



BUILDING, ZONING & LICENSING DEPARTMENT
31 Wakefield Street,
Rochester, New Hampshire 03867-1917
(603) 332-3976- Fax (603) 509-1912
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, March 12, 2014** in the City Hall Council Chambers concerning the following:

2014-04 Application by The Lamoureux Family Revocable Living Trust for a variance under Article 42, Section 10 (a) of the City's Zoning Ordinance to approve an 8 ft. fence in height.

Location: 6 Cemetery Rd
Map 258 Lot 36 Agricultural Zone

If you are planning to attend the meeting and have paperwork you wish to have reviewed, or if you are *not* planning to attend the meeting, you may comment by letter, fax or email (karen.grenier@rochesternh.net). However, for the Board to consider your comments they MUST be received NO LATER than 12:00 noon on the Monday before the meeting (March 10, 2014).

The project application is available for review by the public in the Department of Building Safety 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.

Karen Grenier, Building, Zoning & Licensing Secretary
cc: file



Planning & Zoning
Community Development
Conservation Commission
Historic District Commission
Arts & Culture 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

APPLICATION FOR A VARIANCE

TO: BOARD OF ADJUSTMENT
CITY OF ROCHESTER

Phone No. (603) 335-0112

DO NOT WRITE IN THIS SPACE

CASE NO. 2014-04

DATE FILED 12-19-14

ZONING BOARD CLERK [Signature]

Name of applicant The Lamoureux Family Revocable Living Trust

Address 360 Tenerife Road, Milton, New Hampshire 03851

Owner of property concerned Same
(If the same as applicant, write "same")

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

Location 6 Cemetery Road, Rochester, NH

Map No. 258 Lot No. 33 Zone Agricultural

Description of property .63 acre parcel with single family dwelling located thereon that abuts existing Rte. 125 RV & Marine

Proposed use or existing use affected The Applicant wishes to maintain the existing eight (8) foot fence.

The undersigned hereby requests a variance to the terms of Article 42, Section 10(a) and asked that said terms be waived to permit a fence eight (8) feet in height.

If applicable in this case, the undersigned also requests a waiver from the requirement to provide a certified plot plan, (see attached request sheet) Yes _____ No X

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]
(Applicant)

Continue on Page 2

CRITERIA FOR VARIANCE

Case # 2014-04

Date: 2-19-14

A Variance is requested by The Lamoureux Family Revocable Living Trust

from Section 42 Subsection 10(a)

of the Zoning Ordinance to permit: a fence to be eight (8) feet in height

at 6 Cemetery Road, Rochester Map 258 Lot 36 Zone Agriculture

Facts supporting this request:

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

See attached.

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

See attached.

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

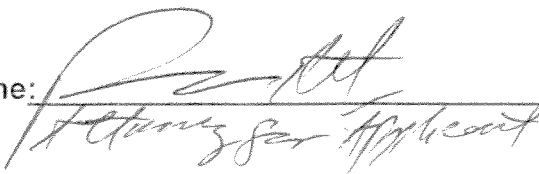
See attached.

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

See attached.

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

See attached.

Name: 
Attorney for Applicant

Date: 2/19/14

The Lamoureux Family Revocable Living Trust

Variance Application

6 Cemetery Road
Rochester, New Hampshire

INTRODUCTION

The property subject to this application is located at 6 Cemetery Road, and is depicted on the City's Tax Map at Map 258, Lot 36. The property consists of one single family residential dwelling. The size of the parcel is 27,387 square feet or 0.63 acres. The parcel is located in the agricultural zone. The parcel is unique with respect to its location and proximity to NH Route 125, and is separate from other parcels near the highway as it is on the easterly side of Cemetery Road, closest to the highway. The parcel abuts commercial property owned by the same Owner, which operates Rte. 125 RV & Marine (hereinafter referred to as the "Business").

The Applicant, the owner of parcels 36 and 33, as depicted on the Plan, wishes to use a portion of parcel 36 for additional parking of recreational vehicles for the existing Business. The parcel has the benefit of natural buffers along the southerly side. However, in order to create a buffer between the Business and Lot 37, which the Applicant also owns, and the abutters across Cemetery Road, the Applicant has already constructed a fence, as shown on the attached Plan.

