

# City of Rochester, New Hampshire

## Zoning Board of Adjustment

#### **Variance Application**

TO: BOARD OF ADJUSTMENT CITY OF ROCHESTER

DO NOT WRITE IN THIS SPACE
CASE NO. 2-23-53
DATE FILED 92123
C91
ZONING BOARD CLERK

Applicant:	¥.
NM Cook Development LLC & NM Coo	ok 17 Farmington Road LLC
E-mail: mcook@metrocast.net	Phone: 603-502-5200
Applicant Address: 22 Isaac Lucas Circle, Dove, NH 0	3820
Property Owner (if different): Same	
Property Owner Address: Same	
Variance Address: "0" Farmington Road & 17 Farmingt	ton Road
Map Lot and Block No: Tax Map 216, Lot 29 & Tax Ma	ap 221, Lot 164
Description of Property: Commercial Building, Tides F	ish Market and Vacant Parking Lot
Proposed use or existing use affected: Proposing to N	Merge the parcels and redevelop the site with multiple buildings
The undersigned hereby requests a variance to the ter	rms of the Rochester Zoning Ordinance, Ch. 275, Section
and asks that said terms be waived to permit	

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. I understand that while presenting my case the testimony should be confined to the 5 criteria and how they pertain to my case.

Signed:\_\_\_\_

- Chapter 275-12.8 Uses Allowed, to permit the corner of a proposed building within 50' of a wetland boundary.
- Chapter 275-12.8 (B)(8) to permit land disturbance within 25' of a wetland boundary
- Chapter 275, Article 23.2 (7)(a) to permit a drive through window to be placed on the front of a structure.
- Chapter 275-8.5B.10(a) (1) minimum setbacks to permit a building closer than 100' to the rear boundary line.
- Chapter 275-8.5B.10(a) (1) minimum setbacks to permit a building closer than 50' to the front boundary line to NH Route 11
- Chapter 275-8.5B.10(a) (5) to permit the development without the need for the 300' buffer requirement.



# City of Rochester, New Hampshire

# Zoning Board of Adjustment

### **Variance Criteria**

1) Granting the variance would not be contrary to the public interest because:  See Narrative
•
2) If the variance were granted, the spirit of the ordinance would be observed because:  See Narrative
3) Granting the variance would do substantial justice because:  See Narrative
4.) If the variance were granted, the values of the surrounding properties would not be diminished because:  See Narrative
<ul> <li>5.) Unnecessary Hardship: <ul> <li>a. Owning to special conditions of the property that distinguish it from other properties in the area,</li> <li>denial of the variance would result in an unnecessary hardship because: <ul> <li>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 because:</li> </ul> </li> <li>See Narrative</li> </ul></li></ul>
And: ii. The proposed use is a reasonable one because:
b. Explain how, if the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owning to the special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in the strict conformance with the ordinance, and a variance is therefore necessary to enable reasonable use of it.



#### **BERRY SURVEYING & ENGINEERING**

335 Second Crown Point Road Barrington, NH 03825 Phone: (603) 332-2863 Fax: (603) 335-4623 www.BerrySurveying.Com crberry@metrocast.net September 20, 2023

City of Rochester Zoning Board

Attention: Shanna Saunders, Director of Planning & Development

33 Wakefield Street Rochester, NH 03867

Re: NM Cook Development LLC & NM Cook 17 Farmington Road LLC

Property Located Between 21 and 17 Farmington Road

Farmington Road / NH Route 11

Tax Map 216, Lot 29 & Tax Map 221, Lot 164

Variance Request(s)

Ms. Saunders

On behalf of our client, NM Cook Development LLC & NM Cook 17 Farmington Road LLC, Berry Surveying & Engineering (BS&E) is requesting variances to six portions of the City of Rochester Zoning Ordinance.

- Chapter 275-12.8 Uses Allowed, to permit a portion of a proposed building within 50' of a wetland boundary.
- Chapter 275-12.8 (B)(8) to permit land disturbance within 25' of a wetland boundary
- Chapter 275, Article 23.2 (7)(a) to permit a drive through window to be placed on the front of a structure.
- Chapter 275-8.5B.10(a) (1) minimum setbacks to permit a building closer than 100' to the rear boundary line.
- Chapter 275-8.5B.10(a) (1) minimum setbacks to permit a building closer than 50' to the front boundary line of NH Route 11
- Chapter 275-8.5B.10(a) (5) to permit the development without the need for the 300' buffer requirement.

#### Background and General Narrative:

The existing primary sites for development are Tax Map 216, Lot 29 and Tax Map 221, Lot 164, which is situated between the new Meredith Village Savings Bank (MVSB), located at 21 Farmington Road and the plaza located at 17 Farmington Road. The plaza is on Lot 164. The subject parcels and others noted below are all located within the Granite Ridge Development (GR) Zone. Mr. Cook, of NM Cook Development LLC & NM Cook 17 Farmington Road LLC the "applicant" has purchased a number of properties in the area over the years. The presented project combines and promotes uses on each one of the project sites and locations.

In May of 2006, Mr. Cook purchased 23 Farmington Road where he owns and operates Rochester Motorsports. The facility has grown over the years and now offers multiple maintenance and seasonal storage options for their clients.

In May of 2020 Mr. Cook purchased the location at 17 Farmington Road, known by many as "Cardinals Plaza" The site contains multiple store fronts as well as the Mobil Gas station situated against NH Route 11. Tide's Fish Market is located at the back of the site. Over the past few years, Mr. Cook has made internal and external improvements to the building and has improved the occupancy and capacity of the total structure. To increase the business potential located at 23 Farmington Road, the basement area of 17 Farmington Road is being used for storage of the various items sold at Rochester Motorsports.

