



Planning
Community Development
Zoning
Conservation Commission
Historic District Commission

Planning & Development Department
City Hall - Second Floor
31 Wakefield Street
ROCHESTER, NEW HAMPSHIRE 03867-1917
(603) 335-1338 - Fax (603) 335-7585
Web Site: <http://www.rochesternh.net>

RECEIVED
APR 21 2010
Planning Dept.

12
175
11661

APPLICATION FOR A VARIANCE

TO: BOARD OF ADJUSTMENT
CITY OF ROCHESTER

DO NOT WRITE IN THIS SPACE

CASE NO. 2010-09

DATE FILED 4-21-10

C. Lewis
ZONING BOARD CLERK

Phone No (W) 516-8336

Name of applicant Leonard Street, LLC

Address 695 Second Crown Point Road, Strafford, NH 03884

Owner of property concerned Applicant and owner are the same.

(If the same as applicant, write "same")

Address Same

(If the same as applicant, write "same")

Location 2 Leonard Street

Map No. 120 Lot No. 22 Zone Partly in R-2 and partly in I-3

Description of property The property has 234 feet of road frontage along Leonard Street and is 78 feet deep. The land area equals .40 acres.

Proposed use or existing use affected The existing use is multi-family.

Dimensional Regulations, Appendix B-

The undersigned hereby requests a variance to the terms of Article 42.16 Section Table 2 and Article 42.7, Subsection (g) and asked that said terms be waived to permit the substantial renovation of an existing building, decreasing the number of units therein from 6 to 4, and the construction of a second building to contain 4 units for a total of 8 units on the lot. The new building will also require a variance to the front and rear setback requirements.

The undersigned alleges that the following circumstances exist which prevent the proper enjoyment of his land under the strict terms of the Zoning Ordinance and thus constitute grounds for a variance.

Signed Christopher C. Meyer
(Applicant)
Christopher C. Meyer

Date April 21, 2010

RECEIVED

APR 21 2010

Planning Dept.

Application for A Variance

Applicant: Leonard Street, LLC

Location: 2 Leonard Street
Tax Map 120, Lot 22

BACKGROUND STATEMENT:

The applicant is the owner of Tax Map 120, Lot 22 at 2 Leonard Street in Rochester, New Hampshire. The property has 229 feet of frontage on Leonard Street and is 76.50 feet deep. When looking at the Tax Map, it appears to be a triple lot. The property contains a six unit structure which is located in the extreme southwesterly corner of the lot.

It is proposed:

1. To substantially renovate the existing building, to remove the prior "addition" from the original building, and to reduce the number of units in that building from six to four.
2. To construct a second building at the extreme northeasterly corner of the lot which would contain four townhouse units. This building would carry similar symmetry to the original building, as remodeled. It would have a brick facing on the Leonard Street frontage side. It would be symmetrical on the lot with the existing building in terms of front and rear setbacks. The new building would be 34 feet on the Leonard Street side and be 56 feet deep. Each unit would contain two bedrooms on the second level and a third bedroom on the third level. The new building, similar to the existing building, will be 8 feet from the road, where the ordinance requires 15 feet. The building will be 14 feet from the rear, where the ordinance requires 25 feet.

The property is partly in the I-3 zone and partly in the R-2 zoning district where multi-family dwellings are permitted. The minimum lot area in the R-2 zone is 6,000 square feet where both public water and sewer are present, with an additional requirement of 6,000 square feet for each additional unit. Thus, with 8 units, the lot would have to contain 48,000 square feet. It does not currently contain 48,000 square feet. Accordingly, a variance to the density requirements is requested.

The new building would also violate the front and rear setbacks in the R-2 zone. However, the requested placement of the building was determined, in consultation with Michael Behrendt, in order to create symmetry on the lot in terms of building placement and aesthetic and architectural consistence with the brick face on Leonard Street.

APR 21 2010

Planning Dept.

In accordance with Section 42.4(a) of the zoning ordinance, the applicant proposes that this entire lot be treated as Residential-2 Zone.

The applicant has prepared a spreadsheet describing all of the multi-family buildings on Leonard Street. The information contained in this spreadsheet was taken from the tax cards for each property and from the tax map.

This spreadsheet shows the average area per unit on Leonard Street for multi-family buildings assuming 2 Leonard Street contains 6 units as present, and assuming it contains 8 units, as requested. The proposed 8 units would be consistent with the average density per unit on the street. Both are consistent with the average density on the street.

