



PLANNING AND DEVELOPMENT DEPARTMENT  
City Hall - Second Floor  
31 Wakefield Street  
Rochester, New Hampshire 03867-1917  
(603) 335-1338 • Fax (603) 335-7585  
www.rochesternh.net

RECEIVED

DEC 27 2011

Planning Dept.

Planning & Zoning  
Community Development  
Conservation Commission  
Historic District Commission

### APPLICATION FOR A VARIANCE

TO: BOARD OF ADJUSTMENT  
CITY OF ROCHESTER

Cell 603-834-3712 (Joanne)

Phone No 603-394-6939

DO NOT WRITE IN THIS SPACE

CASE NO. 2012-02

DATE FILED 12-27-11

ZONING BOARD CLERK

Name of applicant JAMES MITSARIS

Address 388 PICKERING RD ROCHESTER, NH 03867

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

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

Location 388 PICKERING RD ROCHESTER, NH 03867

Map No. 263 Lot No. 7 Zone A

Description of property SINGLE FAMILY RANCH

Proposed use or existing use affected ACS. SINGLE FAMILY DWELLING, ADDING  
EXTRA SQ. FOOTAGE

The undersigned hereby requests a variance to the terms of Article 42.16  
Section 2 and asked that said terms be waived to permit structure w  
rear setback

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

(Applicant)

12/27/11

# CRITERIA FOR VARIANCE

Case # \_\_\_\_\_

Date: \_\_\_\_\_

A Variance is requested by JAMES MITSIAKIS

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from Section \_\_\_\_\_ Subsection \_\_\_\_\_

Planning Dept.

of the Zoning Ordinance to permit: \_\_\_\_\_

at 388 PICKERING RD. ROCHESTER, NH Map 263 Lot 7 Zone A

Facts supporting this request:

1) The proposed use would not diminish surrounding property values because: WOULD INCREASE OUR VALUE THEREFORE INCREASING THE NEIGHBORHOOD, SIMILAR HOMES EXIST IN THE AREA & RECIVED VARIANCES

2) Granting the variance is not contrary to the public interest because: THE PROPOSED ADDITION WILL ADD TO THE TAXES PAID ON THE PROPERTY BY OWNER

3) Denial of the variance would result in unnecessary hardship to the owner because of the following special circumstances of the property: DWELLING IS TOO SMALL TO FIT OUR NEEDS, AND BECAUSE OF THE DECLINING PROPERTY VALUES WOULD NOT BE ABLE TO SELL OUR PROPERTY TO PURCHASE LARGER HOME

4) Granting the variance would do substantial justice because: IT WOULD INCREASE PROPERTY VALUES AND ENHANCE THE AESTHETICS OF THE NEIGHBORHOOD

5) The use is not contrary to the spirit of the ordinance because: THE PROPOSED USE WILL NOT AFFECT THE CHARACTER OF THIS RURAL NEIGHBORHOOD & IS NOT CONTRARY TO PUBLIC INTEREST

Name JAMES MITSIAKIS Date: 12-27-11

Explanation of request for variance  
Owner ~ James Mitsiaris  
Property ~ 388 Pickering Rd Rochester, NH  
Phone ~ 603-394-6939

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To obtain & build on an 10' x 21' piece of property, the 10' to match existing foundation which would be 10' into the 50' rear set back. The land in the rear of my property is currently owned by B&M railroad with no living abutters or structures on the property. Addition is to enlarge existing property which is approx 860sq feet to accommodate more living space.

# Request of waiver of requirement to have a Certified Plot Plan for Case # 2012-02

I request a waiver of the requirement to have a certified plot plan for the following reasons:

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- There are no objections from any abutter, and:
- Based on the information provided, the distance into the setback will not create any problems to the abutting property because: IT WILL NOT PRETRUDE OUT ANY FURTHER THAN

THE EXSISTING ADDITION + HAVE NO LIVING ABUTTERS IN REAR OF PROPERTY

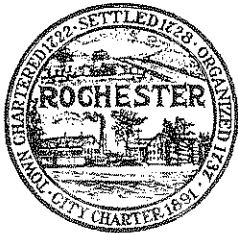
- The property is described in its deed as being bounded, on the side for which relief is requested, by a natural feature like a: (stone wall/ row of large trees/roadway, etc.)

