



Architecture | Planning
22 Jady Hill Avenue
Exeter, NH 03833
207.347.1504

Mr. Chris Sterndale, Chair
8 Newmarket Road
Durham, NH 03824

June 24, 2020

Re: Variance Application for FHP/Harmony Homes at Hickory Pond, Stagecoach Road, Map 18, Lot 12-1

Dear Chair Sterndale and Board Members:

Mr. John Randolph of FHP/Harmony Homes is requesting a variance from Article X11.1, Section 175-54 of the Durham Zoning Regulations to permit the reconstruction of a barn.

On July 16, 2017, a four-alarm fire occurred on the property. At least 18 separate fire departments responded and were able to save part of the barn, as well as protect the assisted living and its residents, but 2200sf of the barn was lost. Insurance investigations ensued and took over a year to complete. The destroyed section of the barn was demolished once investigations were completed, with only a portion of a stone chimney remaining. Despite being forced outside the one-year rebuild period as allowed by Article IX, Section 175-30 by such investigations and other complications, Mr. Randolph is requesting to rebuild the portion of the barn that was destroyed, though with a different proportion and slightly larger footprint than the previous portion of the barn.

The proposed project meets all aspects of the dimensional requirements laid out in the zoning regulation that ensure the nature and character of each zone is protected; the new barn meets the setback, height, and use requirements. However, the existing impervious surface area of the existing site is 27% which exceeds the maximum 20%. Mr. Randolph is requesting a variance from the maximum impervious surface ratio to rebuild the barn. The proposed footprint is 800sf greater than what was lost (600sf of which is an open-air porch), so there is no significant increase to the impervious surface ratio.

Existing Conditions:

The property is located at 1 Stagecoach Road and is approximately 2.75 acres, located in the Rural District. The site was previously home to the Inn at Hickory Pond, and is now Harmony Homes at Hickory Pond Assisted Living. Infrastructure includes the assisted living and two accessory structures: a pump house and the barn.

Please do not hesitate to reach out to me with any questions or requests for additional information.

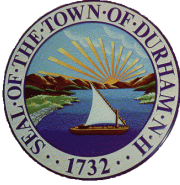
Thank you,

Maggie

Margaret Randolph, RA

NCARB, AIA, LEED AP ND

207.347.1504 | maggierandolph19@gmail.com



TOWN OF DURHAM
ZONING BOARD OF ADJUSTMENT
8 NEWMARKET RD
DURHAM, NH 03824
PHONE: 603/868-8064
www.ci.durham.nh.us

VARIANCE

Prior to seeking a variance, the property owner must have been denied a building permit by the Building Inspector or denied an approval by the Planning Board.

Name of Applicant FHP at Hickory Pond, LLC (John Randolph)

Address: 1 Stagecoach Rd, Durham, NH 03824

Phone # 603-834-2317 Email: finallyhomeproperties@hotmail.com

Owner of Property Concerned Same
(If same as above, write "Same")

Address: Same
(If same as above, write "Same")

Location of Property: 1 Stagecoach Rd
(Street & Number)

Tax Map & Lot number Map 18, Lot 12-1

A Variance is requested from Article(s) XII.1 Section(s) 175-54 of the Zoning Ordinance to permit:

the maximum impervious surface ratio to be greater than 20% (Table of Dimensions).

All applications must include a statement explaining how the applicant meets each of the five (5) statutory requirements for granting a variance, (A) through (E), which are found on page 2. (See page 3 for guidance.) The Zoning Board of Adjustment may consider the variance application incomplete if these five statements have not been addressed. In addition all applications must be accompanied by adequate plans and exhibits.

