



# 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. 2-24-06

DATE FILED 1/17/24

C91  
ZONING BOARD CLERK

Applicant:

Granite State Housing, LLC C/O Brett W. Allard, Esq., Shaughnessy Allard, PLLC

E-mail: brett@salaw-nh.com

Phone: (603) 644-4357 ext. 3

Applicant Address: 24 Eastman Avenue, Suite C3, Bedford, NH 03110

Property Owner (if different): Same

Property Owner Address: Same

Variance Address: 5 Crockett Street

Map Lot and Block No: Tax Map 127, Lot 89

Description of Property: 0.94 acres - se attached plan

Proposed use or existing use affected: Single-family

The undersigned hereby requests a variance to the terms of the Rochester Zoning Ordinance, Ch. 275, Section 19.1

and asks that said terms be waived to permit a three-lot subdivision, as shown on the enclosed plan and described in  
the enclosed narrative.

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: Brett W. Allard

By: Brett W. Allard, Esq., Attorney for the Applicant/Owner

Date: 1/12/24



# 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.

N/A

## **Introduction**

Granite State Housing, LLC (the “Applicant”) proposes a three-lot subdivision of its property situated at 5 Crockett Street (Tax Map 127, Lot 89). The property is situated in the Residential-1 (“R-1”) District. The lot is currently connected to municipal water and sewer. The existing property is approximately 0.94 acres (41,060 square feet) and has 195 feet of frontage on Crockett Street. The property currently maintains a single-family dwelling and driveway on the southerly portion of the lot.

As shown on the enclosed plan, Proposed Lot 1 will consist of approximately 0.32 acres (13,836 square feet). Proposed Lot 2 will consist of approximately 0.31 acres (13,691 square feet) and retain the existing single-family dwelling and driveway. Proposed Lot 3 will consist of approximately 0.31 acres (13,533 square feet). All three lots are rectangular and will have 65 feet of frontage on Crockett Street. The Applicant anticipates Proposed Lots 1 and 3 each being improved in the future with a single-family dwelling.

Section 275-19.1 and Table 19-A of the zoning ordinance (the “Dimensional Standards”) require 100 feet of minimum frontage for new lots in the R-1 District. Accordingly, the Applicant requests variances to permit the proposed three-lot subdivision with each of the three lots having 65 feet of frontage where 100 feet is required. For the reasons set forth below, the Applicant submits that the five variance criteria are satisfied and requests that the Board grant within-requested variances.

### **1 & 2. Granting the variances will not be contrary to the public interest and will be consistent with the spirit of the ordinance.**

For a variance to be contrary to the public interest, the proposal has to conflict with the ordinance so much that it violates the ordinance’s basic zoning objectives. See Farrar v. City of Keene, 158 N.H. 684 (2009). The relevant tests are (1) whether the proposal will alter the essential character of the neighborhood; and (2) whether it threatens the public health, safety or welfare. Id. Because it is in the public’s interest to uphold the spirit of the ordinance, the Supreme Court has held that these two criteria are related. Id. If you meet one test you almost certainly meet the other. Id. As such, the Applicant addresses these two criteria together.

The general purpose of minimum frontage requirements is to minimize overcrowding and congestion, ensure that lots will have sufficient buildable area and sufficient areas for sanitary facilities, and ensure that lots have safe and sufficient access to the greater roadway network. Since the property is serviced by municipal water and sewer, the lot can support the Applicant’s proposal because no additional land needs to be dedicated to a well and resulting well radius buffer, nor does additional land need to be dedicated to a septic system and leach field. This is particularly the case because there are no wetlands on the property – the existing lot is entirely dry upland. Proposed Lot 2 will maintain its existing driveway curb cut and new driveway curb cuts can be safely constructed for Proposed Lots 1 and 3. Moreover, the proposal will not alter the essential character of the neighborhood or threaten public health and safety because both the existing

single-family dwelling on Lot 2 and potential future single-family dwellings on Lots 1 and 3 are permitted by right in the R-1 District and are consistent with the character of the area, which is primarily residential. There will not be any overcrowding or congestion in the neighborhood if the variances are granted. Indeed, as set forth in more detail below, many other properties in the area are similar or smaller in size than the proposed lots. There will be no adverse impact or injury to any public rights if the variances are granted. Therefore, granting the variances would not be contrary to the public interest and will be consistent with the spirit of the zoning ordinance.

