared by Millennium Engineering, Inc. (“Millennium”) which is dated February 23, 2023, and which has already been submitted to the Planning Board pursuant to a Minor Subdivision Application, the proposal contemplates subdividing the Property to create a new 5.01-acre lot to the east of the existing single-family dwelling (the “Project” and the “New Lot”). See **Enclosure 1**. The majority of the Property lies within the AE Flood Zone, which is a designated Special Flood Hazard Area under the Zoning Ordinance, and the rear (northern) portion of the Property contains a regulatory floodway, though this application does not contemplate work within that regulatory floodway. Id.

The Property currently contains a single-family dwelling and detached garage, as well as large open areas of low grasslands and a wooded area to the north which ultimately slopes gently down to the Exeter River. Id. The Property is bound to the east by the Boston & Maine Railroad, and by two unimproved properties to include one owned by the Town of Exeter located at 48 Powder Mill Road (Tax Map 113, Lot 1), and one owned by the Hanson Family 2004 Revocable Trust located at 52 Powder Mill Road (Tax Map 113, Lot 2). See **Enclosure 2**, Tax Maps 97, 98, 101, 102, 113. To the south, the Property is bound by Powder Mill Road and unimproved properties owned by both Bruce White (45 Powder Mill Road, Tax Map 113, Lot 4) and the Town of Exeter (25 and 35 Powder Mill Road, Tax Map 102, Lots 5 and 6). Id. To the west, the Property is contiguous with unimproved land owned by the Town of Exeter which is identified as Town Tax Map 102, Lot 3. Id. Further to the west, the lots accessed via Powder Mill Road, Kingston Road, and Juniper Ridge Road, are primarily single-family residential in nature and are, generally, much smaller than the Property. To the north, the Property is bound by the Exeter River, and the large RiverWoods Exeter property located at 7 Riverwoods Drive (Town Tax Map 97, Lot 23).

- **Procedural Context**

In October 2022, Millennium applied for variance relief from Article 5, Section 5.3.3 of the Zoning Ordinance, to permit the use of test pits for an individual sewage disposal system

with less than the required 24 inches to seasonal high-water table, for the purpose of accommodating a subdivision of the Property and the development of a single-family dwelling with septic system for the Rupps. At the time, this relief was the only zoning relief necessary to accommodate the Project. See Enclosure 3, previous variance filing and Notice of Decision.

On November 15, 2022, the ZBA heard and granted the variance application subject to the condition that an “Enviro-Septic pipe or similar system be installed” on the proposed lot (the “Original Variance Approval”). Id. In Exeter, Applicants have three (3) years from the date of variance approval to substantially complete the improvements, modifications, alteration or changes to the property which were the subject of the approval. See Zoning Ordinance, Article 12, Section 12.4.

Thereafter, Millennium was engaged to conduct a survey of the Property and to prepare a subdivision application, the work and preparation for which began immediately.

In January 2023, the Planning Board noticed a public hearing to discuss the potential amendment of the Town’s Floodplain Development Ordinance contained within Article 9 of the Zoning Ordinance (the “Floodplain Ordinance”), which potential amendments were discussed at public hearings on January 12, 2023, and again on January 26, 2023, three months after the Applicants filed their ZBA application in October 2022 and two months after the Applicants received the Original Variance Approval.

On February 23, 2023, and in reliance on the Original Variance Approval, Millennium filed a subdivision application seeking to divide an approximately 5-acre lot from the existing Property to accommodate the construction of a single-family dwelling (the “Subdivision Application”).

On March 14, 2023, the Town Meeting adopted the Planning Board proposed amendments to the Floodplain Ordinance which, among other things, prohibit a new septic system on the proposed New Lot. Pursuant to Section 9.4.5, titled New or Replacement Water and Sewer Systems, “[t]here shall be no new or expansion of existing septic systems within the Special Flood Hazard Area, except to correct malfunctions of septic systems.”

In early March 2023, the Applicants met with the Town Planner, the Town’s Natural Resource Planner and the Town Code Enforcement Officer, and the Town Planner’s interpretation, presumably pursuant to RSA 676:12, was that notwithstanding the timeline above, the Applicants needed new variance relief from the terms of the revised Floodplain Ordinance before they could proceed to the Planning Board for subdivision review.

On March 21, 2023, in an effort to gain more clarity on the impact of the revised Floodplain Ordinance, the Applicants sent a Request for Administrative Decision to Doug Eastman, the Town Code Enforcement Officer. In their letter, the Applicants requested an interpretation that no additional variance relief is required in this matter in light of the Original Variance Approval and the common law doctrine of vesting. Ultimately, Mr. Eastman determined that variance relief from Section 9.4.5 of the Floodplain Ordinance is necessary

based on the timing of the Subdivision Application, which was filed after the posting of the first notice for a public hearing on the revisions to the Floodplain Ordinance.

To summarize, last fall, the Applicants obtained a wetland delineation and sought and obtained the only variance relief they needed to proceed with subdivision of the Property to accommodate a single-family dwelling with a septic system. In good faith and reliance upon the Original Variance Approval, the Applicants then invested substantial financial resources to have a survey of the Property conducted to pick-up the wetland delineation, to create a plan, and to formalize and file their subdivision proposal. All of this occurred without the Applicants' knowledge of the proposed change to the Floodplain Ordinance. These facts are relevant within the context of the public interest, spirit of the ordinance, and substantial justice prongs of the statutory variance criteria, which are addressed below.

- **Applicants' Septic System Proposal**

As noted above, the Applicants proposal is to subdivide the Property into two lots to allow for the families to reside side by side in a family subdivision, and the Applicants already have variance relief from Article 5, Section 5.3.3 of the Zoning Ordinance to permit an individual sewage disposal system with less than 24 inches to the seasonal high-water table. In light of the additional requirement to obtain variance relief from Article 9, Section 9.4.5 of the Zoning Ordinance, which prohibits new septic systems within Special Flood Hazard Areas, a more detailed explanation of the Applicants' septic proposal is in order.

The Applicants' propose to install an Enviro-Septic pipe or similar system on the New Lot as depicted on **Enclosure 1**, and **Enclosure 4**, a plan from Millennium titled "Proposed Septic System Cross-Section" which depicts the details of the proposed system and which should, as detailed below, alleviate any concern that the same will result in increased flood heights, cause a threat to the public safety, cause public expense, increase flood levels, or pollute flood waters. More specifically, the estimated seasonal high water table at the New Lot is at elevation 33.2. The existing ground water elevation is 34.2. The AE Zone base flood elevation is 34.4. As depicted on the plan, the Applicants' plan to add four (4) feet of fill to the site such that the bottom of the effluent disposal area will be at elevation 37.2 and the new proposed ground level will be at elevation 39.2. Accordingly, the bottom of the effluent disposal system will be located 2.8 feet above the base flood elevation. See Zoning Ordinance, Article 9, Section 9.4.8, requiring that new construction of residential structures in the AE Zone have the lowest floor including basement elevated at least two (2) feet above the base flood elevation.

As detailed below, because the bottom of the proposed septic system will be nearly three (3) feet above the base flood elevation, the Applicants' Project will advance the express purposes of the Floodplain Ordinance.

- **Variance Requested**

As the Applicants seek to subdivide the Property and construct a new septic system on the New Lot, which is not permitted within the Special Flood Hazard Area, the Applicants seek relief from Article 9, Section 9.4.5 to allow for the proposed nonconforming septic system.

B. Statutory Variance Criteria

Pursuant to Article 2, Section 2.2.82 of the Zoning Ordinance and RSA 674:33, to obtain a variance in Exeter, an applicant must show that: (1) the variance will not be contrary to the public interest; (2) the spirit of the ordinance is observed; (3) substantial justice is done; (4) the values of surrounding properties are not diminished; and (5) literal enforcement of the provisions of the ordinance would result in an unnecessary hardship, where said term means that, owing to special conditions of the property that distinguish it from other properties in the area: 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; and the Proposed use is a reasonable one; or 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. See RSA 674:33, I (b).

In addition to meeting these typical statutory variance standards, applicants seeking a variance from the Floodplain Ordinance must show that: (1) the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense; (2) if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result; and (3) the variance is the minimum necessary, considering the flood hazard, to afford relief.

The Applicants' Project will not be inconsistent with the essential character of the surrounding area, will not compromise the public health in any way, will provide substantial justice, will not compromise the property values of surrounding properties, and there is no rational connection between the intent of the underlying ordinance provision and its application to the Property under the unique circumstances of this case. Additionally, the Applicants' Project is not within a regulatory floodway and will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, and the variance is the minimum necessary, considering the flood hazard, to afford relief. For these reasons, as outlined below, we respectfully request that the requested variance be granted.

C. Analysis

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

The New Hampshire Supreme Court has indicated that the requirement that a variance not be "contrary to the public interest" is coextensive and related to the requirement that a variance be consistent with the spirit of the ordinance. See Chester Rod & Gun Club v. Town of Chester, 152 N.H. 577, 580 (2005); Malachy Glen Associates, Inc. v. Town of Chichester, 155 N.H. 102, 105-06 (2007); and Farrar v. City of Keene, 158 N.H. 684, 691 (2009). A variance is contrary to the public interest only if it "unduly, and in a marked degree conflicts with the ordinance such that it violates the ordinance's basic zoning objectives." Chester Rod & Gun Club, 152 N.H. at 581; Farrar, 158 N.H. at 691. See also Harborside Associates, L.P. v. Parade Residence Hotel, LLC, 162 N.H. 508, 514 (2011) ("[m]ere conflict with the terms of the ordinance is insufficient."). Moreover, these cases instruct boards of adjustment to make the

determination as to whether a variance application “unduly” conflicts with the zoning objectives of the ordinance “to a marked degree” by analyzing whether granting the variance would “alter the essential character of the neighborhood” or “threaten the public health, safety or welfare” and to make that determination by examining, where possible, the language of the Zoning Ordinance. See supra.

Section 9.4.5 of the Floodplain Ordinance does not have an express purpose provision, but the general purpose of the Floodplain Ordinance is to “promote the public health, safety, and general welfare; minimize hazards to persons and property from flooding; to protect watercourses from encroachment; and to maintain capability of floodplains to retain and carry off floodwaters.” Floodplain Ordinance, Section 9.4.2. These general purposes are consistent with the general purposes of the Zoning Ordinance. See Zoning Ordinance, Article 1, Section 1.2.

Here, the Applicants’ Project and proposed septic system do not conflict to a marked degree with Section 9.4.5 of the Floodplain Ordinance, or with the Floodplain Ordinance or Zoning Ordinance in general because on the contrary, the Project will advance those purposes. More specifically, the Project will utilize an Enviro-Septic pipe or similar system, per the Original Variance Approval, the bottom of which be located 2.8 feet above the base flood elevation. See Enclosure 4. The proposal was designed by Millennium for the express purpose of eliminating the threat to the public health and safety posed by flood events. Because the lowest part of the septic system will be located nearly three (3) feet above the base flood elevation, the Project promotes the public health, safety, and general welfare by minimizing any flood related hazard to persons and property and otherwise, due to its minimal footprint, does not affect watercourses and regulated floodways, and does not affect those areas’ ability to retain and carry off floodwaters.

The Project also plainly satisfies the case law requirements because the essential character of the neighborhood will not be affected for the reasons explained throughout this narrative. The requested variance will facilitate the subdivision of the Property into two distinct lots and will accommodate a new single-family dwelling on the New Lot. The New Lot will be more than twice the size of the 2-acre minimum lot size requirement in the R-1 District and will be more consistent with the single-family residential dwellings to the northwest of the Property than the existing 21-acre parcel. Further, the Property is surrounded primarily by unimproved lots, many of which are owned by the Town, and is otherwise surrounded by woods, railroad tracks, and the roadway. The neighborhood is purely residential and the Project will not affect traffic at all. As a result of these considerations, the character of the neighborhood will remain the same.

As noted above, the Applicants’ septic proposal will also not threaten the public health and safety because the system will be an Enviro-Septic pipe or similar system and will be constructed nearly three (3) feet above the base flood elevation. See Enclosures 3, 4.

As the Applicants’ Proposal will be consistent with the specific intent of the Floodplain Ordinance and the general intent of the Zoning Ordinance, and because the Project will not alter the essential character of the neighborhood or threaten the public health or safety, it would be

reasonable and appropriate for the ZBA to conclude that granting the Applicants' variance request will satisfy the public interest prong of the variance criteria.

2. The spirit of the Ordinance is observed.

As referenced above, the requested variance observes the spirit of the Zoning Ordinance and New Hampshire jurisprudence regarding the "public interest" prong of the variance criteria because the Applicants' Project will be consistent with the general purposes of both Floodplain Ordinance and the general Zoning Ordinance in this case. Further, the Project will not compromise the character of the neighborhood or threaten the public health, safety, or welfare for the reasons stated above. As the New Hampshire Supreme Court has indicated in both Chester Rod & Gun Club and in Malachy Glen, the requirement that the variance not be "contrary to the public interest" is coextensive and is related to the requirement that the variance be consistent with the spirit of the ordinance. See Chester Rod & Gun Club, 152 N.H. at 580. A variance is contrary to the spirit of the ordinance only if it "unduly, and in a marked degree conflicts with the ordinance such that it violates the ordinance's basic zoning objectives." Chester Rod & Gun Club, 152 N.H. at 581; Farrar, 158 N.H. at 691. As discussed above, the requested variance is consistent with the general spirit of the Floodplain Ordinance and the Zoning Ordinance. As a result, for the reasons stated above, the Applicants respectfully assert that it would be reasonable and appropriate for the ZBA to conclude that the requested variance will observe the spirit of the Zoning Ordinance.