RSA 674:33 Powers of the Zoning Board of Adjustment:

I(a)The zoning board of adjustment shall have the power to:

- (1) Hear and decide appeals if it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of any zoning ordinance adopted pursuant to RSA 674:16; and
- (2) Authorize, upon appeal in specific cases, a **variance** from the terms of the zoning ordinance if:
 - (A) The variance will not be contrary to the public interest;**
 - (B) The spirit of the ordinance is observed;**
 - (C) Substantial justice is done;**
 - (D) The values of surrounding properties are not diminished; and**
 - (E) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.**

- (b)(1) For purposes of this subparagraph I(a)(2)(E), "**unnecessary hardship**" means that, owing to special conditions of the property that distinguish it from other properties in the area:
- (A) 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; and
 - (B) The proposed use is a reasonable one.

(2) If the criteria in subparagraph (1) are not established, an unnecessary hardship will be deemed to exist if, and only if, 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.

(3)The definition of "unnecessary hardship" set forth in subparagraphs (1) and (2) shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

EXPIRATION PERIOD FOR VARIANCES

Any Variances granted shall be valid if exercised within **2 years** from the date of final approval, or as further extended by local ordinance or by the zoning board of adjustment for good cause, provided that no such variance shall expire within 6 months after the resolution of a planning application filed in reliance upon the variance.

VARIANCE CRITERIA GUIDELINES

<p>Statutory Requirements (RSA 674:33, I(b))</p> <p><i>APPLICANT MUST SATISFY ALL OF THE FOLLOWING</i></p>	<p>Explanation</p>
<p>1. The variance is not contrary to the public interest.</p>	<p>The proposed use must not conflict with the explicit or implicit purpose of the ordinance, and must not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure “public rights.”</p>
<p>2. The spirit of the ordinance is observed.</p>	<p>As it is in the public’s interest to uphold the spirit of the ordinance, these two criteria are related.</p>
<p>3. Substantial justice is done.</p>	<p>The benefit to the applicant should not be outweighed by harm to the general public.</p>
<p>4. The values of surrounding properties are not diminished.</p>	<p>Expert testimony on this question is not conclusive, but cannot be ignored. The board may also consider other evidence of the effect on property values, including personal knowledge of the members themselves.</p>
<p>5. Literal enforcement of the ordinance would result in unnecessary hardship. Unnecessary hardship can be shown in either of two ways:</p> <p>First is to show that because of special condition of the property that distinguish it from other properties in the area:</p> <p>(a) There is no fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of that provision to the property; and</p> <p>(b) The proposed use is a reasonable one.</p> <p><i>Alternatively</i>, unnecessary hardship exists if, 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.</p>	<p>The applicant must establish that the property is burdened by the zoning restriction in a manner that is distinct from other land in the area.</p> <p>(a) Determine the purpose of the zoning restriction in question. The applicant must establish that, because of the special conditions of the property, the restriction, as applied to the property, does not serve that purpose in a “fair and substantial” way.</p> <p>(b) The applicant must establish that the special conditions of the property cause the proposed use to be reasonable. The use must not alter the essential character of the neighborhood.</p> <p><i>Alternatively</i>, the applicant can satisfy the unnecessary hardship requirement by establishing that, because of the special conditions of the property, there is no reasonable use that can be made of the property that would be permitted under the ordinance. If there is any reasonable use (including an existing use) that is permitted under the ordinance, this alternative is not available.</p>

Addendum A: Variance Application for FHP/Harmony Homes at Hickory Pond

A Variance is being requested from Article XII.1, Section 175-54 Table of Dimensions, to permit the rebuild of a barn on a site that has an impervious surface ratio greater than that allowed.

1. **No decrease in value of surrounding properties would be suffered because:** the proposed barn structure is a replacement for a portion of the existing barn that was lost to a fire in 2017. The values of surrounding properties included the existence of the barn previously; therefore, the replacement of the lost structure will have no detrimental effect on the property values.

Granting the variance would not be contrary to the public interest because: the project seeks to restore the essential character of the neighborhood.

