



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. 2-23-19

DATE FILED 6/21/23

CS
ZONING BOARD CLERK

Applicant:

JCCM Properties, LLC c/o Bruton & Berube, PLLC

E-mail: josh@brutonlaw.com

Phone: 603-777-0579

Applicant Address: 601 Central Road, Dover, NH 03820

Property Owner (if different): JCCM Properties, LLC

Property Owner Address: 189 South Main Street, Rochester, NH 03867

Variance Address: 189 South Main Street, Rochester, NH 03867

Map Lot and Block No: 125/ 84

Description of Property: Please see application materials.

Proposed use or existing use affected: Please see application materials.

The undersigned hereby requests a variance to the terms of the Rochester Zoning Ordinance, Ch. 275, Section 5.1 ^{Table 18-K}

and asks that said terms be waived to permit Please see application materials.

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: /s/ Joshua P. Lanzetta, Esq.

Date: June 12, 2023





City of Rochester, New Hampshire

Zoning Board of Adjustment

Variance Criteria

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

Please see application materials.

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

Please see application materials.

3) Granting the variance would do substantial justice because:

Please see application materials.

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

Please see application materials.

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:

Please see application materials.

And:

- ii. The proposed use is a reasonable one because:

Please see application materials.

- 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.

Please see application materials.

I. ENCLOSED DOCUMENTS

Enclosed please find 1-original and 9-copies including 1-each of the following documents:

1. Application dated June 12, 2023;
2. Abutters List dated June 12, 2023;
3. Appraisal Report; and
4. 1-page Variance Plan drafted by Stonewall Surveying and dated September 22, 2022 (the “Plans”).

II. PROPERTY HISTORY & NARRATIVE

The Property comprises approximately 1.35 acres in the City’s R1 zone, and is improved with a 3-story multifamily dwelling containing 7-residential units.⁴ The Property uniquely abuts the Residential 2 (“R2”), Downtown Commercial (“DC”), and Neighborhood Mixed Use (“NMU”) zones, 2-of which permit multifamily dwellings and developments⁵.

The City’s R1 zone does not allow multifamily dwellings or developments, however, the abutting R2 zone permits both uses by right, the abutting DC zone conditionally permits both uses, and the Property has been used to house a 7-unit multifamily dwelling for decades.⁶

Here, the Applicant seeks a variance to construct 4-additional units on the Property, and to add parking pursuant to the Ordinance. This proposal substantially complies with the Ordinance, except for the variance referenced herein.

III. LEGAL ANALYSIS

The project substantially complies with the Ordinance, the Application, and the 5-variance criteria as set forth in NH RSA 674:33.

The variance criteria are enumerated and *italicized* below with the Applicant’s responses following in plain text.

1. *The variance is not contrary to the public interest.*

⁴ The Ordinance defines multifamily dwelling as “a building or portion thereof containing three or more residential units with separate cooking and toilet facilities for each dwelling on one individual lot.” *Ordinance* at § 275-22, 275:18.

⁵ The Ordinance defines multifamily development as “a development containing two or more buildings containing three or more residential units in total on the same lot.”

⁶ Zoning, Table 18-A § 275 Attachment 1, 275 Attachment 1:1 (2022).

The Applicant respectfully asserts the proposed use, i.e., constructing 4-additional residential units on Property already used as a multifamily property, represents a reasonable use of the Property, and that the public interest is served by permitting the orderly development of property in a locus specifically zoned for residential use. Here, the existing house has been used as a multifamily for decades, and adding a similar structure does not 1) alter the essential character of the surrounding neighborhood, 2) impact abutters, and/or 3) affect the public.

2. *The spirit of the ordinance is observed.*

The spirit of the ordinance is observed because the Project represents a reasonable use of property when balanced with the location, zone, surrounding zones, and historic use of Property. Allowing the Applicant to construct 4-residential units encourages the most appropriate use of land in Rochester's R1 zone when juxtaposed with the zone's intent to allow residential development.

3. *Substantial justice is done.*

Substantial justice is done by granting this variance because it allows the Applicant's property to be reasonably utilized considering abutting property uses (i.e., residential) and its locus in the R1 Zone. This proposal does not burden the public in any way, and substantially benefits the Applicant by allowing him to reasonably use his property with no detrimental effect to surrounding property.

