



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. 2-23-05

DATE FILED 2/15/23

CJ
ZONING BOARD CLERK

Applicant:

Strafford Learning Center c/o Bruton & Berube, PLLC

E-mail: josh@brutonlaw.com

Phone: 603-745-4529

Applicant Address: 601 Central Avenue, Dover, NH 03820

Property Owner (if different): Amarosa Industrial Park, LLC and IWR, LLC

Property Owner Address: Amarosa Industrial Park, LLC :19 Cherry Lane, Madbury, NH 03823. IWR, LLC: 117 Parkview Ter. Somersworth, NH, 03878

Variance Address: ☐ 35E Industrial Way, Rochester

Map Lot and Block No: 230/ 21

Description of Property: Please see attached.

Proposed use or existing use affected: _____

The undersigned hereby requests a variance to the terms of the Rochester Zoning Ordinance, Ch. 275, Section 18.1

and asks that said terms be waived to permit school in industrial zone.

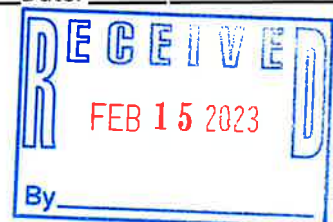
See Table 18B, School, K-12.

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: _____

Josh Lanzetta, Esq.

Date: February 14, 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 attached

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

3) Granting the variance would do substantial justice because:
Please see attached

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

Please see attached

And:

ii. The proposed use is a reasonable one because:

Please 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.

Please see attached



City of Rochester, New Hampshire

Zoning Board of Adjustment

Request of waiver of requirement to have a Certified Plot Plan for Case # _____

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: _____

The existing building meets all dimensional requirements

provided in Ordinance Table 19-C.

- 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.

N/a: Dimensional relief is not requested.

- 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: _____

Check with the Planning & Development Department to see if it is necessary to fill out this form

BRUTON & BERUBE, PLLC

FRANCIS X. BRUTON, III
CATHERINE A. BERUBE
JOSHUA P. LANZETTA

ATTORNEYS AT LAW

601 Central Avenue
Dover, NH 03820
Office - 603.749.4529

Of Counsel
JAMES H. SCHULTE

Cell - 603.777.0579
josh@brutonlaw.com

February 14, 2023

City of Dover, New Hampshire
Attn: Zoning Board of Adjustment
33 Wakefield Street
Rochester, NH 03867-1917

Re: Variance Application to Permit a School in the Industrial Zone
Applicant: Strafford Learning Center c/o Bruton & Berube, PLLC
Owners: Amarosa Industrial Park, LLC & IWR, LLC
Address: 35E Industrial Way, Rochester, NH 03867
MBLU: 230/ 21
Zone: IN

Dear Board Members:

The purpose of this letter is to submit a Variance Application to Permit a School in the Industrial Zone (the “Application”) on behalf of Strafford Learning Center (the “Applicant”) at real property owned by Amarosa Industrial Park, LLC, and IWR, LLC (the “Owners”), located at MBLU 230/ 21 (otherwise identified as 35E Industrial Way) in Rochester, New Hampshire (the “Property”).

Pursuant to N.H. R.S.A. 674:33(I)(b)(1) – (5)¹ and the Zoning Ordinance of the City of Rochester, New Hampshire², the Applicant seeks a variance under Ordinance Table 18-B³ to permit a school in the Industrial Zone (the “Project”) and respectfully requests the Zoning Board of Adjustment (the “ZBA”) schedule a hearing to review and grant the Application.

¹ RSA 674:33(I)(b)(1) – (5).

² Zoning Ordinance, City of Rochester, NH (2023) (the “Ordinance”).

³ Ordinance, Table 18-B Sale-Services-Office-Institutional Uses, School, K-12, 275 Attachment 2:2.

I. ENCLOSED DOCUMENTS

Enclosed please find 1-copy of the following documents:

1. Application dated February 14, 2023;
2. Plot Plan Waiver request dated February 14, 2023;
3. Abutters List dated February 14, 2023;
4. Letter of Authorization from David Francoeur dated February 14, 2023; and
5. Letter of Authorization from Peter Amarosa dated February 14, 2023.

II. NARRATIVE

The Applicant is a New Hampshire nonprofit corporation that provides services to students with disabilities and center based educational programs for students struggling with local school. The educational curriculum provided by the Applicant is approved by the New Hampshire Department of Education, and in many cases supplements and supports the educational opportunities provided by the school districts located in the communities it serves.