2. **Owing 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:**
 - a. **No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because:** the amount of impervious surface is not substantially changing between what existed before the fire and what is being proposed. The impervious ratio is currently 27%, above the maximum 20% allowed. The part of the barn that was lost to the fire had a footprint of approximately 2200sf, an increase of 0.018% to the impervious ratio for a total of 27.018%. The proposed barn has a footprint of 2400sf with a 600sf open-air porch, an increase of 800sf above the previous square footage and a 0.007% increase in impervious surface above the previous. The total impervious surface would increase .025% over what exists currently for a total of 27.025%. The ordinance provision does not serve its purpose in a fair and substantial way because the property already exceeds the maximum impervious surface ratio, and there will be no significant increase in the impervious surface ratio.

Insurance investigations alone took over a year to complete, and as such, the rebuild of the barn was forced to be outside of the allowed rebuild period of one year, per Article IX, Section 175-30. Due to both the existing and previous amount of impervious surface being greater than what is now allowed by the ordinance, a variance would have been required regardless. The requested increased impervious surface is minimal above what currently exists, and negligible over what existed previously.

Additionally, all proceeds from the insurance claim will be heavily taxed if the barn is not rebuilt. The insurance company also included "hold-backs" that are only released if the barn is rebuilt in similar size and function.

- b. **(and) the proposed use is a reasonable one because:** the proposed barn replaces what existed previously, though with a differently-proportioned footprint and a minimal increase to the impervious surface ratio. The majority of the increased impervious

surface is due to an open-air porch that will face the assisted living and offer an inviting and traditional aesthetic to the property. The barn was a significant feature of the Inn at Hickory Pond, as well as Harmony Homes at Hickory Pond Assisted Living; the rebuild of the portion that was lost to the fire seeks to restore the property and the essential character of the neighborhood to what it once was.