4. *The values of surrounding properties are not diminished.*

Please see the enclosed Appraisal Report. The Applicant respectfully asserts that all surrounding properties have an associated value that is premised upon the existence of structures and features like those proposed on the Property. Here, the Project will not affect any abutting neighbor and is consistent with nearby uses.

5. *Unnecessary Hardship:*

a) *Owning 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:*

The public is not served by prohibiting the Applicant to construct 4-additional units on the Property. There is no fair and substantial relationship between the general public purpose of the Ordinance's provision prohibiting multifamily dwelling units and multifamily developments on the Property, and the specific application of this provision to the Property because 1) the Property uniquely abuts

multiple zones allowing multifamily dwelling units and multifamily developments, and 2) has been used to house a 7-unit multifamily dwelling for decades.

ii. *The proposed use is a reasonable one.*

Adding 4-residential units to the Property is reasonable given the Property uniquely abuts multiple zones allowing multifamily dwelling units and multifamily developments, and has been used to house a 7-unit multifamily dwelling for decades.

iii. *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.*

The Property has been used to house multiple dwelling units for decades and cannot be reasonably used in strict conformance with the ordinance as constructed.

IV. RELIEF REQUESTED

Pursuant to NH RSA 674:33, the Applicant respectfully requests the ZBA:

1. Approve the Application; and
2. Grant all relief necessary to affect the aforementioned request.

Please do not hesitate to contact me with questions or concerns at josh@brutonlaw.com or 603-749-4529.

Sincerely,

/s/ Josh Lanzetta

Joshua Patrick Lanzetta, *Esq.*

COMPARABLE REPORT



MLS #	4913631	4935509	4922005	4917459
Listing Status	Closed	Closed	Closed	Closed
Property Class	Multi-Family	Multi-Family	Multi-Family	Multi-Family
Property Type	Multi-Family	Multi-Family	Multi-Family	Multi-Family
Address	171 North Main Street	38-40 Lafayette Street	11 Church Street	144 North Main Street
City	Rochester	Rochester	Rochester	Rochester
State	NH	NH	NH	NH
Price	\$510,000	\$525,000	\$530,000	\$590,000
SqFt-Apx Fin Above Grade	3,882	3,929	4,335	3,572
SqFt-Apx Fin Below Grade	0	0	0	0
Total Units	6	5	6	6
Total 1 BR Units	4	0	4	5
Total 2 BR Units	2	3	2	1
Total 3+ BR Units	0	2	0	0
Garage Capacity		4		
Year Built	1881	1916	1882	1881
Lot Size Acres	0.320000	0.240000	0.310000	0.140000
Total Adjustments:	\$0	\$0	\$0	\$0
Adjusted Price	\$510,000	\$525,000	\$530,000	\$590,000

COMPARABLE REPORT



MLS #	4912539
Listing Status	Closed
Property Class	Multi-Family
Property Type	Multi-Family
Address	29 Walnut Street
City	Rochester
State	NH
Price	\$640,000
SqFt-Apx Fin Above Grade	3,525
SqFt-Apx Fin Below Grade	0
Total Units	5
Total 1 BR Units	4
Total 2 BR Units	1
Total 3+ BR Units	0
Garage Capacity	
Year Built	1900
Lot Size Acres	0.390000
Total Adjustments:	\$0
Adjusted Price	\$640,000

CMA SUMMARY REPORT

Multi-Family - Closed

ADDRESS	MLS #	Status	County	Sale/Rent
171 North Main Street	4913631	CL	Strafford	For Sale
38-40 Lafayette Street	4935509	CL	Strafford	For Sale
11 Church Street	4922005	CL	Strafford	For Sale
144 North Main Street	4917459	CL	Strafford	For Sale
29 Walnut Street	4912539	CL	Strafford	For Sale

Total Listings

5

Multi-Family Summary Statistics

	HIGH	LOW	AVERAGE	MEDIAN
Price:	\$699,900	\$510,000	\$575,580	\$549,000
Selling Price:	\$640,000	\$510,000	\$559,000	\$530,000
Adj Price:	\$640,000	\$510,000	\$559,000	\$530,000
Suggested List Price:				

FINAL COMMENTS

To Whom it may Concern,

The Subject property is currently a 7 Unit Multi Family that has 6,069 sq ft of rentalable area

The property is in good condition. In this property assessment, the subject property has a good amount of recent comparable sales to use. This assessment will also include the value in adding an additional 2400 sq ft 4 unit to the subject property.