3. Substantial justice is done.

As noted in Malachy Glen, *supra*, "perhaps the only guiding rule [on this factor] is that any loss to the individual that is not outweighed by a gain to the general public is an injustice." Malachy Glen, *supra*, citing 15 P. Loughlin, New Hampshire Practice, Land Use Planning and Zoning § 24.11, at 308 (2000) (quoting New Hampshire Office of State Planning, The Board of Adjustment in New Hampshire, A Handbook for Local Officials (1997)). In short, there must be some gain to the general public from denying the variance that outweighs the loss to the applicant from its denial.

In this case, the public does not gain anything by denying the requested variance. The public's only interest in the siting of a private septic system to accommodate a single-family residence on private property in the R-1 District pertains to the operation of that system in light of the Property's location within a Special Flood Hazard Area. Here, because the Applicants are proposing to site the septic system nearly three (3) feet above the base flood elevation, there is no reasonable threat that the public will be harmed in any way by flood events. On the contrary, the variance will facilitate the creation of a New Lot, will facilitate the investment by the next generation of the Schaefer family to living in Exeter, will create additional tax revenue, and will advance the general purposes of the Floodplain Ordinance. In this sense, the Project advances the public interest.

Certainly, the Applicants will benefit from the variance as it facilitates the reasonable use of the Property in furtherance of the Applicants' goals, which has been encouraged by the

New Hampshire Supreme Court. The variance will also facilitate multi-generational living of the Schaefer family which is generally favored in the State of New Hampshire.

If the variance is denied, the Applicants' loss far outweighs any gain to the public, as the public remains unaffected by the granting of the variance for this residential Property.

As the requested variance benefits the Applicants and does not cause any detriment to the public, there is no gain to the general public from denying the request that outweighs the significant loss that would befall the Applicants and the Schaefer family from its denial. As such, this prong of the variance criteria is satisfied.

4. The proposal will not diminish surrounding property values.

Given the nature of the existing and proposed conditions of the Property and the surrounding area, as discussed above and depicted in the Enclosures, the Applicants proposal will not diminish surrounding property values. The proposed use, a single-family dwelling with a corresponding septic system which, by its design, advances the purposes of the Floodplain Ordinance, will be totally consistent with the nature of the surrounding area which consists of unimproved properties and single-family residential development. If anything, the Applicants' Project will enhance the value of the Applicants' Property, thereby enhancing the value of surrounding properties in turn. Certainly, there is no evidence in the record that could reasonably support the conclusion that the proposed Project will diminish surrounding property values. Common sense requires that the ZBA find this prong of the variance criteria is satisfied.

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

a. Legal Standard

As set forth in the provisions of RSA 674:33, I, there are two options by which the Board of Adjustment can find that an unnecessary hardship exists:

- (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:
 - (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; and
 - (ii) The Proposed use is a reasonable one.

(the "First Hardship Test")

or,

- (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. (the “Section Hardship Test”).

The Applicant respectfully reminds the ZBA that the mere fact that the Applicants are seeking a variance from the express provisions of the Zoning Ordinance is not a valid reason for denying the variance. See Malachy Glen Associates, Inc. v. Town of Chichester, 155 N.H. 102, 107 (2007); see also Harborside Associates, 162 N.H. at 2011 (“mere conflict with the terms of the ordinance is insufficient”).

b. Summary of Applicable Legal Standard

The first prong of the First Hardship Test requires the Board to determine whether there are special conditions on the underlying property which is the subject of a variance request. This requirement finds its origins in the Standard State Zoning Enabling Act of the 1920s “since it is the existence of those ‘special conditions’ which causes the application of the zoning ordinance to apply unfairly to a particular property, requiring that variance relief be available to prevent a taking.”¹ The Supreme Court has determined that the physical improvements on a property can constitute the “special conditions” which are the subject of the first prong of the First Hardship Test. Harborside, 162 N.H. at 518 (the size and scale of the buildings on the lot could be considered special conditions); cf. Farrar, 158, N.H. 689 (where variance sought to convert large, historical single use residence to mixed use of two residence and office space, size of residence was relevant to determining whether property was unique in its environment).

The second prong of the First Hardship Test analysis, pertaining to the relationship between the public purpose of the ordinance provision in question, and its application to the specific property in question, is the codified vestige of a New Hampshire Supreme Court case called Simplex Technologies, Inc. v. Town of Newington (“Simplex”).² To summarize, the ZBA’s obligation in this portion of its hardship analysis is to determine the purpose of the regulation from which relief is being sought and if there is no specific purpose identified in the regulation, then to consider the general-purpose statements of the ordinance as a whole, so that the ZBA can determine whether the purpose of said ordinance is advanced by applying it to the property in question.

The final prong of the First Hardship Test analysis is whether the proposed use is “reasonable.”

The Applicant respectfully reminds the ZBA of the New Hampshire Supreme Court’s substantive pivot in Simplex. The Simplex case constituted a “sharp change in the New Hampshire Supreme Court’s treatment of the unnecessary hardship requirement.” The Simplex Court noted that under the unnecessary hardship standard, as it had been developed by the Court up until that time, variances were very difficult to obtain unless the evidence established that the property owner could not use his or her property in any reasonable manner.”³ This standard is no

¹ 15 Loughlin, New Hampshire Practice, Land Use Planning and Zoning, §24.20 (4th Ed.) citing The Standard State Zoning Enabling Act.

² 145 N.H. 727 (2001).

³ 15 Loughlin, 24.16.

longer the required standard in New Hampshire. The Applicant does not have an obligation to affirmatively prove that the underlying Property cannot be reasonably used without the requested variance modification. Rather, the critical question under the First Hardship Test is whether the purpose of the Zoning Ordinance is fairly and substantially advanced by applying it to the Applicants' Property considering the Property's unique setting and environment. This approach is consistent with the Supreme Court's pivot away from the overly restrictive pre-Simplex hardship analysis "to be more considerate of the constitutional right to enjoy property".⁴

The Second Hardship Test, which we will not focus on in this narrative, is satisfied by establishing that 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.

c. Analysis

The first prong of the First Hardship Test requires the Board to determine whether there are special conditions on the underlying Property which distinguish it from others in the area. Here, as discussed at length in Section A above, which is incorporated herewith by reference, the Property does have special conditions that distinguish it from others in the area. The Property is a 21-acre residential lot that currently contains only one single-family dwelling, and is bordered by woods and a river, railroad tracks, and the main road. It is uniquely large when compared to the other single-family residential properties further west along Powder Mill Road, Kingston Road, and Juniper Ridge Road. The Property is uniquely isolated from neighboring properties or structures and uniquely capable of accommodating the minor subdivision proposed by the Applicants. The Property is also unique by virtue of its location within AE Flood Zone. More specifically, while many of the properties located along the Exeter River in Exeter are within the AE Flood Zone to some extent, due to the course of the Exeter River in this specific area of Town, the AE Zone is quite wide and encompasses uniquely more area, in this case nearly the entirety of the Property, than in many of the other locations along the river where there appears to be existing single family residential dwellings, particularly those single family residential properties located close-by to the west. See Enclosure 5 which includes relevant FIRM Maps updated as of November 5, 2018.

As there are special conditions of the Property, the first prong of the First Hardship Test is satisfied.

The second prong of the First Hardship Test pertains to the relationship between the public purpose of the ordinance provision in question, and its application to the specific property in question. To summarize, the ZBA must determine whether the purpose of the underlying ordinance is advanced by applying them to the property in question.

Here, as discussed above, the purpose the Floodplain Ordinance is to "promote the public health, safety, and general welfare; minimize hazards to persons and property from flooding; to protect watercourses from encroachment; and to maintain capability of floodplains to retain and carry off floodwaters." As a result, the relevant question is whether denying the Applicants'

⁴ Id. citing Simplex, 145 N.H. at 731.

variance request will advance these purposes, or not. Here, a denial would not advance the purposes of the Floodplain Ordinance because, as discussed above, the opposite is true. The vast majority of the uniquely large Property is within the AE Zone, which limits the potential for what is otherwise a totally reasonable minor subdivision request. However, and as described above, application of Article 9, Section 9.4.5 of the Zoning Ordinance to the Property is not advancing the purpose of the ordinance because there is no threat to the public's health, safety, or general welfare, and, due to the design of the system and its location three (3) feet above the base flood elevation, the Project contemplates no hazards to persons or property from flooding, and otherwise will not affect watercourses or the floodplain's ability to retain and carry off floodwaters. Further, any follow-on construction on the Property will otherwise comply with the requirements of the Floodplain Ordinance.

Further, granting the variance will allow a family to reside together on adjacent properties thereby encouraging thoughtful residential development and the investment in the Town of Exeter by the next generation of a longstanding Exeter family. Finally, denying the requested variance will not prevent development that is incompatible with the surrounding area, because the opposite is true: the Applicants' Project contemplates development which is entirely consistent with the area.

To summarize, the Applicants' proposal is consistent with and would advance both the purposes of the Floodplain Ordinance and the general Zoning Ordinance for all the reasons detailed in this narrative. As such, the second prong of the hardship criteria is satisfied in this case.

The final analysis under the First Hardship Test is to determine whether the proposed use is reasonable. Here, the proposed Project is a reasonable residential development of privately owned property. As explained above, the essential character of the neighborhood involves unimproved land and single-family residential development. As such, the Project will be consistent with the surrounding area is reasonable.

On these facts, the Applicants respectfully submit that its variance request satisfies the final prong of the statutory variance criteria.

6. Additional Floodplain Ordinance Variance Criteria

As demonstrated herein, the Applicants have satisfied the variance criteria pursuant to Article 2, Section 2.2.82 and RSA 674:33, to obtain a variance in Exeter. Furthermore, the Applicants meet the specific criteria pursuant to Article 9, Section 9.4, Floodplain Ordinance, for the reasons that follow.

a. The variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.

As detailed throughout, the Project will advance the purposes of the Floodplain Ordinance by virtue of the design of the septic system in question, which will deploy advanced technologies and will be constructed 2.8 feet above the base flood elevation. Further, any

residential development on the Property will comply with the Floodplain Ordinance. As such, there is no impact on the public, and thus there are no threats to public safety or public expense. Further, due to the limited footprint contemplated by the system and the size of the Property and surrounding properties, the Applicants do not anticipate an increase to flood heights. See Enclosures.

Accordingly, the Applicants have satisfied the first prong of the Floodplain Ordinance variance criteria.

b. The requested variance for activity within a designated regulatory floodway will not result in an increase in flood levels during the base flood discharge.

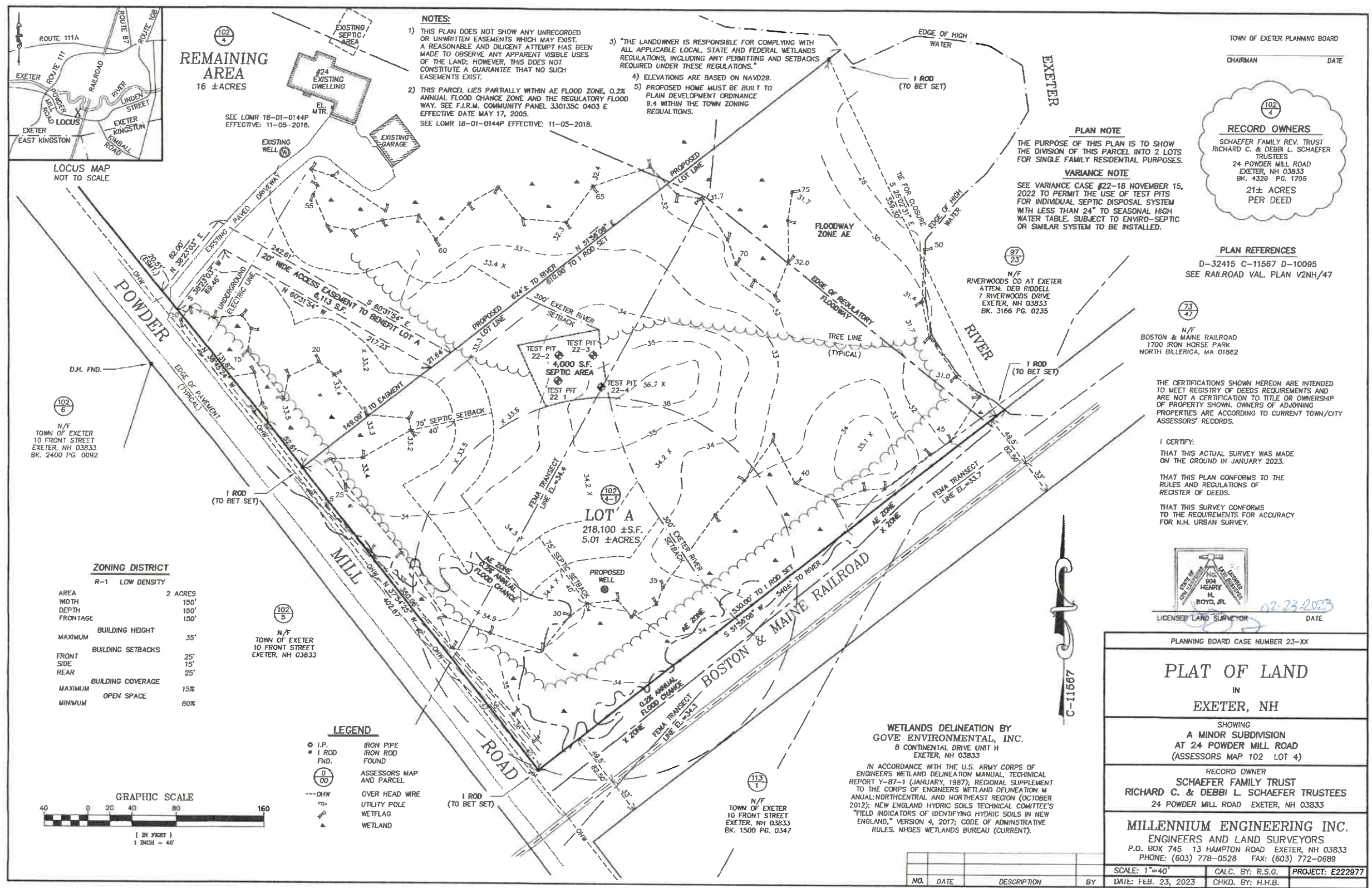
The Project does not contemplate activity within a designated regulatory floodway. See Enclosure 1. While a floodway does exist on the Property, it is considerably north of the proposed activity. Id. As such, this prong of the additional variance criteria is satisfied.

c. The variance is the minimum necessary, considering the flood hazard, to afford relief.

