



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

NOTICE OF PUBLIC HEARING

Dear Abutter:

You are hereby notified of a **Public Hearing** to be held at **7:00 p.m.** on **Wednesday, July 14, 2010** in the City Hall Council Chambers concerning the following:


2010-19 - Application by Berry Surveying & Engineering for Liu's Garden for a variance under Article 42.09 Table 2 Section (B)(7) of the City's Zoning Ordinance to allow twelve (12) parking spaces where nineteen (19) are required.

Location: 84 Hancock Street
Tax Map 128, Lot 219, Business 2 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). 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. 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



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APPLICATION FOR A VARIANCE

TO: BOARD OF ADJUSTMENT
CITY OF ROCHESTER

DO NOT WRITE IN THIS SPACE

CASE NO. _____

DATE FILED _____

ZONING BOARD CLERK

Phone No 332-2863 (BERRY SURVEYING AGENT)

Name of applicant PHILIP LIU OWNER OF "LIU'S GARDEN"

Address 183 CHARLES STREET, ROCHESTER, NH 03867

Owner of property concerned ROCK FOSSIL & DINOSAUR SHOP INC.
(If the same as applicant, write "same")

Address 246 GREENFIELD, MA 01301
(If the same as applicant, write "same")

Location 84 HANCOCK STREET, ROCHESTER, NH

Map No. 128 Lot No. 219 Zone B2

Description of property ± 2500 SF STRUCTURE HISTORICALLY USED FOR SALES.

Proposed use or existing use affected PROP. 5,130 SF RESTAURANT (CHINESE)
1,220 SF KITCHEN / 1,301 SF SEATING / SALES / 1,301 SF STORAGE / 1301 SF OFFICE.

The undersigned hereby requests a variance to the terms of Article 42.09 Section B(7)
and asked that said terms be waived to permit A CHINESE RESTAURANT W/ 12 SPACES
WHERE 19 ARE REQUIRED BY 42.09 - B(7)

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 [Signature] (AGENT FOR)
(Applicant)

Date 6-23-2010
RECEIVED
JUN 28 2010

Planning Dept.

CRITERION FOR VARIANCE

Case # _____

Date: _____

A Variance is requested by BERRY SURVEYING (FOR) PHILIP HUI
from Section 42.09 - B(7) Subsection B(7)
of the Zoning Ordinance to permit: A CHINESE RESTAURANT W/ 12 SPACES
WHERE 19 ARE REQUIRED BY ZONING
at 84 HANCOCK ST. Map 128 Lot 219 Zone B2

Facts supporting this request:

1) The proposed use would not diminish surrounding property values because:

SEE PROVIDED

2) Granting the variance is not contrary to the public interest because: _____

SEE PROVIDED

3.) Denial of the variance would result in unnecessary hardship to the owner because of the following special circumstances of the property: _____

SEE PROVIDED

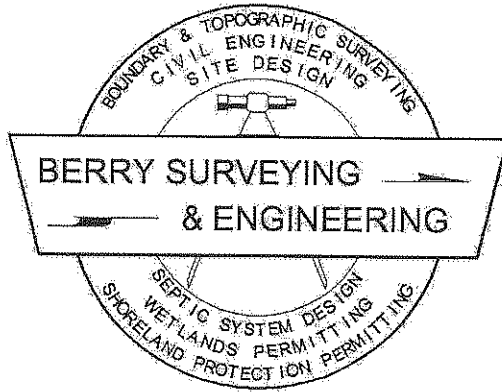
4.) Granting the variance would do substantial justice because: _____

SEE PROVIDED

5.) The use is not contrary to the spirit of the ordinance because: _____

SEE PROVIDED

Name CHRISTOPHER P. BERRY Date: 6-23-2010



June 23, 2010

City of Rochester Zoning Board of Adjustment
Attn: Planning Department
31 Wakefield Street
Rochester, NH 03867