Subject Property

7 units

6,096 Sq. Ft

With Addition

11 Units

8469 Sq. Ft

These comps are very similar in size, location, and closing price. The Price per sq ft for those comparable sales is between \$85,000 Per unit to \$105,000 Per unit. Based on that, subject property would sell in the range of \$595,000-\$650,000 range in todays market.

With the addition of 4 units would add \$85,000 Per unit to \$105,000 Per unit to the property

\$340,000-\$420,000

The total value of the property once the additional units are built would be in the

\$935,000 to \$1,070,000

Please let me know if you have any questions.

Nick Couturier

New Space Real Estate

Broker

Nick@NewSpaceRE.com

603-978-6700

DETERMINING VALUE

Factors that Affect Your Home in Today's Market!

Location:

Location is the single most important factor in determining the value of your home.

Competition:

Prospective buyers compare your property against competing properties. Buyers will perceive value based upon the properties that have sold or are available in the area.

Timing:

Property values are affected by the current real estate market. As the real estate market cannot be manipulated, a flexible marketing plan should be developed which analyzes the current marketing conditions and individual features of the property.

Condition:

The condition of the property affects the price and speed of the sale. As prospective buyers often make purchases based on emotion, first impressions are important.

Optimizing the physical appearance of your home will maximize the buyer's perception of value.

Price:

Pricing your home properly from the very beginning is an important factor in determining the length of time it will take to sell your home.

ZONING

275 Attachment I

City of Rochester

Table 18-A Residential Uses
[Amended 4-4-2017; 3-5-2019; 5-7-2019]

LEGEND

P = Permitted Use

C = Conditional Use

E = Use Allowed by Special Exception

Residential Uses	Residential Districts					Commercial Districts				Industrial Districts		Special		Criteria/Conditions Reference
	R1	R2	AG	NMU	DC	OC	HC	GI	RI	HS	AS			
Apartment, accessory (accessory use)	E	P	P	P	P	P	P	—	—	E	—	—	—	Article 21 and 23
Apartment, in-law	P	P	P	P	P	P	P	—	—	—	—	—	—	
Apartment, security	—	P	—	P	P	P	P	P	P	P	P	—	—	Articles 2 and 23
Assisted living facility	—	C	C	C	C	C	C	—	—	C	—	—	—	Article 21
Boardinghouse	—	—	—	—	E	—	—	—	—	—	—	—	—	
Community residence-1	—	E	E	—	E	E	E	—	E	E	—	—	—	Article 22
Community residence-2	—	—	E	—	—	E	—	—	E	E	—	—	—	Article 22
Conservation subdivision	C	C	C	—	—	C	C	—	—	—	—	—	—	Articles 21 and 33
Dwelling, apartments (apartment/mixed-use building)	—	—	—	P	P	C	P	—	—	—	—	—	—	Article 21
Dwelling, multifamily development	—	P	—	—	P	—	P	—	—	—	—	—	—	Articles 20 and 22
Dwelling, multifamily	—	P	—	—	P	—	P	—	—	—	—	—	—	
Dwelling, single-family	P	P	P	P	—	P	P	—	—	P	—	—	—	
Dwelling, two-family	—	P	P	P	C	P	P	—	—	—	—	—	—	Articles 21 and 33
Flag lots	—	C	C	—	—	—	—	—	—	C	—	—	—	Article 21
Home occupation-1 (accessory use)	P	P	P	P	P	P	P	—	—	P	—	—	—	Article 24
Home occupation-2 (accessory use)	P	P	P	P	P	P	P	—	—	P	—	—	—	Articles 22 and 24

