



Planning & Zoning  
Community Development  
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: [www.rochesternh.net](http://www.rochesternh.net)

### NOTICE OF PUBLIC HEARING

Dear Abutter:

You are hereby notified of a **Public Hearing** to be held at **7:00 p.m.** on **Wednesday, October 12, 2011** in the City Hall Council Chambers concerning the following:

**2011-24** Application by James J. Nyberg Revocable Trust for a variance under Article 42.9 (b)(9) of the City's Zoning Ordinance to allow parking calculations to be based on the number of professionals rather than gross square footage of the building, allowing 8 spaces rather than 14.

**Location:** 120 Washington Street (Rte 202)  
Map 123 Lot 65 Business 1 Zone

You are welcome to attend the public hearing and comment on the proposal. You can also submit comments by letter, fax, or email ([caroline.lewis@rochesternh.net](mailto:caroline.lewis@rochesternh.net)). The project application is available for review by the public in the Planning Department, or you can view the entire application on the City's website – [www.rochesternh.net](http://www.rochesternh.net). Click on *Boards & Commissions*, then *Zoning Board of Adjustment*, then *Zoning Board Projects*. Look under the map and lot number shown above.

Please feel free to contact this department with any questions or if you have any disability requiring special provisions for your participation.

**Office Hours are between 8:00 a.m. to 5:00 p.m. Monday through Friday.**

  
Caroline Lewis, Zoning Secretary  
cc: file



PLANNING, DEVELOPMENT AND ZONING DEPARTMENT

City Hall - Second Floor  
31 Wakefield Street  
ROCHESTER, NH 03867-1917  
(603) 335-1338

RECEIVED

SEP 21 2011

Planning Dept.

City Planning  
Community Development  
Economic Development  
Zoning Development

APPLICATION FOR VARIANCE  
TO: BOARD OF ADJUSTMENT  
CITY OF ROCHESTER

DO NOT WRITE IN THIS SPACE

CASE NO. \_\_\_\_\_

DATE FILED \_\_\_\_\_

Phone No. (603) 867-3232

ZONING BOARD CLERK

Name of Applicant James J. Nyberg Revocable Trust

Address P.O. Box 115, Dover, NH 03821-0115

Owner of property concerned Bernard Hanscom  
(if same as applicant write "same")

Address 120 Washington Street; Rochester, NH 03867  
(if same as applicant write "same")

Location of property intersection of Washington St. and Brock St.

Map No. 123 Lot No. 65 Zone B-1

Description of property 80' +/- 100' +/- 91' +/-  
(give length of frontage, side lines rear lines)

Proposed use or existing use affected Medical office (orthodontist)

The undersigned hereby requests a variance to the terms of Article 42.9 Section (b)(7)

And asks that said terms be waived to permit Parking calculation based on the number of professionals rather than gross square footage of the building (8 spaces required vs. 14 per bldg. sf.). Current ordinance requires the use of the greater number.

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 constitutes grounds for a variance The scope of the proposed use, i.e., small orthodontist office with only one doctor, does not require the larger amount of spaces; also, the lot is way too small to provide that many spaces.

Signed \_\_\_\_\_

(As Agent for the Applicant)

# CRITERION FOR VARIANCE

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Planning Dept.

CASE #

DATE

A variance is request by James J. Nyberg Revocable Trust

from Section 42.9

subsection (b)(7)

of the Zoning Ordinance to permit: number of parking spaces per the number of professionals rather than the size of the building.

at 120 Washington Street

Map 123

Lot 65

Zone B-1

Facts supporting this request:

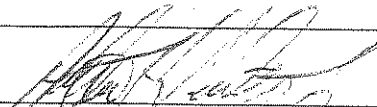
1.) The proposed use would not diminish surrounding property values because: This lot is located in a commercial zone with other parking lots for office and retail use.

2.) Granting the variance would be of benefit to the public interest because: It will allow the property to be used in a manner which is consistent with the zoning designation without being burden by paved parking that is not needed for the proper operation of the business.

3.) Denial of the variance would result in unnecessary hardship to the owner because of the following special circumstances that distinguish it from other properties similarly zoned: The property is zoned B-1 but the small size of the lot and building severely limits its commercial viability. Eight (8) spaces is more than adequate for the proposed use.

4.) Granting the variance would do substantial justice because: The ordinance obviously links square footage of the building to the potential for more professionals. In this instance, that is not the case, i.e., the building size has no relevance to the number of orthodontists who will conduct business there.

5.) The use is not contrary to the spirit of the ordinance because: The ordinance obviously reflects the fact that the number of doctors has a bearing on the number of parking spaces needed. Also, the larger the building, one would usually expect there to be more professionals, but that is not the case in this instance.