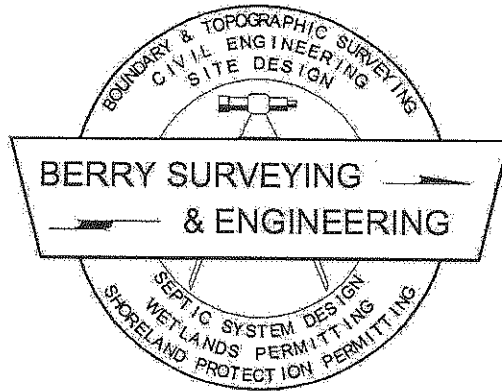
Re: Liu's Garden
Request for a Parking Variance
84 Hancock Street
Rochester, NH

Chair person and members of the City of Rochester Zoning Board of Adjustment:

On behalf of Phillip Liu, the owner of a local Chinese restaurant "Liu's Garden," Berry Surveying & Engineering has prepared an application for a parking variance at 84 Hancock Street, and is shown on the tax maps as Map 128, Lot 219. The current owner of the parcel is Rock Fossil & Dinosaur Shop Inc. Berry Surveying & Engineering is representing the applicant Phillip Liu, who has a Purchase and Sales agreement with the current owner for the purchase of the property, subject to obtaining the proper permitting to relocate the existing Liu's Garden to this location. The current location is on the corner of Charles Street and Wilson Street.

The applicant proposes to utilize the existing steel building for cooking and cold storage, and rebuild the existing wood frame structure (to the front of the site) closer to the Northerly boundary line. The shape and size will be approximately as shown on the enclosed plan. There is a second floor proposed, and a full foundation. The first floor will be used for sales, pick up orders and a small amount of seating. This area is comprised of about thirteen hundred and one square feet (1,301 Sq.Ft.). The second floor will be used for a small amount of storage, and an office area for the owner of the business and his store manager. This area is also comprised of about thirteen hundred and one square feet (1,301 Sq.Ft.). The basement will be used for storage and is comprised of about thirteen hundred and one square feet (1,301 Sq.Ft.). The steel building is constructed on a slab, and is comprised of about twelve hundred and twenty six square feet (1,226) Sq.Ft.

For the purpose of this application, the parking regulations for a Fast Food Establishment were used to calculate the total number of spaces required for this use. The owner of the restaurant is down sizing the amount of internal seating which will be available for dining in, and is encouraging pick up and delivery sales. Berry Surveying & Engineering feels that this strictly qualifies the business as a Fast Food Restaurant. Due to the number of seats being unknown at this time in the planning process we have calculated the number of spaces required by the total square footage, adding in the maximum number of employees on site to include the delivery driver. Strict conformance with the rules would yield the following:



1 Space per 500 Sq.Ft. of building area:

- Total square footage (5,130 Sq.Ft.) / 500 Sq.Ft. = 10.26 Spaces (11 Spaces)

1 Space per employee

- 8 employees (including delivery and owner) x 1 = 8 Spaces

The total number of required spaces per this formula would be 19.

The rationale for fewer spaces is directly related to the use of the total space divided by 500 square foot factor. One of the reasons the applicant is removing and rebuilding the wood frame structure with two additional floor levels is to add area for storage. This is in an effort to reduce the number of delivery trips coming and going from the site during the week. If the storage was reduced for the sole purpose of compliance, the amount of business produced by the building would stay constant but would require more delivery vehicle trips per week.

In addition, the office space on the second floor of the wood structure is proposed to house the business / managerial aspects of the daily restaurant operation. The personnel involved in this area which is being used in the total square footage calculation, is already being accounted for in the employee count.