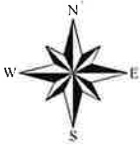
ROCHESTER CODE

	Residential Districts				Commercial Districts			Industrial Districts		Special		Criteria/Conditions
	R1	R2	AG	NMU	DC	OC	HC	GI	RI	HS	AS	
Residential Uses												
Home occupation-3 (accessory use)	—	E	E	P	P	P	P	—	—	E	—	Articles 22 and 24
Manufactured housing unit on own lot	—	—	P	—	—	—	—	—	—	—	—	Articles 20 and 21
Nursing home	—	—	C	—	—	C	—	—	—	P	—	Articles 20 and 21
Outdoor wood-fired hydronic heater	—	—	P	—	—	—	—	—	—	—	—	Article 20
Porchop subdivision	—	—	C	—	—	—	—	—	—	—	—	Article 21
Residential facility	—	—	E	—	—	E	—	—	E	E	—	Article 22
Senior housing	—	P	C	C	C	C	—	—	—	—	—	Article 21
Temporary structure	P	P	P	P	P	P	P	P	P	P	P	Article 20
Zero lot line development	C	C	C	—	—	C	C	—	—	—	—	Article 33

Article 5 Residential Zoning Districts

275-5.1 **General terms.**

The uses permitted by right, conditionally, or by special exception are displayed in Table 18-A, Residential Uses. Dimensional regulations are displayed in Table 19-A, Dimensional Standards - Residential Districts.^[1] Other applicable requirements for development within any residential zoning district are presented throughout this chapter.



189 South Main Street

City of Rochester, NH

1 inch = 94 Feet



www.cai-tech.com

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.

CURRENT OWNER		UTILITIES		TOPO		ZONING		CURRENT ASSESSMENT	
JCCM PROPERTIES LLC	8 HULL ST	0	CITY WATER R	0	LEVEL	R1 RESIDENCE 1	NHBD NAME 5 TO 12 UNIT SOUTH EXEMPTIONS	LUC Co	Prior Assessed
		0	GAS					111	445,000
		0	CITY SEWER					111	45,800
		0	UTL/ST/TRAFF						45,800
DOVER NH 03820		0	CITY WTR PBO		Year	Code	LEGAL DESCRIPTION	Total	
		0	PAVED					490,800	
		0	HEAVY					490,800	
								490,800	

VISION
ROCHESTER, NH



RECORD OF OWNERSHIP		BK-VOL/PAGE		SALE DATE		SALE PRICE		SALE CODE		PREVIOUS ASSESSMENTS (HISTORY)					
JCCM PROPERTIES LLC 189 SOUTH MAIN STREET LLC BOWMAN WOODALL COLLIN L JACQUES STEPHEN A REVOC LIVING GOWELL PETER W & PAGE EVERETT	4911	1006	05-25-2021	652,000	02	Year	Descr	Prior Assesse	Year	Descr	Prior Assesse	Year	Descr	Prior Assesse	
	3616	20	12-31-2004	449,000	40	2020	BLDG	445,000	2021	BLDG	445,000	2022	BLDG	445,000	
	2960	940	03-16-2004	465,000	02		LAND	45,800		LAND	45,800		LAND	45,800	
	2709	271	01-03-2003	2,667	44										
	2045	162	09-30-1998	260,000	99										
										Total		Total		490,800	
BUILDING NOTES										APPRAISED VALUE SUMMARY					

BUILDING NOTES				APPRAISED VALUE SUMMARY			
				Appraised Building Value (Card)	445,000	Descr	Prior Assesse
				Appraised Extra Feature Value (Bldg)	0	BLDG	445,000
				Appraised Outbuilding Value (Bldg)	0	LAND	45,800
				Appraised Land Value (Bldg)	45,800		
				Total Appraised Parcel Value	490,800	Total	490,800
				Valuation Method	C		

BUILDING PERMIT RECORD				VISIT / CHANGE HISTORY			
Issue Date	Permit Id	Description	Price	Insp Date	% C	Stat	Notes
06-06-2006	06-644	WATER HEATE	1,275	11-07-2006	100	CE	
10-04-2005	1395	BOILER	16,000	02-24-2006	100	C	
				Total Appraised Parcel Value			
				490,800			

LAND LINE VALUATION SECTION																				
B	LUC	Description	LandU	Land Type	Loc Adj	UnitPric	Size Adj	Cond	Nbhd	Nb Adj	Inf1	Inf1 Adj	Inf2	Inf2 Adj	Inf3	Inf3 Adj	Adj UnitPrice	Appraised Value	Assessed Value	Notes
1	1110	5-8 APTS	1.000	PRIMARY	P	1,000	1,000,000	1.00	2312	1,000							45,000	45,000		
1	1110	5-8 APTS	0.300	EXCESS A	E	1,000	1,000,000	1.00	2312	1,000							2,500	800	800	