The Project already benefits from the Original Variance Approval and the Applicants are already obligated to utilize an Enviro-Septic or similar system, which system will not have a detrimental impact to the floodplain as detailed above, by virtue of its proposed construction 2.8 feet above the base flood elevation. The end goal of the Applicants is to construct a single-family dwelling on the New Lot which is the minimum development that is possible. As such, the Applicants' request for variance is the minimum necessary to afford relief in these circumstances and to facilitate the reasonable use of the uniquely large and well-situated Property.

D. Conclusion

The Applicants respectfully submit that they have satisfied the statutory variance criteria in this matter and their Application should be approved.



NOTES:

- 1) THIS PLAN DOES NOT SHOW ANY UNRECORDED OR UNWRITTEN EASEMENTS WHICH MAY EXIST. A REASONABLE AND DILIGENT ATTEMPT HAS BEEN MADE TO OBSERVE ANY APPARENT VISIBLE USES OF THE LAND; HOWEVER, THIS DOES NOT CONSTITUTE A GUARANTEE THAT NO SUCH EASEMENTS EXIST.
- 2) THIS PARCEL LIES PARTIALLY WITHIN AE FLOOD ZONE, 0.2% ANNUAL FLOOD CHANCE ZONE AND THE REGULATORY FLOOD WAY. SEE F.I.R.M. COMMUNITY PANEL 330135C 0403 E EFFECTIVE DATE MAY 17, 2005. SEE LOMR 18-01-0144P EFFECTIVE: 11-05-2018.
- 3) "THE LANDOWNER IS RESPONSIBLE FOR COMPLYING WITH ALL APPLICABLE LOCAL, STATE AND FEDERAL WETLANDS REGULATIONS, INCLUDING ANY PERMITTING AND SETBACKS REQUIRED UNDER THESE REGULATIONS."
- 4) ELEVATIONS ARE BASED ON NAVD29.
- 5) PROPOSED HOME MUST BE BUILT TO PLAIN DEVELOPMENT ORDINANCE 9.4 WITHIN THE TOWN ZONING REGULATIONS.

PLAN NOTE
THE PURPOSE OF THIS PLAN IS TO SHOW THE DIVISION OF THIS PARCEL INTO 2 LOTS FOR SINGLE FAMILY RESIDENTIAL PURPOSES.

VARIANCE NOTE
SEE VARIANCE CASE #22-18 NOVEMBER 15, 2022 TO PERMIT THE USE OF TEST PITS FOR INDIVIDUAL SEPTIC DISPOSAL SYSTEM WITH LESS THAN 24" TO SEASONAL HIGH WATER TABLE. SUBJECT TO ENVIRO-SEPTIC OR SIMILAR SYSTEM TO BE INSTALLED.

RECORD OWNERS
SCHAEFER FAMILY REV. TRUST
RICHARD C. & DEBBI L. SCHAEFER TRUSTEES
24 POWDER MILL ROAD
EXETER, NH 03833
BK. 4329 PG. 1705
21 ± ACRES
PER DEED

PLAN REFERENCES
D-32415 C-11567 D-10095
SEE RAILROAD VAL. PLAN V2NH/47

N/F
RIVERWOODS CO AT EXETER
ATTN: DEB RIDDELL
7 RIVERWOODS DRIVE
EXETER, NH 03833
BK. 3166 PG. 0235

N/F
BOSTON & MAINE RAILROAD
1700 IRON HORSE PARK
NORTH BILLERICA, MA 01862

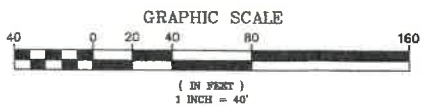
THE CERTIFICATIONS SHOWN HEREON ARE INTENDED TO MEET REGISTRY OF DEEDS REQUIREMENTS AND ARE NOT A CERTIFICATION TO TITLE OR OWNERSHIP OF PROPERTY SHOWN. OWNERS OF ADJOINING PROPERTIES ARE ACCORDING TO CURRENT TOWN/CITY ASSESSORS' RECORDS.

I CERTIFY:
THAT THIS ACTUAL SURVEY WAS MADE ON THE GROUND IN JANUARY 2023.
THAT THIS PLAN CONFORMS TO THE RULES AND REGULATIONS OF REGISTER OF DEEDS.
THAT THIS SURVEY CONFORMS TO THE REQUIREMENTS FOR ACCURACY FOR N.H. URBAN SURVEY.

HENRY H. BOYD, JR.
LICENSED LAND SURVEYOR
DATE: 02-23-2023

ZONING DISTRICT
R-1 LOW DENSITY

AREA	2 ACRES
WIDTH	150'
DEPTH	150'
FRONTAGE	150'
MAXIMUM BUILDING HEIGHT	35'
FRONT BUILDING SETBACKS	25'
SIDE REAR	15'
REAR BUILDING SETBACKS	25'
MAXIMUM BUILDING COVERAGE	15%
MINIMUM OPEN SPACE	60%



LEGEND

- I.P. IRON PIPE
- I ROD IRON ROD
- FND. FOUND
- ASSESSORS MAP AND PARCEL
- OHW OVER HEAD WIRE
- UTILITY POLE
- WETFLAG
- ▲ WETLAND

WETLANDS DELINEATION BY
GOVE ENVIRONMENTAL, INC.
8 CONTINENTAL DRIVE UNIT H
EXETER, NH 03833

IN ACCORDANCE WITH THE U.S. ARMY CORPS OF ENGINEERS WETLAND DELINEATION MANUAL, TECHNICAL REPORT Y-87-1 (JANUARY, 1987); REGIONAL SUPPLEMENT TO THE CORPS OF ENGINEERS WETLAND DELINEATION MANUAL, NORTH-CENTRAL AND NORTHEAST REGION (OCTOBER 2012); NEW ENGLAND HYDRIC SOILS TECHNICAL COMMITTEE'S "FIELD INDICATORS OF IDENTIFYING HYDRIC SOILS IN NEW ENGLAND," VERSION 4, 2017; CODE OF ADMINISTRATIVE RULES, NHDES WETLANDS BUREAU (CURRENT).

PLANNING BOARD CASE NUMBER 23-XX

PLAT OF LAND
IN
EXETER, NH

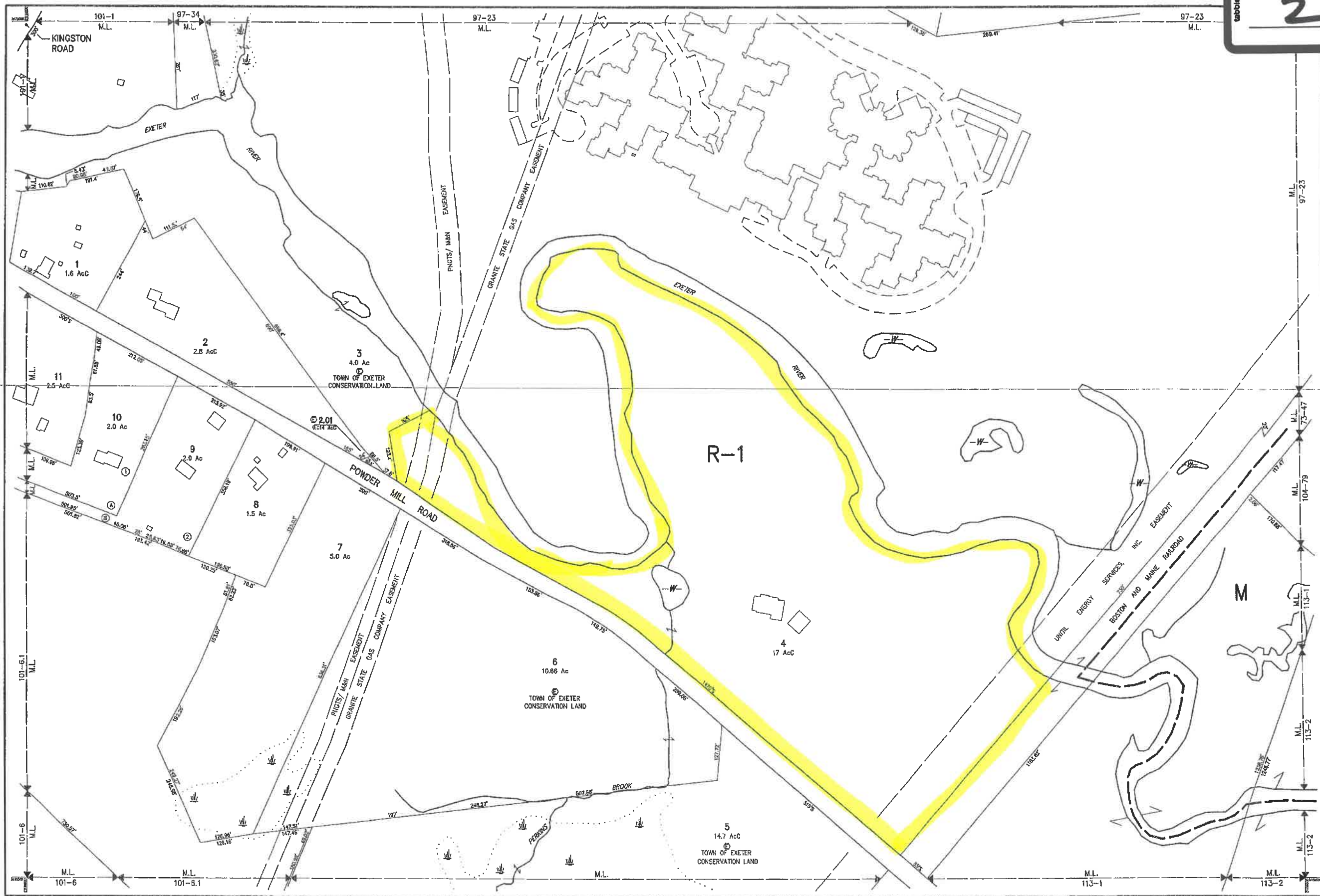
SHOWING
A MINOR SUBDIVISION
AT 24 POWDER MILL ROAD
(ASSESSORS MAP 102 LOT 4)

RECORD OWNER
SCHAEFER FAMILY TRUST
RICHARD C. & DEBBI L. SCHAEFER TRUSTEES
24 POWDER MILL ROAD EXETER, NH 03833

MILLENNIUM ENGINEERING INC.
ENGINEERS AND LAND SURVEYORS
P.O. BOX 745 13 HAMPTON ROAD EXETER, NH 03833
PHONE: (603) 778-0528 FAX: (603) 772-0689

SCALE: 1"=40' CALC. BY: R.S.G. PROJECT: E222977
DATE: FEB. 23, 2023 CHKD. BY: H.H.B.

NO.	DATE	DESCRIPTION	BY



THIS MAP IS FOR ASSESSMENT PURPOSES. IT IS NOT VALID FOR LEGAL DESCRIPTION OR CONVEYANCE.
 THE HORIZONTAL DATUM IS THE NEW HAMPSHIRE STATE PLANE COORDINATE SYSTEM.
 PHOTOGRAPHY DATE: APRIL 25, 1995
 COMPLETION DATE: MARCH 29, 1996