The applicant believes that it has satisfied all the criteria for variance as follows:

1. No decrease in surrounding properties would be suffered. The applicant has already greatly improved the existing structure and the existing lot. The substantial renovations to the existing building will greatly enhance that building. The new structure will create symmetry on the lot and will be aesthetically pleasing with the brick face fronting on Leonard Street. Parking and recreational space will be contained between the two buildings. Such improvements will only benefit surrounding property values.

2. Granting the variance would not be contrary to the public interest. The proposal will have no impact on public utilities or public services to be provided by the community. No new lots are being created. It will be on city water and sewer.

“A variance is contrary to the public interest or injurious to the public rights of others if it unduly, and in a marked degree conflicts with the ordinance such that it violates the ordinance’s basic zoning objectives. Because the fundamental premise of zoning laws is the segregation of land according to use, one way to ascertain whether granting a variance would violate basic zoning objectives is to examine whether it would alter the essential character of the locality, while another approach is to examine whether granting the variance would threaten the public, health, safety or welfare.” Farrar v. City of Keene, 158 NH 684, 691 (2009); Chester Rod & Gun Club v. Town of Chester, 152 NH 577, 581 (2005); Malachy Glen Associates v. Town of Chichester, 155 NH 102 (2007).

In this case, the proposal would not alter the essential character of the locality. In fact, it would be consistent with the locality and consistent with the density within the locality. The requested variance would not threaten the public health, safety or welfare.

3. The denial of the variance will result in unnecessary hardship to the owner seeking it.

APR 21 2010

RSA 674:33 was just changed so that the distinction between hardship in a use variance case and hardship in an area variance case would be required to meet the same standard. This statute now reads as follows:

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

(A) For purposes of this subparagraph, “Unnecessary hardship” means that owing to the 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.”

Density requirements and setback requirements are typically in place to prevent overcrowding. Nevertheless, Section 42.1 of your Zoning Ordinance, “Purposes and Authority”, that the zoning regulations “are made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses, with an eye to conserving the value of buildings and encouraging the most appropriate use of land throughout the municipality.” In short, the Zoning Ordinance attempts to find the best use for the property, not only for the property owner, but for the municipality. This proposal does just that. It enhances the existing building by tearing off the ugly additions and enhancing its historic brick features. It then seeks to put a second building on the property similar in size and similar in its placement on the lot to the existing building, and continuing the brick facade along Leonard Street. Courts have long recognized that aesthetics, safety, and planning concerns constitute legitimate uses for zoning ordinances. Asselin v. Town of Conway, 137 NH 368, 371, 372 (1993); Boulders at Strafford, LLC v. Town of Strafford, 153 NH 633, 642 (2006).

This property is unique. It is the largest lot on Leonard Street. It has the most frontage of any lot on Leonard Street. The property contains a unique building. The proposal is to improve that unique building and then place a second building which will be symmetrical on the lot and which will be aesthetically pleasing in the same fashion as the existing building, as remodeled. The proposal is the best use for the lot. The Zoning Ordinance seeks to promote the general health, safety and welfare of the community. This proposal does that. There is no purpose in the Zoning Ordinance which will be violated by this request.

ii. The proposed use is a reasonable one. The proposed use is not only a reasonable one; it is the best proposal for the lot, both for the applicant and the City.

APR 21 2010

Planning Dept.

4. By granting the variance substantial justice will be done. This test requires a balance of the benefit to the applicant versus the burden to the public. There will be no burden to the public. Accordingly, the benefit to the individual would exceed the burden to the public. Substantial justice will be done.

5. The use will not be contrary to the spirit and intent of the ordinance. The ordinance requires 6,000 sq. ft. per lot with an additional 6,000 sq. ft. per additional unit. The clear purpose is to avoid overcrowding. However, overcrowding will not result. Two units will be removed from the existing building. Four units will be added in a new building. There will be better spacing among the units. On the entire lot, density will be consistent with the neighborhood. Parking facilities will be provided. The lot has and will continue to have more frontage than any other lot on the street. "The requirement that the variance not be contrary to the public interest is related to the requirement that the variance be consistent with the spirit of the ordinance." Malachy Glen Associates, 155 NH @ 105. As explained in Paragraph 2 above, this proposal will not alter the essential character of the locality and it will not threaten the public health, safety or welfare. Accordingly, it will not violate the spirit and intent of the ordinance.