In July of 2021, Mr. Cook purchased the site formerly known as 21 Farmington Road which is largely comprised of a vacant parking lot. The site has had various uses throughout history. Shortly after purchasing the property, a subdivision and site plan was conducted to permit the construction of MVSB. The shape of the out parcel and the remaining land was intentional and provides connection between the Rochester Motorsports, the remaining middle parcel, and the plaza at 17 Farmington Road.

During former development contemplation of the 21 Farmington Road project site, BS&E has worked with NHDOT on modifying and obtaining updating permitting to access the site in the location across from Rochester VW. During the design of MVSB and the subdivision of the out parcel, BS&E again worked with NHDOT to provide an updated entrance and permit. A dedicated reciprocal access easement was established between the two lots and includes access ability to 17 Farmington Road. A widened shoulder was established to promote the access point as the primary entrance. This entrance provides the greatest sight distance and is the furthest in proximity to the next abutting driveway to the south, and is furthest from the crest within NH Route 11.

The rear of the subject parcel is sloped in the north-northeast direction. The effects of the slope can be seen by the use of a retaining wall on the MVSB project site. The entire parking area and developed site at 17 Farmington Road is sloped in the north-northeast direction. There is an existing gravel road / trail that has been used between the sites within the wetland setback that was historically used to gain access to the rear of one of the former buildings on the 21 Farmington Road site, now occupied by MVSB.

The subject parcels have a large amount of frontage along NH Route 11. The parcel has 410.49 feet along NH Route 11 in a contiguous format. There is an additional 35' on the north side of MVSB and there is frontage created along a perpendicular section to NH Route 11 which bumps out around the portion of the gas station on the parcel. The average depth of the parcel is approximately 254'.



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#### The Proposal:

Mr. Cook is proposing to develop the underutilized parking lot with a mix of commercial development in multiple buildings. This includes merging the two parcels to have one project site unencumbered by internal boundary lines. The rear of the site is proposed to be developed with a building that is approximately 12,500 Sq.Ft. in size. The building is proposed to contain a full basement for storage use of the abutting complimentary uses. The first-floor commercial space is designed with a large inviting sidewalk at the front to make way for integrated landscape features as well as activated space. The building's basement design is designed around the topographic feature at the rear of the site, and allows for the required slope of the drive aisle to work with the foundation wall. Additional parking is proposed at the rear of this building. The rear building is of regular increment, and is positioned as far to the south as the site will allow. The parking array to the south, parking adjacent to the plaza and the installation of sidewalk for walkability positions the building on the site. Due to this positioning the rear corner of the building is located within the 50' wetland setback, 41.77' at the closest point. A variance for the structure is requested whereas it is not a permitted use in the overlay district.

The drive aisle at the rear of the structure along the abutting boundary line, is proposed to continue to the lower section of the building. It will transition from a 24' aisle to a 15' paved access road which will traverse between the subject parcels and the Rochester Motorsports to the north. This will formally allow materials to travel to and from the sites without the need to enter and exit onto NH Route 11 and the existing traversing activities within the right of way will be discontinued. Though the proposed access road is permitted by Conditional Use, granted by the Planning Board, portions of the access and the associated grading will be located within 25' of the wetland boundary, which is not permitted within the overlay district and therefore requires a variance.

The center of the site contains the main drive aisle and is designed to promote all of the users of the site to enter and exit through the northern entrance previously discussed. The site proposes parking arrays opposing the drive aisle in a conventional design.

Two buildings are proposed at the front of the site. The northern building is approximately 3,600 Sq.Ft., and the southern building is approximately 3,200 Sq.Ft. in size. The intent of the two separated buildings is to promote internal landscaping, visual connection to the rear of the site and the creation of internal activated space. The walks waysadjacent to the center aisle are proposed to be an inviting 8' wide. Though the primary store fronts of the buildings will be internally facing, the architectural requirements of the GR zone will dictate the required features facing NH Route 11.

The southern building is proposed to contain a tenant that would require a drive-through order and pickup window and is logically proposed along the length of the building facing NH Route 11. Article 23.2 (7)(a) requires that these uses are placed on the side or rear of the structure. As noted above the best traffic pattern for NH Route 11 and the site is to promote activity at the



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northern most entrance. This entrance provides for the greatest queue length for the user and will remove the possibility of stacking into the entrance and exit lanes. Additionally, a by-pass lane is proposed to eliminate the potential for congestion. Placing the pickup window on the southern end of the building is not possible due to existing traffic conflicts with the gas station and access in and out of the existing plaza site at the southern entrance.

The design is careful to create an internal traffic connection, safe pedestrian connection and a cohesion between the proposed pad sites through the use of landscape, hardscape and activated space. If a drive through were forced to the internal facade of the building, required parking would be placed at the front of the site and the site will operate as multiple disjointed users which is contrary to modern design ideals.

<u>Variance Criteria for</u> Chapter 275-12.8 to permit a structure within 41.77' of the wetland boundary.

- 1) Granting the variance would not be contrary to the public interest because:

  The public interest is in keeping the largest protections to the natural wetland system as practical while providing an opportunity for land owners to exercise property rights. In this case the area of the site where the building is proposed within the 50' required setback has historically been disturbed and is in an unnatural condition.
- 2) If the variance were granted, the spirit of the ordinance would be observed because: If the variance were granted, the spirit of the ordinance would be observed. In other commercial zones buffer reductions such as this are permitted with the overlay district. This speaks to the balance placed in the ordinance to environmental sensitivity and economic growth. The incursion into the setback is small and is within an area of previous disturbance, and is within the spirit of allowing controlled development to take place in economically developing sections of the city.
- 3) Granting the variance would do substantial justice because:

  Substantial justice in this case is achieved whereas the benefit to the applicant far outweighs the detriment to the general public or the ordinance as a whole. The ordinance permits disturbances within the 50' setback by Conditional Use for specific uses, however the building is not a listed use. The proposed building proposes no greater detriment to the wetland than an access road or prior disturbances found onsite. The reduction of the leasable space onsite for the purposes of removing the impact, within an impacted area is a detriment to the applicant and is avoidable with the granting of the variance.
- 4) If the variance were granted, the values of the surrounding properties would not be diminished because:



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If the variance were granted, the values of the surrounding property values will not be changed. The uses proposed are commercial and are within the GR zone which is inherently commercial. The change in the wetland setback will have no bearing on the abutting land uses and therefore will not affect value.