PRODUCED IN 1996 BY
CAI Technologies
 11 PLEASANT STREET, LITTLETON, NH 03561
 603.372.4516 - WWW.CAI-TECH.COM

AREA SURVEYED Ac
 AREA CALCULATED Ac
 RECORD DIMENSION 100'
 SCALED DIMENSION 100'S
 MATCH LINE

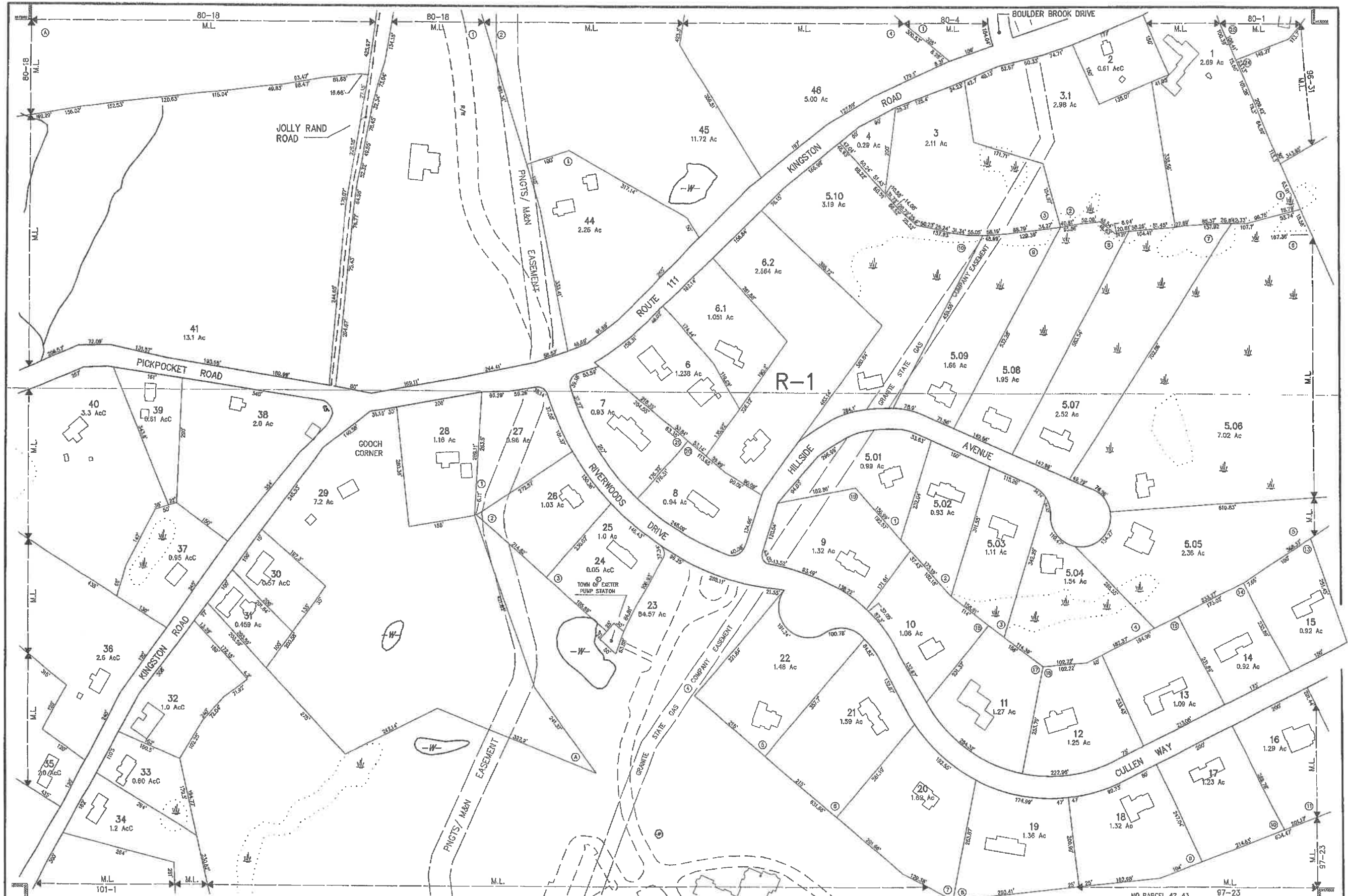
LEGEND
 EXEMPT PROPERTY
 SUBDIVISION LOT NO.
 ZONE LDT
 RIGHT OF WAY
 COMMON OWNERSHIP
 BUILDING
 WETLANDS

SCALE 1" = 100'
 FEET 0 50 100 200 300
 METERS 0 25 50 75
 REVISED TO: APRIL 1, 2021

PROPERTY MAPS
EXETER
 NEW HAMPSHIRE

INDEX DIAGRAM
 98 97 96
 101 103
 114 113 112

MAP NO.
102



THIS MAP IS FOR ASSESSMENT PURPOSES. IT IS NOT VALID FOR LEGAL DESCRIPTION OR CONVEYANCE.

THE HORIZONTAL DATUM IS THE NEW HAMPSHIRE STATE PLANE COORDINATE SYSTEM.

PHOTOGRAPHY DATE: APRIL 25, 1995

COMPLETION DATE: MARCH 29, 1996

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AREA SURVEYED Ac
AREA CALCULATED Ac
RECORD DIMENSION 100'
SCALED DIMENSION 100'S
MATCH LINE	← M.L. →
WATER	— W —

LEGEND

EXEMPT PROPERTY: (Symbol)

SUBDIVISION LOT NO.: (Symbol)

ZONE LIGHT: (Symbol)

RIGHT OF WAY: (Symbol)

COMMON OWNERSHIP: (Symbol)

BUILDING: (Symbol)

WETLANDS: (Symbol)

FEET SCALE 1" = 100'

0 100 200 300

METERS

0 25 50 75

REVISED TO: APRIL 1, 2021

PROPERTY MAPS

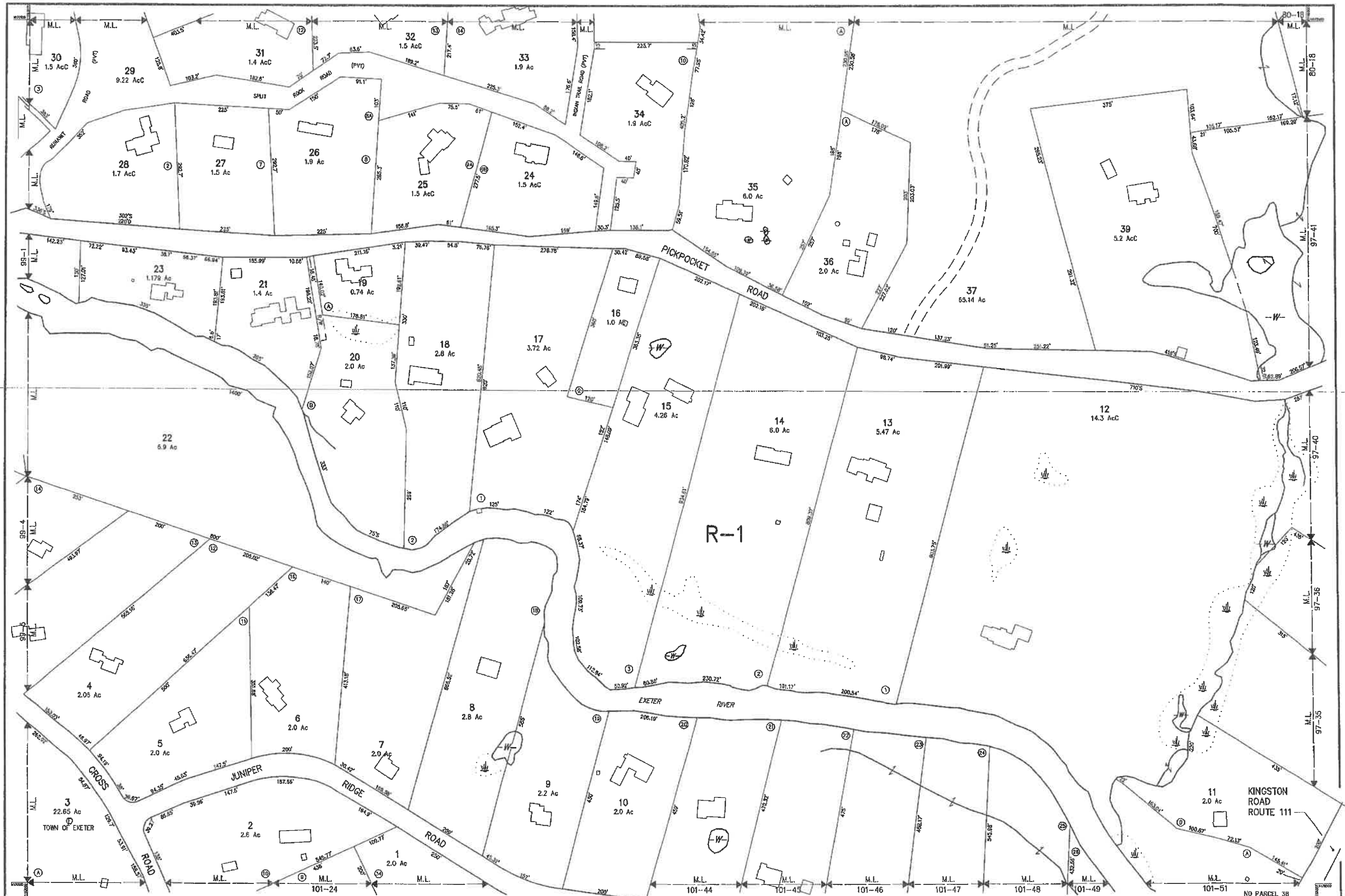
EXETER

NEW HAMPSHIRE

INDEX DIAGRAM

79	80	81
98	99	100
101	102	103

MAP NO. **97**



THIS MAP IS FOR ASSESSMENT PURPOSES. IT IS NOT VALID FOR LEGAL DESCRIPTION OR CONVEYANCE.

THE HORIZONTAL DATUM IS THE NEW HAMPSHIRE STATE PLANE COORDINATE SYSTEM.

PHOTOGRAPHY DATE: APRIL 25, 1995

COMPLETION DATE: MARCH 29, 1996

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AREA SURVEYED	Ac
AREA CALCULATED	Ac
RECORD DIMENSION	100'
SCALED DIMENSION	100'S
MATCH LINE	M.L.
WATER	W

LEGEND

EXEMPT PROPERTY

SUBDIVISION LOT NO.

ZONE UNIT

RIGHT OF WAY

COMMON OWNERSHIP

BUILDING

WETLANDS

SCALE 1" = 100'

FEET 0 100 200 300

METERS 0 25 50 75

REVISED TO: APRIL 1, 2021

PROPERTY MAPS

EXETER

NEW HAMPSHIRE

INDEX DIAGRAM

78	79	80
99	97	
100	101	102

MAP NO. **98**



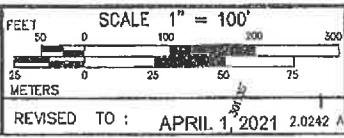
THIS MAP IS FOR ASSESSMENT PURPOSES. IT IS NOT VALID FOR LEGAL DESCRIPTION OR CONVEYANCE.
 THE HORIZONTAL DATUM IS THE NEW HAMPSHIRE STATE PLANE COORDINATE SYSTEM.
 PHOTOGRAPHY DATE: APRIL 25, 1995
 COMPLETION DATE: MARCH 29, 1996

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 603-722-4140 - WWW.CAT.COM

LEGEND

AREA SURVEYED	Ac
AREA CALCULATED	Ac
RECORD DIMENSION	100'
SCALED DIMENSION	100'S
MATCH LINE	M.L.
WATER	—W—

EXEMPT PROPERTY
 SUBDIVISION LOT NO.
 ZONE LIMIT
 RIGHT OF WAY
 DRAINAGE OWNERSHIP
 BUILDING
 WETLANDS

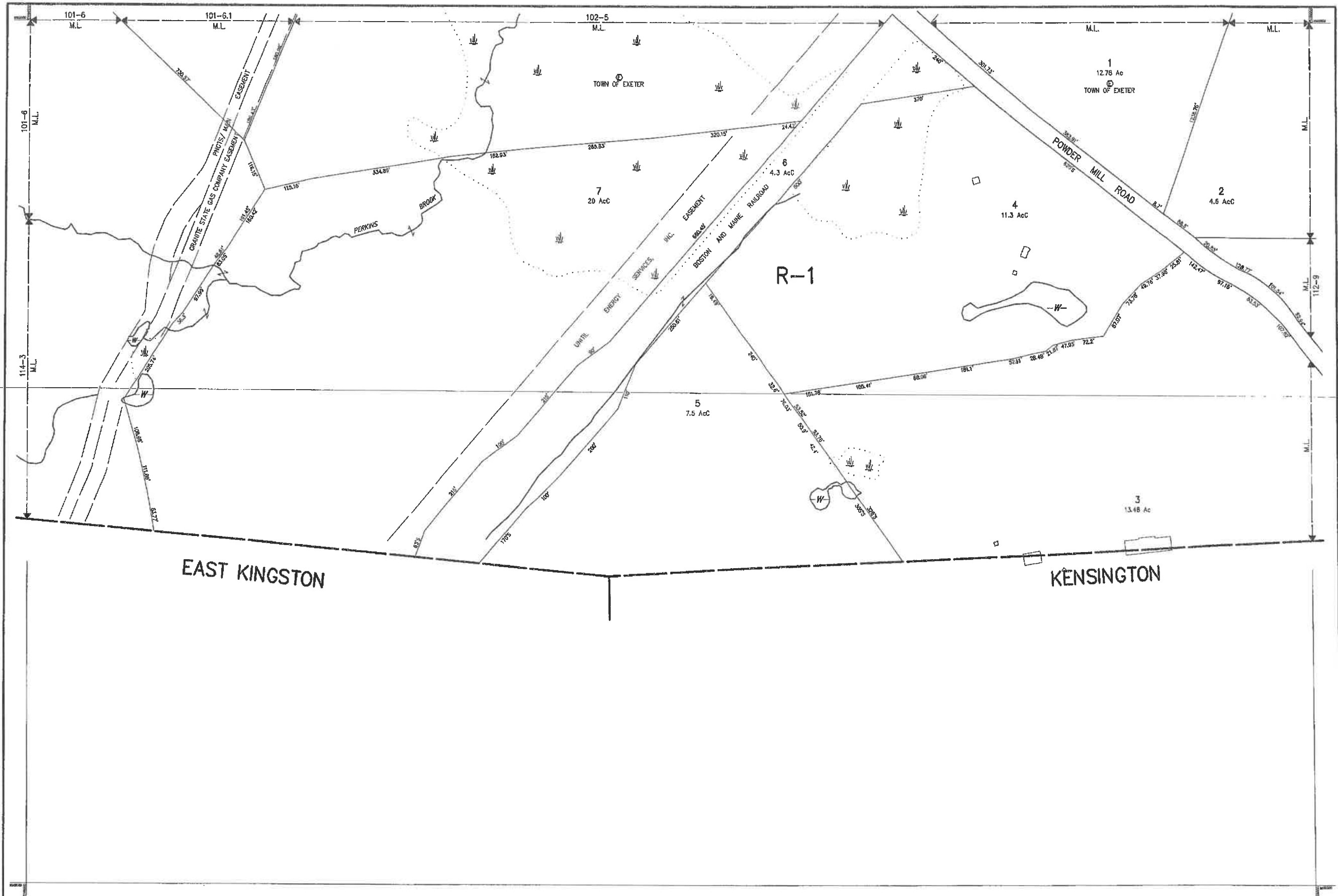


PROPERTY MAPS
EXETER
 NEW HAMPSHIRE

INDEX DIAGRAM

99	98	97
100	102	
115	114	113

MAP NO.
101



THIS MAP IS FOR ASSESSMENT PURPOSES. IT IS NOT VALID FOR LEGAL DESCRIPTION OR CONVEYANCE.
 THE HORIZONTAL DATUM IS THE NEW HAMPSHIRE STATE PLANE COORDINATE SYSTEM.
 PHOTOGRAPHY DATE: APRIL 25, 1995
 COMPLETION DATE: MARCH 29, 1996