Currently, the Applicant operates a special education day school located at 73 Pickering Road in Rochester, New Hampshire.⁴ The Applicant seeks to upgrade and expand its educational footprint by moving into approximately 17,000 square feet of existing office space located at the Property.

The Property consists of 26.64 acres located in the Industrial Zone. The Property is improved with a 78,000 square foot building (the “Facility”) that houses several businesses including Ecoast Marketing, Granite State College (“GSC”), and the YMCA of Strafford County (“YMCA”). Both GSC and the YMCA provide educational curriculum to students at the Property.⁵

III. LEGAL ANALYSIS

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

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

⁴ See *Rochester Learning Academy* at <https://rla.straffordlearningcenter.org/>.

⁵ GSC provides collegiate curriculum focused on adult and non-traditional students; the YMCA provides childcare services, including an early learning center. See *The Granite YMCA* at <https://www.graniteymca.org/child-care/strafford-county>; See *Granite State College* at <https://www.granite.edu/>.

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

Locating a school in the Industrial Zone is not contrary to the public interest. The public interest is specifically served by permitting the orderly development of property. Here, adding a school to an existing building that currently houses 2-educational facilities does not 1) alter the essential character of the surrounding neighborhood, 2) impact abutters, and/or 3) negatively affect the public in any way.

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, and permitted use of the Property. Allowing the Applicant to operate a school, in an existing building that is currently used for educational purposes, encourages the most appropriate use of the Property and is the less impactful than other industrial uses.

3. Substantial justice is done.

Substantial justice is done by granting this variance because it allows the Property to be reasonably used considering abutting property uses (i.e., commercial and industrial), its location in the Industrial Zone, and the existing building currently on the Property. This proposal does not burden the public in any way, and substantially benefits the Applicant by allowing it to reasonably use the Property with no detrimental effect to surrounding property.

4. The values of surrounding properties are not diminished.

The Applicant respectfully asserts that all surrounding properties have an associated value premised on the existence of structures and features like those located on the Property. Here, permitting an additional school on the Property will not affect any abutting neighbor and is consistent with other uses in the locus.

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 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.

The Ordinance provision barring schools in the Industrial District is inconsistent with the objective of the Ordinance.⁶ Rochester's Industrial District is designed

⁶ Ordinance § 275-7.2(A), 275:63. Office is defined as "a building, portion of a building, or leasable space in which work of a predominantly administrative, professional, or clerical nature is performed.... Ordinance § 275-2.2, 275:26.

to be “flexible,” and to “accommodate uses generally classified as ... office type functions,” amongst others.⁷

Schools inherently contemplate office-type functions and share common design standards and logistical needs with offices. Both require indoor spaces (i.e., a controlled “office type” environment) designed to facilitate productivity and collaboration. Both require similar building access and parking. Both are built in compliance with commercial building codes. However, in Rochester, offices are permitted in the Industrial Zone, and schools remain barred, creating an inequitable paradigm where like uses receive unequal treatment.⁸

Here, the Property houses multiple uses including a college, early childhood education center, and a multi-age recreation center. Neither the college nor the early childhood program pose a threat to the public, and the Property is safely accessed by students, student-guardians, employees, and recreational-facility users every day. Adding a school to the uses already existing on the Property likewise poses no threat or detriment to the public.

Accordingly, there is no fair and substantial relationship between the Ordinance’s school prohibition, and its application to the Property, when schools and offices are already located on the Property; and, when in all instances, these uses pose the least-intrusive-alternative-use when juxtaposed with other possible industrial uses.

ii) The proposed use is a reasonable one.

Permitting an additional school on the Property is reasonable and promotes the orderly development of property in Rochester given the Property’s current use.

6. Special Condition of Property.

The building located on the Property was designed to house a single tenant company, and includes a unified utility system. Because of its original design, the building’s interior cannot be parsed into separate spaces to accommodate heavier industrial uses. This design limitation makes the building difficult to rent and unreasonably alienates the Property-owner’s use of the Property.

⁷ Ordinance § 275-7.2(A)(1) – (2), 275:63.

⁸ Ordinance, Table 18-B Sale-Services-Office-Institutional Uses, Office, 275 Attachment 2:2; Ordinance, Table 18-B Sale-Services-Office-Institutional Uses, School, K-12, 275 Attachment 2:2.