The nature of the business creates a very high turnover of vehicles during the busy hours. This creates a parking demand which is less than a standard fast food restaurant

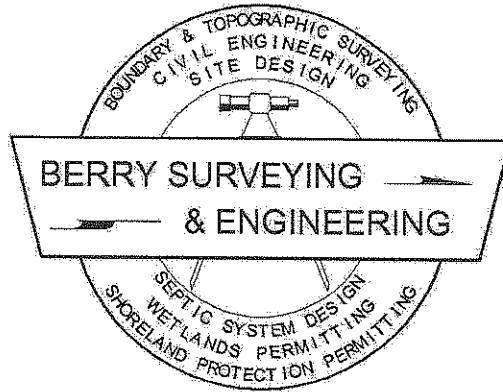
The number of employees is proposed to be a total of 8 during the maximum shift. This includes:

- The owner (who works part time)
- The store manager
- 1 Delivery person
- 1 Front desk person
- 4 Cooks.

The operations of this business employ individuals which are transported to this site by the store manager, which reduces the number of parking spaces required from 8 to 4.

Lastly, this business currently operates in a very similar fashion in its current location. In its current location, parking is very limited and can cause confusion on Wilson Street. The relocation of this business will create a far superior parking situation for the area as a whole, as well as for the business itself.

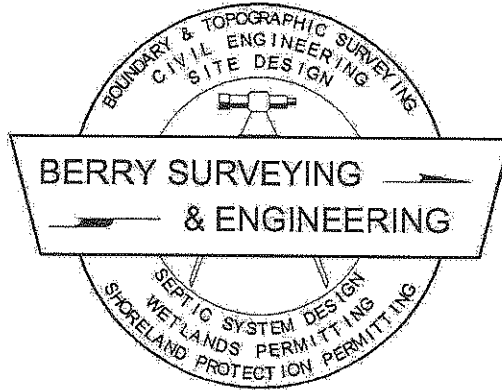
On the enclosed "Concept Site Plan" we have provided 12 parking spaces, with 22' drive isles, proper loading zone, and general refuse disposal area. Please note that this is a concept and more detailed survey information will be provided as part of a Major Site Plan review by the Rochester Planning Board.



Criteria:

The following are the criteria requested by the application process and our response to each below:

1. *"The proposed use would not diminish surrounding property values because:"*
 - a. All surrounding property is commercial in nature. The proposed use is allowed within this zone, and the reduction in the number of parking spaces does not create any additional burden on surrounding commercial properties. Proper screening and other site related details will be provided through the Major Site Review process.
2. *"Granting the variance is not contrary to the public interest because:"*
 - a. The public interest in the instance of parking is to ensure that there is enough off street parking to reasonably run the business for which it is intended. Given the nature of this business, as described above, we feel the number of spaces required by ordinance is much more than is required to reasonably run the business, and therefore is not contrary to the public interest. Additionally, the business will be relocated from a location which provides much less parking, and during heavy business hours creates confusion on Wilson Street. The relocation of this business would eliminate this existing problem, which lies within the same general area enhancing the public's benefit and interest.
3. *"Denial of the variance would result in unnecessary hardship to the owner because of the following special circumstances of the property:"*
 - a. Denial of the variance would force the owner of the business to remain in the existing situation which, as described, has certain pitfalls associated with running an effective business, and not allow the existing land owner to sell to a willing buyer which has a specific appropriate use for the area.
 - b. This area of the city has grown from a point where there were primarily residential uses, to a point where it affords a moderate amount of commercial use and development to the area and general populous. At the time the lots were created, commercial uses were not considered, so there exists amplitudes of smaller lots throughout the Hancock Street corridor. These smaller lots do not lend themselves to national commercial tenants, due to the size restrictions, therefore smaller niche market users need to be found to fill the spaces. These users, as in this case, do not always demand the same requirements as are required by zoning due to the nature of the day to day operation of the specific business. The denial of this application could have a crippling effect on the land owner's ability to either sell the property or utilize it in any other way.
4. *"Granting the variance would do substantial justice because:"*
 - a. The granting of the variance would allow the proposed user a more adequate place to carry on business in the City of Rochester, and would allow the current land owner to own / sell a parcel of land which could be used and enjoyed for small commercial purposes.




