



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. 2-23-24

DATE FILED 6/23/23

C91
ZONING BOARD CLERK

Applicant:

GR Development, LLC

E-mail: jarnold@orr-reno.com Phone: 603-223-9172

Applicant Address: Orr & Reno, P.A. 45 South Main Street, Concord, NH 03301

Property Owner (if different): 105 Farmington Rd., LLC

Property Owner Address: 250 First Avenue, Suite 202 Needham, MA 02494

Variance Address: 105 Farmington Road

Map Lot and Block No: 0209/0001/0000

Description of Property: The property is approximately 1.7 acres, located in the Granite Ridge Development Zone

Proposed use or existing use affected: car wash

The undersigned hereby requests a variance to the terms of the Rochester Zoning Ordinance, Ch. 275, Section 8.5.B(10)(a)[1][b]

and asks that said terms be waived to permit to allow a rear setback of 25', where 100' is required.

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:  Attorney for Applicant Date: 6/23/23



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 attached

2) If the variance were granted, the spirit of the ordinance would be observed because:

see attached

3) Granting the variance would do substantial justice because:

see attached

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

see attached

5.) Unnecessary Hardship:

a. Owing to 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:

see attached

And:

ii. The proposed use is a reasonable one because:

see attached

b. Explain how, if the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing 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.

see attached

NARRATIVE IN SUPPORT OF VARIANCE APPLICATION
GR DEVELOPMENT, LLC

This variance application is related to the property located at 105 Farmington Road in Rochester (the "Property"). The Property is approximately 1.7 acres, and is located in the Granite Ridge Development Zone.

The Applicant seeks to construct a car wash on the Property, which is a permitted use. The car wash will have a shared access and interconnection with a proposed retail motor fueling station and convenience store on the adjacent property, 4 Little Falls Bridge Road. The overall development includes a lot line adjustment to annex approximately .2 acres from the Property to 4 Little Falls Bridge Road to accommodate the shared driveway and diesel fueling station on the adjacent lot.

In the Granite Ridge Development Zone, there is a 300' required front setback and a 100' required rear setback. The Property's maximum depth is approximately 240'. Accordingly, none of the Property is outside of the required setbacks, and the Property is not buildable without relief from the required setbacks. The Applicant has designed the site to locate the structures centrally on the Property, and to maximize the setbacks that can be provided.

As such, the Applicant seeks the following variances:

- 1) Variance from §275-8.5.B(10)(a)[2] to allow a front setback of 10', where 300' is required; and
- 2) Variance from §275-8.5.B(10)(a)[1][b] to allow a rear setback of 25', where 100' is required.

1. The variances will not be contrary to the public interest.

A variance is contrary to the public interest if "it unduly and in a marked degree conflicts with an ordinance such that it violates the ordinance's basic zoning objectives." Farrar v. City of Keene, 158 N.H. 684, 691 (2009) (internal quotations omitted). In determining whether a variance would violate basic zoning objectives, the Board should examine whether the variance would alter the essential character of the locality, or whether the granting of the variance would threaten public health, safety or welfare. Id.

Here, allowing the reduced front and rear setbacks¹ will pose no threat to the public safety, health or welfare, or alter the essential character of the locality. The proposed building setbacks are consistent with the building setbacks provided on all of the nearby properties on this side of Farmington Road. The proposed 10' front setback and 25' rear setback are measurements to equipment (vacuums in the front and the dumpster and payment kiosk in the rear), which the City has determined must comply with the setbacks. However, this equipment is small, and

¹ The proposed 10' front setback and 25' rear setback are measured from the improvements located nearest each respective property line. However, as shown on the enclosed plan, all improvements proposed on the Property are within the required setbacks, as the Property lacks sufficient depth to accommodate both setbacks.

unobtrusive. The actual building setbacks are much larger – approximately 85’ in the front and 65’ in the rear.