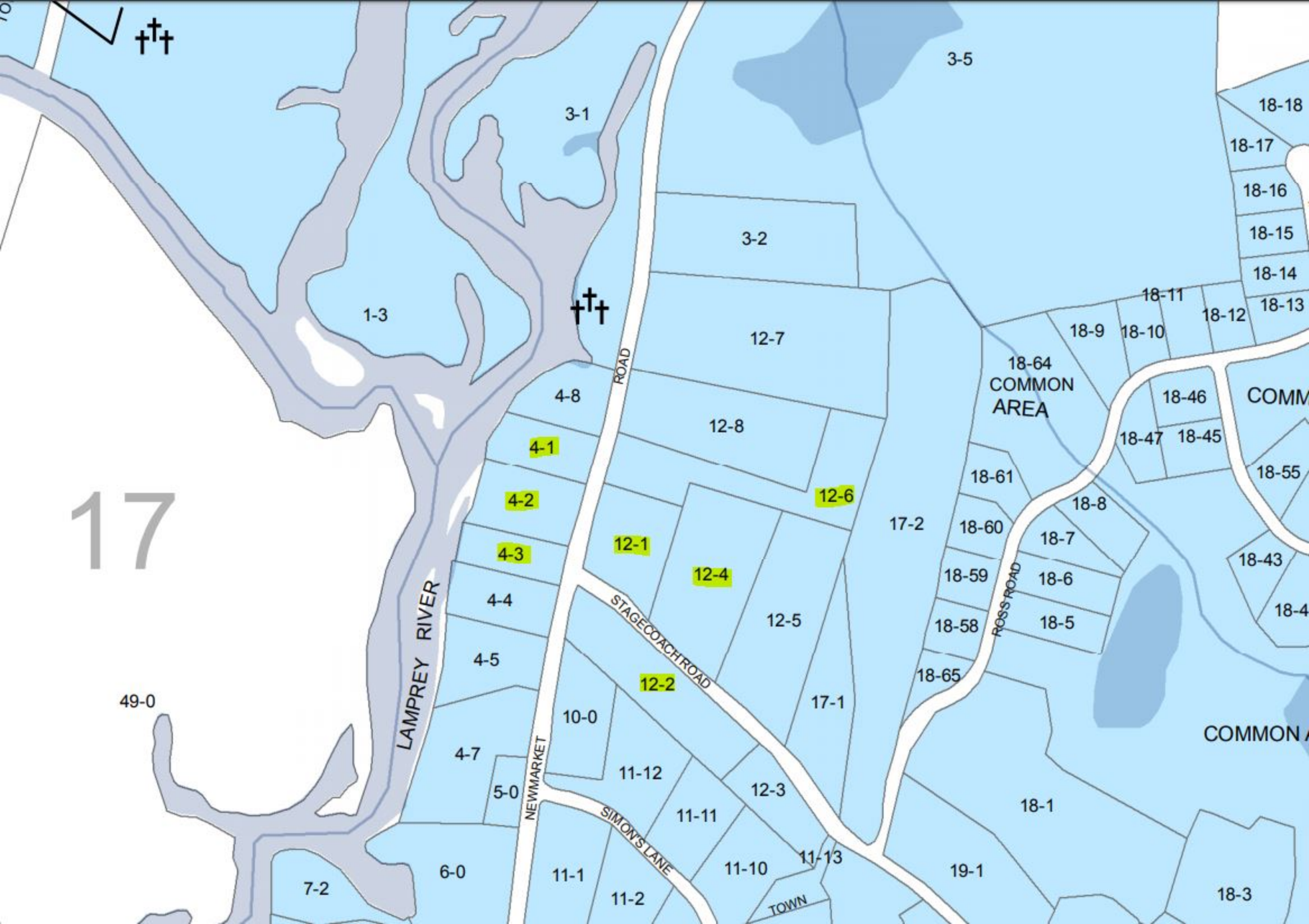
3. **By granting the variance, substantial justice would be done because:** no harm will be done with the rebuilding of the barn. The residents of Harmony Homes at Hickory Pond Assisted Living will enjoy having a completed campus, and neighbors will also benefit by having the existing site, that currently has the remnant of a stone chimney, uneven terrain, and temporary siding on a portion of the remaining barn, completed and restored. There will be no harm done with the small increase in water runoff; the property naturally slopes toward Hickory Pond, and as the amount of impervious surface existed previously, the restoration to that same level will not cause additional harm.
4. **The use will not be contrary to the spirit and intent of the ordinance because:** the proposed rebuild of the barn does not conflict with the explicit or implicit purpose of the ordinance and does not alter the essential character of the neighborhood. Significant open space is still preserved in the lawns and landscaped areas of the property and is essentially the same as the amount of open space that existed previously before the fire. A barn is a hallmark of the rural New England vernacular, and rebuilding the lost structure is in keeping with the agricultural heritage of the rural district.

LIST OF OWNERS OF ABUTTING PROPERTY

(This includes property directly across the street or streams from the land under consideration. List must also include and all preparers of plans, studies, etc...)

PLEASE PROVIDE NAME & MAILING ADDRESS

<p><u>PROPERTY OWNER:</u> 1 Stagecoach Rd MAP 18/LOT 12-1</p> <p>FHP AT HICKORY POND, LLC 1 STAGECOACH ROAD DURHAM, NH 03824</p>	<p><u>ENGINEER:</u></p> <p>MJS ENGINEERING, PC P.O. BOX 359 NEWMARKET, NH 03857</p>
<p><u>ARCHITECT:</u></p> <p>GSD STUDIOS, PLLC 22 JADY HILL AVE EXETER, NH 03833</p>	<p>MAP 18/LOT 4-1 264 Newmarket Rd</p> <p>JAMES H. DREHER & COLEEN M. FUERST 264 NEWMARKET ROAD DURHAM, NH 03824</p>
<p>MAP 18/LOT 4-2 266 Newmarket Rd</p> <p>MATTHEW & COLLEEN LAKE P.O. BOX 875 DURHAM, NH 03824</p>	<p>MAP 18/LOT 4-3 270 Newmarket Rd</p> <p>SHAWN & SARAH HEIMAN 270 NEWMARKET ROAD DURHAM, NH 03824</p>
<p>MAP 18/LOT 12-2 14 Stagecoach Rd</p> <p>TROY & KELLY ZERVESKES 14 STAGECOACH ROAD DURHAM, NH 03824</p>	<p>MAP 18/LOT 12-4 5 Stagecoach Rd</p> <p>MARIA L K MILLETT 5 STAGECOACH ROAD DURHAM, NH 03824</p>
<p>MAP 18/LOT 12-6 263 Newmarket Rd</p> <p>CHARLES E & LINDA J COFFEY 5 CHARTER STREET EXETER, NH 03833</p>	