IV. RELIEF REQUESTED

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

1. Approve the Application;
2. Grant a variance; and
3. Grant all relief necessary to approve the Application.

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

Sincerely,



Josh Lanzetta, *Esq.*

ZONING

275 Attachment 2

City of Rochester

Table 18-B Sales-Service-Office-Institutional Uses
[Amended 9-4-2018; 4-7-2020]

LEGEND

P = Permitted Use

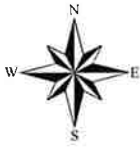
C = Conditional Use

E = Use Allowed by Special Exception

Sales-Service-Office- Institutional Uses	Residential Districts				Commercial Districts				Industrial Districts		Special		Criteria/Conditions Reference
	R1	R2	NMU	AG	DC	OC	GR	HC	GI	RI	HS	AS	
Adult day-care center	—	—	E	E	P	P	—	P	E	—	P	—	Article 22
Adult day-care home	—	E	E	E	P	P	—	P	—	—	P	—	Article 22
Adult-oriented establishment	—	—	—	—	—	—	—	—	—	C	—	—	Article 22
Agricultural building, reuse of existing	C	C	—	C	—	P	—	—	—	—	—	—	Article 22
Antique shop	—	C	P	—	P	P	P	P	—	—	—	—	Article 21
Artist studio	—	C	P	—	P	P	—	P	—	—	—	—	Article 21
Bank	—	—	C	—	P	P	P	P	—	—	—	—	Article 21
Convenience store	—	C	P	—	P	E	P	P	—	—	—	—	Article 21
Day care-1 (day-care residence)	P	P	P	P	P	P	—	P	—	—	P	—	
Day care-2 (day care - family)	—	E	P	E	P	P	—	P	—	—	P	—	Articles 20 and 21
Day care-3 (day-care center)	—	—	E	E	P	P	—	P	E	—	E	—	Article 22
Florist	—	—	P	—	P	—	P	P	—	—	—	—	
Funeral home	—	—	C	—	P	P	—	P	—	—	P	—	
Gas station	—	—	—	—	—	—	P	P	—	—	—	—	Articles 20 and 21
Grocery store	—	—	—	—	P	—	P	P	—	—	—	—	
Hospital	—	—	—	—	P	—	—	P	—	—	—	—	
House of worship	—	C	C	C	P	C	—	P	—	—	P	—	Article 21
Housing unit sales	—	—	—	—	—	—	—	P	P	—	—	—	
Laundry establishment-1	—	C	P	—	P	—	—	P	—	—	—	—	Article 21

ROCHESTER CODE

Sales-Service-Office-Institutional Uses	Residential Districts					Commercial Districts					Industrial Districts		Special		Criteria/Conditions Reference
	R1	R2	NMU	AG	DC	OC	GR	HC	GI	RI	HS	AS			
Laundry establishment-2	—	—	P	—	P	—	—	P	—	—	—	—	—	—	
Library	—	C	P	C	P	P	—	P	—	—	—	—	—	—	Article 21
Marina	—	—	—	—	—	—	—	P	—	—	—	—	—	—	
Museum	—	C	P	C	P	P	P	P	—	—	—	—	—	—	Article 21
Office	—	—	P	—	P	P	P	P	P	P	—	—	—	—	
Office, medical	—	—	C	—	P	P	P	P	C	—	P	P	—	—	Article 21
Office, professional	—	—	P	—	P	P	P	P	P	—	—	—	—	—	
Personal service establishment	—	—	P	—	P	P	P	P	—	—	—	—	—	—	
Retail sales (under 5,000 square feet)	—	—	P	—	P	E	P	P	—	—	—	—	—	—	
Retail sales (5,000 to 30,000 square feet)	—	—	—	—	P	—	P	P	—	—	—	—	—	—	
Retail sales (over 30,000 square feet)	—	—	—	—	—	—	P	P	—	—	—	—	—	—	
Retail service	—	—	C	—	P	P	P	P	—	—	—	—	—	—	Article 21
School, K-12	C	C	C	C	C	P	—	C	—	—	—	—	—	—	Article 21
School, other	—	C	C	C	P	P	—	P	C	—	—	—	—	—	Article 21
Secondhand shop	—	C	P	—	P	P	—	P	—	—	—	—	—	—	Article 21
Service establishment	—	—	C	—	C	—	P	C	P	—	—	—	—	—	Article 21
Shelter	—	—	—	—	E	E	—	P	E	E	E	—	—	—	
Small wind energy systems	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Article 20
Temporary use shelter	—	—	—	—	E	E	—	P	E	E	E	—	—	—	
Vehicle sales, new	—	—	C	—	—	—	P	P	—	—	—	—	—	—	Articles 20 and 21
Vehicle sales, used	—	—	C	—	—	—	P	P	—	—	—	—	—	—	Article 20
Vehicle service	—	—	—	—	—	—	P	P	P	—	—	—	—	—	
Yard sale, commercial	—	—	—	—	—	—	—	C	—	—	—	—	—	—	Articles 20 and 22