5. *"The use is not contrary to the spirit of the ordinance because:"*

- a. The ordinance tries to capture as many general uses at the time of its production, and does not take into account certain idiosyncratic traits that exist in smaller commercial users. However, the general purpose of the ordinance is to ensure that there is an appropriate amount of parking for every use. In this instance, the number of parking spaces provided is based on a certain small users need with that users business management taken into consideration, and therefore we feel the parking provided is appropriate and meets the spirit if the ordinance.

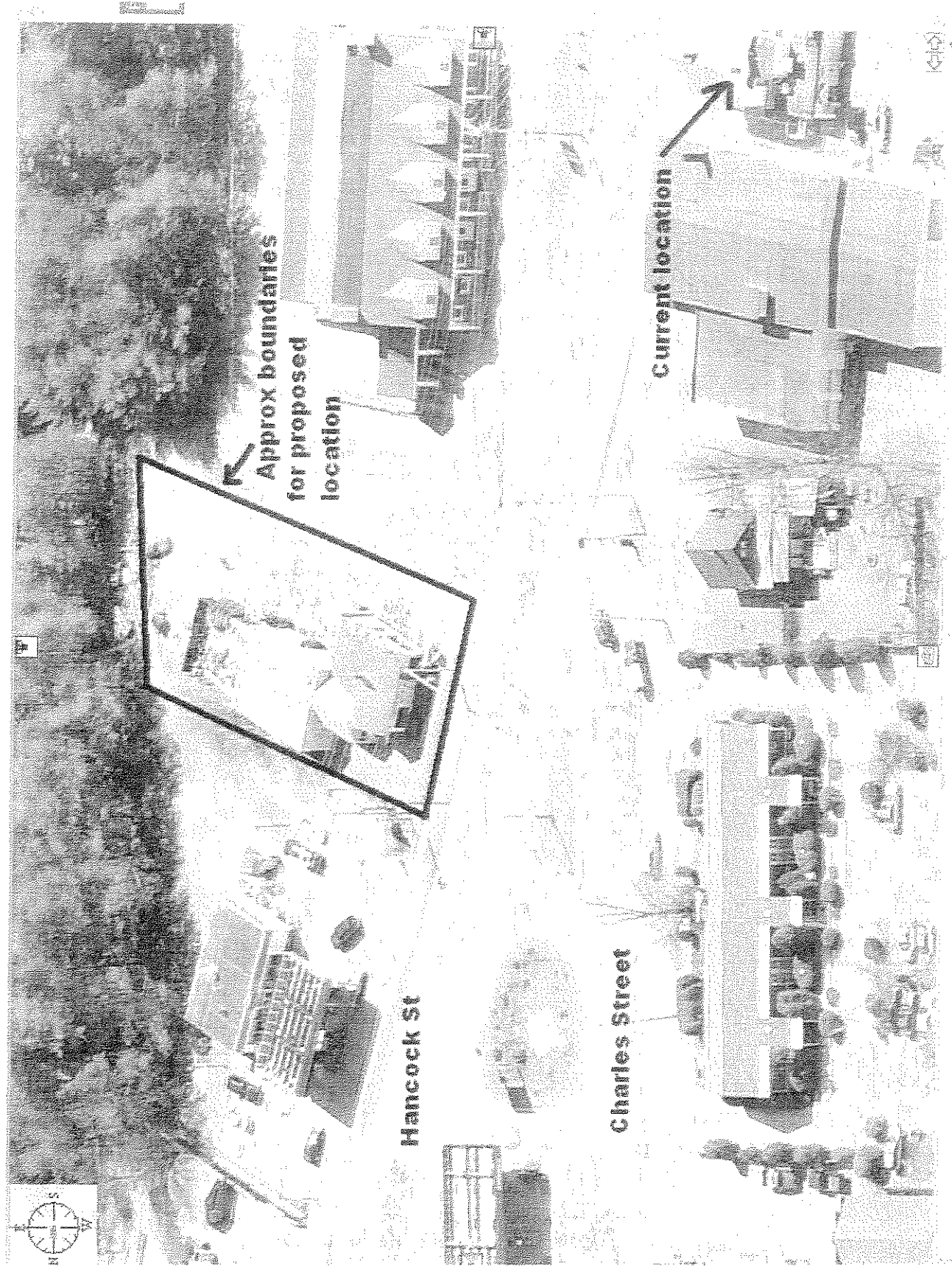
Please note that there are other considerations we are forced to face through the Major Site Plan Process, to include; Drainage, General Civil Design, Lighting, Landscaping, and Traffic. We will be working with a traffic engineer to aid us in the safest approach to this design.