**3. Granting the variances would do substantial justice.**

The Supreme Court has held that measuring substantial justice requires balancing public and private rights. “Perhaps the only guiding rule is that any loss to the individual that is not outweighed by a gain to the general public is an injustice.” Harborside Assocs., L.P. v. Parade Residence Hotel, LLC, 162 N.H. 508, 515 (2011). There is no injury to the public if the variances are granted. There is no gain to the public if the variances are denied. There is only loss to the Applicant if the variances are denied. Therefore, when balancing public and private rights, the loss to the Applicant if the variances are denied outweighs any loss or injury to the public if the variances are granted. Further, as discussed in more detail below relative to the size of other lots in the area, the proposed subdivision is “appropriate for the area”. Granting variances for requests that are appropriate for the area does substantial justice. See U-Haul Co. of New Hampshire & Vermont v. City of Concord, 122 N.H. 910, 913 (1982). Therefore, granting the variances would do substantial justice.

**4. The values of surrounding properties will not be diminished.**

If the variances are granted, the lot will remain consistent with the residential character of the other lots in the neighborhood such that there will be no adverse effect on surrounding property values. There are no proposed external changes in connection with this application relative to Proposed Lot 2 because the single-family dwelling and driveway already exist in their current footprints. If the variances are granted, the only proposed external change in connection with this application is the addition of a potential future single-family dwelling and related infrastructure on Proposed Lots 1 and 3. The proposed single-family dwellings would fit entirely within the building envelope and there is sufficient frontage for a new driveway curb cut on Proposed Lots 1 and 3. The Applicant is not seeking to build any new structures within any abutter setbacks such that the values of abutting properties could be compromised. Therefore, surrounding property values will not be diminished. Moreover, if the variances are granted, the Applicant will be required to seek subdivision approval from the Planning Board, which will further ensure that surrounding property values will not be diminished.

**5. Unnecessary hardship.**

Unnecessary hardship will be found when the subject property has special conditions or circumstances that distinguish it from other properties in the area and (1)

there is no fair and substantial relationship between the purpose of the ordinance and the specific application of the ordinance as applied to the property; and (2) the proposed use is reasonable. See RSA 674:33.

The existing property is distinguishable from other properties in the area. Most importantly, particularly in the context of variance requests to allow for a subdivision, the property is much larger than the overwhelming majority of other lots in the area. See Rancourt v. City of Manchester, 149 N.H. 51 (2003) (affirming the ZBA's decision to grant a variance because the fact that the subject lot was larger than most surrounding lots in the area constituted a special condition of the property justifying a finding of hardship). By way of example, the existing property is approximately 0.94 acres. According to the Town's GIS tax map data, the three properties directly across the street from the subject lot are 0.28 acres (8 Crockett), 0.32 acres (6 Crockett), and 0.36 acres (10 Crockett). The five properties on Howe Street abutting the subject lot to the north are 0.16 acres (0 Howe), 0.19 acres (4 Howe), 0.18 acres (6 Howe), 0.26 acres (8 Howe), and 0.26 acres (10 Howe). As such, the Applicant's property – when viewed in the context of the surrounding area – appears to be a triple lot.

Owing to these special conditions, among others, relative to other properties in the area, there is no fair and substantial relationship between the purpose of the zoning ordinance's minimum frontage requirement and its application here. The fact that the Applicant's property is a larger lot consisting entirely of dry upland and is tied into municipal water and sewer make it particularly suitable for the proposed subdivision. No additional land needs to be dedicated to a well and resulting well radius buffer, nor does additional land need to be dedicated to a septic system and leach field. The new lot lines have been drawn in such a way that all three lots are rectangular and will have 65 feet of frontage. Further, the new lot lines have been drawn in such a way that the existing single-family dwelling fits entirely within the building envelope on Proposed Lot 2 without encroaching in the new setbacks. As such, the Applicant's lot can support the proposed subdivision. Proposed Lot 2 will maintain its existing driveway curb cut, so granting a frontage variance for Proposed Lot 2 will not affect its safe and sufficient access that will remain unchanged. New driveway curb cuts can be safely constructed on Proposed Lots 1 and 3, so there will be safe and sufficient access to all three lots. Indeed, even after the subdivision, all three proposed lots will be similar to or larger than most other lots in the area, so there will not be any overcrowding or congestion in the area if the variances are granted. In other words, notwithstanding strict application of the restrictions in the zoning ordinance, this property is particularly well suited for a three-lot subdivision vis-à-vis other properties in the area.