- 5) Unnecessary Hardship:
  - a. Owning the special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in an unnecessary hardship because:
    - 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 because:

In this case there is no fair and substantial relationship between the public purpose and the specific application to the property. The public purpose is designed to protect the wetland boundary by situating buildings a minimum of 50' away. The ordinance then allows for certain disturbances between the building and the 25' buffer. However, portions of the ordinance also permits buffer reductions for the purposes of building commercials sites. Applying a more stringent standard (50') without the benefit of the buffer reduction on a property that is clearly commercially used and within a commercial zone creates an inequitable relationship. The applicant has attempted to reduce the building structure to fit the site, fit the contour of the land, is of regular constructable shape, and meets the needs of the applicant

ii. The proposed use is a reasonable one because:

The request is small compared to the size of the wetland and given the impacted history on the project site. This is a reasonable request given the potential buffer reduction offered to other land owners in other commercial zones.

b. Explain how, if the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owning to the special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in the strict conformance with the ordinance, and a variance is therefore necessary to enable reasonable use for it.



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The special condition of this parcel is the general dimension of the property in relation to the existing buildings already situated on the project site. When these factors are considered, adjacent to the wetland onsite, which cuts through the corner on an angle, the constraints pose an unnecessary hardship to the applicant.

The denial of the variance would cause an unnecessary hardship to the owner in that it places the site at an economic disadvantage to other identical sites in more favorable zones. This is unnecessary if the variance is granted for a minor encroachment within the 50'

<u>Variance Criteria for Chapter 275-12.8 (B)(8)</u> Land surface within 25' of a wetland is proposed to be altered.

- 1) Granting the variance would not be contrary to the public interest because:

  The public interest is the balance between the environmental longevity of the natural resources in the City of Rochester and the growth potential and traffic connectivity of parcel within the GD Zone. In this case the applicant is proposing an access for the connectivity of multiple parcels to alleviate the need to enter into NH Route 11, which aids in the much-needed traffic management issue along the corridor.
- 2) If the variance were granted, the spirit of the ordinance would be observed because: If the variance were granted, the spirit of the ordinance would be observed whereas the applicant has designed the access and associated grading to be the most limited needed which allows for a remaining buffer around the wetland boundary. Stormwater and buffer plantings will be evaluated during the planning process of the project to ensure current design philosophy is utilized.
- 3) Granting the variance would do substantial justice because:

  Substantial justice in this case is achieved where the applicant gains and maintains access between the parcel without there being a detriment to the ordinance or abutting land owners. The disturbance within 25' of the wetland boundary will not cause harm to abutting land owners in the area and satisfies a need between the multiple project sites.
- 4) If the variance were granted, the values of the surrounding properties would not be diminished because:

  If the variance were granted, the values will not be diminished whereas value is
  - If the variance were granted, the values will not be diminished whereas value is not determined by the breadth of wetland buffers. The reduction in the buffer will not pose environmental harm given the existing disturbance with the area of impact.



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#### 5) Unnecessary Hardship:

- a. Owning the special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in an unnecessary hardship because:
  - 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 because:

The special condition of this parcel is the shape in the context of the existing natural features as well as the topographic features at the rear of the site. The wetland buffer and setback in this area has some existing disturbance. The ordinance is designed to ensure the remaining buffer provides a level of protection to the wetland boundary. This can be done with innovative stormwater methods and enhanced plantings in the area and therefore there is no relationship between the purpose and this specific application.

The denial of the variance would cause an unnecessary hardship to the owner by not allowing access between the parcels in the most appropriate way possible given the context of NH Route 11 and the GR Zone. Connectivity is promoted throughout the GR ordinance and this proposal follows suit on a project specific level.

ii. The proposed use is a reasonable one because:

The proposed use is a reasonable one because it allows for the reasonable development of the existing disturbed area around a wetland to be used for a traffic management purpose.

b. Explain how, if the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owning to the special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in the strict conformance with the ordinance, and a variance is therefore necessary to enable reasonable use for it.

Though other properties in the immediate area have wetlands on them, this lot is special given the less uniform nature when compared to the property boundary and the existing buildings situated thereon. The need to traverse along the wetland boundary within the buffer is a direct result of the wetlands shape and position as it relates to the developable land on both



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sites. Denial would pose an unnecessary hardship by not permitting a formal access between the parcels.

<u>Variance Criteria for</u> Chapter 275, Article 23.2 (7)(a) Drive Through Window must be on the side or rear of the building.

- 1) Granting the variance would not be contrary to the public interest because:

  The public interest is ensuring the corridor is not lined with drive-thru services at the front of project sites, which tend to cause traffic congestion and queuing issues with public highways. In this case, the purpose of the request is to ensure there is adequate traffic management and queue length for the modern-day drive-thru and pick up window.
- 2) If the variance were granted, the spirit of the ordinance would be observed because: The spirit of this ordinance is likely to promote building facades that face the corridor. Drive-thru location and proper building facades are not mutually exclusive items. The site will contain a landscape design between the aisles and the right of way and the building design can still contain architectural elements that are required in the GR Zone.
- 3) Granting the variance would do substantial justice because:

  Substantial justice is provided by allowing the owner to develop the site in a cohesive manner that promotes the best traffic and pedestrian management. There is no detriment to the ordinance or the general public in light of the fact that the alternative options were reviewed and found to pose site related issues that are contrary to other section of the GR Zoning ordinance.
- 4) If the variance were granted, the values of the surrounding properties would not be diminished because:
   If the variance were granted the values of the surrounding property values would not be diminished. There are no abutting properties that would be impacted by allowing the drive-thru components to be placed at the front of the site. In fact, the closest abutting residential user is at the rear of the project site.
- 5) Unnecessary Hardship:
  - a. Owning the special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in an unnecessary hardship because:



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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 because:

The special condition of this parcel is the width vs the depth of the property in conjunction with the two restricted, dedicated, access points on the property. The GR district promotes small commercial pods that are interconnected by walks, activated spaces, and cohesive traffic flow. On this property, the public purpose noted above and the public purpose of providing drive-thru items on the side and rear for traffic management reasons are in conflict with one another. Since the traffic management proposed is the reason for the placement of the drive-thru there is no substantial relationship between the two.