OLD RAILROAD BED

Variance  
+  
Equitable  
Waiver

- The request for relief from the setback required is modest enough that the probability of a surveying error large enough to make a material difference is remote. Yes ☒ No ☐
- Information provided is based upon other surveyed parcels in the immediate vicinity and is consistent with the tax map information, so the probability of a surveying error large enough to make a material difference is remote. Yes ☒ No ☐
- The request for relief from the setback required is in a direction where any impact on the abutter is small or nonexistent and, should a large surveying error be found in the future, there is adequate land area to correct the problem through a lot-line adjustment. Yes ☒ No ☐
- Any other applicable information: \_\_\_\_\_

JAMES MITSIAKIS  
388 PICKERING RD  
ROCHESTER, NH  
03867



PLANNING AND DEVELOPMENT DEPARTMENT  
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Planning & Zoning  
Community Development  
Conservation Commission  
Historic District Commission

APPLICATION FOR EQUITABLE WAIVER

TO: BOARD OF ADJUSTMENT  
CITY OF ROCHESTER

Phone No 603-394-6930

DO NOT WRITE IN THIS SPACE

CASE NO. 2012-02

DATE FILED 12-27-11

ZONING BOARD CLERK CLM

Name of applicant JAMES MITSIAKIS

Address 388 PICKERING RD ROCHESTER, NH

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

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

Location of property 388 PICKERING RD ROCHESTER, NH

Map No. 263 Lot No. 7 Zone A

Description of property 10 X 22 - GARAGE 8 X 22 LEAN TO OFF GARAGE  
(give length of frontage, side & rear)

Proposed use or existing use affected EXISTING GARAGE

The undersigned hereby requests an equitable waiver to the terms of Article 42.16  
Section 2 and asked that said terms be waived to permit Structure in  
Table near setback RSA-674.33A

The undersigned alleges that the violation occurred by virtue of a good-faith error in calculation or measurement and thus constitute grounds for a variance

Signed [Signature]  
(Applicant)

Consideration Governing Granting of a Dimensional Equitable Waiver (RSA 674:33a):

1. The violation was not noticed or discovered by any owner, former owner, owner's agent or representative, or municipal official, until after a structure in violation had been substantially completed, or until after a lot or other division of land in violation had been subdivided by conveyance to a bona fide purchaser for value.

STRUCTURE WAS THERE WHEN I PURCHASED MY HOME  
IN 2002 IT HAS BEEN THERE FOR ~~20~~ 20 YRS

2. The violation was not an outcome of ignorance of the law or ordinance, failure to inquire, obfuscation, misrepresentation, or bad faith on the part of any owner, owner's agent or representative, but was instead caused by either a good faith error in measurement or calculation made by an owner or owner's agent, or by an error in ordinance interpretation or applicability made by a municipal official in the process of issuing a permit over which that official had authority.

YES, PAST OWNER BELIEVED SHE OWNED OUT TO RAILROAD  
BED, I WAS TOLD THE SAME.

3. That the physical or dimensional violation does not constitute a public or private nuisance, nor diminish the value of other properties in the area, nor adversely affect any present or permissible future uses of any such property.

NO, STRUCTURE HAS BEEN THERE W NO ADVERSE  
AFFECT

4. That due to the degree of past construction or investment made in ignorance of the facts constituting the violation, the cost of correction so far outweighs any public benefit to be gained, that it would be inequitable to require the violation to be corrected.

STRUCTURE HAS BEEN THERE & BEHIND IT IS AN  
OLD RAILROAD BED

5. If all 4 of the above are not proven by the property owner, an equitable waiver may still be granted if the property owner can prove to the satisfaction of the Board that the violation has existed for 10 years or more, and that no enforcement action, including written notice of violation, has commenced against the violation during that time by the municipality or any person directly affected.

YES STRUCTURE WAS THERE WHEN ~~THE~~ I PURCHASED  
THE HOME IN 2002 & HAD BEEN THERE  
WITH THE PREVIOUS OWNERS

James L Mitsiaris  
388 Pickering Rd  
Rochester, NH 03867

To Whom It May Concern:

I am applying for an equitable wavier for a garage that is on my property and was there when I purchased my home. Previous owner thought the property line was out to the old railroad bed and had a garage installed during her time of ownership. When I purchased my home in 2002, I was told the same and the garage has been there for over 20+ yrs with no complaints or any word of this being an issue. There is no living butters behind the structure as this is the old railroad bed.