17

LAMPREY RIVER

ROAD

NEWMARKET

STAGECOACH ROAD

SIMON'S LANE

ROSS ROAD

18-64
COMMON
AREA

COMMON A

TOWN

4-1

4-2

4-3

4-4

4-5

4-7

5-0

6-0

7-2

3-1

3-2

3-5

1-3

4-8

12-8

12-1

12-4

12-2

12-5

17-1

10-0

11-12

11-11

12-3

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12-7

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18-47

18-45

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18-55

18-43

18-4

18-18

18-17

18-16

18-15

18-14

18-13

COMM

COMMON A

18-3

19-1





ENGINEERING, P.C.
CIVIL • STRUCTURAL • ENVIRONMENTAL

5 Railroad Street • P.O. Box 359
Newmarket, NH 03857
Phone: (603) 659-4979
Email: mjs@mjs-engineering.com

June 23, 2020

Mr. Michael Behrendt
Durham Town Planner
8 Newmarket Road
Durham, NH 03824

Re: Partial barn replacement project at Harmony Homes 1 Stagecoach Road Map 18 Lot 12-1

Dear Michael,

Pursuant to your request, I am providing you with an explanation for the barn replacement project. A large portion of the barn that was damaged by a fire on July 16, 2017. Crews were able to save part of the barn and John Randolph would like to replace the damaged part that has since been removed, with a new barn. The proposed barn has a slightly different aesthetic and footprint, however, the area and height of the barn is similar to the original. The portion of the barn that was burned was used for storage on both the lower level and the mezzanine level. This barn is proposed to have the same use. The owner will not be adding beds, parking spaces, or any other changes to the site, nor will there be any animals housed in the barn. The exterior will include either board and batten siding or barn board siding, and a metal roof over the heavy timber structure.

I have reviewed the zoning regulations and to the best of my knowledge construction of the new barn will not violate any zoning requirements. The new barn meets the setback, height and use requirements. The existing impervious surface area of the existing site is 27% which exceeds the maximum 20% and the new footprint including the porch is 1000SF larger so there is no significant increase to the impervious surface ratio.

If you require additional information or have any questions or comments, please call (603) 659-4979 x302.

Sincerely,

A handwritten signature in black ink, reading 'Michael J. Sievert', written in a cursive style.

Michael J. Sievert PE
President

From: [Michael Behrendt](#)
To: [Mike Sievert](#)
Cc: [Margaret Randolph](#); [Audrey Cline](#)
Subject: RE: The barn at Harmony homes site plan
Date: Tuesday, June 23, 2020 3:12:15 PM
Attachments: [image004.png](#)

Mike,

You will need a variance for the impervious surface to exceed 20%. You would need it even if the impervious surface is the same as the earlier building. I don't see a way around this. This would not qualify for minor site at this point if a variance is needed.