In conclusion, we feel that given the proposed use of the structure, and the nature of the business management that the provided 12 parking spaces is adequate.

Respectfully Submitted
Berry Surveying & Engineering

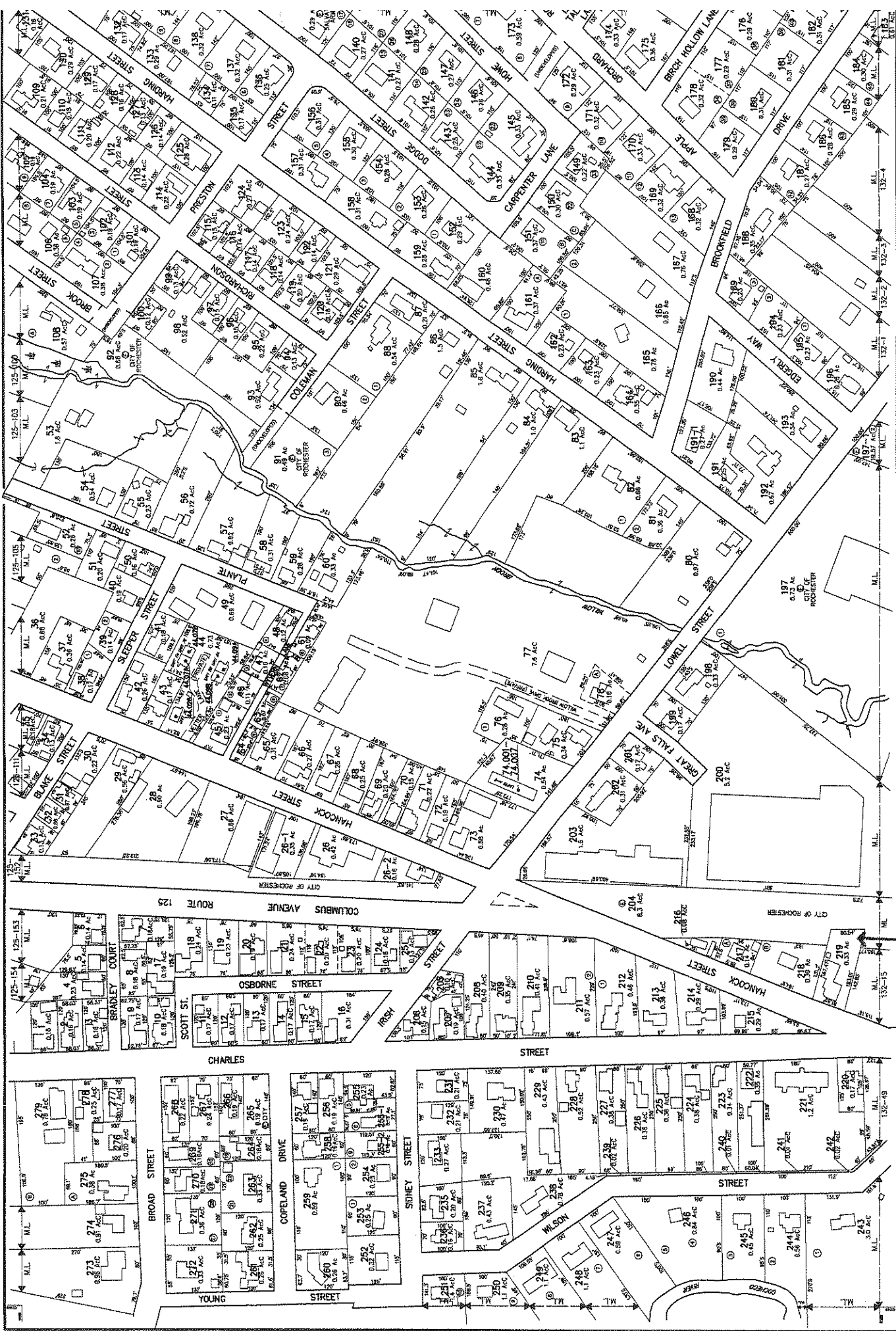


Christopher R. Berry Principal
SIT 567 ~ Engineering Tech
Project Manager



2010-19

7/7/2010 12:34 PM



INDEX DIAGRAM MAP 12

PROPERTY MAPS

ROCHESTER

NEW HAMPSHIRE

SCALE 1" = 100'

REVISION TO: APRIL 1, 2010

LEGEND

AREA SURVEYED

AREA EXCLUDED

RECORD DIVISION

WATER

WETLANDS

PRODUCED IN 1992 BY

CARTOGRAPHIC ASSOC. INC.

PROFESSIONAL CONSULTANTS

MUNICIPALITY OF ROCHESTER - NEW HAMPSHIRE

PHOTOGRAPHY DATE: APRIL 28, 1990

COMPLETION DATE: JUNE 30, 1992

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

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

Unofficial Property Record Card - Rochester, NH

General Property Data

Parcel ID	0128-0219-0000	Account Number	27474
Prior Parcel ID	--		
Property Owner	ROCK FOSSIL & DINOSAUR SHOP INC	Property Location	84 HANCOCK ST
Mailing Address	248 SILVER ST	Property Use	RETAIL/SVC
		Most Recent Sale Date	7/30/2003
City	GREENFIELD	Legal Reference	2816-205