Thank you,

James L Mitsiaris

# Request of waiver of requirement to have a Certified Plot Plan for Case # 2012- 12

I request a waiver of the requirement to have a certified plot plan for the following reasons:

- There are no objections from any abutter, and:
- Based on the information provided, the distance into the setback will not create any problems to the abutting property because: STRUCTURE HAS BEEN THERE FOR 20+ YRS

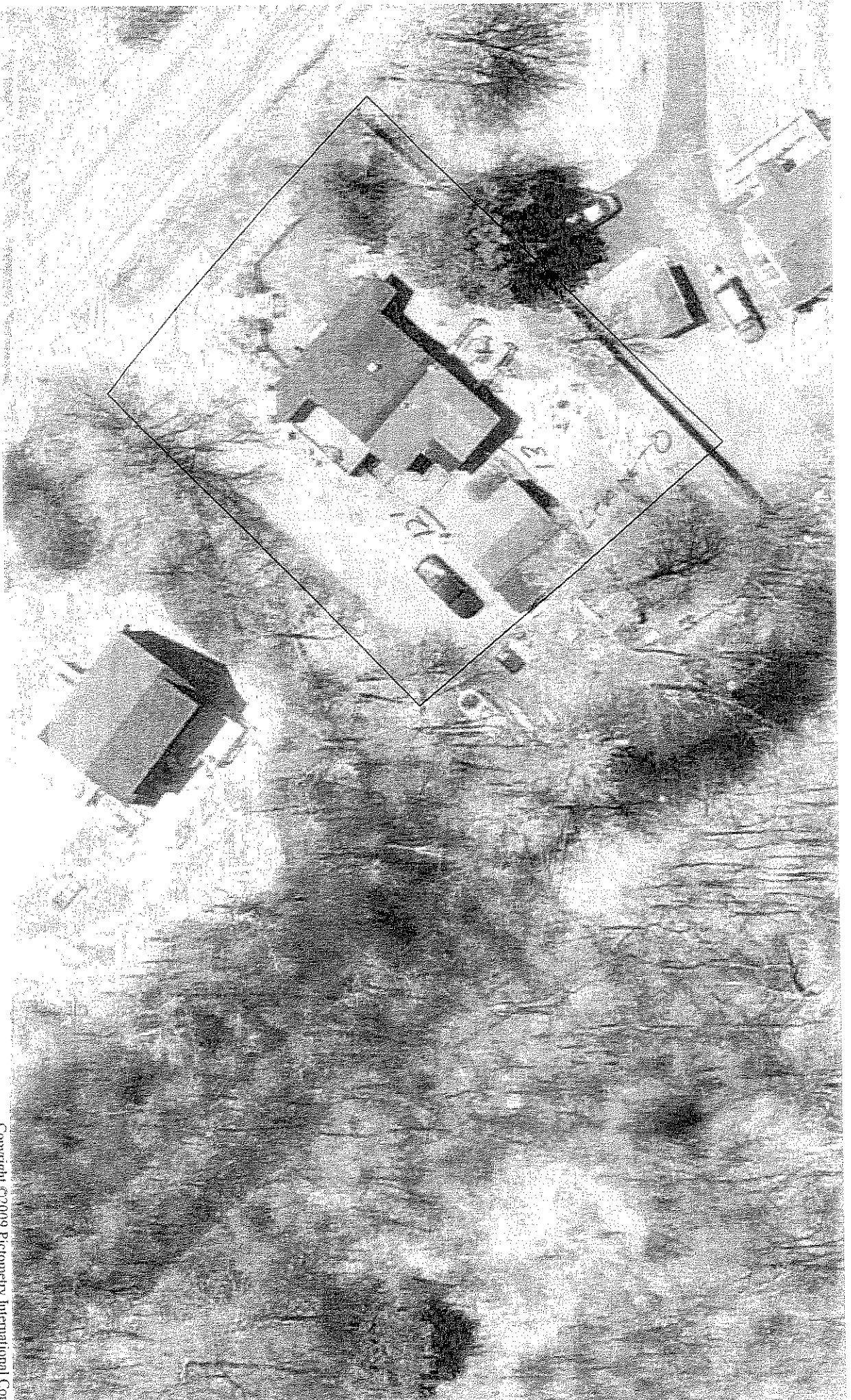
Equitable  
Waiver  
+  
Variance

- The property is described in its deed as being bounded, on the side for which relief is requested, by a natural feature like a: (stone wall/ row of large trees/roadway, etc.)