Michael Behrendt

Durham Town Planner
Town of Durham
8 Newmarket Road
Durham, NH 03824
(603) 868-8064
www.ci.durham.nh.us

From: Mike Sievert [mailto:mikesievert@mjs-engineering.com]
Sent: Tuesday, June 23, 2020 2:35 PM
To: Michael Behrendt
Cc: Margaret Randolph
Subject: Fwd: The barn at Harmony homes site plan

Hi Michael,

I have attached a write up for you to send to the board along with other plans and information about the fire attached to this email. I am not sure if you already got all this from Margaret but I attached it again just in case. The write up explains our intent. Thanks
Mike

Begin forwarded message:

From: <maggierandolph19@gmail.com>
Subject: RE: The barn at Harmony homes site plan
Date: June 23, 2020 at 12:07:12 PM EDT
To: "Mike Sievert" <mikesievert@mjs-engineering.com>, <FinallyHomeProperties@hotmail.com>

Hi Mike,

The fire occurred on July 16, 2017. Crews were able to save the part of it, but we'd like to rebuild what was there, albeit with a slightly different aesthetic and footprint. The square footage is similar though. The part of the barn that burned down was used for storage and had a mezzanine level that was also used for storage; we are doing the same thing with our proposed rebuild.

<https://www.seacoastonline.com/news/20170716/four-alarm-fire-closes-route-108>

The intent is have the same use as before, so there is no change in from the storage occupancy. We are not adding beds, parking spaces, etc. We're not housing animals either. We will include either board and batten siding or barn board siding, and a metal roof over the heavy timber structure.

The link to the news article has some good pictures of the fire. Thank goodness no one was hurt!

Let me know if you need anything else.

Thanks!!
Maggie

-----Original Message-----

From: Michael Behrendt <mbehrendt@ci.durham.nh.us>

Sent: Tuesday, June 23, 2020 9:30 AM

To: Mike Sievert (mikesievert@mjs-engineering.com)

<mikesievert@mjs-engineering.com>; Maggie Randolph

<maggierandolph19@gmail.com>

Cc: Audrey Cline <acline@ci.durham.nh.us>; Christine J. Soutter

<csoutter@ci.durham.nh.us>

Subject: FW: The barn at Harmony homes site plan

Mike and Maggie,

In order for me to present this to the Planning Board tomorrow night under Other Business, I need to email the information to the board by 5:00 pm today. What was the old use? What is the proposed use? Will everything be in conformance with zoning and the site regs as far as you know? Can you give some information about the fire as the board may want to know about that. Is there enough parking for the existing and proposed uses?

Maggie, if you can get the elevations, at least drafts, to me today that would be helpful.

It is up to the board and there will be some judgment for them since this proposal does not fit neatly into one of the categories. So this could really go either way as far as minor site is concerned.

Michael Behrendt
Durham Town Planner
Town of Durham

8 Newmarket Road
Durham, NH 03824
(603) 868-8064
www.ci.durham.nh.us

-----Original Message-----

From: Mike Sievert [mailto:mikesievert@mjs-engineering.com]
Sent: Tuesday, June 23, 2020 8:20 AM
To: Michael Behrendt
Subject: The barn at Harmony homes site plan

Hi Michael,
Here is the site plan showing the barn footprint No other changes. I will
send the elevations as soon as I get them from Margret.
Mike







Crews battling four-alarm fire in Durham ...