The denial of the variance would cause an unnecessary hardship in creating a disjointed development on the project site. If a drive-thru were forced on the rear or side of the building each pad site would be designed to work independently of each other creating disconnection on the entire site.

ii. The proposed use is a reasonable one because:

The proposed use is reasonable whereas the traffic management component and the aesthetic purpose can be satisfied despite having the drive-thru on the front of the building.

b. Explain how, if the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owning to the special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in the strict conformance with the ordinance, and a variance is therefore necessary to enable reasonable use for it.

As noted above, given the special nature of the parcel's width and depth in conjunction with the southerly abutting building, existing gas station location and existing dedicated driveway locations would not reasonably allow for a drive-thru (an allowed use) to be placed on the project site while maintaining a high level of traffic management and meeting the goals and objectives found in the GR Zone. Not permitting a much needed use on the site due to the location poses an unnecessary hardship to the applicant.



<u>Variance Criteria for Chapter 275-8.5B.10(a) (1) minimum setbacks to permit a building closer than 100' to the rear boundary line.</u>

- 1) Granting the variance would not be contrary to the public interest because:

  The public interest is to provide separation of larger projects within the GR Zone from abutting users that are likely not within the GR Zone. In this case there is a large wooded buffer between the rear building and the closest abutting non-congruent use. (Residential). The building proposed is not imposing and is not proposed to be a tall mixed use building.
- 2) If the variance were granted, the spirit of the ordinance would be observed because: If the variance were granted, the spirit of the ordinance would be observed whereas the project design is relatively small in horizontal and vertical scale. Larger setbacks are supported in projects that have larger massing associated with them. This can be seen later in the GR ordinance where larger buffers from larger structures is contemplated.
- 3) Granting the variance would do substantial justice because:

  Substantial justice in this case is achieved where the applicant is allowed to develop a site that does not contain an abundance of depth, on a scale that is practical given the context of the site.
- 4) If the variance were granted, the values of the surrounding properties would not be diminished because:
  If the variance were granted, the values will not be diminished whereas the proposed reduction in the rear setback is not outside the disturbances and constraints currently observed on the site now. The buildings are not proposed to be large or imposing and are on the same scale as what has been developed on the site in the past.
- 5) Unnecessary Hardship:
  - a. Owning the special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in an unnecessary hardship because:
    - 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 because:

The special condition of this parcel is the shape in the context of the scale of the proposed project. The lack of sizable depth makes



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compliance and reasonable development of a parcel in the GR Zone impossible and therefore constitutes an unnecessary hardship to the applicant. If the intent is to promote larger building projects to have larger setbacks, there is no substantial relationship to projects that are smaller in footprint and profile.

The proposed use is a reasonable one because:

The proposed use is reasonable given the scale that is contemplated.

b. Explain how, if the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owning to the special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in the strict conformance with the ordinance, and a variance is therefore necessary to enable reasonable use for it.

It is unreasonable to think the properties in the GR Zone with such stout depths could reasonably be developed to a high potential with such a large rear setback. This poses an unnecessary hardship on the applicant by not permitting the highest in best use of a parcel in a zone that promotes the highest and best uses.

<u>Variance Criteria for Chapter 275-8.5B.10(a) (1) minimum setbacks to permit a building closer than 50' to the front boundary line to NH Route 11</u>

- 1) Granting the variance would not be contrary to the public interest because: The public interest is to provide separation of larger projects within the GR Zone from the road right of way so that they are less imposing to the corridor. The proposed building is set further back from the corridor than the two abutting buildings to the north and south.
- 2) If the variance were granted, the spirit of the ordinance would be observed because: If the variance were granted, the spirit of the ordinance would be observed whereas the project design is relatively small in horizontal and vertical scale. Larger setbacks are supported in projects that have larger massing associated with them. This can be seen later in the GR ordinance where larger buffers from larger structures is contemplated.
- 3) Granting the variance would do substantial justice because:
  Substantial justice in this case is achieved where the applicant is allowed to develop a site that does not contain an abundance of depth, on a scale that is practical given the context of the site.



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4) If the variance were granted, the values of the surrounding properties would not be diminished because:

If the variance were granted, the values will not be diminished whereas the proposed reduction in the front setback is not outside the disturbances and constraints currently observed on the site now. The buildings are not proposed to be large or imposing and are on the same scale as what has been developed on the site in the past.

- 5) Unnecessary Hardship:
  - a. Owning the special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in an unnecessary hardship because:
    - 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 because:

The special condition of this parcel is the shape in the context of the scale of the proposed project. The lack of sizable depth makes compliance and reasonable development of a parcel in the GR Zone impossible and therefore constitutes an unnecessary hardship to the applicant. If the intent is to promote larger building projects to have larger setbacks, there is no substantial relationship to projects that are smaller in footprint and profile. Prior to the latest revisions on the zoning document there were not prescribed setback requirements within the zone.

The proposed use is a reasonable one because:

The proposed use is reasonable given the scale that is contemplated.

b. Explain how, if the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owning to the special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in the strict conformance with the ordinance, and a variance is therefore necessary to enable reasonable use for it.