After consultation with the City Planner, the Applicant was advised that two variances were required. As a result, the Applicant obtained a variance from Section 42-17(b) in order to allow two uses on the lot comprised of 27,387 square feet where 60,000 square feet is required. In addition, the Applicant has obtained a variance from the Table of Permitted Uses at Section 42.14(B)(17) to allow storage of RVs on the parking lot.

When the Applicant constructed the existing fence, it was unaware that a fence could only be six (6) feet in height. The Applicant now seeks a variance from Section 42-10(a) to be permitted to allow the fence, being used as a buffer between the Business and abutting lots to be eight (8) feet, as opposed to the required six (6) feet in order to provide a buffer to the parking area with the Business activities occurring at Map 258, Lot 33.

APPLICANT'S REQUEST FOR VARIANCE **FACTS SUPPORTING THIS REQUEST**

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

It is respectfully submitted that all of the surrounding property values have a value associated with them which is premised upon the existence of the existing buildings located on the Applicant's property. In this instance, the extra two (2) feet of fence would provide additional buffer to the approved commercial use of the lot. There are no negative aspects with respect to the Applicant's proposal, and there are no activities proposed by the Applicant that would have any negative affect upon the value of the surrounding properties.

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

The Applicant respectfully submits that the proposed fence height represents a reasonable use of the property in question. The proposed use is not only reasonable, given the surrounding circumstances, but is consistent with the existing uses of the adjacent property. Given the buffer to be added with the fence, the lack of lighting of the area, restricting the activity on the site, and no access to Cemetery Road, the grant of the variance will not alter the essential character of the locality.

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

The general purpose of the ordinance is to promote orderly development and to protect the health, safety, and general welfare of the public. By allowing the variance, the Applicant would be able to proceed with orderly development of the project in a way that protects the health, safety and general welfare of the abutters as it would add a significant buffer to the traffic of NH Route 125, without adding lights or significant commercial activity on the lot or Cemetery Road. In light of the above, the Applicant respectfully submits that denial of the variance is unnecessary in light of the general public purposes of the zoning ordinance, and that there is no relationship between the general public purpose of the ordinance and the specific application of the zoning requirement to this parcel, given the unique characteristics of the property, which include its location to NH Route 125, and its existing abutting uses.

The Applicant submits that the proposed use is reasonable as it provides for the Applicant to provide a buffer between residential and commercial uses.

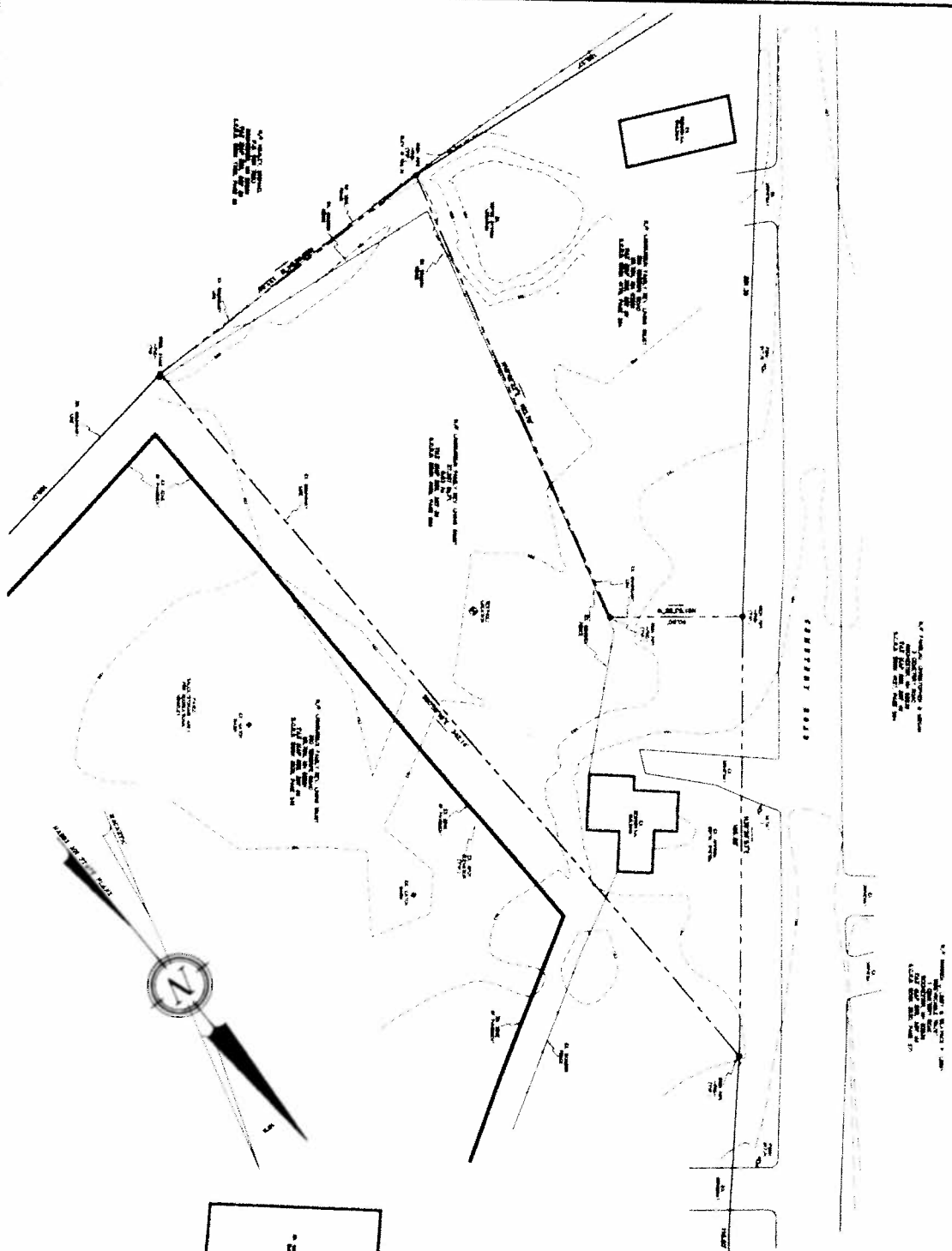
4. Granting the variance would do substantial justice because:

The granting of the variance would result in substantial justice because it would allow the Applicant to further buffer commercial uses from those uses located within the area. This test requires a balancing of the benefit to the Applicant versus the burden to public. In this instance, there would be no burden to the public whatsoever in terms of allowing the Applicant to increase the fence height by two (2) feet. Accordingly, the benefit to the Applicant would exceed the burden to the public, thus, resulting in substantial justice being done.

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

The Applicant respectfully submits that if the variance was granted, the spirit of the ordinance would be observed because the fence would be suitable for the property considering the existing uses of the surrounding property and its location to NH Route 125. In addition, by granting the variance, the intent of the ordinance will be sustained as the increased buffer from NH Route 125, and lack of access to Cemetery Road, would benefit the existing residential abutters. To be contrary to the public interest or injurious to the public rights of others, the variances must unduly and in a marked degree conflict with the ordinance, such that it violates the ordinance's basic zoning objective. In this instance, the grant the variance would promote the public health, safety and general welfare by better protecting the existing abutters with increased buffers without a significant increase in commercial activities.

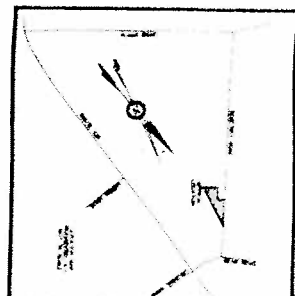
THIS PLAN WAS PREPARED BY BERRY SURVEYING & ENGINEERING, INC. FOR THE LANDOWNERS. THE LANDOWNERS HAVE REVIEWED AND APPROVED THIS PLAN. THE PLAN IS BASED ON THE RECORD MAPS AND SURVEY DATA PROVIDED BY THE LANDOWNERS. THE PLAN IS NOT TO BE USED FOR ANY OTHER PURPOSES WITHOUT THE WRITTEN CONSENT OF BERRY SURVEYING & ENGINEERING, INC.