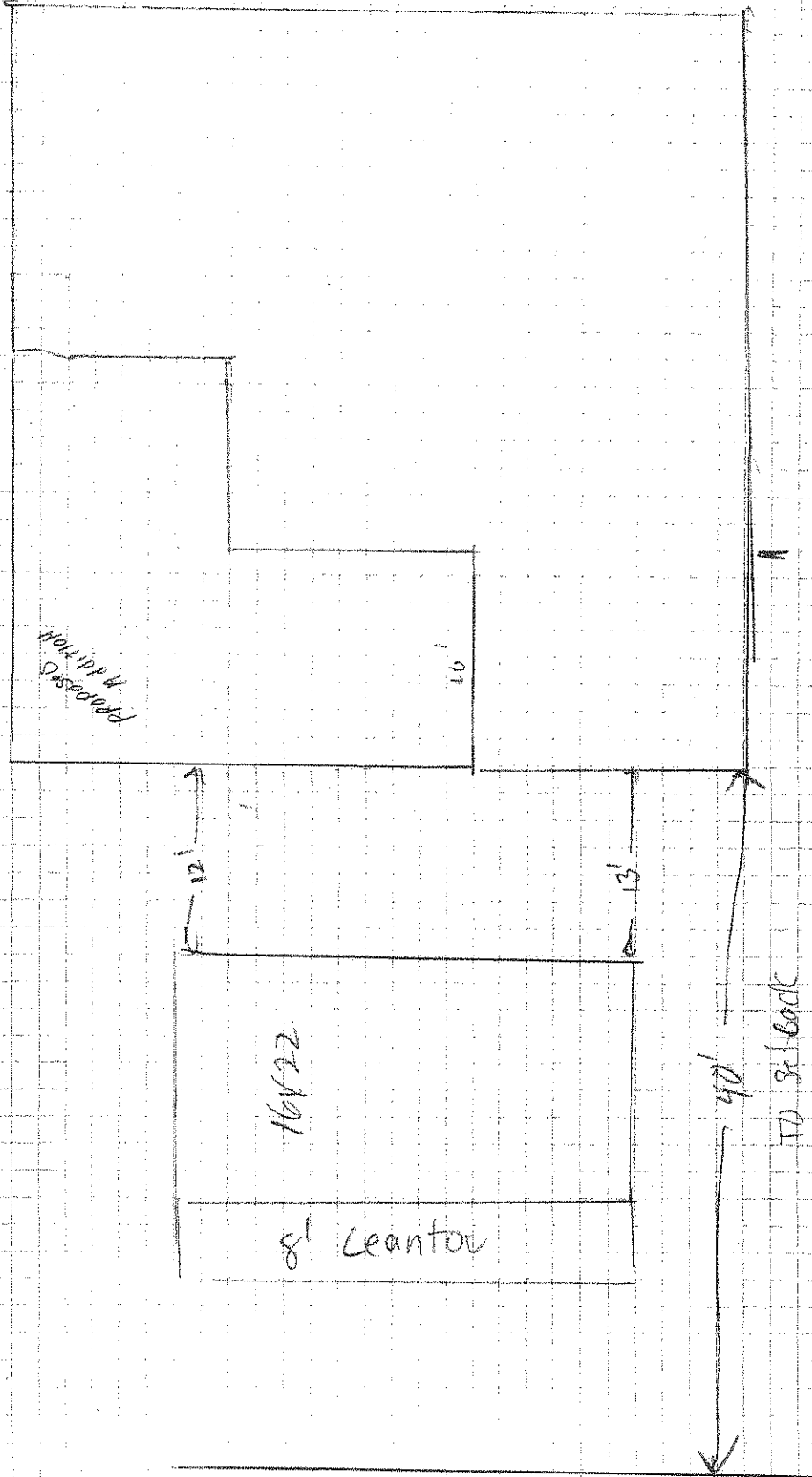
DID RAILROAD bed

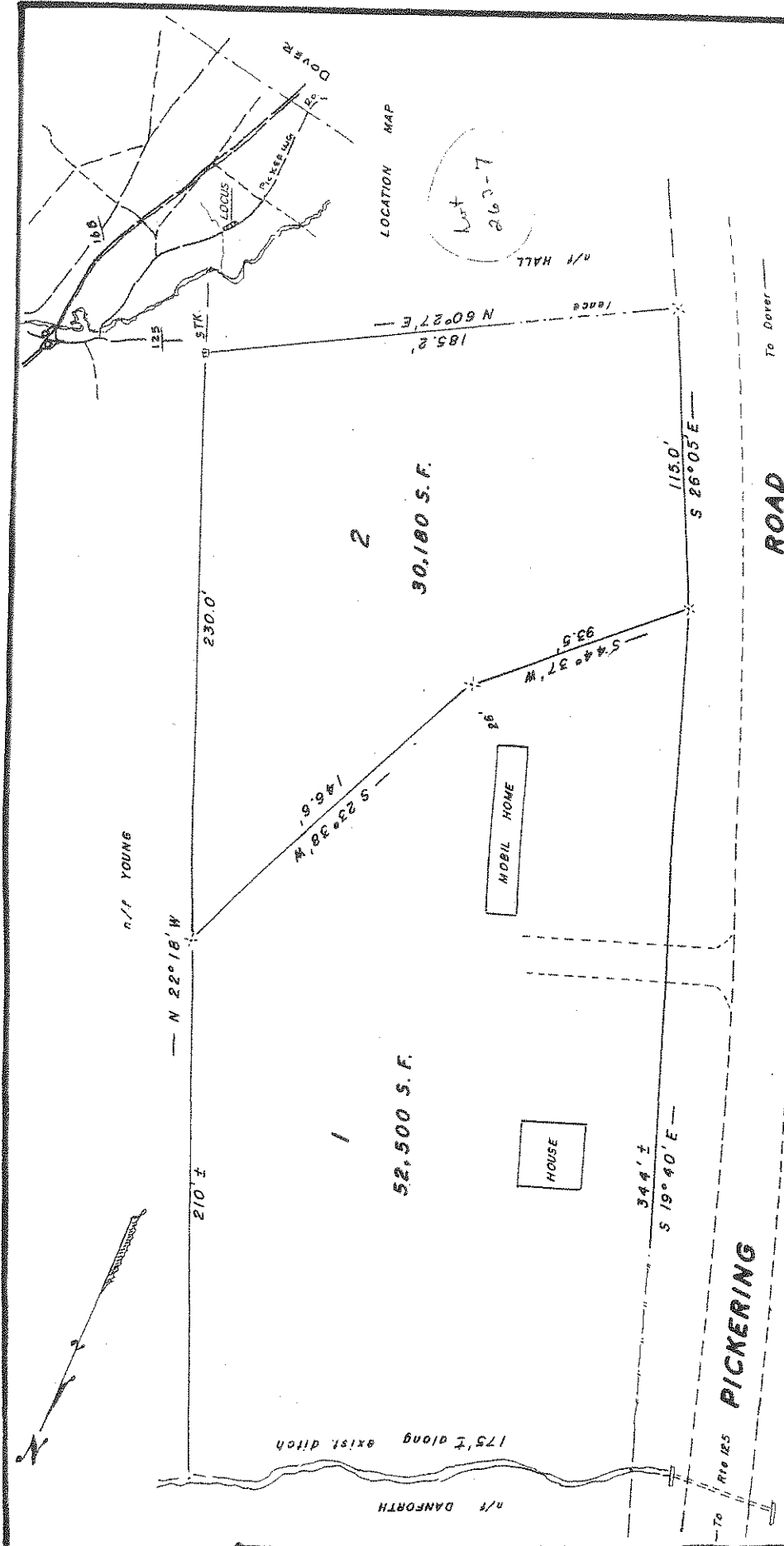
- The request for relief from the setback required is modest enough that the probability of a surveying error large enough to make a material difference is remote. Yes ☒ No ☐
- Information provided is based upon other surveyed parcels in the immediate vicinity and is consistent with the tax map information, so the probability of a surveying error large enough to make a material difference is remote. Yes ☒ No ☐
- The request for relief from the setback required is in a direction where any impact on the abutter is small or nonexistent and, should a large surveying error be found in the future, there is adequate land area to correct the problem through a lot-line adjustment. Yes ☒ No ☐
- Any other applicable information: \_\_\_\_\_