		Grantor	BOURQUE JOHN A.
Mailing State	MA		
Zip	01301	Sale Price	180,000
Parcel/Zoning	B2	Land Area	0.330 acres

Current Property Assessment

Card # Value	Building Value	113,300	Yard Items Value	5,600	Land Value	96,000	Total Value	214,900
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Building Description

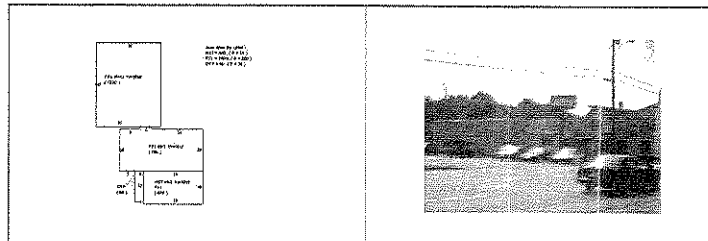
Building Style	RETAIL	Foundation Type	CONCRETE	Flooring Type	AVERAGE
# of Living Units	1	Frame Type	WOOD	Basement Floor	N/A
Year Built	1910	Roof Structure	GABLE	Heating Type	FORCED H/W
Building Grade	AVERAGE	Roof Cover	AVERAGE	Heating Fuel	GAS
Building Condition	Average	Siding	FRAME	Air Conditioning	0%
Finished Area (SF)	2658	Interior Walls	AVERAGE	# of Bsm't Garages	0
Number Rooms	0	# of Bedrooms	0	# of Full Baths	0
# of 3/4 Baths	0	# of 1/2 Baths	1	# of Other Fixtures	0

Legal Description

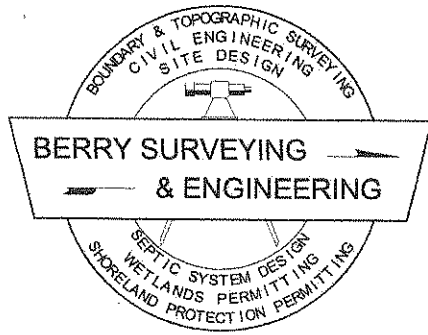
Narrative Description of Property

This property contains 0.330 acres of land mainly classified as RETAIL/SVC with a(n) RETAIL style building, built about 1910, having FRAME exterior and AVERAGE roof cover, with 1 unit(s), 0 room(s), 0 bedroom(s), 0 bath(s), 1 half bath(s).