FEB 20 2014



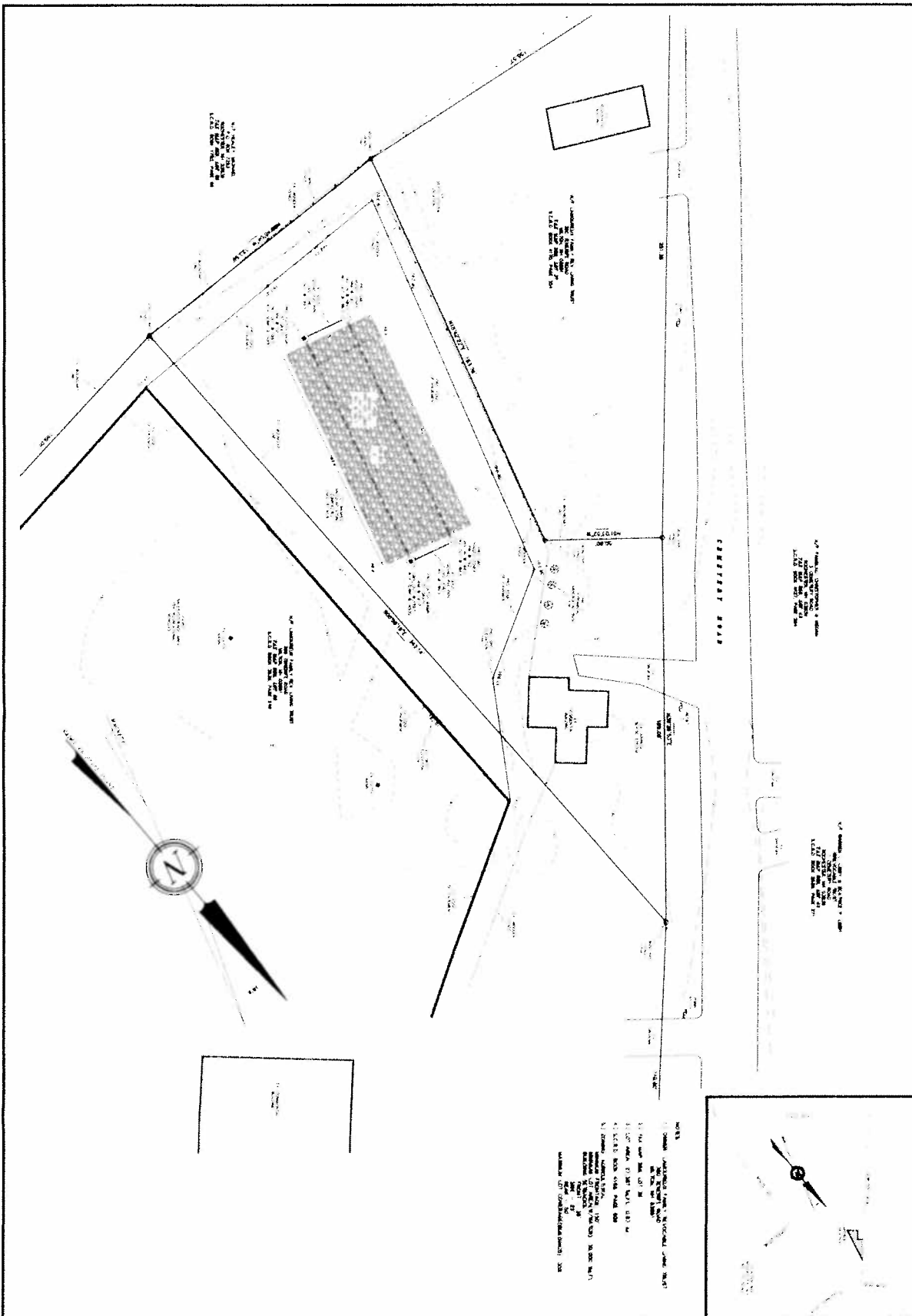
1. ALL EXISTING STRUCTURES ARE TO REMAIN UNLESS OTHERWISE NOTED.
 2. ALL EXISTING EASEMENTS ARE TO REMAIN UNLESS OTHERWISE NOTED.
 3. ALL EXISTING UTILITIES ARE TO REMAIN UNLESS OTHERWISE NOTED.
 4. ALL EXISTING FENCES ARE TO REMAIN UNLESS OTHERWISE NOTED.
 5. ALL EXISTING DRIVEWAYS ARE TO REMAIN UNLESS OTHERWISE NOTED.
 6. ALL EXISTING WALKWAYS ARE TO REMAIN UNLESS OTHERWISE NOTED.
 7. ALL EXISTING LANDSCAPING IS TO REMAIN UNLESS OTHERWISE NOTED.
 8. ALL EXISTING TREES ARE TO REMAIN UNLESS OTHERWISE NOTED.
 9. ALL EXISTING WATER FEATURES ARE TO REMAIN UNLESS OTHERWISE NOTED.
 10. ALL EXISTING POWER LINES ARE TO REMAIN UNLESS OTHERWISE NOTED.
 11. ALL EXISTING TELEPHONE LINES ARE TO REMAIN UNLESS OTHERWISE NOTED.
 12. ALL EXISTING GAS LINES ARE TO REMAIN UNLESS OTHERWISE NOTED.
 13. ALL EXISTING SEWER LINES ARE TO REMAIN UNLESS OTHERWISE NOTED.
 14. ALL EXISTING WATER MAINS ARE TO REMAIN UNLESS OTHERWISE NOTED.
 15. ALL EXISTING STORM SEWERS ARE TO REMAIN UNLESS OTHERWISE NOTED.
 16. ALL EXISTING DRAINAGE DITCHES ARE TO REMAIN UNLESS OTHERWISE NOTED.
 17. ALL EXISTING FLOOD WALLS ARE TO REMAIN UNLESS OTHERWISE NOTED.
 18. ALL EXISTING RETAINING WALLS ARE TO REMAIN UNLESS OTHERWISE NOTED.
 19. ALL EXISTING BRIDGES ARE TO REMAIN UNLESS OTHERWISE NOTED.
 20. ALL EXISTING TUNNELS ARE TO REMAIN UNLESS OTHERWISE NOTED.