It is unreasonable to think the properties in the GR Zone with such shallow depths could reasonably be developed to a high potential with such a large front setback. This poses an unnecessary hardship on the applicant by not permitting the highest in best use of a parcel in a zone that promotes the highest and best uses.



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<u>Variance Criteria for Chapter 275-8.5B.10(a) (5)</u> to permit the development without the need for the 300' buffer requirement.

- 1) Granting the variance would not be contrary to the public interest because:

  The public interest is to provide separation of larger projects within the GR Zone from the road right of way so that they are less imposing to the corridor and allow the front 300' to be use for smaller scale commercial ventures. This project is within that spirt but cannot meet the buffering requirements within the chapter. Internal landscaping and perimeter landscaping will be proposed and reviewed by the planning board as part of the project but the percentages prescribed in the ordinance will not be obtained based on the entire parcel being located within the 300' buffer.
- 2) If the variance were granted, the spirit of the ordinance would be observed because: If the variance were granted, the spirit of the ordinance would be observed whereas the project design is relatively small in horizontal and vertical scale and will provide the highest level of landscaping appropriate for the site design.
- 3) Granting the variance would do substantial justice because:

  Substantial justice in this case is achieved where the applicant is allowed to develop a site that does not contain an abundance of depth, on a scale that is practical given the context of the site. The site is currently developed and contains no landscaping or vegetation to speak of. The development of the site will improve the landscaping and will bring it closer to compliance.
- 4) If the variance were granted, the values of the surrounding properties would not be diminished because:
  If the variance were granted, the values will not be diminished whereas the site will contain more buffering than the existing condition. Being more inviting and walkable will promote businesses to locate in the area and will raise overall property values.
- 5) Unnecessary Hardship:
  - a. Owning the special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in an unnecessary hardship because:
    - 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 because:



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The special condition of this parcel is the shape and the fact that it is already fully developed. The development will bring the site closer to complying with the buffering regulations and therefore there is no fair and substantial relationship between this site and the need for full compliance within the zone. Full compliance would require the applicant to not develop the site to the highest and best use which places the land at an economic disadvantage, which is an unnecessary hardship but for the variance request.

The proposed use is a reasonable one because:

The proposed use is reasonable given the scale that is contemplated and the fact that it will be developed closer to compliance than the existing condition.

b. Explain how, if the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owning to the special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in the strict conformance with the ordinance, and a variance is therefore necessary to enable reasonable use for it.

It is unreasonable to think the properties in the GR Zone with such shallow depths could reasonably be developed to a high potential with such a large buffering requirement. This poses an unnecessary hardship on the applicant by not permitting the highest in best use of a parcel in a zone that promotes the highest and best uses.

We hope the board finds this project is worthy of a variance and approves the request. Thank you all for your time and attention this matter.

Respectfully submitted,

BERRY SURVEYING & ENGINEERING

Christopher R Borry, SIT Principal, President



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### 275-8.5 Architectural and design standards.

[Added 7-5-2022]

- **B.** Nonresidential site layout. Planning for mixed-use development on a site encompasses items such as its relationship to surrounding uses, building orientation on the site, pedestrian and vehicular circulation, and efficiency of parking areas, screening of loading and utility areas, and the design of landscaping, signage, and lighting.
- (10) Dimensional requirements:
- (a) Nonresidential/mixed-use buildings:
  - [1] Minimum structure setback from external lot line:

[a] Side: 50 feet.

**[b]** Rear: 100 feet.

- [2] Minimum structure setback from external ROW: 300 feet.
- [3] Maximum nonresidential building height: 75 feet.
- [4] Structures over 55 feet shall be placed as close to the center of the lot as practical.

Land Use 3250 Print Date 6/4/20	
Card # 1 of 2 Account # 686 Sec # 1 of 1 Bldg # 1	
Parcel ID 0221/0164/0000//	
Property Location 17 FARMINGTON RD Vision ID 686	