Accordingly, the purposes that the zoning ordinance seeks to achieve – and the harms that it seeks to prevent – are not in any way threatened if the variances are granted. Therefore, even though the proposed subdivision requires these variances, the purposes that the zoning ordinance seeks to protect will be preserved.

**The proposed use is reasonable.**

For all the foregoing reasons, the proposed use is reasonable. Moreover, single-family uses are permitted by right in the R-1 District, and permitted uses are *per se* reasonable. See Malachy Glen Assocs., Inc. v. Town of Chichester, 155 N.H. 102, 107 (2007).

**ZONING**  
**275 Attachment 6**  
**City of Rochester**

**Table 19-A Dimensional Standards - Residential Districts**  
**[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

	Lots			Setbacks				Other				Standards, Notes and References	
	Minimum Lot Area (square feet)	Minimum Frontage (feet)	Minimum Lot Area/ Dwelling Unit (square feet)	Minimum Front (feet)	Maximum Front (feet)	Minimum Side (feet)	Minimum Rear (feet)	Maximum Building Footprint	Maximum Lot Coverage	Maximum Number of Stories	Minimum Building Height (feet)	Maximum Building Height (feet)	A "—" means there is no dimensional standard for this item
<b>Residential Districts</b>													
<b>Residential-1 (R1)</b>													
Single-family	10,000	100	—	10	—	10	20	30%	35%	—	—	35	See Article 19, Dimensional Standards
All other uses	10,000	100	—	10	—	10	20	30%	35%	—	—	35	
<b>Residential-2 (R2)</b>													
Single-family	6,000	60	—	10	—	8	20	30%	35%	—	—	35	See Article 19, Dimensional Standards
Two-family	9,000	80	—	10	—	8	20	30%	45%	—	—	35	See Article 19, Dimensional Standards
Three- and four-family	12,000 and 15,000	80	—	15	—	10	25	30%	60%	—	—	35	See Article 19, Dimensional Standards
Five- or more family	30,000	100	5,000 or 7,500	15	—	10	25	30%	60%	—	—	35	See Article 19, Dimensional Standards
All other uses	9,000	80	—	10	—	8	20	30%	35%	—	—	35	
<b>Neighborhood Mixed Use (NMU)</b>													
All uses	6,000	60	— <sup>2</sup>	—	25	5 <sup>1</sup>	20	—	90%	3	20	20	See Article 19, Dimensional Standards
<b>Agricultural (AG)</b>													
Single-family, conventional subdivision, municipal water and sewer	20,000	150	—	20	—	10	20	30%	35%	—	—	35	See Article 19, Dimensional Standards
Single-family, conventional subdivision, municipal water or sewer	30,000	150	—	20	—	10	20	30%	35%	—	—	35	See Article 19, Dimensional Standards
Single-family, conventional subdivision, neither municipal water nor sewer	45,000	150	—	20	—	10	20	30%	35%	—	—	35	See Article 19, Dimensional Standards
Two-family	150% of single	150	—	20	—	10	20	30%	40%	—	—	—	See Article 19, Dimensional Standards
Single-family dwelling - conservation subdivision	6,000	60	—	20	—	10	20	30%	35%	—	—	35	See Article 33, Conservation Subdivisions
All other uses	45,000	150	5,000 or 7,500	20	—	10	20	—	40%	—	—	35	

**NOTES:**  
Note 1: For lots that adjoin a residential district, the side setback on the side adjoining the residential district shall be the larger of the required side setback in the subject commercial zone or the adjoining residential zone.  
Note 2: For lots without both water and sewer, 10,000 square feet of lot area is required per additional dwelling unit beyond one.