BERRY SURVEYING & ENGINEERING
 335 SECOND CROWN POINT ROAD
 BARRINGTON, NH 03025 (332-2863)
 SCALE 1 IN. EQUALS 20 FT.
 DATE DECEMBER 3, 2013
 FILE NO. : DB 2013 - 137

EXISTING CONDITIONS PLAN
 FOR
 LANDOWNERS FAMILY RE-DEVELOPMENT
 CROWN POINT ROAD
 BARRINGTON, NH
 TAX MAP 26R, LOT 36

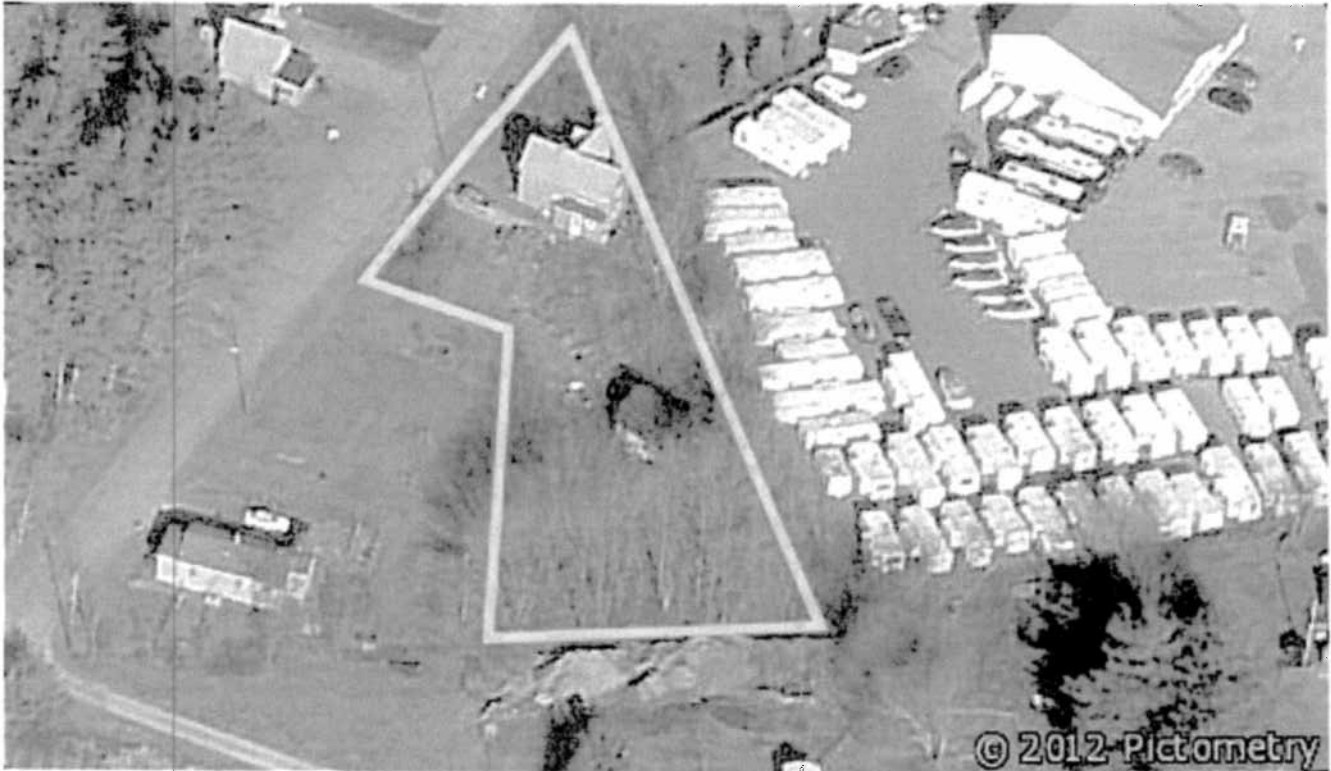
REVISION	DATE	DESCRIPTION
1	3-18-14	PER STAFF COMMENT
2	1-29-14	POST VARIANCE DETAILING