VISSOSSE 6/4/2023 1:42:49 PM  Assesse 748;300 97,000 97,000  ASSESSE ROCHESTER, NH PAGE 300 P	2 BLDG 705,900 LAND 203,000 OB 97,000	748,300 0 97,000 203,000	O	1,048,300  In Notes  WROTE MR. C JRVR- CNG CO JRVR- CNG CO Permit #: M-19- PU NEW TANK  F - WITH OW	Notes 33,000 Total Land Value 203,000
Print Date Print Date 748,300 203,000 97,000	Second Prior Assess Year Prior Assess Year Prior Assess Year BLDG 705,900 2022 LAND 203,000 OB 97,000	10)		el Value  VISIT / CHANGE HISTORY  Purposi/Result  SENT NOTICE EXT ONLY  DEED CHANGE  NO INSP  MEAS+INSPCTD  DEED CHANGE  INTER ONLY	Appraised Assessed Value Value 203,000 203,000 Total I
Account # 000 Bldg # 100 So Prior Assessed 705,900 203,000 97,000	76ar 7002 AS	ed Building ed Extra F ed Outbuil ed Land V	Valuation Method	Total Appraised Parcel Value    Date   Id	Infl3 Adj UnitPrice 175,000
Card # 1 of 1     Sec # 1 of 1     Description   LUG     33     ND   32     32     ND   33     ND   33     ND   33     ND   34     ND   35     ND   35     ND   36     ND   37     ND	Year Descri Prior Assesse 2020 BLDG 624,700 CAND 203,000 OB 82,500 Total		Va		zij Infl3
ZONING RANITE WHBD NAME WERCIAL RT11 N S scription K- 4766, PG- 2	20 V6	-	Notes	Rough plumbing for 1/2 bathroom  Move toilet, install HWH, install mop sink, install 2 beaut  WALL.  Coverting basement to storage  GAS PIPING; JR  gas furnace and air conditioning; JR  sewer and water connections for 6 units for future plumb  Lighting, Receptacles in Basement, lighting recess cans  JR  Gasoine manifold for convection oven and cookton:  AND INE VALUATION SECTION	Adj Infl1 Infl1 Adj Ir
TOPO   C GF	SALE PRICE 1,000,000 100,000 900,000	S		CE Mouth plumbing for 1/2 bathroce CE move toilet, install HWH, install CE WALL CE WALL CE Coverling basement to storage C GAS PIPING; JR C gas furnace and air conditioning C sewer and water connections for Lighting, Receptacles in Baser C JR C Gasonie manifold for convecting AND INF VALUATION	Cond 1.00
Parc Perco	PAGE         SALE DATE           234         06-01-2020           260         12-26-2017           989         02-10-2012           715         12-01-2011           0         10-05-2006	BUILDING NOTES	UILDING PERMIT R Insp Date % C 04-13-2023 100	04-13-2023 100 04-13-2023 100 04-13-2023 100 04-13-2023 100 04-13-2023 100 03-22-2021 100 03-22-2021 100 03-22-2021 100 03-22-2021 100 03-22-2021 100	dj UnitPric Size Adj 1.000 175,00 1.00000
Y O	<b>BK-VOL</b> 4766 4539 4000 3973 0	CANT	Description Price	——————————————————————————————————————	Land Type Loc Adj PRIMARY P 1
Property Location 17 FARMING FON KU Vision ID 686 CURRENT OWNER NM COOK 17 FARMINGTON RD LLC 22 ISAAC LUCAS CIR DOVER NH 03820-4910	RECORD OF OWNERSHIP NM COOK 17 FARMINGTON RD LLC BGF REALTY LLC BGF-A LLC CARDINAL RENE & WAYNE CARDINAL RENE & WAYNE	CARDINAL PLAZA: MOBIL & 3 VACANT	Permit Id Desc		B         LUC         Description         Land U         Land Type         Loc Adj         UnitPric         Siz           1         3250         RETAIL/SVC         1.160         PRIMARY         P         1,000         175,00         1.0           1         Total Card Land Units         1.16         AC
Property Location 17 Vision ID 686  CURRENT  NM COOK 17 FARMIN  22 ISAAC LUCAS CIR  DOVER NI	RECORD IN COOK 17 FAR BGF REALTY LLC BGF-A LLC CARDINAL RENE CARDINAL RENE	CARDINAL P	Issue Date		1 3250 RET

Print Date 6/4/2023 1:42:49 PM Land Use 3250 686 104 FFL BMT (3,328 sf) FFL BMT (3,364 sr) Account # Bldg # 7 7 ರ್ ರ 163,185 652,545 53,673 5,172 16,900 13,500 9,400 18,000 37,000 8/4.5/5 Undeprec Value Card # Sec # Appr. Value % Gd Unit Price Grade Adj. 9 9 9 9 9 9 24.42 97.66 61.27 40.41 Unit Cost OB - OUTBUILDING & YARD ITEMS(L) / XF - BUILDING EXTRA FEATURES(B) 1,25 1,25 23,25 15000.00 2,57 0,00 Parcel ID 0221/ 0164/ 0000/ / Percentage 
 BUILDING SUB-AREA SUMMARY SECTION

 Liwing Area
 Floor Area
 El Area

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 6,682
 6,682
 6,682

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 876
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 AME UTILIT
 0
 128
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 8,353 CONSTRUCTION DETAIL (CONTINUED) 0000 Description 74 689,600 931,900 90 30 30 100 1,000 1986 14,368 COST / MARKET VALUA 26 G SAME Yr Blt 1986 1986 2017 1980 1980 2017 MIXED USE Description Cost to Cure Ovr Comment Condition g Misc Imp Ovr Comment 289'9 RETAIL/SVC \$ <del>\$</del> \$ \$ £ \$ Dep % Ovr Dep Ovr Comment Depreciation Code -unctional Obsol Cost to Cure Ovr Remodel Rating Year Remodeled Economic Obsol Extra Fix Rating Depreciation % Half Bath Ratin Extra Fixture(s) Percent Good Grade Misc Imp Ovr rend Factor Special Adj Condition % Element ear Built RCNLD III Gross Liv / Lease Area Code 3250 RCN Dim 2 32000 12000 FRAME SHED BULKHEAD/FRAME UTILIT 5000 Dim 1 Description <del>-</del> 8 17 FARMINGTON RD FORCED W/A **MULTI TYPE** CONCRETE Description Commercial MIX RETAIL MULTIPLE AVERAGE AVERAGE PROPANE CONSTRUCTION DETAIL Average Qnty VINYL SAME SAME Γ/B 1ST FLOOR OPEN PORCH 100.00 100.00 BASEMENT 10.00 PAVING ASPH 0.00 0.00 2.00 TANK I/G FIB TANK I/G FIB PARK'G SPAC 94 C39 COMM CANO GAS PUMPS Description Property Location Vision ID 686 # Heat Systems 3/4 Bath Rating Residential Unit Basement Floor Half Bath(s) Half Bath Ratin Heat Type 2nd Heat Type Extra Fixture(s) 2nd Ext Wall % Exterior Wall 1 Exterior Wall 2 Roof Structure Interior Floor 2 nterior Floor 1 Interior Wall 1 Interior Wall 2 2nd % Heated Element Comm Units Bath Rating Wall Height Roof Cover **AC Percent** Full Bath(s) 3/4 Bath(s) Bedrooms % Heated Heat Fuel Code Stories Grade Model OFP Style Units 댎 응유 목 뜻