# 5 Crockett Street

City of Rochester, NH

1 inch = 100 Feet




www.cai-tech.com

January 23, 2024



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 MACARTHUR KORAC J  5 CROCKETT ST  ROCHESTER NH 03867	UTILITIES	TOPO	ZONING	CURRENT ASSESSMENT				VISION ROCHESTER, NH  
	0 CITY WATER R	0 LEVEL	R1 RESIDENCE 1	Description	LUC Co	Prior Assessed	Current Assesse	
	0 CITY WTR PBO	NEIGHBORHOOD	NHBD NAME	BLDG	101	103,700	103,700	
	0 CITY SEWER	1302	AVERAGE SOUTH ME	LAND	101	77,500	77,500	
	UTL/ST/ TRAF	EXEMPTIONS						
0 NONE	Year	Code	Description					
0 PAVED								
0 LIGHT								
LEGAL DESCRIPTION								

SALES INFORMATION- GRANTEE				BOOK/PAGE	SALE DATE	SALE PRICE	SALE CODE	PREVIOUS ASSESSMENTS (HISTORY)			
Year	Descr	Prior Assesse	Year	Descr	Prior Assesse	Year	Descr	Year	Assesse	Total	
5010	935	02-24-2022	0	39				2020	BLDG	103,700	2021
4043	122	08-09-2012	2,667	38				2022	BLDG	103,700	2022
1001	783	08-12-1977	32,900	99					LAND	77,500	
911	189	08-29-1972	17,800	99							
0	0	01-01-1900	0	99							
Total				181,200	Total		181,200	Total		181,200	

BUILDING NOTES											
APPROXIMATED VALUE SUMMARY											
APPROXIMATED BUILDING VALUE (Card)											
APPROXIMATED EXTRA FEATURE VALUE (Bldg)											
APPROXIMATED OUTBUILDING VALUE (Bldg)											
APPROXIMATED LAND VALUE (Bldg)											
Total Appraised Parcel Value											
Valuation Method											
Total Appraised Parcel Value											

Issue Date	Permit Id	Description	Price	Insp Date	% C	Stat	Notes
03-27-2012	2120	ELECTRIC	1,200		100	CE	200A UPGRADE;
03-27-2012	2120	ELECTRIC	1,200	01-07-2013		C	
Total Appraised Parcel Value							
181,200							
VISIT / CHANGE HISTORY							

LAND LINE VALUATION SECTION											
B	LUC	Description	LandU	Land Type	Loc Adj	UnitPric	Size Adj	Cond	Nbhd	Nb Adj	Notes
1	1010	SINGLE FA	1.000	PRIMARY	P	1.000	77,500.00	1.000000	1.00	1302 1.000	
Total Card Land Units				1.00	AC	Parcel Total Land Area				1.00	AC
Total Land Value				Total Land Value				Total Land Value			

CONSTRUCTION DETAIL			CONSTRUCTION DETAIL (CONTINUED)									
Element	Cd	Description	Element	Cd	Description							
Style	16	NEW ENGLAND AVERAGE	Solar	0								
Grade	C		Central Vac	0								
Stories	1.75		Nbhd Modifier									
Units	1		MH Make		GOLD;							
Frame	01	WOOD	MH Serial #									
Foundation	03	BRICK/STONE COMP CLAP	Color;Mdl #;D									
Exterior Wall 1	20											
Roof Structure	01	GABLE ASPH SHINGLE										
Roof Cover	01											
View	N	NONE										
Interior Wall 1	02	PLASTER										
Interior Floor 1	08	AVERAGE										
Basement Flo	12	CONCRETE										
Bsmt Garage	0											
Finished Bsmt												
FBLA												
Rec Room	02	GOOD										
Electric	02	TYPICAL										
Insulation	SAME	SAME										
Interior/Exterio	100.00											
% Heated	01	OIL										
Heat Fuel	01	FORCED W/A										
Heat Type	0.00											
AC Percent	3											
Bedrooms	1											
Full Bath(s)	0											
3/4 Bath(s)	0											
Half Bath(s)	0											
Extra Fixture(s)	1											
Kitchen(s)	0											
Extra Kitchen(	0											
Total Rooms	7											
Fireplace(s)	0											
W.S.Flues	0											
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
BMT	BASEMENT											24,196
CNP	CANOPY											155
FFL	1ST FLOOR											99,045
OFF	OPEN PORCH											7,511
SFL	2ND FLOOR											34,647
TQS	3/4 STORY											46,604
BUILDING SUB-AREA SUMMARY SECTION												
Code	Description	Living Area	Floor Area	Eff Area	Unit Cost	Undepreciated Value						
BMT	BASEMENT	0	1,028	257	23.54	24,196						
CNP	CANOPY	0	10	0	15.50	155						
FFL	1ST FLOOR	1,052	1,052	1,052	94.15	99,045						
OFF	OPEN PORCH	0	168	0	44.71	7,511						
SFL	2ND FLOOR	368	368	368	94.15	34,647						
TQS	3/4 STORY	495	660	495	70.61	46,604						
TU Gross Liv / Lease Area												
		1,915	3,286	2,172		212,158						