2. The spirit of the ordinance is observed.

The New Hampshire Supreme Court has determined that the requirement that a variance not be contrary to the public interest “is co-extensive and related to the requirement that a variance be consistent with the spirit of the ordinance.” Chester Rod & Gun Club v. Town of Chester, 152 NH 577, 580 (2005). As such, this criterion overlaps with the public interest requirement. For the reasons set forth above, the spirit of the ordinance will be observed. Further, the spirit of the ordinance is to allow reasonable use of property, and absent variances for the front and rear setbacks, the Property could not be developed at all.

3. Substantial justice is done.

Substantial justice is done where granting a variance will not cause harm to the general public that outweighs the benefit to the applicant. See Malachy Glen Associates v. Town of Chichester, 155 N.H. 102, 109 (2007). That is the case here, as allowing these variances would cause no harm to the general public. The proposed setbacks are consistent with other properties in the area, and are still ample to provide meaningful separation between structures and uses on adjacent properties. Denying the variances would cause harm to the public because prime commercial property would remain vacant and undeveloped, rather than being put to a productive use that will contribute to the tax roll. Additionally, the benefit of the variances to the Applicant is substantial, given that the Property is undevelopable without the setback relief.

4. The value of surrounding properties is not diminished.

Granting these variances will not diminish surrounding property values, for the same reasons cited above. Absent the variances, the Property would remain undeveloped, which would negatively impact the surrounding commercial property values. Bringing new business to the Granite Ridge Development Zone will foster economic growth and help to drive up surrounding property values.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

The Property is unique in that it is a relatively small and shallow lot in the Granite Ridge Development Zone. When the required setbacks are applied, there is no buildable area remaining. Most of the properties in the Granite Ridge Development Zone are much larger and deeper, and while there are a few adjacent properties of similar dimension, those have largely already been developed. Absent relief from the required setbacks, no reasonable use can be made of the Property. The proposed use is reasonable because the structures are modest in size, and situated centrally on the Property to maximize the setbacks to the extent possible.

275-8.5Architectural and design standards.

[Added 7-5-2022]

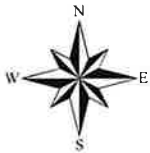
B. Nonresidential site layout. Planning for mixed-use development on a site encompasses items such as its relationship to surrounding uses, building orientation on the site, pedestrian and vehicular circulation, and efficiency of parking areas, screening of loading and utility areas, and the design of landscaping, signage, and lighting.

(10) Dimensional requirements:

(a) Nonresidential/mixed-use buildings:

[1] Minimum structure setback from external lot line:

[b] Rear: 100 feet.



105 Farmington Road

City of Rochester, NH

1 inch = 110 Feet



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June 22, 2023



Data shown on this map is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this map.

Property	Parcel ID	Name	Address	Relationship
105 Farmington Road	0209/0001/0000	105 Farmington Rd LLC	250 First Ave, Suite 202 Needham Heights, MA 02494	Owner
4 Little Falls Bridge Road	0216/0012/0000	Waterstone Little Falls LLC	250 First Ave Ste 202 Needham, MA 02494	Abutter
0 Little Falls Bridge Rd	0216/0013/0000	State of New Hampshire	Dept of Transportation 1 Hazen Drive Concord, NH 03301	Abutter
116 Farmington Road	0208/0001/0001	Infinity Rochester Prop LP	WS Asset Mgmt Inc. 33 Boystons St, Suite 3000 Chestnut Hill, MA 02467	Abutter
115 Farmington Road	0208/0019/0001	Hermitage Place Limited Partnership	PO Box 648 Concord, NC 28025	Abutter
0 Marketplace Blvd	0216/0011/0002	City of Rochester	31 Wakefield St Rochester, NH 03867-1916	Abutter
		John L. Arnold, Esq.	Orr & Reno, PA 45 South Main St. Concord, NH 03301	Attorney
		Wayne Morrill	Jones & Beach Engineers, Inc. 85 Portsmouth Avenue PO Box 219 Stratham, NH 03855	Engineer
		GR Development, LLC	164 Mason Street Greenwich, CT 03860	Applicant