35 Industrial Way

City of Rochester, NH

1 inch = 300 Feet



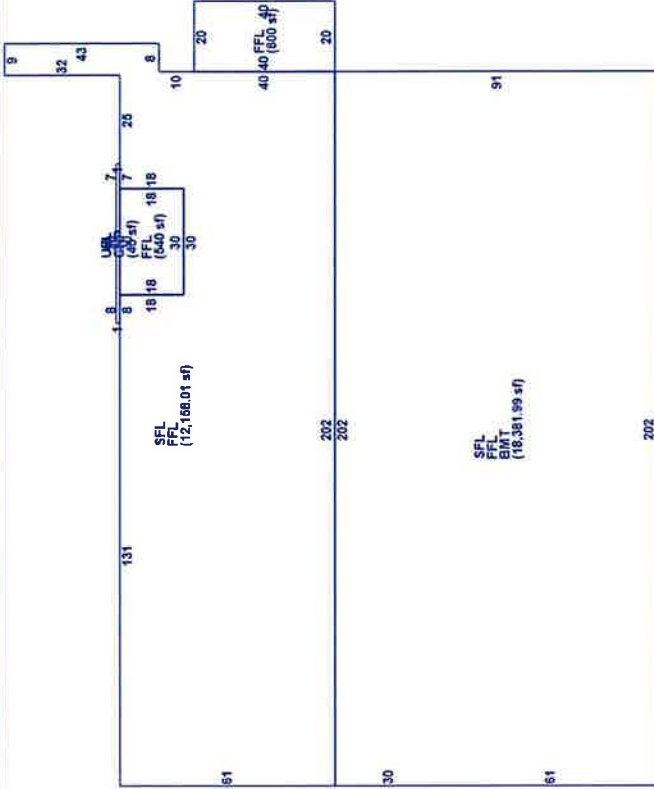
www.cai-tech.com

February 15, 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.

CONSTRUCTION DETAIL				CONSTRUCTION DETAIL (CONTINUED)								
Element	Cd	Description	Element	Cd	Description							
Model	96	Industrial	Half Bath Ratn	A	SAME							
Style	N06	R&D	Extra Fixture(s)	40								
Grade	C	Average	Extra Fix Rating	A	SAME							
Stories	2		MIXED USE									
Units	0		Code	Description	Percentage							
Residential Unit	1.00		4000	MANUFACTURE	100							
Comm Units	12.00				0							
W'all Height	31		COST / MARKET VALUATION									
Exterior Wall 1		SANDWICH STL										
Exterior Wall 2												
2nd Ext Wall %												
Roof Structure	0	FLAT	RCN		4,612,767							
Roof Cover	04	TAR+GRAVEL										
Interior Wall 1	01	DRYWALL	Year Built		1994							
Interior Wall 2												
Interior Floor 1	08	AVERAGE	Depreciation Code		A							
Interior Floor 2			Remodel Rating									
Basement Floor	12	CONCRETE	Year Remodeled		19							
% Heated	100.00		Depreciation %									
Heat Fuel	02	GAS	Functional Obsol		35							
Heat Type	01	FORCED W/A	Economic Obsol		1,000							
2nd Heat Type			Trend Factor									
2nd % Heated	0.00		Special Adj		81							
# Heat Systems	1.00		Condition %									
AC Percent	100.00		Percent Good		2,428,600							
Bedrooms	0		RCNLD									
Full Bath(s)	A		Dep % Ovr									
Bath Rating	0	SAME	Dep Ovr Comment									
3/4 Bath(s)			Misc Imp Ovr									
3/4 Bath Rating	10		Misc Imp Ovr Comment									
Half Bath(s)	A		Cost to Cure Ovr									
Half Bath Ratn	40	SAME	Cost to Cure Ovr Comment									
Extra Fixture(s)												
OB - OUTBUILDING & YARD ITEMS(L) / XF - BUILDING EXTRA FEATURES(B)				OB - OUTBUILDING & YARD ITEMS(L) / XF - BUILDING EXTRA FEATURES(B)								
Code	Description	L/B	Qty	Dim 1	Dim 2	Grade	Condition	Yr Blt	% Gd	Unit Price	Grade Adj.	Appr. Value
41	GENERATOR	L	1	1	1	C	AV	1994	100	0.00	1.00	0
OD	DOOR WD/MT	B	1	10	12	C	AV	1994	53	7.18	1.00	500
LB	DOCK LEVEL	B	1	1	1	C	AV	1994	53	3125.00	1.00	1,700
OD	DOOR WD/MT	B	1	10	8	C	AV	1994	53	7.18	1.00	300
EB	ELEVATOR E/	B	1	2	1	C	AV	1994	53	12500.00	1.00	13,300
BUILDING SUB-AREA SUMMARY SECTION												
Code	Description											
BMT	BASEMENT											
CNP	CANOPY											
FFL	1ST FLOOR											
SFL	2ND FLOOR											
UFL	UPPER FLOORS											
				Living Area	Floor Area	Elft Area						
				0	0	18,382						
				31,880	0	45						
				30,540	31,880	30,540						
				36	36	45						
111 Gross Liv / Lease Area				62,456	80,892	67,052						