BERRY SURVEYING & ENGINEERING
 131 SECOND CROWN POINT ROAD
 BARRINGTON, NH 03025 (603) 284-3131
 SCALE: 1 IN. EQUALS 20 FT.
 DATE: DECEMBER 5, 2013
 FILE NO.: DR 2013-117

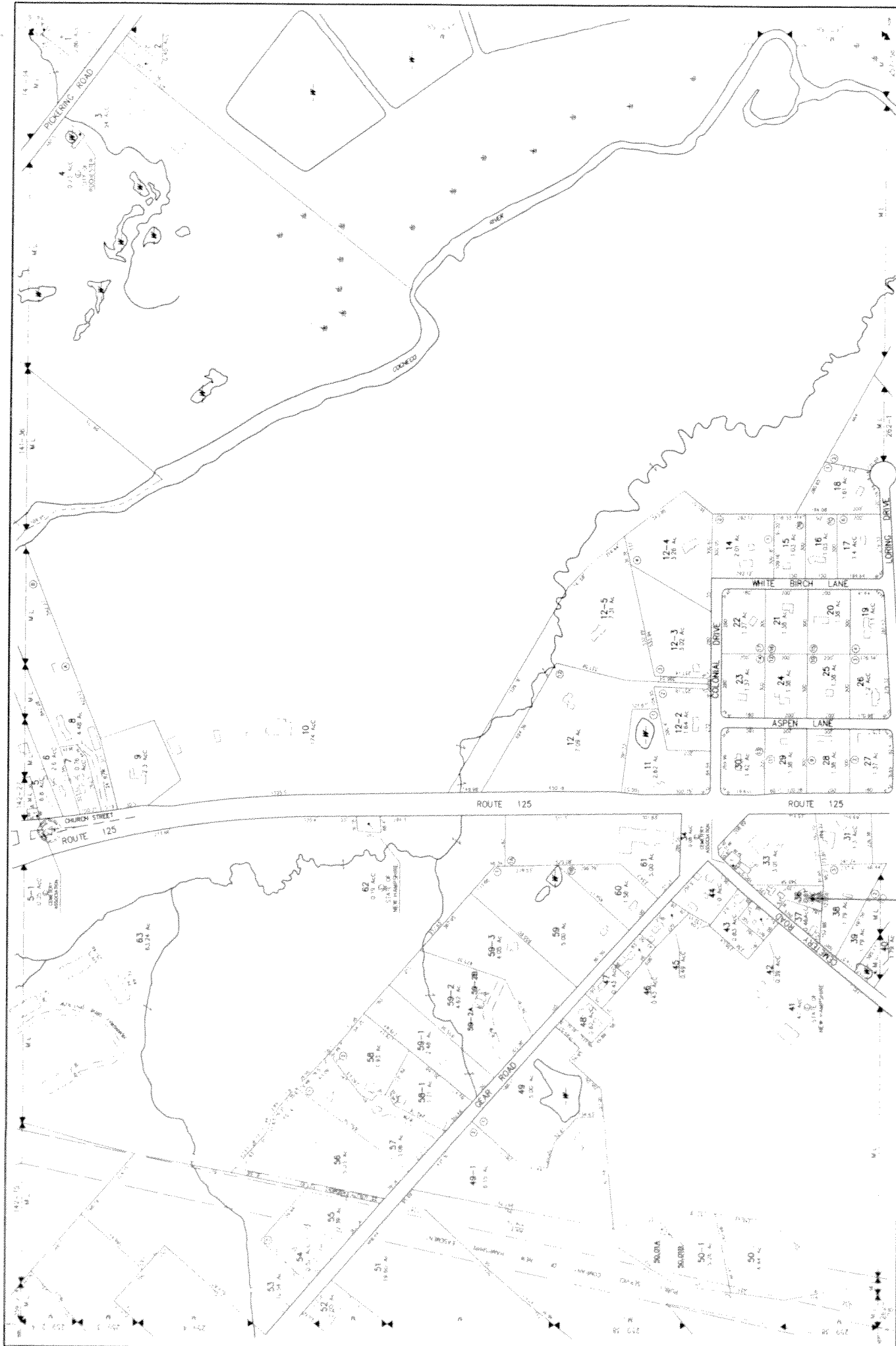
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REVISION	DATE	DESCRIPTION