Property Images



Disclaimer: This information is believed to be correct but is subject to change and is not warranted.



BERRY SURVEYING & ENGINEERING

148 Second Crown Point Road

Barrington, NH 03825

Phone: (603) 332-2863

Fax: (603) 335-4623

www.BerrySurveying.Com

June 17, 2010

Abutters List

Proposed Site Plan:

Wai Lap Liu
67 Briarbrook St.
Milton, MA 02186
617-818-5988

Owner of Record

SCRD Book / Page

Name & Address

Tax Map 128, Lot 219

2818-205

Rock Fossil & Dinosaur Shop
246 Silver Street
Greenfield, MA 01301

Abutters

Tax Map 128, Lot 220

1051-101

Walter & Diane Dumont
171 Charles Street
Rochester, NH 03867

Tax Map 128, Lot 221

1138-185

Jane Forrest
165 Charles Street
Rochester, NH 03867

Tax Map 128, Lot 215

1083-634

Aranco Realty, Inc.
557 N State Street
Concord, NH 03301

Tax Map 128, Lot 204

3503-891

City of Rochester
31 Wakefield Street
Rochester, NH 03867

Tax Map 128, Lot 218

1262-21

Leemilts Petroleum, Inc.
c/o Getty Petro. Marketing
1500 Hempstead Turnpike
East Meadow, NY 11554

Tax Map 132, Lot 15

3723-464

Abiquiu, LLC
14 Alder Way
Portsmouth, NH 03801

Professionals

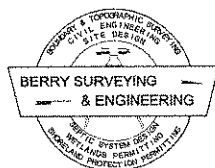
Licensed Land Surveyor

Kenneth A. Berry, LLS
Berry Surveying & Engineering
148 Second Crown Point Road
Barrington, NH 03885

Very Truly Yours,
BERRY SURVEYING & ENGINEERING

Kenneth A. Berry, LLS
Principal – Operations Manager

KBerry@BerrySurveying.Com
Cell: (603) 978-0358



BERRY SURVEYING & ENGINEERING
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ZONING BOARD CASE COMMENT SHEET

Case # 2010-19

Department of Planning & Development
Director Comments

What is historic demand for parking
for this use?

Signed

Keth L. dt

Date

7/7/10

City Manager Comments

None

Signed

[Signature]

Date

7-8-10



City of Rochester, New Hampshire

DEPARTMENT OF CODE ENFORCEMENT
31 Wakefield Street • Rochester, NH 03867
(603) 332-3508 • Fax (603) 332-8601

Code Office Denial of a Building Permit or Use

Name of Applicant Berry Engineering (Luis Gaudin)

Location 84 Hancock Street

Map 128 Lot 219 Block — Zone B2

Date Denied _____

Your application for a building permit / use has been denied due to a violation of

Article 42 Section 9 ^{TABLE 2} Subsection (B)(7) of the Rochester

Zoning Ordinance adopted March 3, 1986, and / or a violation of Article _____

Section _____ Subsection _____ of the ICC Building Code, 2000
edition.

The exact reason for this denial is: THIS
TO BE A RESTAURANT
IS REQUIRED TO HAVE 19 SPACES, AND 12
ARE BEING PROVIDED.

Notice: You may make application to the Zoning Board of Adjustment for an
Appeal of an Administrative Decision, a Variance, or a Special Exception.

[Signature]
Building Inspector

7/6/10
Date

Zoning Board Case # 2010-19