## PLAN REFERENCES

- [illegible]

NOTES

- |                            |  |
|----------------------------|--|
| TAX MAP 473 LOT B8         |  |
| WINDY HILL TRACT           |  |
| ROCHESTER MANOR            |  |
| NB PROJECT #114            |  |
| GRANITE STATE HOUSING, LLC |  |
| 307 NUTTS ROAD             |  |
| MILTON, NH 03811           |  |
| S.C.R.D. BOOK-313, PAGE 59 |  |
| 41,060 S.F. OR 0.92 AC     |  |
- 
- | DIMENSIONAL REQUIREMENTS |     |
|--------------------------|-----|
| MIN LOT AREA             | 100 |
| MIN LOT FRONAGE          | 100 |
| MIN FRONT SETBACK        | 10' |
| MIN SIDE SETBACK         | 10' |
| MIN REAR SETBACK         | 10' |
| MIN FRONT YARD COVERAGE  | 35% |
| MAX LOT COVERAGE         | 35% |

[illegible]

## SUBDIVISION APPROVAL:

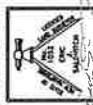
[illegible]

REQUESTED VARIANCES

- TABLE 19-3. CONFIDENTIAL STANDARD MEANS BY LOT

WE HEREBY CERTIFY THAT THIS SURVEY AND PLAN WERE PREPARED BY US OR THOSE UNDER MY DIRECT SUPERVISION. THIS SURVEY CONFORMS TO THE ACCURACY REQUIREMENTS OF AN URBAN SURVEY OF THE NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES OF THE BOARD OF LICENSURE FOR LAND SURVEYORS.

FOR FURTHER CERTIFICATION, THIS SURVEY WAS MADE ON THE GROUND AND IS CORRECT TO THE BEST OF MY PROFESSIONAL KNOWLEDGE. RANDOM TRAVERSE SURVEY BY TOTAL STATION WITH



INDEPENDENT AND SUPERVISOR

NO ORDER COUNCIL PLANNING RELEASED	DATE
NO ORDER	NO ORDER
NO ORDER	NO ORDER



JANUARY 12, 2024

**NORTHAM**  
— SURVEY LLC —

— SURVEY LLC —  
100 Central Ave., Box 100, Dorset, VT 05834 | 802.333.4444 | www.surveylife.com

SALTZMAN MELVIN & NANCY  
9 CROCKETT ST  
ROCHESTER, NH 03867-3715

CHURCH OF GOD OF ROCHESTER  
% REV WAYNE NELSON PASTOR  
2 HOWE ST  
ROCHESTER, NH 03867-3727

CARPENTER RICKY V  
8 HOWE ST  
ROCHESTER, NH 03867

DIPIETRO TIMOTHY R  
8 CROCKETT ST  
ROCHESTER, NH 03867

STUKAS ARTHUR A & JO ANNE M  
4 CROCKETT ST  
ROCHESTER, NH 03867-3714

PURSLOW RICHARD & STACEY  
3 CROCKETT ST  
ROCHESTER, NH 03867-3715

JOHNSON AMOS L  
LANZO ROBERT FRANCIS  
10 CROCKETT ST  
ROCHESTER, NH 03867

GRANITE STATE HOUSING LLC  
373 NUTES RD  
MILTON, NH 03851

LIBBY SHAWN R & DAWN J  
4 HOWE ST  
ROCHESTER, NH 03867-3727

ELLIS KENROY J & MARIA  
10 HOWE ST  
ROCHESTER, NH 03867

SCIARAPPA KAREN  
STONE JENNIFER  
6 HOWE ST  
ROCHESTER, NH 03867

POULIN LIVING TRUST )  
POULIN THOMAS C &  
6 CROCKETT ST  
ROCHESTER, NH 03867