Property Location 17 FARMINGTON RD Vision ID 686

Parcel ID 0221/ 0164/ 0000/ /

Card # 2 of 2 Account # Sec # 1 of 1 Bidg # 2

Land Use 3250 Print Date 6/4/2023 1:42:50 PM

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22 Land Use 3250 Print Date 6/4/2023 1:42:50 PM 7 4 GAR (308 af) 7 14 FFL (196 sf) PUR MARKET 7 989 3 12 Account # Bldg # 2 7 7 ರ್ ರ FFL BMT (832 sf) Undeprec Value 15,808 78,128 4,675 415 7 47,424 009 146,730 Appr. Value Card # Sec # STG (2031) % Gd | Unit Price | Grade Adj. 2 19.00 76.00 15.18 16.59 9.34 57.00 1.00 Unit Cost OB - OUTBUILDING & YARD ITEMS(L) / XF - BUILDING EXTRA FEATURES(B) 84P 312.50 312.50 Parcel ID 0221/0164/0000// Percentage 208 1,028 0 0 624 1.860 CONSTRUCTION DETAIL (CONTINUED) 800 Description 146,730 40 58,700 COST / MARKET VALUATION 5 5 1,000 1950 832 1,028 308 25 30 832 3,055 9 SAME BUILDING SUB-AREA SUMMARY SEC Dim 1 Dim 2 Grade Condition | Yr Blt | 1990 1990 MIXED US Description Cost to Cure Ovr Comment ပ္ပ Misc Imp Ovr Comment 1,028 0 0 1,652 RETAIL/SVC **₹** Dep % Ovr Dep Ovr Comment Depreciation Code Functional Obsol Cost to Cure Ovr Economic Obsol Remodel Rating Year Remodeled Extra Fix Rating Depreciation % Half Bath Ratin Extra Fixture(s) Percent Good Misc Imp Ovr Special Adj Condition % Trend Factor Element 'ear Built RCNLD Itl Gross Liv / Lease Area Code 3250 RCN GARAGE FRAME SHED BULKHEAD/FRAME UTILIT GABLE ASPH SHINGLE Description Commercial RETAIL STORE 17 FARMINGTON RD FORCED W/A CONCRETE AVERAGE AVERAGE CONSTRUCTION DETAIL L/B Qnty SAME SAME VINYL 5 2  $\frac{1}{2}$ 12 100.00 1ST FLOOR BASEMEN 3/4 STORY 1.00 LIGHT M/POL LIGHT M/POL 94 C37 D 1.00 0.00 Description STOOP 96 80 Property Location Vision ID 686 3/4 Bath(s) 3/4 Bath Rating 2nd % Heated # Heat Systems Half Bath(s) Half Bath Ratin Basement Floor Residential Unit 2nd Ext Wall % Roof Structure Extra Fixture(s) Exterior Wall 2 Exterior Wall 1 2nd Heat Type Interior Wall 2 Interior Floor 2 Interior Wall 1 Interior Floor 1 Comm Units Bath Rating AC Percent Full Bath(s) Wall Height Roof Cover Heat Type Bedrooms % Heated Heat Fuel Code Code Stories Grade GAR STG STP TQS Style H ≥ ≥

184,200 184,200 184,200 184,200 184,200 | Descri | Prior Assesse O 184,200 CORRECTED 3/25/22- ALL BL ROCHESTER, NH ANIZED Print Date 6/4/2023 1:40:10 PM NOISIN Notes Notes Total Land Value Total 536,400 Total LAND Land Use 3900 VISIT / CHANGE HISTOR) 175,000 9,200 2022 Total 184,200 184,200 184,200 PREVIOUS ASSESSMENTS (HISTORY)
Descri Prior Assesse Year Descri Prior Assess Year Assessed Purpost/Result 184,200 LUC Co | Prior Assessed | Current Assesse Value MAPPING CHG CORRECTION 140,600 352,300 43,500 Appraised Extra Feature Value (Bldg) **EXT ONLY** 175,000 9,200 Appraised Outbuilding Value (Bldg) Appraised Appraised Building Value (Card) Value Total Appraised Parcel Value Fotal Appraised Parcel Value Appraised Land Value (Bldg) 184,200 ASSESSMENT LAND Adj UnitPrice 王딱님 175,000 15,000 Valuation Method Account # Bldg # 1 2021 06-03-2022 04-11-2022 04-11-2022 Date Infl3 Infl3 Adj 34,100 526,500 140,100 352,300 390 ਰ ਰ Infl2 Adj **Fotal** Description LAND Card # Sec # OFFICE BLDG & STG BLDG STILL HERE; OFFICE BLDG & STG BLDG Inf12 Year 2020 LAND LAND LINE VALUATION SECTION new 100A electrical service on utility pole; AC Infl1 Adj 02 02 04 01 99 TEST CIRCUITS TO MAKE SAFE COMMERCIAL RT11 N Notes ESMNTS BK3973 PG707 & PG709 TERMINATED BY BK- 4766, PG- 2 1,61 SALE CODE NHBD NAME STRUCTURE NOT BUILT: Infl1 **WO SMALL BUILDINGS** G GRANITE Description Size Adj | Cond | Nbhd | Nb Adj | Parcel Total Land Area 1.000 Parcel ID 0216/ 0029/ 0000/ / EXEMPTIONS 30,000 717,534 925,000 3001 SALE PRICE NEIGHBORHOOD EGAL DESCRIPT 175,00 1.00000 1.00 15,000. 1.00000 1.00 **BUILDING PERMIT RECORD** Code 3001 8080800 Stat BUILDING NOTES O LEVEL 07-16-1984 12-30-1976 SALE DATE 10-08-2014 ပ % Year 07-10-2021 12-03-1971 9 1 1 1 1 1 1 UnitPric 1.61 AC 03-25-2022 02-21-2020 03-23-2009 no and ic not warr 01-20-2017 01-20-2017 Insp Date 1.000 0 CITY SEWER UTL/ST/TRAI 0 CITY WATER C 0 CTY WTR PBO 928 628 789 107 479 20,000 6,800 Loc Adj 900 6,800 900 Total Card Land Units 0 PAVED 0 HEAVY the or thin information is bottomed to be necessary but in cubinet to she Price 4942 4248 1140 992 896 0 NONE ΔШ PRIMARY EXCESS A ELECTRIC ELECTRIC ELECTRIC DEMOLITION DEMOLITION Land Type DEMOLITION Description 0 FARMINGTON RD CARDINALS SEAFARER RESTAURANT SALES INFORMATION- GRANTEE GARAGE CARDINAL RENE & WAYNE DEMERITT WILLIAM F & ISABELLE 03820 1,000 0,610 NM COOK DEVELOPMENT LLC NM COOK DEVELOPMENT LLC LandU **CURRENT OWNER** 21 FARMINGTON ROAD LLC Permit Id 톤 COM DEV L Description E-19-435 E-16-230 22 ISAAC LUCAS CIR E-16-230 D-21-46 08-313 12097 12097 Property Location 10-23-2019 07-13-2016 07-13-2016 10-29-2015 04-15-2008 Issue Date 10-29-2015 09-07-202 3900 LUC Vision ID VACANT DOVER B