PRODUCED IN 1999 BY
CA Technologies
 11 PLEASANT STREET, LITTLETON, NH 03561
 603.322.4540 - WWW.CA-TECH.COM

AREA SURVEYED	Ac
AREA CALCULATED	Ac
RECORD DIMENSION	100'
SCALED DIMENSION	100'S
MATCH LINE	← M.L. →	
WATER	~~~~~	

LEGEND

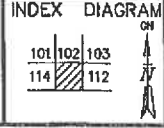
EXEMPT PROPERTY	⊙
SUBDIVISION LOT NO.	⊚
ZONE LIMIT	---
RIGHT OF WAY	==
COMMON OWNERSHIP	---
OUTLINGS	□
WETLANDS	~~~~~

SCALE 1" = 100'

FEET: 0 50 100 200 300
 METERS: 0 25 50 75

REVISED TO: APRIL 1, 2021

PROPERTY MAPS
EXETER
 NEW HAMPSHIRE



MAP NO.
113



TOWN OF EXETER, NEW HAMPSHIRE

10 FRONT STREET • EXETER, NH • 03833-3792 • (603) 778-0591 • FAX 772-4709
www.exeternh.gov

November 16, 2022

Henry H. Boyd, Jr., LLS
Millennium Engineering, Inc.
13 Hampton Road
POB 745
Exeter, New Hampshire 03833

Re: Zoning Board of Adjustment Case #22-18 - Variance Request
Richard & Debbi Schaefer, 24 Powder Mill Road, Exeter, N. H.
Tax Map Parcel #102-4


Dear Mr. Boyd:

This letter will serve as official confirmation that the Zoning Board of Adjustment, at its November 15th, 2022, voted to grant the above-captioned application for a variance from Article 5, Section 5.3.3. to permit the use of test pits for an individual sewage disposal system with less than the required 24 inches to seasonal high-water table, as presented, subject to an Enviro-Septic pipe or similar system be installed.

Please be advised that in accordance with Article 12, Section 12.4 of the Town of Exeter Zoning Ordinance entitled "Limits of Approval" that all approvals granted by the Board of Adjustment shall only be valid for a period of three (3) years from the date such approval was granted; therefore, should substantial completion of the improvements, modifications, alterations or changes in the property not occur in this period of time, this approval will expire.

If you should have any questions, please do not hesitate to contact the Building Department office at (603) 773-6112.

Sincerely,


Kevin M. Baum
Chairman
Exeter Zoning Board of Adjustment

cc: Richard and Debbi Schaefer, property owners
Douglas Eastman, Building Inspector/Code Enforcement Officer
Janet Whitten, Town Assessor

KMB: bsm

Town of Exeter
Zoning Board of Adjustment
November 15, 2022, 7 PM
Town Hall
Final Minutes

I. **Preliminaries**

Members Present: Chair Kevin Baum, Laura Davies, Martha Pennell - Alternate

Members Absent: Vice-Chair Robert Prior, Clerk Esther Olson-Murphy, Joanne Petito - Alternate, Dave Mirsky - Alternate

Call to Order: Chair Baum called the meeting to order at 7:07 PM. He asked for a moment of silence for Rick Thielbar, who passed away this week.

I. **Continuances**

A. The application of RiverWoods Company of Exeter for a variance from Article 2, Section 2.2.26, Definition of "Elderly Congregate Health Care" to permit skilled nursing care off site on related campus. The subject property is located at 7 RiverWoods Drive in the R-1, Low Density Residential zoning district. Tax Map Parcel #97-23. ZBA Case #22-15

B. The application of RiverWoods Company of Exeter for a variance from Article 2, Section 2.2.26, Definition of "Elderly Congregate Health Care Facilities" to permit skilled nursing care off site on related campus. The subject property is located at 5 Timber Lane, in the R-1, Low Density Residential zoning district. Tax Map Parcel #98-37. Case #22-16.

Ms. Davies made a motion to continue the hearing on cases #22-15 and #22-16 to December 20, 2022 at the applicant's request. Ms. Pennell seconded. The motion passed 3-0.

C. ZBA Case 22-16. The application of 107 Ponemah Road LLC for a special exception per Article 4, Section 4.2, Schedule I: Permitted Uses and Article 5, Section 5.2 to permit the conversion of the existing single-family dwelling and attached barn located at 50 Linden Street to a three-family home. The subject property is situated in a R-2, Single Family Residential zoning district. Tax Map Parcel #82-11. ZBA Case #22-17.

Ms. Davies moved to continue the hearing for case #22-17 to January 17, 2023 at the applicant's request. Ms. Pennell seconded. The motion passed 3-0.

D. The application of Jewett Construction Co., LLC (on behalf of Craig Jewett) for a special exception per Article 4, Section 4.2 Schedule I: Permitted Uses and Article 5, Section 5.2 for a change of use to permit the existing church on the property at 12 Little River Road to be used as a Montessori Early Childhood

44 Education Center. The subject property is located in the R-2, Single Family
45 Residential zoning district. Tax Map Parcel #62-90. ZBA Case #22-20.

46 Ms. Davies moved to continue the hearing for case #22-20 to December 20, 2022 at the
47 applicant's request. Ms. Pennell seconded. The motion passed 3-0.

48
49 **II. New Business**

- 50
51 A. The application of Richard and Debbi Schaefer for a variance from Article 5,
52 Section 5.3.3. to permit the use of test pits for an individual sewage disposal
53 system with less than the required 24 inches to seasonal high-water table. The
54 subject property is located at 24 Powder Mill Road, in the R-1, Low Density
55 Residential zoning district. Tax Map Parcel #102-4. ZBA Case #22-18.

56 Henry Boyd of Millennium Engineering spoke on behalf of the Schaefers,
57 who were also present.

58 Mr. Boyd said the Schaefers are trying to give their daughter a piece of
59 land to keep the family together. Their parcel is 17 acres. He presented Tax Map
60 102 and a wetland delineation sketch from the wetland scientist for the Board's
61 reference.

62 Mr. Boyd said that Exeter has an overreaching requirement for septic.
63 Normally septic needs 6 inches of existing natural soil above the high water
64 table, but Exeter requires 24 inches. This parcel has between 10 and 17 inches,
65 about 7 inches short of what's required. This requirement is not necessarily
66 scientific. We could add fill above the naturally occurring soil, which we will have
67 to do anyway to get to the 4 total feet from the seasonal water table required for
68 the septic system. This variance won't create any problems for the town or river,
69 but will provide a benefit for the applicant.

70 Mr. Baum said this project will also need a permit from NH DES. From a
71 quick read of the State regulations, do they require 2-4 feet? Mr. Boyd said when
72 you design the septic system, the State allows 2 feet from the septic to the water
73 table when using certain technologies. The standard leach field is four feet, but
74 newer technologies allow a reduction in the size and the distance from the water
75 table. The first permit required from DES is a subdivision approval, since there is
76 no sewer. We have to calculate the lot loading based on the soils. The applicants
77 would have to prove to NH that there is enough soil to support a house, before
78 they will grant the permit. Then we go to the Planning Board for approval for the
79 subdivision, then back to DES for the septic design.

80 Mr. Baum asked what type of system would be 2 feet from the water
81 table. Mr. Boyd said the applicant would likely use Enviro-Septic. We would not
82 take a reduction in the distance to the water table, but more in the size. Looking
83 at test pits, the soils here are slower. The 2 foot separation is for the septic itself.
84 In Exeter, there must be 2 feet natural soil plus the allowance to the septic, for a
85 total of 4 feet. If approved, we will design a system that will not harm the
86 environment.

87 Ms. Davies asked about the proposal for the subdivision. Mr. Boyd said
88 we haven't spent any survey money at this point, only done test pits and the
89 delineation on the tax map. There's a tree line and driveway. He pointed out on
90 the map where the house would likely be, but it depends on how much land the
91 subdivision could be. We would have to meet setbacks from the structures and
92 wetlands.

93 Mr. Schaefer presented a sketch of the proposed lot, which the Board
94 reviewed. Mr. Boyd said he would encourage the applicants to share the
95 driveway between parcels to minimize impacts, but if the State determined it was
96 acceptable, there's an area for a separate driveway.

97 Ms. Pennell said she doesn't understand why Exeter's regulations are an
98 issue. Mr. Eastman said it's been an issue before, in the same area, on Linden
99 Street. 20 years ago, the Conservation Commission wanted to subdivide a piece
100 of land to sell as a house lot, and they couldn't meet the 24 inches. They were at
101 10 inches or so. They were granted a variance. Mr. Eastman said he doesn't
102 know why it's 24 inches. There should be a relief valve when you make
103 something more restrictive than the state.

104 Mr. Baum said the technology has improved since the regulations were
105 made. Rye has similar requests frequently. State regulations have moved faster
106 than the local. Would the applicants consider the condition of using the Enviro-
107 Septic system? It will probably will have to happen regardless. Mr. Boyd said we
108 use that system 98% of the time.

109 Mr. Boyd said that one of the reasons for the difference in regulations is
110 that Exeter has sewer through most of the community, so it doesn't come up that
111 frequently. If there's no scientific or public health reason to deny it, the Board
112 should grant the variance so that the applicants can use their property.

113 Mr. Baum said the application contains the variance criteria.

114 Mr. Baum asked if any members of the public would like to speak, but
115 there was no comment. He closed public comment and the Board entered into
116 deliberations.

117 Ms. Pennell said her concern was that when there were hurricanes in
118 Florida, you heard that people should not have built where they built. The
119 applicants are asking to build where someone says they don't have enough
120 depth. Mr. Baum said it's not the State saying that, it's the town, which is more
121 restrictive. The Planning Board here probably does not revisit septic
122 requirements often. The applicant's next step is to go to DES for subdivision
123 approval and design approval, so the experts in this field will review it. The
124 applicants will also go before the Planning Board for subdivision approval. Ms.
125 Davies added that they'll look at floodplain issues during the subdivision
126 approval.

127 Mr. Eastman said regarding the 24", there are smaller lots of record
128 available in the town, as small as 1 acre. We want to make sure that on a small
129 lot there's a good drainage area. This lot will be in excess of 5 acres, so there's
130 plenty of room.

131 Ms. Davies said it sounds like there are other safeguards in place. She
132 takes environmental issues seriously, but this should be an ok area.

133 Ms. Davies made a motion to approve the application of Richard and Debbi Schaefer for
134 a variance from Article 5, Section 5.3.3. to permit the use of test pits for an individual
135 sewage disposal system with less than the required 24 inches to seasonal high-water
136 table, on the condition that an Enviro-Septic Pipe or similar system is used. Ms. Pennell
137 seconded. The motion passed 3-0.

- 138
139 B. The application of John Luke Rogers for a special exception per Article 4,
140 Section 4.2 Schedule I: Permitted Uses, Schedule I Notes 2. and Article 5,
141 Section 5.2 to permit an existing "in-law" unit to become an accessory dwelling
142 unit. The subject property is located at 29 Hampton Road, in the R-2, Single
143 Family Residential zoning district. Tax Map Parcel #87-23-3. ZBA Case #22-19.
144

145 Mr. Rogers said he and his wife Stacy live at 29 Hampton Road. In the
146 backyard is an accessory dwelling unit, which is approved as an in-law or guest
147 suite. He is applying for a special exception to authorize the space as a rental
148 property. Rental economics are dynamic right now. NH has high occupancy
149 rates. This space, which is sitting idle, could be beneficial to the town and to us.
150 This is a converted pool house, and the pool has been filled in. The proposed
151 use is to rent it out on an intermediate or long-term basis.

152 Mr. Baum asked about the driveway on the map included with the
153 application. Mr. Rogers said it's a shared drive; 29 has a driveway in front of the
154 house which is connected to the driveway for 31. The house in the back is off of
155 the shared driveway. The deed shows the right of way.

156 Ms. Davies said if they want it to become an accessory dwelling unit, the
157 owner has to occupy one of the two units. Mr. Rogers agreed. Mr. Eastman said
158 he went through all of that with the applicants. The driveway is tricky, since it's an
159 easement for a driveway on Hunter Place.

160 Ms. Pennell asked if the applicants converted this from a pool house. Mr.
161 Rogers said we only moved in a year ago, but our understanding is that there
162 was formerly a pool that has been filled in. This in-law suite was converted years
163 ago. Mr. Eastman said it was all permitted, a previous owner filled in the pool and
164 renovated the pool house into a guest house. It was part of a four-lot subdivision
165 around the year 2000.

166 Mr. Baum said it sounds like the property meets the accessory dwelling
167 unit requirements. Ms. Pennell asked if the applicant will have to file with the
168 Registry, and Mr. Eastman said the Building Department will do a Certificate of
169 Occupancy and the applicant will be required to amend his deed.

170 Mr. Baum asked if his plans would include short-term rentals. Mr. Rogers
171 said no, he spoke with Mr. Eastman and it won't be short-term.

172 Mr. Rogers went through the special exception criteria. A) The use is a
173 permitted special exception as set forth in Article 4.2, Schedule 1; yes, the R2
174 special exception includes accessory dwelling units. We plan to rent it out as an

Millennium Engineering, Inc.

P.O. Box 745
(603) 778-0528

Exeter, NH 03833
FAX (603) 772-0689

October 27, 2022

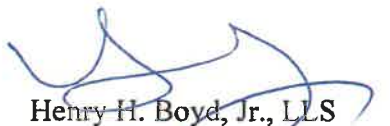
Town of Exeter
Zoning Board of Adjustment
10 Front Street
Exeter, NH 03833

Re: Request for relief from Article 5.3.3 for Map 102 Lot 4, 24 Powder Mill Road Road
Exeter, NH.