CONSTRUCTION DETAIL			CONSTRUCTION DETAIL (CONTINUED)		
Element	Cd	Description	Element	Cd	Description
Model	94	Commercial	Half Bath Ratin		
Style	23M	MULTIFAMILY	Extra Fixture(s)	0	
Grade	C+	Avg. (+)	Extra Fix Rating		
Stories	2.75				
Units	7				
Residential Unit Comm Units	7				
Wall Height	0.00				
Exterior Wall 1	05	ASBESTOS			
Exterior Wall 2					
2nd Ext Wall %	0				
RooF Structure	01	GABLE			824,015
Roof Cover	01	ASPH SHINGLE			
Interior Wall 1	02	PLASTER	Year Built		1920
Interior Wall 2					
Interior Floor 1	08	AVERAGE	Depreciation Code		G
Interior Floor 2			Remodel Rating		
Basement Floor	12	CONCRETE	Year Remodeled		46
% Heated	100.00		Depreciation %		
Heat Type	02	GAS	Functional Obso		
2nd Heat Type	03	FORCED H/W	Economic Obso		
2nd % Heated	0.00		Trend Factor		1.000
# Heat Systems	7.00		Special Adj		
AC Percent	0.00		Condition %		54
Bedrooms	11		Percent Good		445,000
Full Bath(s)	7		RCNLD		
Bath Rating	A	SAME	Dep % Ovr		
3/4 Bath(s)	0		Dep Ovr Comment		
3/4 Bath Rating			Misc Imp Ovr		
Half Bath(s)	0		Misc Imp Ovr Comment		
Half Bath Rating			Cost to Cure Ovr		
Extra Fixture(s)	0		Cost to Cure Ovr Comment		

MIXED USE		
Code	Description	Percentage
1110	5-8 APTS	100
		0
		0

COST / MARKET VALUATION		
RCN		824,015
Year Built		1920
Depreciation Code		G
Remodel Rating		
Year Remodeled		46
Depreciation %		
Functional Obso		
Economic Obso		
Trend Factor		1.000
Special Adj		
Condition %		54
Percent Good		445,000
RCNLD		
Dep % Ovr		
Dep Ovr Comment		
Misc Imp Ovr		
Misc Imp Ovr Comment		
Cost to Cure Ovr		
Cost to Cure Ovr Comment		

Floor plan diagram showing a building layout with rooms numbered 1 through 26. The plan includes a large central area (rooms 1-10, 20-26) and a smaller side area (rooms 11-19). Rooms are labeled with their numbers and some have additional details like 'SFL', 'FFL', 'BMT', 'TFL', 'MTRK', 'DTP', 'EFP'. The plan also shows a 'MIXED USE' section and a 'COST / MARKET VALUATION' section.

[illegible]

**Abutter's List
June 12, 2023**

Re: Variance Application to Construct Multi-Family Development
Applicant: JCCM Properties, LLC c/o Bruton & Berube, PLLC
Owner: JCCM Properties, LLC
MBLU: Map 125, Lot 84
Zone: Residential 1 ("R1")

OWNER/ APPLICANT

125/ 84
JCCM Properties
189 So. Main Street
Rochester, NH 03867

ABUTTERS

125/ 85
Grey Woods Realty, LLC
1 Winter Street, Suite 3
Rochester, NH 03867-3108

126/ 96
Glenn Weismantel
5 Richardson Street
Rochester, NH 03867

125/ 82
David & Gail Malone
193 So. Main Street
Rochester, NH 03867-3217

125/ 83
Alex & Deborah Grammatic
191 So. Main Street
Rochester, NH 03867-3217

125/ 57
MW Realty of Plymouth, LLC
PO Box 868
Winnisquam, NH 03289-0868

125/ 56
William H. Marcotte
4 Aviation Drive
Gilford, NH 03249

125/ 55

James H. Warner Rev. Trust
Shonda & Trenton Warner
176 So. Main Street
Rochester, NH 03867

119/ 124

Rochester Cemetery Assoc.
168 No. Main Street
Rochester, NH 03867-1219

PROFESSIONALS

Bruton & Berube, PLLC
Attn: Josh Lanzetta, Esq.
601 Central Avenue
Dover, NH 03820

Stonewall Surveying
Attn: Raymond Bisson
338 Hall Road
Barrington, NH 03825