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Land Use 3900 Print Date 6/4/2023 1:40:10 PM										0		
1 Account # 660					No Sketch	2						
Card # 1 of Sec # 1 of								S(B) Grade Adi Annr Value			Undepreciated Value	0
0216/ 0029/ 0000/ /	AIL (CONTINUED)	Description	ATA  Complex#	Building # Section # % Owner		1.000		VERIT OF STANDING EXTRA FEATURES	% cd		Eff Area Unit Cost	0
Parcel ID 0	UCTIO	Element Cd Solar Central Vac Nbhd Modifier MH Make MH Serial # Color;Mdl #;D	Condo Main Condo Data	Adjust Type Code Condo Floor Condo Location COST / MARKET	Building Value New Year Built Depreciation Code Remodel Rating Year Remodeled Depreciation % Functional Obsol	Economic Obsol Trend Factor Special Adj Condition % Percent Good RCNLD Dan % Ove	Dep Ovr Comment Misc Imp Ovr Misc Imp Ovr Comment Cost to Cure Ovr Cost to Cure Ovr		Grade Condition	-1991	Living Area Floor Area	0 0
0 FARMINGTON RD	TION DE	Cd Description						OB - OUTBUILDING &	L/8 Qnty		Description	Til Gross Liv / Lease Area
Property Location 0 Vision ID 660	CONSTR	Element Style Grade Stories Units Frame Foundation Exterior Wall 1	Roof Cover	View Interior Wall 1 Interior Floor 1 Basement Flo	Finished Bsmt FBLA Rec Room Electric Insulation Interior/Exterio % Heated Heat Fuel	Heat Type AC Percent Bedrooms Full Bath(s) 3/4 Bath(s) Haff Bath(s)	Extra Fixture(s Kitchen(s) Extra Kitchen( Total Rooms Fireplace(s)	<u>d</u>	Code		Code	

## 0 & 17 Farmington Road



Tax Parcels

0 0.01 0.02 mi

0 0.01 0.02 0.04 km

Esri, HERE, Garmin, INCREMENT P. NGA, USGS, Esri Community Maps Contributors, Rochester GIS, ® OpenStreetMap, Microsoft, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc., METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA

Owner1	Owner2	BillingAddress	City State Zip
COOK N MILES III	ROCHESTER MOTORSPORTS	23 FARMINGTON RD	ROCHESTER, NH 03867
SECKENDORF REAL ESTATE	HOLDINGS LLC	11 FARMINGTON RD	ROCHESTER, NH 03867
20 FARMINGTON LLC		1346 BALD HILL RD	WARWICK, RI 02866
GARZILLO MICHAEL V & JEAN F	REV TRUST TRUSTEES	18 FARMINGTON RD	ROCHESTER, NH 03867-4304
NM COOK DEVELOPMENT LLC		22 ISAAC LUCAS CIR	DOVER, NH 03820
20 FARMINGTON LLC		1346 BALD HILL RD	WARWICK, RI 02866
NM COOK 17 FARMINGTON RD LLC		22 ISAAC LUCAS CIR	DOVER, NH 03820-4910
<b>MEREDITH VILLAGE SAVINGS BANK</b>		PO BOX 177	MEREDITH, NH 03253
10 FARMINGTON ROAD LLC		549 ROUTE 1 BY-PASS	PORTSMOUTH, NH 03801
DONALD TOY REVOCABLE TRUST	<b>BONNIE TOY REVOCABLE TRUST</b>	7497 NE 8TH COURT	BOCA RATON, FL 33487
KAREN & BRIAN TUCKER	JEFFERY TUCKER	23 SHILOH DRIVE	ROCHESTER, NH 03867
JANET MCDONALD		27 SHILOH DRIVE	ROCHESTER, NH 03867
MANSON LIVING TRUST	<b>ROBERT &amp; ISABEL MANSON</b>	29 SHILOH DRIVE	ROCHESTER, NH 03867
DWIGHT & ANNE HARVEY		33 SHILOH DRIVE	ROCHESTER, NH 03867
JAMES & THERESE GORSUCH		37 SHILOH DRIVE	ROCHESTER, NH 03867
VIRGINIA CHAPPELL REV TRUST	VIRGINIA CHAPPELL	5772 COUNTY ROAD 4712	LARUE, TX 75770-3519
EDWARD & KATHLEEN WILENT		41 SHILOH DRIVE	ROCHESTER, NH 03867
LESLIE & ANN HEISLER		45 SHILOH DRIVE	ROCHESTER, NH 03867
GOLONKA FAMILY TRUST	WILLIAM & JOANNE GOLONKA	49 SHILOH DRIVE	ROCHESTER, NH 03867