Dear Chairman:

The request is sought to allow test pits to be recognized with a depth to the estimated seasonal high water table of 24". This will allow for a family subdivision and eventual individual septic design for a new proposed dwelling.

Respectfully,



Henry H. Boyd, Jr., LLS
Millennium Engineering Inc.

Town of Exeter
APPLICATION FOR A

VARIANCE

Case Number:	_____
Date Filed:	_____
Application Fee:	\$ _____
Abutter Fees:	\$ _____
Legal Notice Fee:	\$ _____
TOTAL FEES:	\$ _____
Date Paid	_____
Check #	_____

Name of Applicant RICHARD AND DEBBI SCHAEFER
(If other than property owner, a letter of authorization will be required from property owner)

Address 24 POWDER MILL RD

Telephone Number (603) 772-8637

Property Owner _____

Location of Property 24 POWDER MILL RD
ZONE R-1 MAP 102 LOT 4

(Number, street, zone, map and lot number)

Applicant Signature _____

Date _____

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

APPLICATION FOR A VARIANCE

A variance is requested from article 5 section 3.3 of the Exeter zoning ordinance to permit:

THE USE OF TEST PITS FOR INDIVIDUAL SEWAGE DISPOSAL SYSTEM WITH LESS THAN 24" TO SEASONAL HIGH WATER TABLE.

THE PROPOSAL IS TO ALLOW DAUGHTER TO HAVE HER OWN LOT. (FAMILY SUBDIVISION) 6

FACTS SUPPORTING THIS REQUEST:

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

BECAUSE IT WILL ALLOW A GOOD AND REASONABLE
USE OF THE PROPERTY.

2. The spirit of the ordinance is observed;

BECAUSE ALL STANDARDS OF CARE WILL
BE USED TO DESIGN A SEPTIC SYSTEM
TO SATISFY NHDES.

3. Substantial justice is done;

BECAUSE IT WILL ALLOW A 2 LOT SUBDIVISION
ON A 17 ACRE PARCEL AND ALLOW FAMILY
TO STAY TOGETHER

4. The values of surrounding properties are not diminished;

THIS PROPOSAL WILL HAVE NO IMPACT
ON SURROUNDING PROPERTY VALUES.

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

BECAUSE IT WOULD DENY A VERY GOOD USE
ON A VERY LARGE PIECE OF PROPERTY

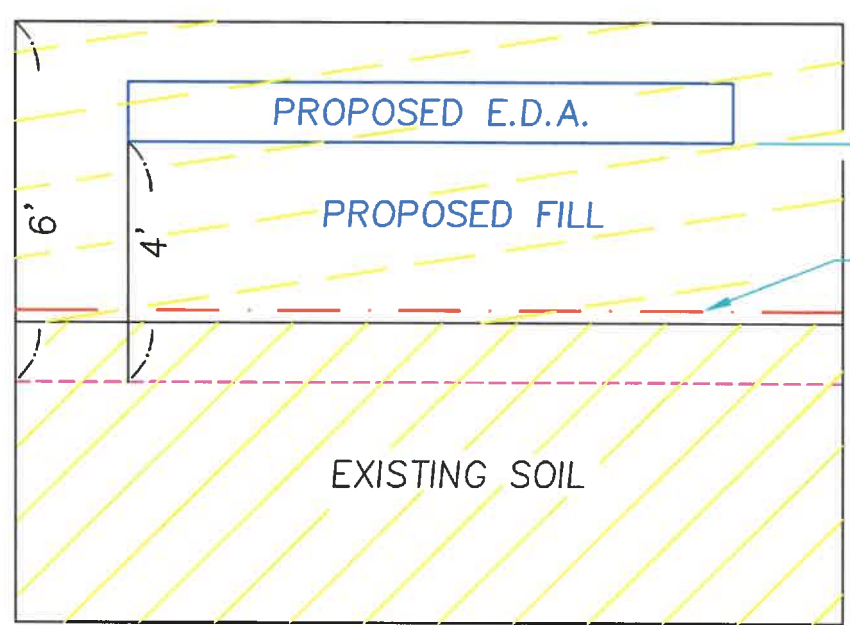
ABUTTER LABELS AND LISTS:

Abutter labels and lists must be attached to this application. Please contact the Planning Office if you have any questions.

ADDITIONAL MATERIALS:

If provided with the application, additional submission materials will be sent to the ZBA members in their monthly packet of information. Please contact the Planning Office if you have any questions regarding additional submission materials.

PROPOSED SEPTIC SYSTEM CROSS-SECTION



- PROPOSED GROUND ELEV.=39.2
- BOTTOM OF E.D.A. ELEV.=37.2
- AE ZONE B.F.E. ELEV.=34.4
- EXISTING GROUND ELEV.=34.2
- E.S.H.W.T. ELEV.=33.2

VARIANCE NOTE

SEE VARIANCE CASE #22-18 NOVEMBER 15, 2022 TO PERMIT THE USE OF TEST PITS FOR INDIVIDUAL SEPTIC DISPOSAL SYSTEM WITH LESS THAN 24" TO SEASONAL HIGH WATER TABLE. SUBJECT TO ENVIRO-SEPTIC OR SIMILAR SYSTEM TO BE INSTALLED.

BOTTOM OF EFFLUENT DISPOSAL AREA IS TO BE LOCATED 2.8' ABOVE THE BASE FLOOD ELEVATION

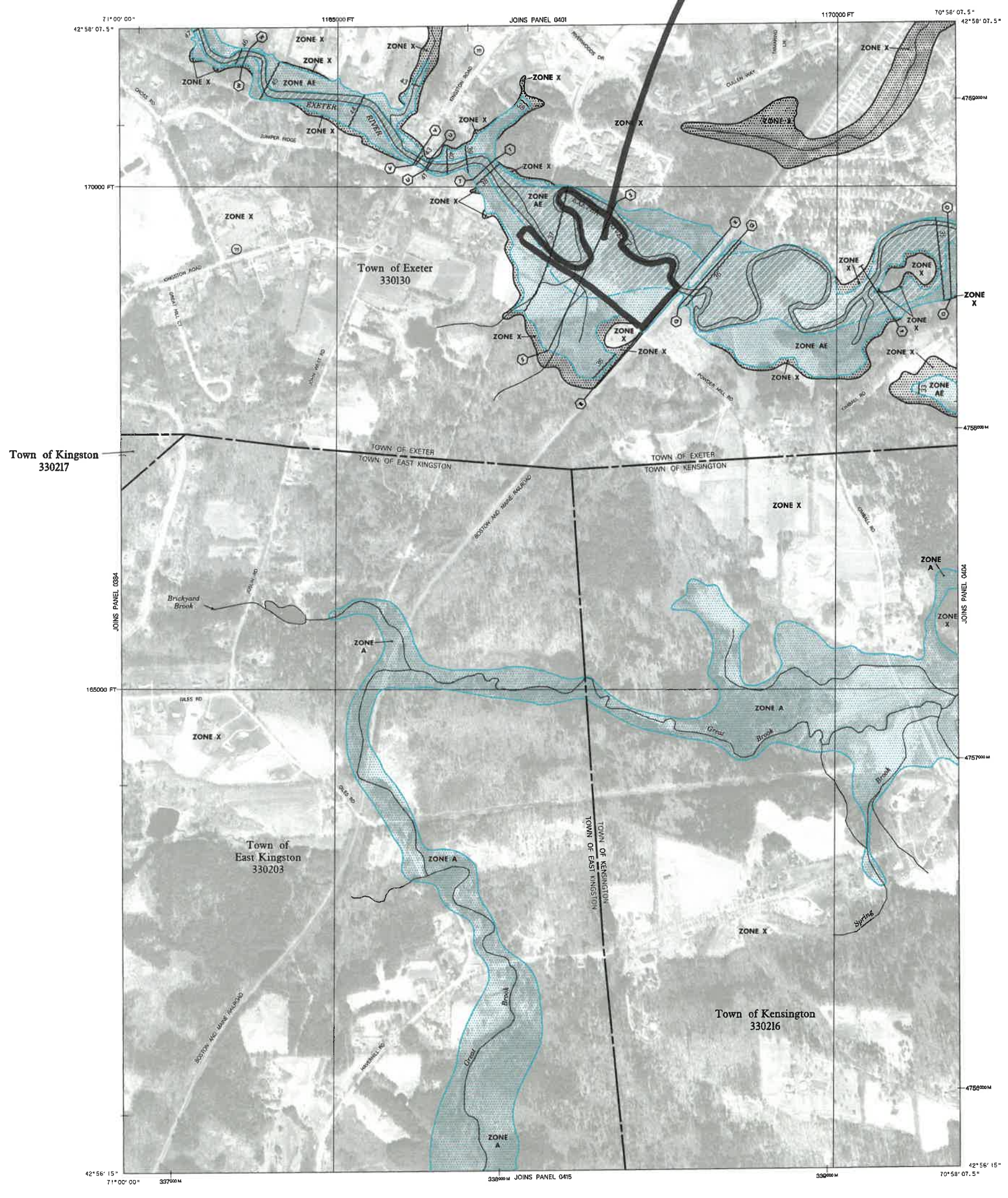
SCHAEFER FAMILY TRUST
RICHARD C. & DEBBI L. SCHAEFER TRUSTEES
24 POWDER MILL ROAD EXETER, NH 03833