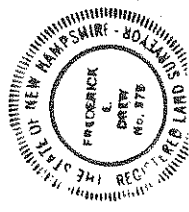


- Road -





PROPOSED LIMITED SUBDIVISION  
**DOROTHY KING PROPERTY**  
 ROCHESTER, N. H.  
 Scale: 1" = 40' JULY 1974  
**FREDERICK E. DREW ASSOCIATES**  
 LAND SURVEYS  
 ENGINEERING

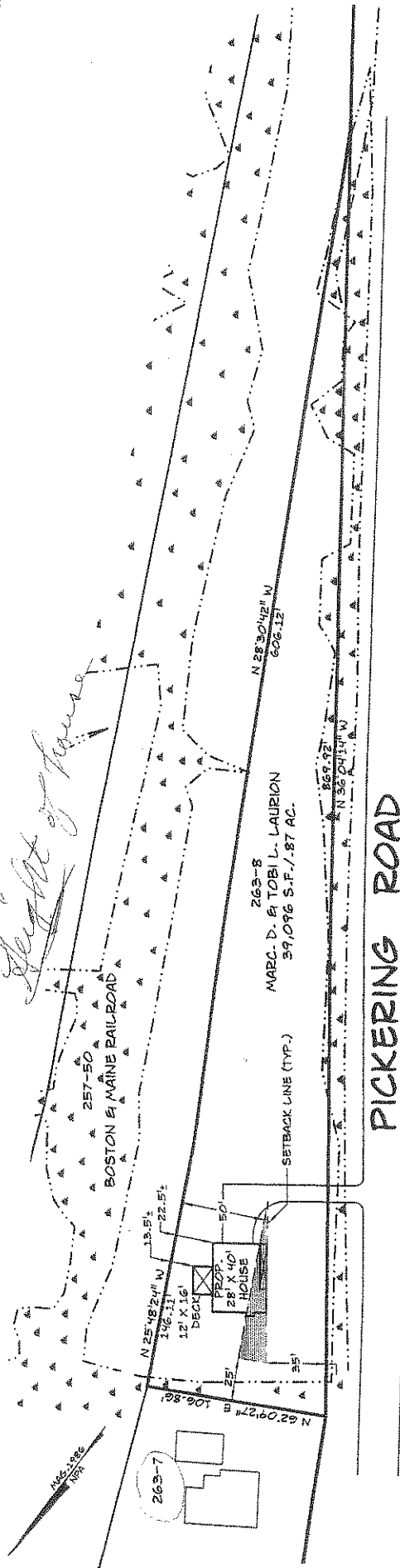


APPROVED BY THE ROCHESTER Planning Board  
 Chairman *Grant Bentley* Date *7/23/74*

**MAR 14 Lot 18 + 55**

# ZONING SKETCH PLAN

LOCATION: PICKERING ROAD, ROCHESTER, NH  
 OWNER OF RECORD: MARC D. & TOBI L. LAURION  
 MAP & LOT No.: 263/8  
 REF DEED: 2954/257  
 ZONE: A



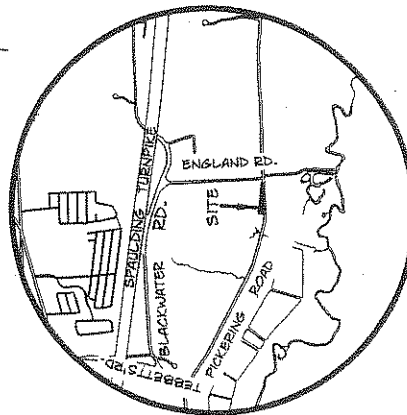
257-58

263-64

PICKERING ROAD

## NOTES:

1. THE PURPOSE OF THIS PLAN IS TO DEPICT THE PLACEMENT OF A SINGLE-FAMILY HOME ON LOT 263/8 WITH LESS THAN THE REQUIRED REAR YARD.
2. PARCEL IS ZONED AGRICULTURAL.
3. MINIMUM LOT REQUIREMENTS:  
 LOT SIZE = 40,000 SF  
 FRONTAGE = 150'  
 BUILDING SETBACKS:  
 F.Y. = 35'  
 S.Y. = 25'  
 R.Y. = 50'
4. THE PARCEL IS NOT LOCATED IN A FEDERALLY DESIGNATED FLOOD HAZARD AREA.
5. WETLANDS DELINEATED BY B.H. KEITH, CWS.