  
(As Agent for the Applicant)

9/21/11

Date

**NORWAY PLAINS ASSOCIATES, INC.**  
SURVEYORS - ENGINEERS - TRANSPORTATION PLANNERS

31 Mooney Street  
Alton, New Hampshire 03809  
Alton Office (603) 875-3948  
E-MAIL: [anickless@norwayplains.com](mailto:anickless@norwayplains.com)  
WEB: [www.norwayplains.com](http://www.norwayplains.com)

2 Continental Boulevard (03867) P. O. Box 249  
Rochester, New Hampshire 03866-0249  
Telephone (603) 335-3948  
NH (800) 479-3948  
Fax (603) 332-0098

September 21, 2011

Mr. Ralph Torr, Chair  
Zoning Board of Adjustment  
Planning, Development & Zoning  
31 Wakefield Street  
Rochester, NH 03867

RECEIVED  
SEP 21 2011  
Planning Dept.

Re: **Parking Variance - James J. Nyberg Rev. Trust - Map 123, Lot 65 - Brock St./Washington St.**

Dear Ralph:

On behalf of the above referenced applicant, we hereby submit application and supporting data for a variance to the terms of Article 42.9 (b)(7). Specifically, we request that the terms of said section be waived to allow the parking spaces required to reflect the number of professionals keeping office rather than the gross floor area of the building.

The subject tract is located at the southerly intersection of Washington Street and Brock Street and is zoned Business-1. The property is currently owned by Bernard Hanscom and contains a single-family home. The ZBA recently approved a variance for this lot to allow construction of a parking lot that encroached into the 50-foot wetland buffer to accommodate the renovation of the building into an orthodontist's office..

Once we obtained survey data and the applicant began looking at the interior of the building, it became obvious that the area of the office would have to be greater than the 800 s.f. originally contemplated. The number of professionals keeping office there, however, will not change. Unfortunately, the zoning ordinance requires either 1 space per professional plus 1 space per employee (8 spaces), or 1 space for every 10,000 s.f. of gross floor area ( $15,300 \text{ s.f.} / 10,000 = 15 \text{ spaces}$ ), whichever is greater. In this case, the area of the building bears no relationship to the number of professionals keeping office there, so to provide for more than 8 spaces would be overkill to say the least. It is also worth noting that if this were a real estate office or an engineering office, only 8 spaces would be required at 1 space/200 s.f..

We look forward to discussing this matter with the ZBA and thank you for your consideration.

Sincerely,

NORWAY PLAINS ASSOCIATES, INC.

By: \_\_\_\_\_

Arthur H. Nickless, Jr. PLS, President

cc: James Nyberg Rev. Trust



**ABUTTER LIST**

City of Rochester, NH  
Please Print or Type

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SEP 21 2011

Planning Dept.

Applicant: James J. Nyberg Revocable Trust Phone 867-3232

Project Address: 120 Washington Street

List the names and addresses of all parties below. For abutting lot owners, list each owner whose lot adjoins or is directly across the street or a body of water from the subject property. This form may not be completed more than five (5) days prior to the application deadline.

**LEGAL OWNER OF SUBJECT LOT**

Map	Lot	Owner Name	Mailing Address
123	65	Bernard Hanscom	120 Washington St.; Rochester, NH 03867

Map	Lot	Applicant Name	Mailing Address
123	65	James J. Nyberg Revocable Trust	P.O. Box 115; Dover, NH 03821-0115

**ABUTTING LOT OWNERS**

Map	Lot	Owner Name	Mailing Address
123	51	Carroll R. & Sandra C. Jacobs	870 Ossipee Lake Rd; Freedom, NH 03836
123	66	Greendeck, LLC	P.O. Box 422; Strafford, NH 03884
123	78	White Caps Acquisition LLC	15 Seal Cove Rd.; Hingham, MA 02043
123	86	Brent G. McKinney	3 Woodlawn Road; Rochester, NH 03867

**PROFESSIONALS AND EASEMENT HOLDERS.** Engineers, Surveyors, Soil Scientists, and Architects whose seal appears or will appear on the plans (other than any agent submitting this application); holders of conservation, preservation, or agricultural easements; and upstream dam owners/NHDES.

Name of Professional or Easement Holder	Mailing Address
Norway Plains Associates, Inc.	P.O. Box 249; Rochester, NH 03866-0249

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 abutters and other parties in a complete, accurate, and timely manner, in accordance with applicable law. I understand that any error or omission could affect the validity of any approval. The names and address listed on this form were obtained from the City of Rochester, Patriot

Database on this date: 9/21/11 This is page 1 of 1 pages.

Applicant or Agent:  