CONCLUSION

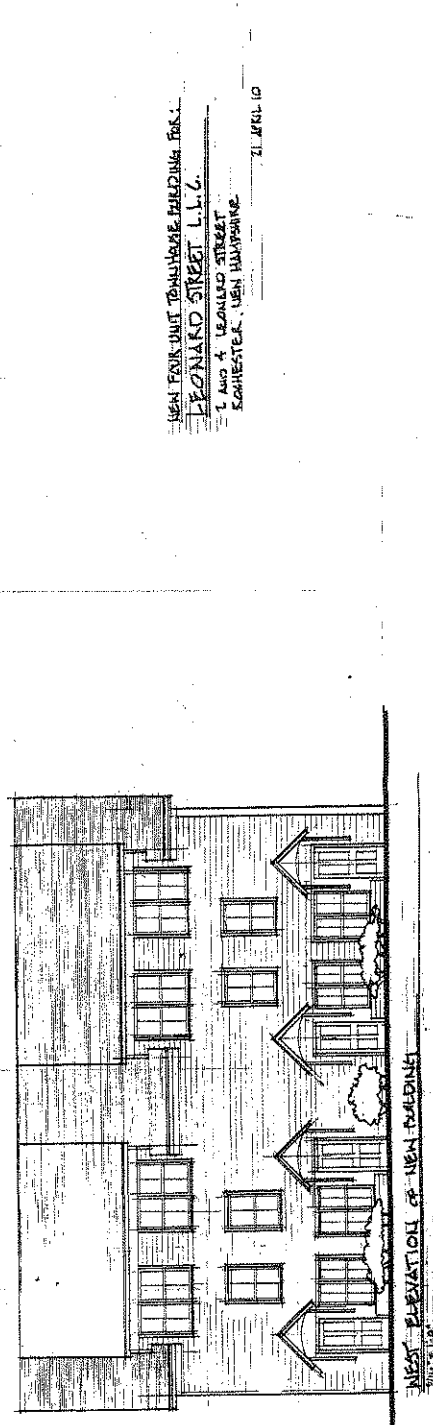
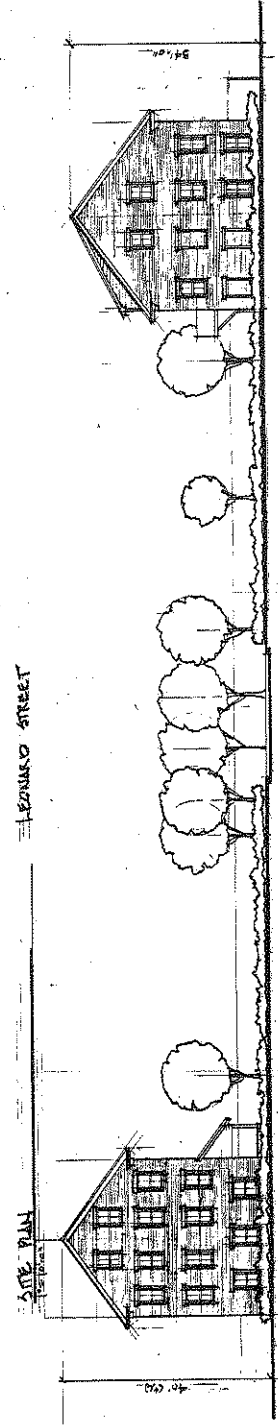
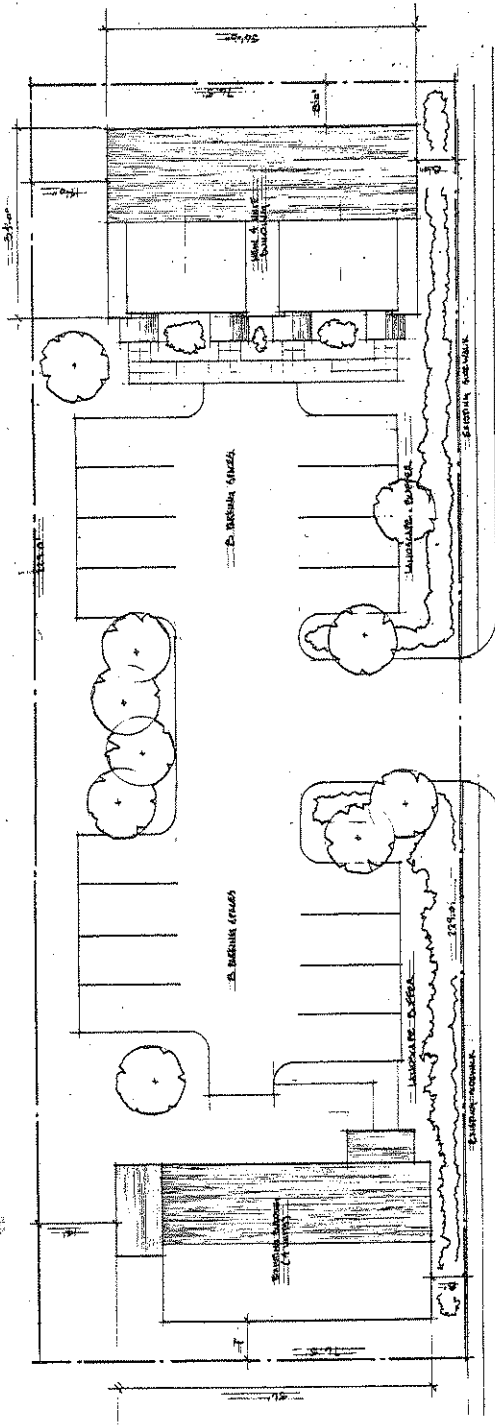
It is respectfully requested that the variances be granted.