Shiloh Jolie Pitt's Changing Looks IS SO amazing. Shiloh Jolie Pitt's Lo >



Crews battling four-alarm fire in Durham

Blaze caused by lawn mower

NewsON Takes You There. FREE DOWNLOAD



TAX MAP 18, LOT 4-4
CHRISTOPHER T. MASTERS
DAWN M. O'NEIL
274 NEWMARKET ROAD
DURHAM, NH 03824
SCRD BOOK 4694, PAGE 504

TAX MAP 18, LOT 12-2
TROY & KELLY ZERVESKES
14 STAGECOACH ROAD
DURHAM, NH 03824
SCRD BOOK 4498, PAGE 898

TAX MAP 18, LOT 4-3
SHAWN HEIMAN
270 NEWMARKET ROAD
DURHAM, NH 03824
SCRD BOOK 4731, PAGE 876

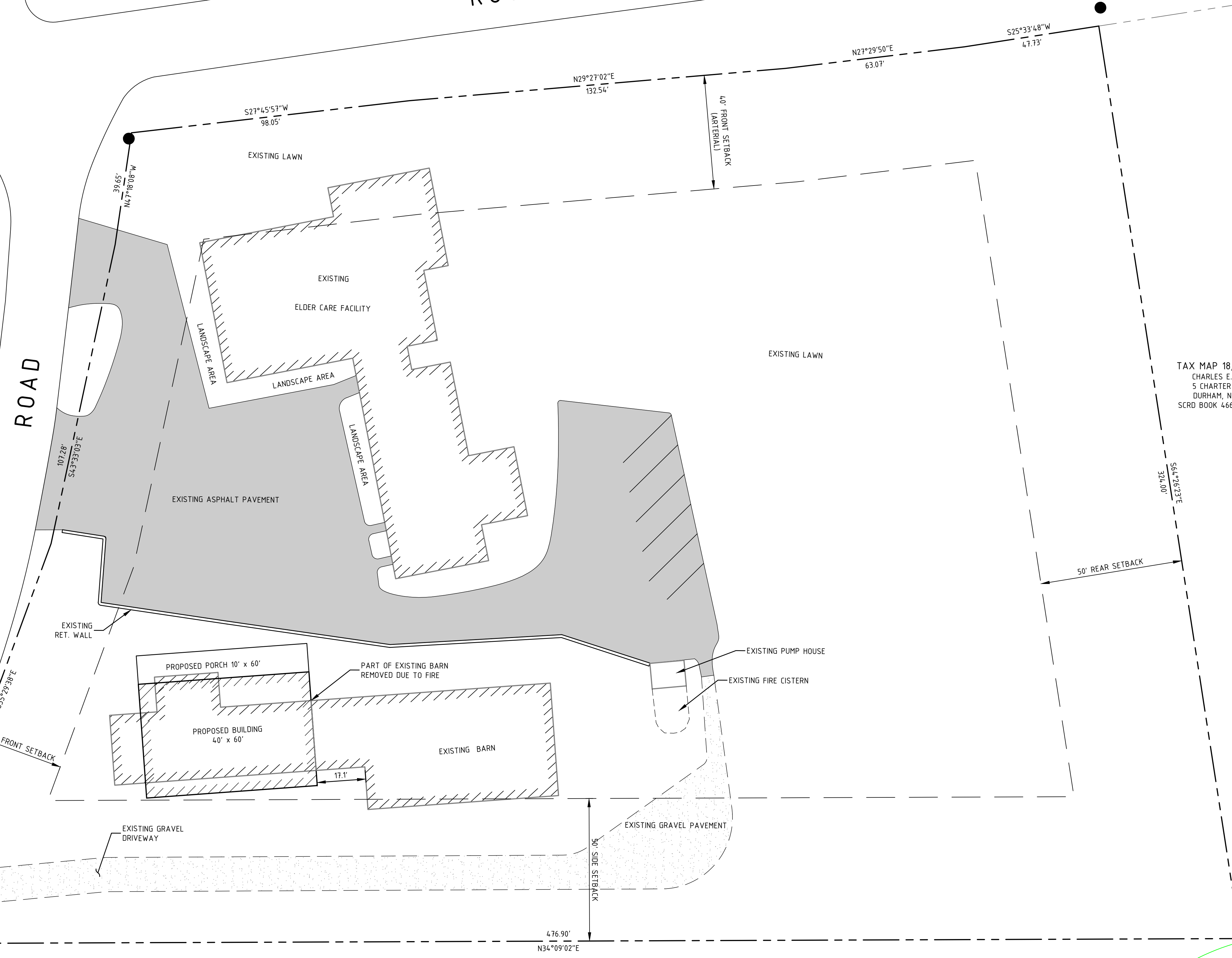
TAX MAP 18, LOT 4-2
MATTHEW LAKE
PO BOX 875
DURHAM, NH 03824
SCRD BOOK 4715, PAGE 847