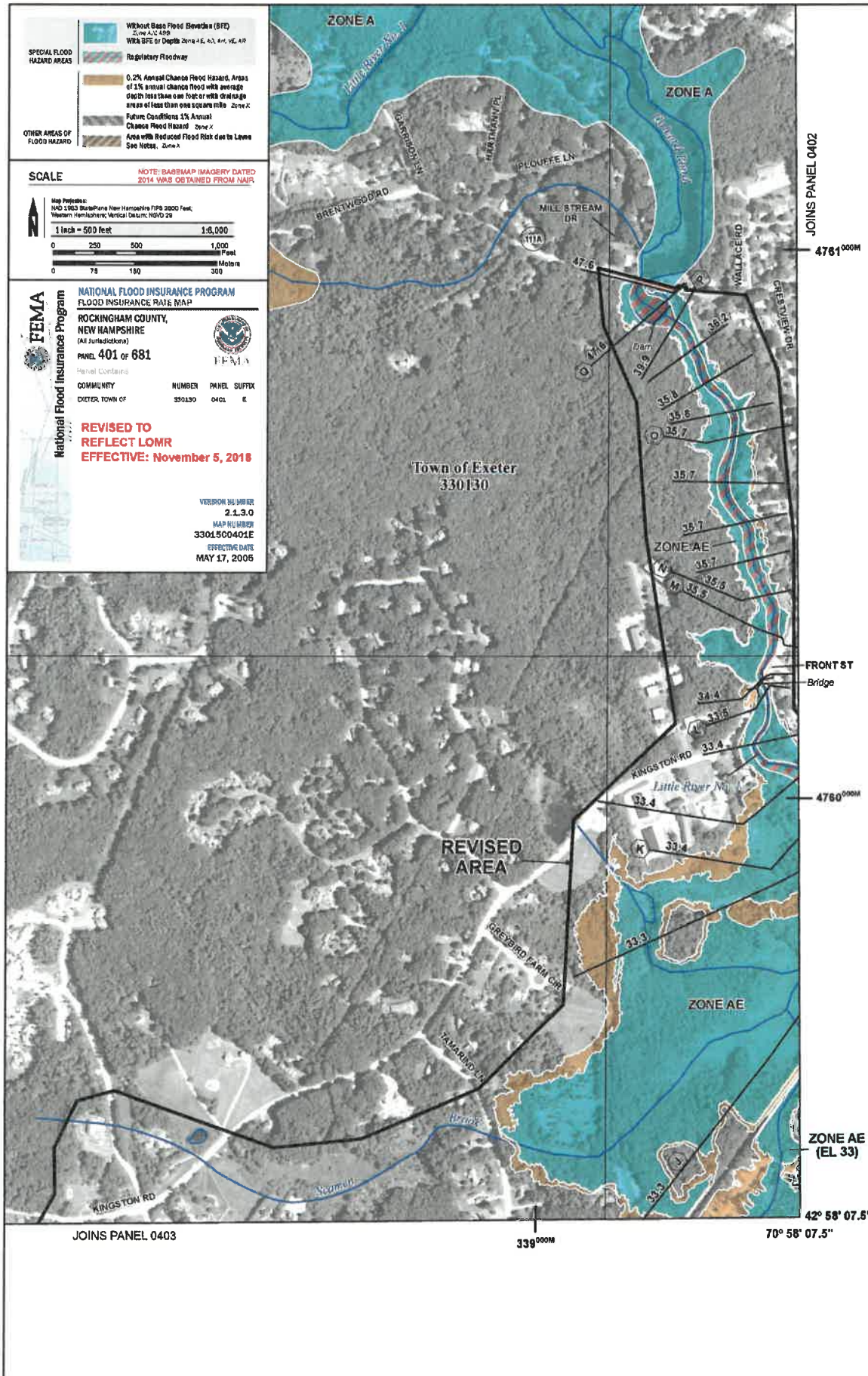
LEGEND

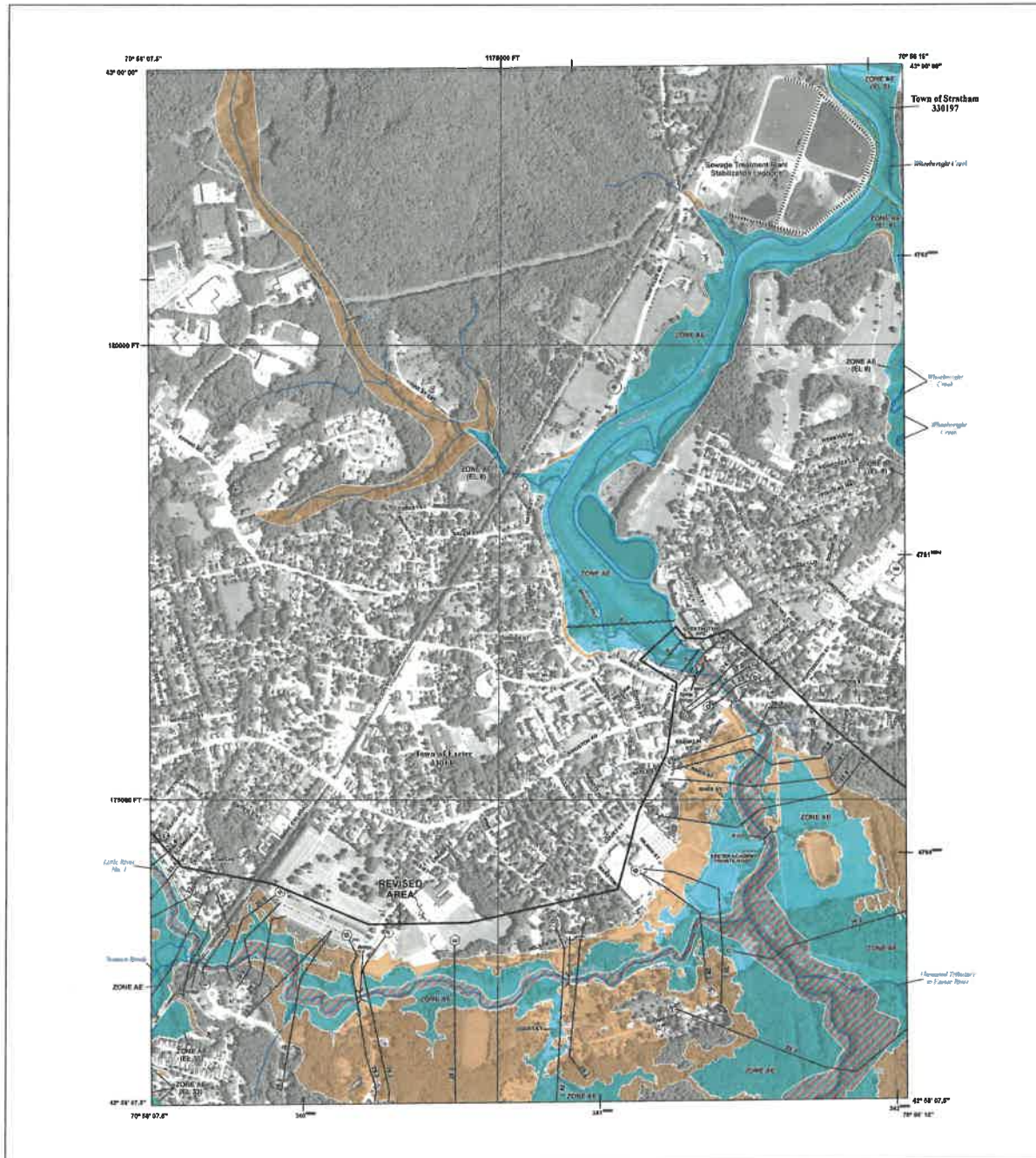
- E.D.A. EFFLUENT DISPOSAL AREA
- B.F.E. BASE FLOOD ELEVATION
- E.S.H.W.T. ESTIMATED SEASONAL HIGH WATER TABLE

MILLENNIUM ENGINEERING INC.
ENGINEERS AND LAND SURVEYORS
P.O. BOX 745 13 HAMPTON ROAD EXETER, NH 03833
PHONE: (603) 778-0528 FAX: (603) 772-0689

PROPERTY







FLOOD HAZARD INFORMATION

SEE FIRM REPORT FOR DETAILED LEGEND AND PANEL LAYOUT. THE INFORMATION DEPICTED ON THIS MAP AND SUPPORTING DOCUMENTATION ARE ALSO AVAILABLE IN DIGITAL FORMAT AT [HTTP://NISC.FEMA.GOV](http://nisc.fema.gov)

	Without Base Flood Elevation (BFE) Zone AE, A1, A2, A3, A4, A5, A6, A7, A8, A9, A10, A11, A12, A13, A14, A15, A16, A17, A18, A19, A20
	Regulatory Floodway
	0.2% Annual Chance Flood Hazard, Areas of 1% Annual Chance Flood with average depth less than one foot or with drainage areas of less than one square mile Zone V Future Conditions 1% Annual Chance Flood Hazard Zone X
	Area with Reduced Flood Risk due to Levee See Notes, Zone Z
	Area with Flood Risk due to Levee Zone D
	Area of Minimal Flood Hazard Zone X
	Area of Undetermined Flood Hazard Zone D
	Channel, Culvert, or Storm Sewer
	Levee, Dike, or Floodwall
	Cross Sections with 1% Annual Chance Water Surface Elevation
	Coastal Truncet
	Coastal Truncet Baseline
	Profile Baseline
	Hydrographic Features
	Base Flood Elevation Line (BFE)
	Limit of Study
	Jurisdiction Boundary

NOTES TO USERS

For information and questions about the Flood Insurance Rate Map (FIRM), available products, standards with the FIRM, including digital, contact the Service Center 800-368-7087. For more information, visit the FEMA Flood Insurance Rate Map website at www.fema.gov. For more information, visit the FEMA Flood Insurance Rate Map website at www.fema.gov. For more information, visit the FEMA Flood Insurance Rate Map website at www.fema.gov.

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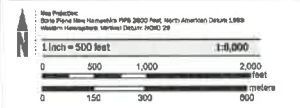
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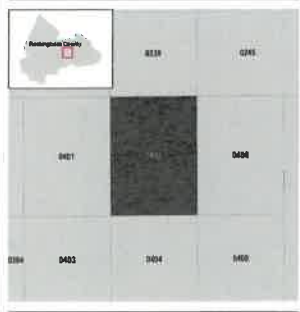
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SCALE



PANEL LOCATOR



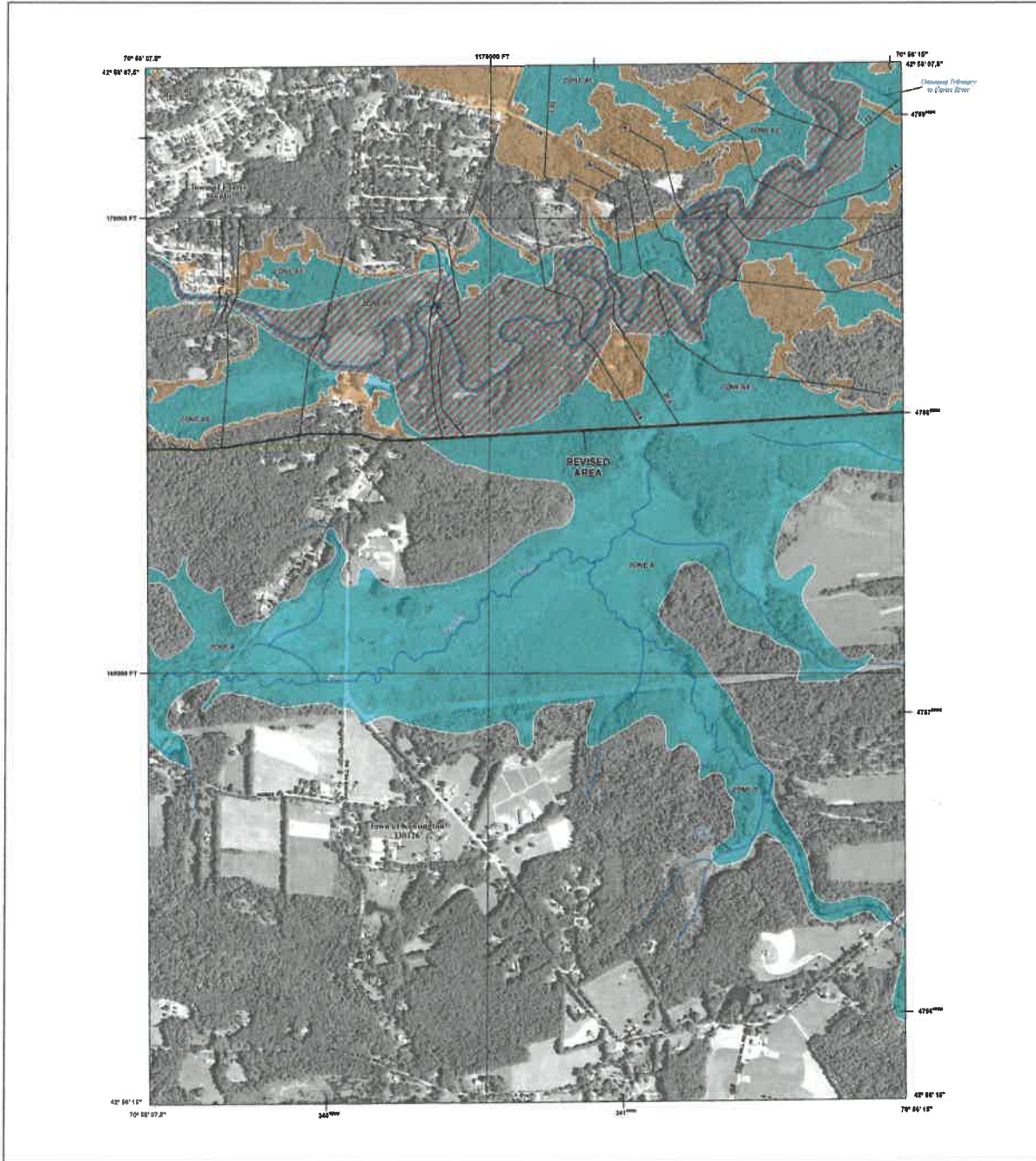
FEMA
National Flood Insurance Program

**NATIONAL FLOOD INSURANCE PROGRAM
FLOOD INSURANCE RATE MAP**
ROCKINGHAM COUNTY,
NEW HAMPSHIRE
(44 Subdivisions)
Panel 402 of 681

REVISOR TO REFLECT LOMR EFFECTIVE: November 6, 2018

COMMUNITY	NUMBER	PANEL	SUFFIX
ROCKINGHAM TOWN OF	330197	0402	C
ROCKINGHAM TOWN OF	330197	0402	C

VERSION NUMBER: 2.1.3.0
MAP NUMBER: 3301970402E
EFFECTIVE DATE: MAY 27, 2005



FLOOD HAZARD INFORMATION

SEE THE REPORT FOR DETAILED LEGEND AND SYMBOLS FOR THIS PANEL LAYOUT. THE INFORMATION DEPICTED ON THIS MAP AND SUPPORTING DOCUMENTATION ARE ALSO AVAILABLE IN DIGITAL FORMAT AT [HTTP://NBC.FEMA.GOV](http://nbc.fema.gov)

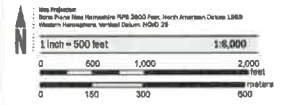
- SPECIAL FLOOD HAZARD AREAS**
 - Without Base Flood Elevation (BFE) Zone A, X, or AF
 - With BFE or Depth Zone AE, A1, A2, A3, V1, V2, AF
 - Regulatory Floodway
 - 0.2% Annual Chance Flood Hazard, Areas of 1% Annual Chance Flood with average depth less than one foot or with drainage areas of less than one square mile Zone X
 - 1% Annual Chance Flood Hazard Zone B
 - Area with Reduced Flood Risk due to Levee See Notes, Zone F
 - Area with Flood Risk due to Levee Zone D
 - Area of Minimal Flood Hazard Zone X
 - Area of Undetermined Flood Hazard Zone D
- OTHER AREAS OF FLOOD HAZARD**
- OTHER AREAS**
- GENERAL STRUCTURES**
 - Channel, Culvert, or Storm Sewer
 - Levee, Dike, or Floodwall
 - Cross Sections with 1% Annual Chance Water Surface Elevation
 - Coastal Transect
 - Coastal Transect Baseline
 - Profile Baseline
 - Hydrographic Features
 - Base Flood Elevation Line (BFE)
- OTHER FEATURES**
 - Limit of Study
 - Jurisdiction Boundary

NOTES TO USERS

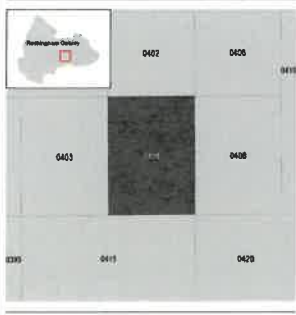
For information and symbols used on this Flood Insurance Rate Map (FIRM), consult the legend provided with the FIRM. For more information, contact the National Flood Insurance Program (NFIP) at 1-800-358-6225. For information on the NFIP, visit www.flood.gov. For information on the NFIP, visit www.flood.gov. For information on the NFIP, visit www.flood.gov.