ATTACHMENTS

Spreadsheet - Multi-family Lots on Leonard Street

Site Plans, Elevations

RECEIVED
APR 21 2010
Planning / Dev.



NEW 4 UNIT TOWNHOUSE BUILDING FOR
LEONARD STREET L.I.C.
1 AND 4 LEONARD STREET
SCHENECTEL, NEW HAMPSHIRE
21 APR 10

MALCOLM R. McNEILL, JR.
R. PETER TAYLOR*
ROBERT J. GALLO**
FRANCIS X. BRUTON, III †
WILLIAM L. TANGUAY
SIMONE D. MASSE*

OF COUNSEL

LYNNE M. DENNIS

*also admitted in Maine

**also admitted in Maine and Mass.

†also admitted in Mass.



RECEIVED

APR 21 2010

Planning Dept

Hale Schoolhouse
180 Locust Street
P.O. Box 815
Dover, NH 03821

TEL (603) 749-5535

FAX (603) 749-1187

Fay

April 21, 2010

City of Rochester
Planning & Development Dept.
31 Wakefield Street
Rochester, NH 03867-1917

Re: Leonard Street, LLC
Tax Map 120, Lot 22

Dear Sir/Madam:

Enclosed please find the following:

1. Original and nine copies of Application for a Variance together with attachments on behalf of Leonard Street, LLC.
2. Ten copies of plan entitled "New Four Unit Town House Building for Leonard Street, LLC, 2 and 4 Leonard Street, Rochester, New Hampshire" dated April 21, 2010. A colored version of the plan will be provided at a later date.
3. Check for the filing fee in the amount of \$175.00.

We would appreciate this matter being placed on the agenda for the May 12, 2010 meeting. If you need any additional information, please don't hesitate to call.

Yours truly,

William L. Tanguay

WLT:fsl

Enclosures

cc: Leonard Street, LLC

RECEIVED

APR 21 2010

Planning Dept.