TAX MAP 18, LOT 4-1
JAMES H. DREHER & COLEEN M. FUERST
264 NEWMARKET ROAD
DURHAM, NH 03824
SCRD BOOK 4032, PAGE 479

ROUTE 108

STAGECOACH ROAD

ROAD



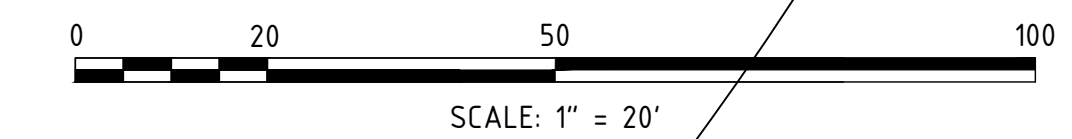
- NOTES:
- SUBJECT LOT:
1 STAGECOACH ROAD
TAX MAP 18, LOT 12-1
 - OWNER OR RECORD:
FHP AT HICKORY POND INN, LLC
1 STAGECOACH ROAD
DURHAM, NH 03824
SCRD BOOK 3918, PAGE 800
 - LOT AREA: 2.75 ACRES / 119,782 SQ. FT.
 - THE PURPOSE OF THIS PLAN IS TO SHOW THE PROPOSED CHANGES TO THE SUBJECT PARCEL FOR THE CONSTRUCTION OF THE REPLACEMENT BARN.
 - ZONING REQUIREMENTS:
THE SUBJECT PARCEL IS LOCATED IN THE RURAL DISTRICT (R) AND IS NOT WITHIN ANY OF THE ZONING OVERLAY DISTRICTS.

DIMENSIONAL STANDARDS FOR R DISTRICT

MINIMUM LOT SIZE	150,000 SQ. FT.
MINIMUM LOT AREA PER DWELLING UNIT*	150,000 SQ. FT.*
MINIMUM FRONTAGE	300 FT
MINIMUM SETBACKS	
FRONT	30/30/40 FT
SIDE	50 FT
REAR	50 FT
MAXIMUM IMPERVIOUS SURFACE RATIO	20%

- BEARINGS SHOWN ON THIS PLAN ARE BASED ON GRID NORTH, NEW HAMPSHIRE STATE PLANE, NAD83. ELEVATIONS AND CONTOURS ARE BASED ON NAVD83(GEOD12B), BASED ON GPS OBSERVATIONS TAKEN JANUARY 31, 2020. DISTANCES SHOWN ARE GROUND DISTANCES.
- FOR MORE INFORMATION ABOUT THIS SITE PLAN, OR TO SEE THE COMPLETE PLAN SET, CONTACT THE TOWN OF DURHAM PLANNING DEPARTMENT, 8 NEWMARKET ROAD, DURHAM, NH 03824, (603) 868-8064.
- ACCESS INTO THE SITE FOR FIRE APPARATUS SHALL BE MAINTAINED AT ALL TIMES DURING THE CONSTRUCTION PROCESS. PLEASE CONTACT THE FIRE DEPARTMENT AT 868-5531 WITH ANY QUESTIONS ABOUT ACCESS REQUIREMENTS.

TAX MAP 18, LOT 12-4
MARIA L.K. MILLETT
5 STAGECOACH ROAD
DURHAM, NH 03824
SCRD BOOK 4147, PAGE 269



NO.	REVISIONS	DATE	INT.
0.	INITIAL SUBMISSION TO THE DURHAM PLANNING BOARD	6/22/20	PICS

SEAL

DATE ISSUED:	6/22/20
SCALE:	1"=20'
DESIGNED BY:	MJS
DRAWN BY:	MJS
APPROVED BY:	MJS
DWG FILE:	20021_Civil_A.dwg

BARN REPLACEMENT PLAN
Prepared for:
HARMONY PLACE
TAX MAP 18, LOT 12-1
1 STAGECOACH ROAD, DURHAM, NH 03824

MJS ENGINEERING, P.C.
CIVIL • STRUCTURAL • ENVIRONMENTAL
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E-mail: mjs@mjs-engineering.com

JOB: 20-021

C-101