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SCALE



PANEL LOCATOR



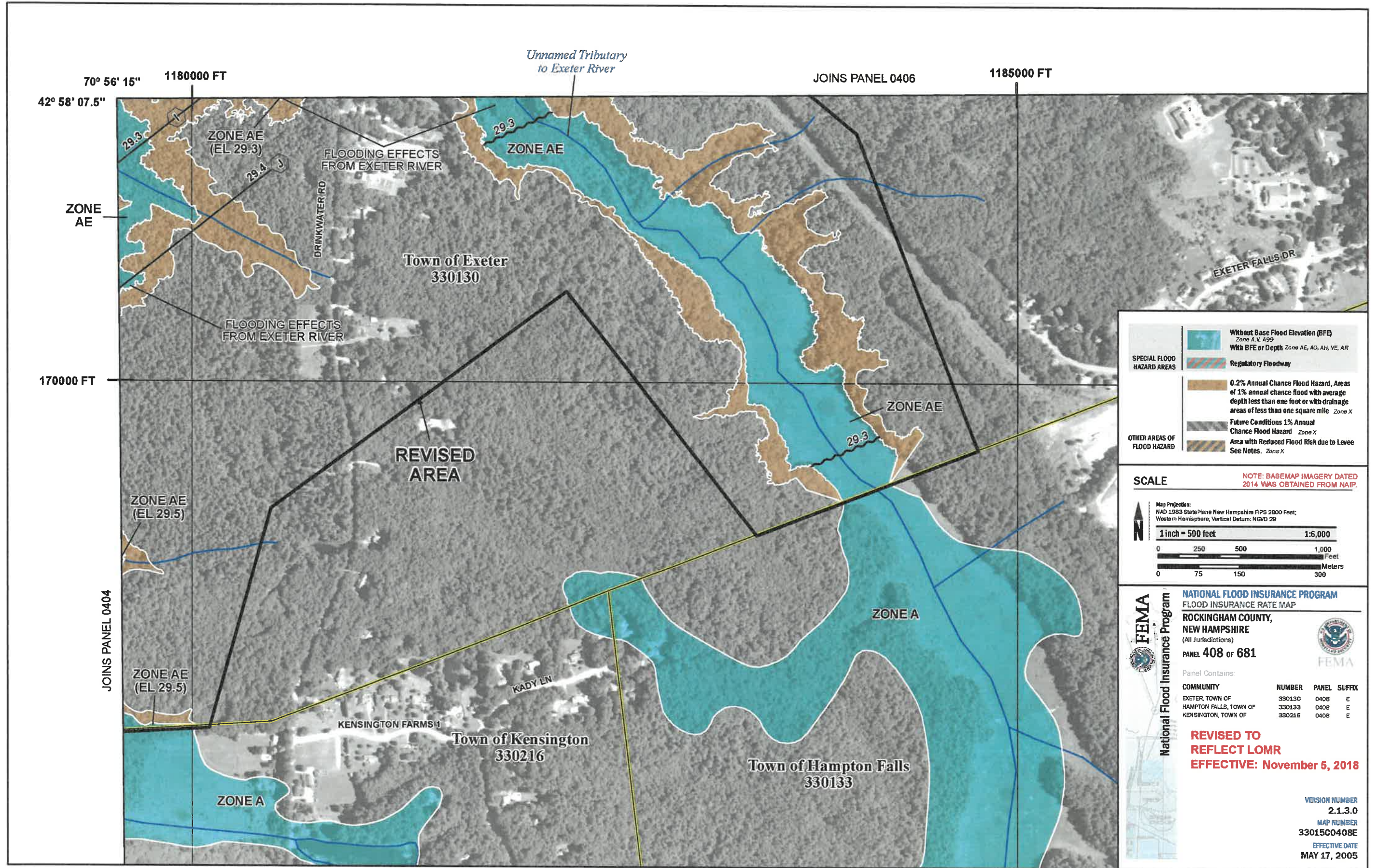
FEMA
National Flood Insurance Program

NATIONAL FLOOD INSURANCE PROGRAM FLOOD INSURANCE RATE MAP
ROCKINGHAM COUNTY, NEW HAMPSHIRE
Panel 404 of 681

REQUIRED TO REFLECT LOMR EFFECTIVE: November 6, 2018

VERSION NUMBER: 2.1.3.0
MAP NUMBER: 3301800404E
ISSUING DATE: MAY 17, 2005





**TAX MAP 102, LOT 4
24 POWDER MILL ROAD
ABUTTER LIST**

OWNER:

102/4

Richard & Debbi Schaefer, Trustees
Schaefer Family Revocable Trust
24 Powder Mill Road
Exeter, NH 03833

APPLICANT:

Christine & Doug Rupp
69 Newburyport Turnpike
Newbury, MA 01951

ABUTTERS:

102/5, 102/6, 102/3 & 113/1

Town of Exeter
10 Front Street
Exeter, NH 03833

102/7

Thomas & Renee Cregan, Trustees
Cregan Family Revocable Trust
19 Powder Mill Road
Exeter, NH 03833

113/4

Bruce & Timothy White
144 North Road
Brentwood, NH 03833

97/23

Riverwoods Company at Exeter
7 Riverwoods Drive
Exeter, NH 03833

73/47

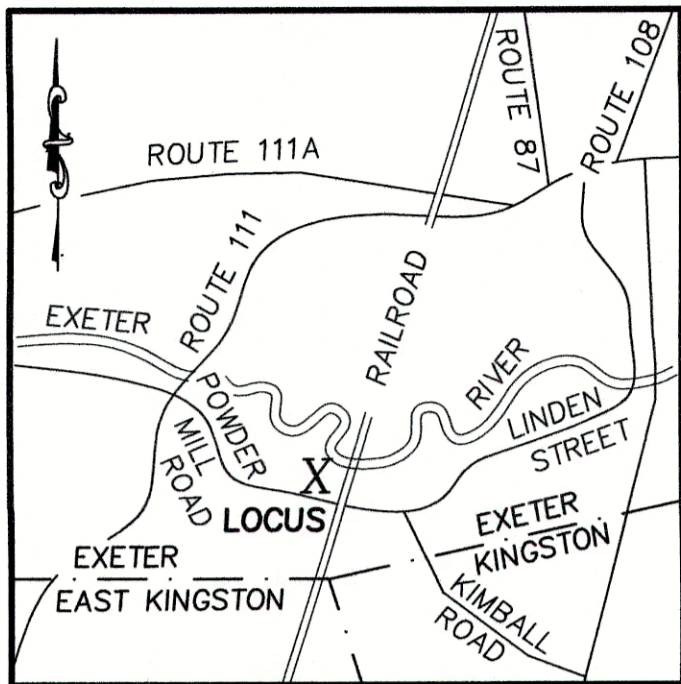
Boston & Maine Railroad
1700 Iron Horse Park
North Billerica, MA 01862

ATTORNEY:

Justin L. Pasay, Esq.
Donahue, Tucker & Ciandella, PLLC
111 Maplewood Avenue
Portsmouth, NH 03801

SURVEYOR:

Henry Boyd
Millennium Engineering
13 Hampton Road
Exeter, NH 03833



REMAINING AREA
16 ± ACRES

SEE LOMR 18-01-0144P
EFFECTIVE: 11-05-2018.

NOTES:

- 1) THIS PLAN DOES NOT SHOW ANY UNRECORDED OR UNWRITTEN EASEMENTS WHICH MAY EXIST. A REASONABLE AND DILIGENT ATTEMPT HAS BEEN MADE TO OBSERVE ANY APPARENT VISIBLE USES OF THE LAND; HOWEVER, THIS DOES NOT CONSTITUTE A GUARANTEE THAT NO SUCH EASEMENTS EXIST.
- 2) THIS PARCEL LIES PARTIALLY WITHIN AE FLOOD ZONE, 0.2% ANNUAL FLOOD CHANCE ZONE AND THE REGULATORY FLOOD WAY. SEE F.I.R.M. COMMUNITY PANEL 330135C 0403 E EFFECTIVE DATE MAY 17, 2005.
SEE LOMR 18-01-0144P EFFECTIVE: 11-05-2018.
- 3) "THE LANDOWNER IS RESPONSIBLE FOR COMPLYING WITH ALL APPLICABLE LOCAL, STATE AND FEDERAL WETLANDS REGULATIONS, INCLUDING ANY PERMITTING AND SETBACKS REQUIRED UNDER THESE REGULATIONS."
- 4) ELEVATIONS ARE BASED ON NAVD29.
- 5) PROPOSED HOME MUST BE BUILT TO PLAIN DEVELOPMENT ORDINANCE 9.4 WITHIN THE TOWN ZONING REGULATIONS.

PLAN NOTE

THE PURPOSE OF THIS PLAN IS TO SHOW THE DIVISION OF THIS PARCEL INTO 2 LOTS FOR SINGLE FAMILY RESIDENTIAL PURPOSES.

VARIANCE NOTE

SEE VARIANCE CASE #22-18 NOVEMBER 15, 2022 TO PERMIT THE USE OF TEST PITS FOR INDIVIDUAL SEPTIC DISPOSAL SYSTEM WITH LESS THAN 24" TO SEASONAL HIGH WATER TABLE. SUBJECT TO ENVIRO-SEPTIC OR SIMILAR SYSTEM TO BE INSTALLED.

TOWN OF EXETER PLANNING BOARD
CHAIRMAN _____ DATE _____

RECORD OWNERS
SCHAEFER FAMILY REV. TRUST
RICHARD C. & DEBBI L. SCHAEFER TRUSTEES
24 POWDER MILL ROAD
EXETER, NH 03833
BK. 4329 PG. 1795

21± ACRES
PER DEED

PLAN REFERENCES
D-32415 C-11567 D-10095
SEE RAILROAD VAL. PLAN V2NH/47

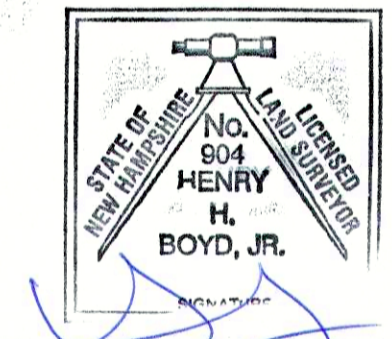
N/F
BOSTON & MAINE RAILROAD
1700 IRON HORSE PARK
NORTH BILLERICA, MA 01862

THE CERTIFICATIONS SHOWN HEREON ARE INTENDED TO MEET REGISTRY OF DEEDS REQUIREMENTS AND ARE NOT A CERTIFICATION TO TITLE OR OWNERSHIP OF PROPERTY SHOWN. OWNERS OF ADJOINING PROPERTIES ARE ACCORDING TO CURRENT TOWN/CITY ASSESSORS' RECORDS.

I CERTIFY:
THAT THIS ACTUAL SURVEY WAS MADE ON THE GROUND IN JANUARY 2023.

THAT THIS PLAN CONFORMS TO THE RULES AND REGULATIONS OF REGISTER OF DEEDS.

THAT THIS SURVEY CONFORMS TO THE REQUIREMENTS FOR ACCURACY FOR N.H. URBAN SURVEY.



03-09-2023
DATE

PLANNING BOARD CASE NUMBER 23-XX

PLAT OF LAND
IN
EXETER, NH

SHOWING
A MINOR SUBDIVISION
AT 24 POWDER MILL ROAD
(ASSESSORS MAP 102 LOT 4)

RECORD OWNER
SCHAEFER FAMILY TRUST
RICHARD C. & DEBBI L. SCHAEFER TRUSTEES
24 POWDER MILL ROAD EXETER, NH 03833

MILLENNIUM ENGINEERING INC.
ENGINEERS AND LAND SURVEYORS
P.O. BOX 745 13 HAMPTON ROAD EXETER, NH 03833
PHONE: (603) 778-0528 FAX: (603) 772-0689

WETLANDS DELINEATION BY
GOVE ENVIRONMENTAL, INC.
8 CONTINENTAL DRIVE UNIT H
EXETER, NH 03833

IN ACCORDANCE WITH THE U.S. ARMY CORPS OF ENGINEERS WETLAND DELINEATION MANUAL, TECHNICAL REPORT Y-87-1 (JANUARY, 1987); REGIONAL SUPPLEMENT TO THE CORPS OF ENGINEERS WETLAND DELINEATION MANUAL: NORTH CENTRAL AND NORTHEAST REGION (OCTOBER 2012); NEW ENGLAND HYDRIC SOILS TECHNICAL COMMITTEE'S "FIELD INDICATORS OF IDENTIFYING HYDRIC SOILS IN NEW ENGLAND," VERSION 4, 2017; CODE OF ADMINISTRATIVE RULES. NHDES WETLANDS BUREAU (CURRENT).

NO.	DATE	DESCRIPTION	BY
1	03-09-23	REVISE 4K AREA	H.H.B.
		DESCRIPTION	

SCALE: 1"=40'
DATE: FEB. 23, 2023
CALC. BY: R.S.G.
CHKD. BY: H.H.B.
PROJECT: E222977

ZONING DISTRICT

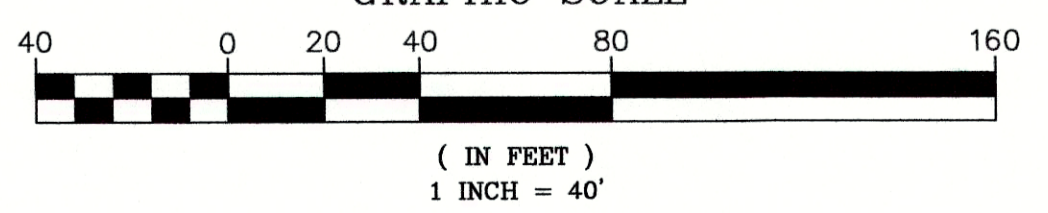
R-1 LOW DENSITY

AREA	2 ACRES
WIDTH	150'
DEPTH	150'
FRONTAGE	150'
BUILDING HEIGHT	
MAXIMUM	35'
BUILDING SETBACKS	
FRONT	25'
SIDE	15'
REAR	25'
BUILDING COVERAGE	
MAXIMUM	15%
OPEN SPACE	
MINIMUM	80%

LEGEND

- I.P. IRON PIPE
- I ROD IRON ROD FOUND
- ASSESSORS MAP AND PARCEL
- OHW OVER HEAD WIRE
- UTILITY POLE
- WETFLAG
- WETLAND

GRAPHIC SCALE



102
5

N/F
TOWN OF EXETER
10 FRONT STREET
EXETER, NH 03833

113
1

N/F
TOWN OF EXETER
10 FRONT STREET
EXETER, NH 03833
BK. 1500 PG. 0347

C-11567