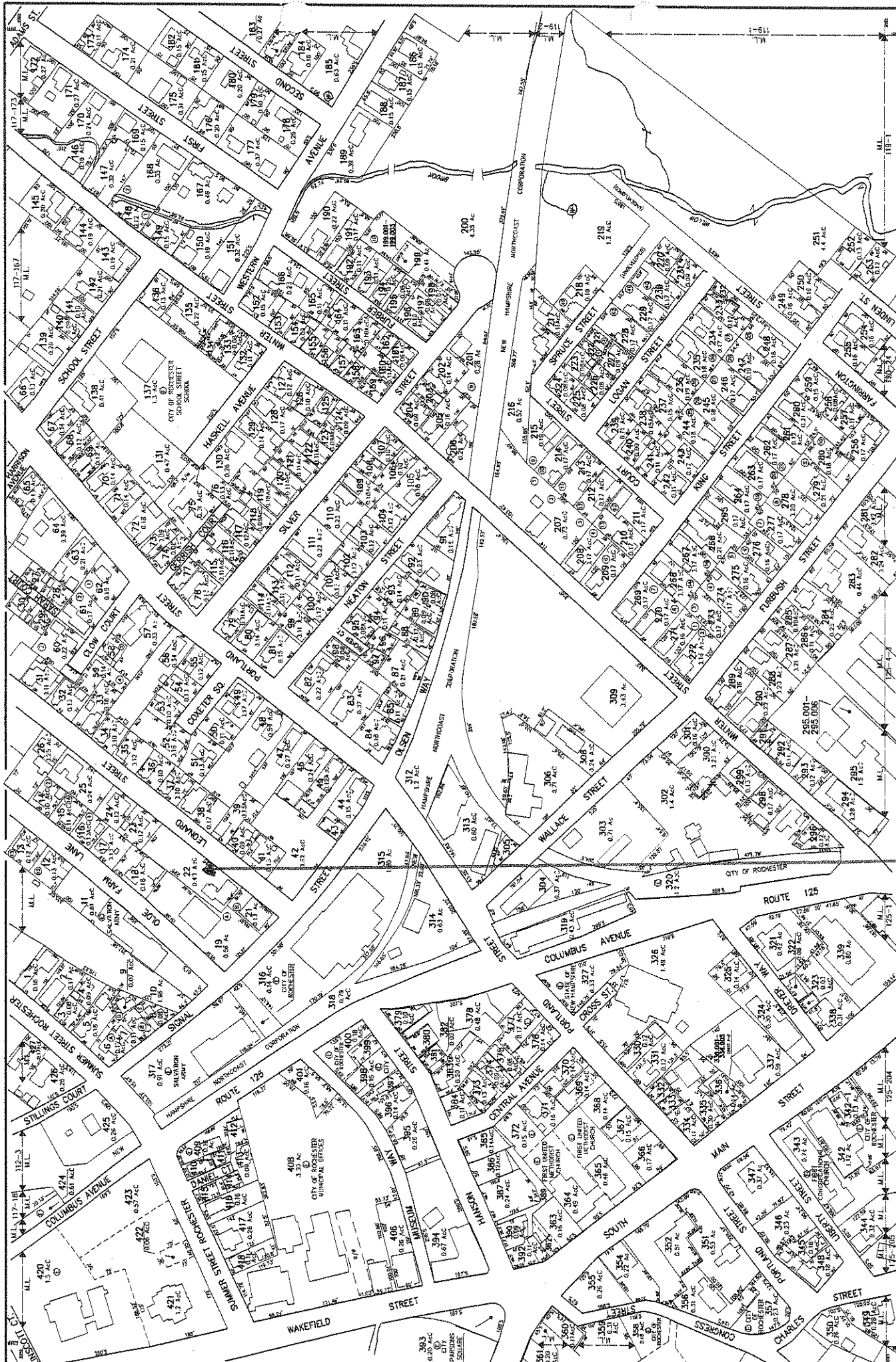
MULTI-FAMILY LOTS ON LEONARD STREET

<u>Tax Map & Lot</u>	<u>Address</u>	<u>Property Use</u>	<u>Frontage (Tax Map)</u>	<u>Land Area (acres)</u>	<u>Land Area (per unit)</u>	<u>Total Units</u>
117-94	40 Leonard St.	2-Family	100	0.170	0.085	2
117-95	42 Leonard St.	4-8 Apts	116	0.210	0.053	4
117-105	35 Leonard St.	2-Family	50	0.090	0.045	2
117-103	41 Leonard St.	2-Family	55	0.100	0.050	2
120-22	2 Leonard St.	4-8 Apts	229	0.400	0.067	6
120-24	16 Leonard St.	3-Family	70	0.12	0.040	3
120-25	24 Leonard St.	2-Family	140	0.240	0.120	2
120-40	3 Leonard St.	3-Family	50	0.090	0.030	3
120-38	11 Leonard St.	2-Family	100	0.170	0.085	2
120-32	27 Leonard St.	2-Family	75	0.130	0.065	2
120-31	31 Leonard St.	3-Family	80	0.110	0.037	3
			Average Frontage	Average lot size	Average per unit	
			96.82	0.166	0.061	