ABUTTERS LIST
February 14, 2023

Re: Abutters List for Variance Application to Permit a School in Industrial Zone
Applicant: Strafford Learning Center c/o Bruton & Berube, PLLC
Owners: Amarosa Industrial Park, LLC & IWR, LLC
Address: 35E Industrial Way, Rochester, NH 03867
MBLU: 230/ 21
Zone: IN

Owners

Amarosa Industrial Park, LLC
19 Cherry Lane
Madbury, NH 03823

IWR, LLC
117 Parkview Terrace
Somersworth, NH 03878

Applicant

Strafford Learning Center c/o
Bruton & Berube, PLLC
601 Central Avenue
Dover, NH 03820

Abutters

221/0002
City of Rochester, New Hampshire
31 Wakefield Street
Rochester, NH 03867

230/0016
City of Rochester, New Hampshire
31 Wakefield Street
Rochester, NH 03867

221/0024
Scott A. Brock Rev. Trust
46A Ten Rod Road
Rochester, NH 03867

230/0020
Service Credit Union
PO Box 1268
Portsmouth, NH 03801

230/0019
Laars Heating Systems
20 Industrial Way
Rochester, NH 03867

230/0017
AM-CYC Family Trust of 2020
Christopher Cloitre
10 Industrial Way
Rochester, NH 03867

221/0001
IRM Properties, LLC
181 Stagecoach Road
Barrington, NH 03825-7440

Professionals

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

IWR, LLC
117 Parkview Terrace
Somersworth, NH 03878

February 14, 2022


City of Rochester, New Hampshire
33 Wakefield Street
Rochester, NH 03867-1917

Re: Letter of Authorization
Address: 35E Industrial Way, Rochester, NH 03867

To Whom it May Concern:

The undersigned, as owner of premises located at 35E Industrial Way, Rochester, NH 03867 (the "Property"), hereby authorizes Bruton & Berube, PLLC; its attorneys, paralegals, assistants, employees, agents, and consultants; to seek all approvals required from the City of Rochester, New Hampshire, including, but not limited to, special or other permitting, and appeals related to the Property. The undersigned authorizes Joshua P. Lanzetta, *Esq.* to execute and sign all applications and documents necessary to complete the above on its behalf.

Sincerely,



David Francouer, Manager

DF → FRANCUEUR,

Amarosa Industrial Park, LLC
19 Cherry Lane,
Madbury, NH 03823

February 14, 2022

City of Rochester, New Hampshire
33 Wakefield Street
Rochester, NH 03867-1917

Re: Letter of Authorization
Address: 35E Industrial Way, Rochester, NH 03867

To Whom it May Concern:

The undersigned, as owner of premises located at 35E Industrial Way, Rochester, NH 03867 (the "Property"), hereby authorizes Bruton & Berube, PLLC; its attorneys, paralegals, assistants, employees, agents, and consultants; to seek all approvals required from the City of Rochester, New Hampshire, including, but not limited to, special or other permitting, and appeals related to the Property. The undersigned authorizes Joshua P. Lanzetta, *Esq.* to execute and sign all applications and documents necessary to complete the above on its behalf.

Sincerely,


Peter J. Amarosa, Manager