LOCUS  
 N.T.S

263-8  
 OWNERS OF RECORD:  
 MARC D. & TOBI L. LAURION  
 267 LOWELL STREET  
 ROCHESTER, NH 03867  
 BK. 2954, PG. 257

**NORWAY PLAINS ASSOCIATES, INC.**  
 SURVEYORS - ENGINEERS - TRANSPORTATION PLANNERS  
 P.O. BOX 249, ROCHESTER, N.H. 03867  
 TELEPHONE (603) 335-3948

JN: 04502/ZBA  
 FN: 186

REVISED 8/10/05  
 DATE: JULY, 2005  
 SCALE: 1"= 60'

Unofficial Property Record Card - Rochester, NH

General Property Data

Parcel ID	0263-0007-0000	Account Number	37921
Prior Parcel ID	-	Property Location	388 PICKERING RD
Property Owner	MITSIARIS JAMES L	Property Use	SINGLE FAM
Mailing Address	388 PICKERING RD	Most Recent Sale Date	1/4/2002
City	ROCHESTER	Legal Reference	2439-259
Mailing State	NH	Grantor	HALL PATRICIA J
Zip	03839	Sale Price	\$2,900
Parcel Zoning	A	Land Area	0.280 acres

Current Property Assessment

Card 1 Value	Building Value	65,200	Yard Items Value	7,600	Land Value	53,600	Total Value	126,300
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Building Description

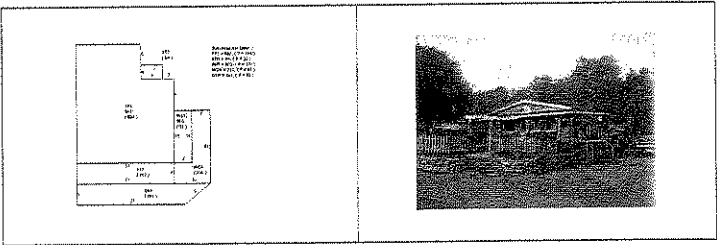
Building Style	RANCH	Foundation Type	CONCRETE	Flooring Type	AVERAGE
# of Living Units	1	Frame Type	WOOD	Basement Floor	CONCRETE
Year Built	1955	Roof Structure	GABLE	Heating Type	FORCED HW
Building Grade	FAIR	Roof Cover	ASPHALT SH	Heating Fuel	OIL
Building Condition	Average	Siding	CLAPBOARD	Air Conditioning	0%
Finished Area (SF)	990	Interior Walls	DRYWALL	# of Basement Garages	0
Number Rooms	4	# of Bedrooms	2	# of Full Baths	1
# of 3/4 Baths	0	# of 1/2 Baths	0	# of Other Fixtures	0