If 2 additional units are added to Leonard Street, the Table would read as follows:

MULTI-FAMILY LOTS ON LEONARD STREET

<u>Tax Map & Lot</u>	<u>Address</u>	<u>Property Use</u>	<u>Frontage (Tax Map)</u>	<u>Land Area (acres)</u>	<u>Land Area (per unit)</u>	<u>Total Units</u>
117-94	40 Leonard St.	2-Family	100	0.170	0.085	2
117-95	42 Leonard St.	4-8 Apts	116	0.210	0.053	4
117-105	35 Leonard St.	2-Family	50	0.090	0.045	2
117-103	41 Leonard St.	2-Family	55	0.100	0.050	2
120-22	2 Leonard St.	4-8 Apts	229	0.400	0.050	8
120-24	16 Leonard St.	3-Family	70	0.12	0.040	3
120-25	24 Leonard St.	2-Family	140	0.240	0.120	2
120-40	3 Leonard St.	3-Family	50	0.090	0.030	3
120-38	11 Leonard St.	2-Family	100	0.170	0.085	2
120-32	27 Leonard St.	2-Family	75	0.130	0.065	2
120-31	31 Leonard St.	3-Family	80	0.110	0.037	3
			Average Frontage	Average lot size	Average per unit	
			96.82	0.166	0.060	



INDEX DIAGRAM

MAP NO. 120

PROPERTY MAPS

ROCHESTER

NEW HAMPSHIRE

SCALE 1" = 100'

LEGEND

AREA SURVEYED

AREA EXCLUDED

BOUNDARY

RIGHT OF WAY

ROAD CENTERLINE

MAJOR HIGHWAY

MAJOR

PRODUCED IN 1992 BY

CARTOGRAPHIC ASSOC. INC.

PROFESSIONAL CONSULTANTS

11 BEASANT STREET, LITTLETON, NEW HAMPSHIRE 03045

(603)444-5768 - FAX (603)444-1366

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 28, 1990

COMPLETION DATE: JUNE 20, 1992

City of Rochester, NH
Abutter List
Please Print or Type

RECEIVED

APR 21 2010

Applicant: Leonard Street, LLC Phone (W) (603) 516-9336 *Planning Dept*

Mailing Address: 695 Second Crown Point Road City Strafford State NH Zip 03884

Project Address: 2 Leonard Street

(1) List the name and address of each owner whose lot adjoins or is directly across the street or body of water from the Project Lot.

(2) Note: It is the APPLICANT'S RESPONSIBILITY to insure that all legal abutters are notified. This form may not be completed more than five (5) days prior to the application deadline.

Map	Lot	Owner of Project	Mailing Address
120	22	Leonard Street, LLC	695 Second Crown Point Road Strafford, NH 03884

Legal Abutters to Project Lot:

Map	Lot	Owner Name	Mailing Address
120	0019	Colbath, H William & Carol R	323 8 th St Lake Village, Nokomis, FL 34275
120	0018	Labbe Development, Inc.	4 Albert Street, Somersworth, NH 03878
120	0021	Thibaudeau, Daniel & Louise R. Revocable Living Trust	P. O. Box 6333, Rochester, NH 03868-6333
120	0023	Goodman, Martin	14 Leonard Street, Rochester, NH 03867-2323
120	0041	Desmarais, Donna L.	1 Leonard Street, Rochester, NH 03867-2324
120	0040	Carter, Roger C.	P.O. Box 1892, Dover, NH 03821-1892
120	0039	McKay, Jacqueline C.	7 Leonard Street, Rochester, NH 03867-2324
120	0038	Shin, Susie	89 Cambridge Way, Piedmont, CA 94611
120	0037	Bird, Howard K. & Jane L.	P. O. Box 18, West Nottingham, NH 03291-0018

Holders of Conservation/Preservation Easements:

Easement Holder Name Mailing Address

--	--

I, the undersigned, acknowledge that it is the responsibility of the applicant or his/her agent to fill out this form and mail certified notices to all legal abutters and holders of conservation/preservation easements in a complete, accurate, and timely manner. In accordance with the directions above and applicable law, I understand that any error or omission could affect the validity of any approval. I certify that the names and address listed on this form were obtained from the City of Rochester, NH Assessors UNIVERS Database on 04/16/10, and this is page 1 of 1.

DATE

Applicant or Agent: _____

Christopher C. Meyer