0258-0036-0000-LAMOUREUX

Print Date: 02/26/2014
Image Date: 11/17/2012
Level: Community



INDEX DIAGRAM		MAP NO.
258		258
ROCHESTER NEW HAMPSHIRE		
SCALE 1" = 200'		
LEGEND		
AREA CALCULATED BY THE ENGINEER		
BUILDING FOOTPRINTS		
WATER		
ROADS		
FENCES		
TREES		
OTHER FEATURES		
PRODUCED BY THE CITY OF ROCHESTER		
FOR THE YEAR 1975		
PLANNED BY THE CITY OF ROCHESTER		
COMMISSIONER OF REVENUE		

ABUTTER LIST

City of Rochester, NH
Please Print or Type

Applicant: The Lamoureux Family Revocable Living Trust Phone (603) 335-0112

Project Address: 6 Cemetery Road, Map 258, Lot 36, Rochester, NH

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	Zone	Owner Name	Mailing Address

ABUTTING LOT OWNERS

Map	Lot	Owner Name	Owner Mailing Address (NOT property location)
		See attached.	

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

I, the undersigned, acknowledge that it is the responsibility of the applicant or his/her agent to fill out this form. 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 Assessing Office computer – Assess Pro (located in the Revenue Bldg at 19 Wakefield Street)

on this date: 2/19/14 This is page of pages.

Applicant or Agent: [Signature]

Planning Staff Verification: [Signature] Date: 2/25/14

**ABUTTERS' LIST
FOR
THE LAMOUREUX FAMILY REVOCABLE LIVING TRUST
Map 258, Lot 36
6 Cemetery Road
Rochester, New Hampshire
February 19, 2014**

MAP/LOT

NAME/ADDRESS

OWNER/APPLICANT:

Map 258, 36

Michael Lamoureux, Trustee
The Lamoureux Family Revocable Living Trust
360 Tenerife Road
Milton, NH 03851

ABUTTERS:

Map 258, Lot 33

Michael Lamoureux, Trustee
The Lamoureux Family Revocable Living Trust
360 Tenerife Road
Milton, NH 03851

Map 258, Lot 37

Michael Lamoureux, Trustee
The Lamoureux Family Revocable Living Trust
360 Tenerife Road
Milton, NH 03851

Map 258, Lot 38

Michael K. Healey
PO Box 7253
Rochester, NH 03839-7253

Map 258, Lot 42

Christopher M. and Megan Fanslau
3 Cemetery Road
Rochester, NH 03839-4913

Map 258, Lot 43

Warren L. Libby, Beatrice P. Libby & Arleen M. Harty, Trustees
Warren L. Libby and Beatrice P. Libby Irrevocable Trust
1 Cemetery Road
Rochester, NH 03839

Map 258, Lot 44

Brian D. Healey and Grace Armano
PO Box 9007
Kittery, Maine 03904-9007

PROFESSIONALS:

ATTORNEY

Francis X. Bruton, III, Esquire
Bruton & Berube, PLLC
798 Central Avenue
Dover, NH 03820

SURVEYOR

Daniel O'Lone
Berry Surveying & Engineering
335 Second Crown Point Road
Barrington, NH 03820