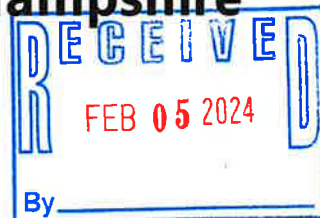




City of Rochester, New Hampshire

Zoning Board of Adjustment



Variance Application

TO: BOARD OF ADJUSTMENT
CITY OF ROCHESTER

DO NOT WRITE IN THIS SPACE

CASE NO. _____

DATE FILED _____

ZONING BOARD CLERK

Applicant:

NM Cook Development LLC & NM Cook 17 Farmington Road LLC

E-mail: mcook@metrocast.net Phone: 603-502-5200

Applicant Address: 22 Isaac Lucas Circle, Dove, NH 03820

Property Owner (if different): Same

Property Owner Address: Same

Variance Address: "0" Farmington Road & 17 Farmington Road

Map Lot and Block No: Tax Map 216, Lot 29 & Tax Map 221, Lot 164

Description of Property: Commercial Building, Tides Fish Market and Vacant Parking Lot

Proposed use or existing use affected: Proposing to Merge the parcels and redevelop the site with multiple buildings

The undersigned hereby requests a variance to the terms 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: _____

Withdrawn

~~• 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~~

Withdrawn

~~• Chapter 275 Article 23.2 (7)(a) to permit a drive through window to be placed on the front of a structure.~~

Approved

• Chapter 275-8.5B.10(a) (1) minimum setbacks to permit a building closer than 100' to the rear boundary line.

Approved

• 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

Approved

• 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

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 Narrative

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, 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.



BERRY SURVEYING & ENGINEERING

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September 20, 2023

Rev.: 2-5-24

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

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 (B)(8) to permit land disturbance within 25' of a wetland boundary

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'.

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



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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 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.

- 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.



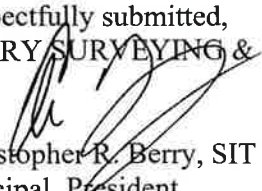
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- b. *Explain how, if the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, owing to the special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in the strict conformance with the ordinance, and a variance is therefore necessary to enable reasonable use 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 sites. Denial would pose an unnecessary hardship by not permitting a formal access between the parcels.

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.

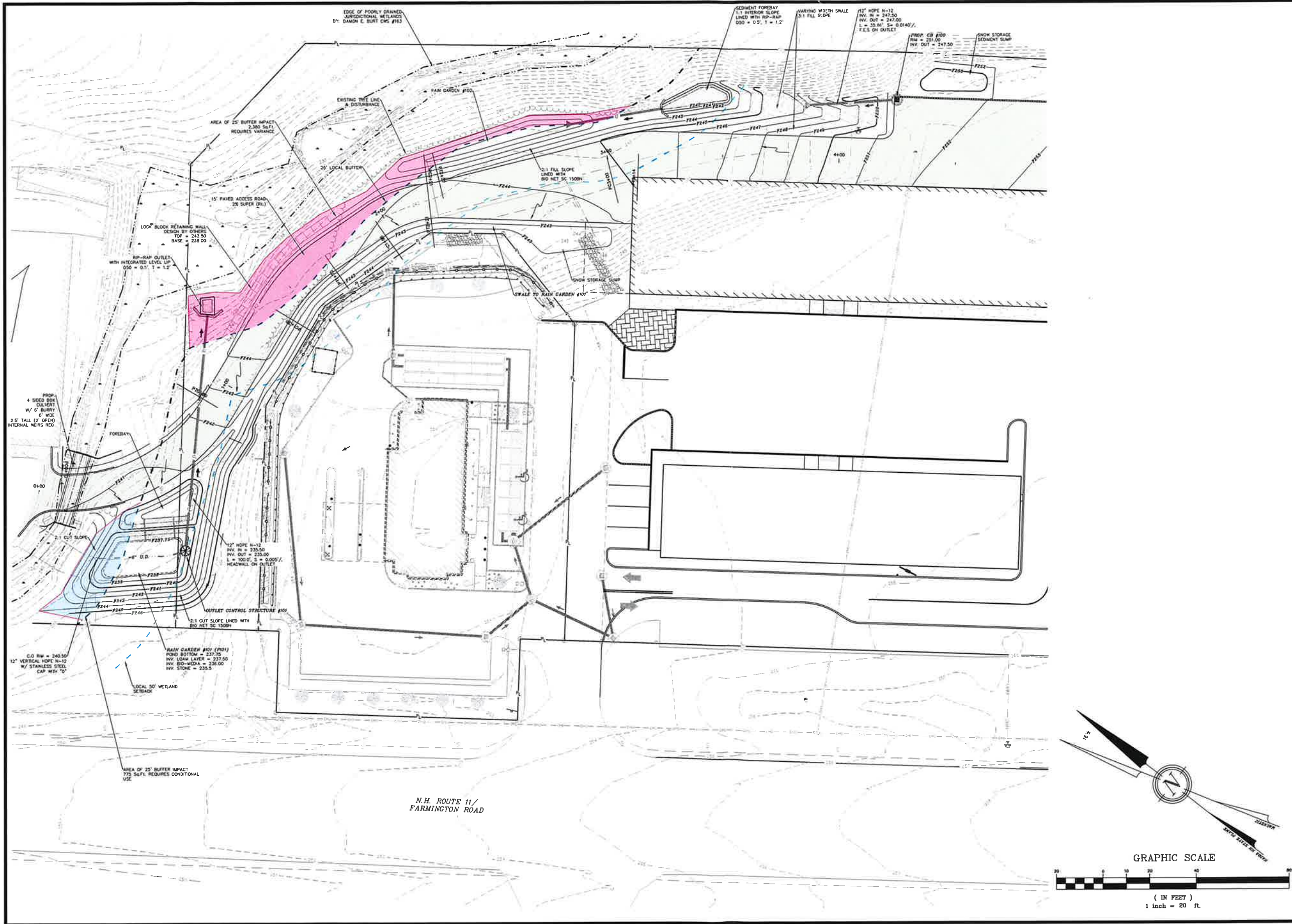
Respectfully submitted,
BERRY SURVEYING & ENGINEERING


Christopher R. Berry, SIT
Principal, President



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OVERVIEW GRADING PLAN

LAND OF: N. MILES COOK III
FOR: ROCHESTER MOTORSPORTS,
NM COOK DEVELOPMENT, LLC &
NM COOK 17 FARMINGTON RD, LLC
FARMINGTON, N.H.
TAX MAP 216, LOTS 28 & 29,
TAX MAP 221, LOT 164

BERRY SURVEYING
& ENGINEERING
335 SECOND CROWN POINT ROAD
BARRINGTON, NH 03825 (603)332-2863

SCALE : 1 IN. EQUALS 20 FT.
DATE : FEBRUARY 5, 2024
FILE NO. : DB 2023 - 021



REVISION

DATE

DESCRIPTION