Legal Description

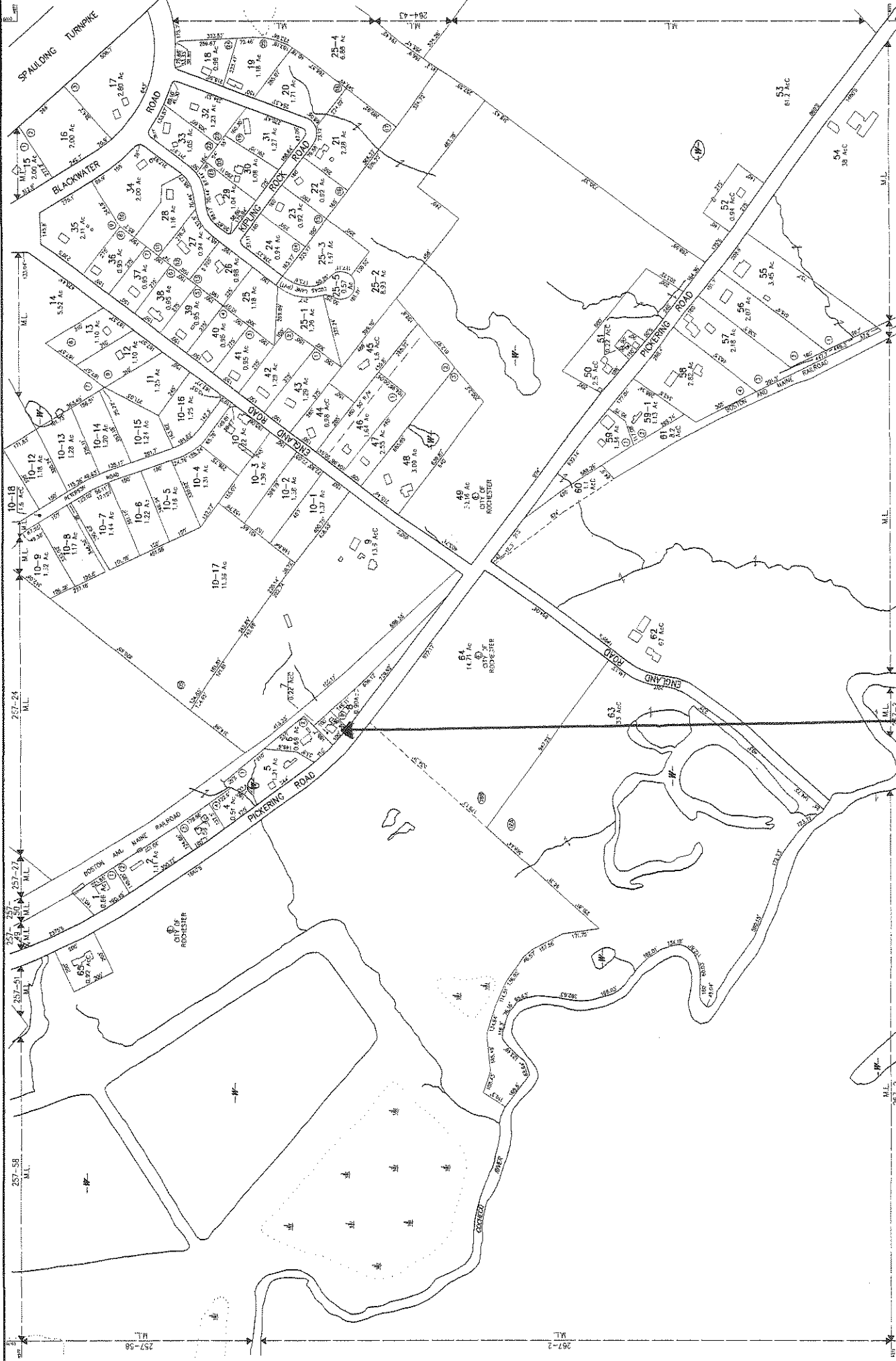
Narrative Description of Property

This property contains 0.280 acres of land mainly classified as SINGLE FAM with a(n) RANCH style building, built about 1955, having CLAPBOARD exterior and ASPHALT SH roof cover, with 1 unit(s), 4 room(s), 2 bedroom(s), 1 bath(s), 0 half bath(s).

Property Images



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



Applicant: JAMES MITSIAKIS Phone 603-394-6939

Project Address: 388 PICKERING Rd Rochester, NH 03867

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
263	7	A	JAMES MITSIAKIS	388 PICKERING Rd Rochester, NH

ABUTTING LOT OWNERS

Map	Lot	Owner Name	Owner Mailing Address (NOT property location)
263	8	DONALD + FRANCES BOUCHARD	P.O. BOX 7075 Rochester, NH 03839
263	6	EUGENE F + MARGARET A MCCARTHY	382 PICKERING Rd Rochester, NH 03867
*263	64	CITY OF ROCHESTER	31 WAKEFIELD ST Rochester, NH 03867
257	50	BOSTON + MAINE RAILROAD	IRON HORSE PARK HgH St, N BILMERE, MA 01802

*Handwritten:* 12-27-11

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

*Handwritten:* 4 x 3.29

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 Assessing Office computer - Assess Pro (located in the Revenue Bldg at 19 Wakefield Street)

on this date: 12-27-11, This is page 1 of 1 pages.

Applicant or Agent: *[Signature]* Staff Verification: \_\_\_\_\_