



FOUNDED DECEMBER 15, 1727

CHARTED JANUARY 1, 1991

NEWMARKET ZONING BOARD OF ADJUSTMENT
MONDAY, OCTOBER 18, 2021
TOWN COUNCIL CHAMBERS
7:00 PM

AGENDA

- 1. Pledge of Allegiance**
- 2. Review and Approval of Minutes**
 - a. 08/23/21
- 3. Regular Business**
 - a. Jason & Sarah Mansfield - Public Hearing for an application for Variances from Section 32-87 Setbacks and Section 32-89 Dimensions Table of the Newmarket Zoning Ordinance requested by Jason & Sarah Mansfeld, to permit the construction of a 20'x28' single car garage with a five foot rear setback from Sewall Farm's lift station parcel, where thirty feet is required, and an eighteen foot side yard variance that allows the garage to be twelve feet from the edge of the Ladyslipper Drive right-of way on the east side of the property. The property is located at 32 Ladyslipper Drive, Tax Map R4, Lot 136, R2 Zone.
 - b. Robert & Natalie Hassold There will be a public hearing on an application for a Variance from Section 32-155 (C)(4) Wetland Protection Overlay District, requested by Robert & Natalie Hassold, to permit the expansion of an existing deck 10'x16' deck with a 10'X12 addition. The proposed deck expansion will infringe upon a 25 foot wide "no cut, no disturbance" wetlands buffer adjacent to poorly drained "hydric" soils along the easterly side of the property. The encroachment is an area of approximately 25 square feet. The property is located at 6 Honeycomb Way Lot, Tax Map R3, Lot 23-19, M4 Zone. The full application is available to view under the October 18, 2021 Zoning Board agenda on the website.
- 4. New/Old Business**
- 5. Adjourn**



Town Hall
186 Main Street
Newmarket, NH 03857

Tel: (603) 659-3617
Fax: (603) 659-8508

Founded December 15, 1727
Chartered January 1, 1991

TOWN OF NEWMARKET, NEW HAMPSHIRE

ATTACHMENTS:

Description	Upload Date	Type
08/23/21	9/14/2021	Backup Material

NEW NEWMARKET ZONING BOARD OF ADJUSTMENT
MONDAY, AUGUST 23, 2021
TOWN COUNCIL CHAMBERS
7:00 PM

Present: Bob Daigle (Chair), Wayne Rosa (Vice Chair), Diane Hardy (Zoning Administrator), James Drago, Steve Minutelli, Al Zink, and Henry Smith (Alternate).

Absent: John Greene

The Chair called the meeting to order at 7:06 PM

1. Pledge of Allegiance

2. Review and Approval of Minutes

a. 06/14/2021

Motion: James Drago made a motion to approve the minutes of 06/14/2021.

Second: Steve Minutelli

Vote: All in favor

3. Regular Business

a. Michael Mangan - Public hearing for an application for Variances from Section 32-87 Setbacks and Section 32-89 Dimensions Table, requested by Michael Mangan, to permit the building of a 27' x 18' structure, for personal use, with storage for tenants/owners on the lower level and a multi-purpose space for tenants/owners to do arts/crafts or play music, for example, that has a 16' setback on/from the Washington Street property line, where 25' is required. The property is located at 10 Nichols Avenue, Tax Map U2, Lot 237, R3 Zone.

Mr. Michael Mangan submitted an application for a variance. He was seeking a variance to the 25 foot setback on the Washington Street side of his property at 10 Nichols Ave. in order to build a structure 27' by 18' for personal use. All abutters to the property were noticed by certified mail. He spoke briefly synthesizing his application.

The Chair opened the meeting for public comments.

Mr. Jim Stevens, who owns the property at 1 Lincoln Ave., but does not reside there, mentioned his concern that the building might become a band practice place.

There were no others present who wished to comment.

1
2 The Chair closed the public comment at 7:33 PM.

3
4 Mr. Mangan responded to the ZBA and Mr. Stevens that he intends to sound proof as much as
5 possible and the design has fewer windows on the first floor to avoid becoming a nuisance. He also
6 mentioned that he plans to retire in 5-8 years and is looking for a place he can go to play his guitar.

7
8 The Chair began the discussion among the members. There was considerable support for the
9 thought that he has plenty of space to situate this building on his lot without a need of a variance.
10 The owner was unable to meet hardship requirement. The Zoning Administrator said that in order
11 to satisfy the Town's requirements for storm water management, a design by an engineer
12 indicating clearly where the water would go would be very important to provide. The applicant
13 was asked if he would like to come back to present more information on his hardship and offer a
14 thorough engineering plan. Mr. Mangan thought 90 days would be sufficient.
15 No decision will be made by the ZBA this evening.

16
17 **Motion:** Bob Daigle made a motion to table, without prejudice, the variance request from Mr.
18 Michael Mangan for 90 days (Nov 22) to allow the owner to develop a more detailed plan.

19
20 **Second:** Wayne Rosa

21
22 **Vote:** All in favor

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25 **4. New/Old Business** None.

26
27 **5. Adjourn**

28
29 **Motion:** James Drago made a motion to adjourn.

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31 **Second:** Bob Daigle

32
33 **Vote:** All in favor

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35
36 **The meeting was adjourned at 8:16 PM.**

37
38
39 Respectfully submitted,

40
41 Sue Frick, Recording Secretary.



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TOWN OF NEWMARKET, NEW HAMPSHIRE

ATTACHMENTS:

Description	Upload Date	Type
Legal Notice, Application, Plans,	9/22/2021	Backup Material

FOUNDED DECEMBER 15, 1727

CHARTERED JANUARY 1, 1991



TOWN OF NEWMARKET, NEW HAMPSHIRE
OFFICE of the 'ZONING BOARD OF ADJUSTMENT'

LEGAL NOTICE

NEWMARKET ZONING BOARD OF ADJUSTMENT

**MONDAY, OCTOBER 18, 2021
7:00 P.M.**

TOWN COUNCIL CHAMBERS

There will be a public hearing for an application for Variances from Section 32-87 Setbacks and Section 32-89 Dimensions Table of the Newmarket Zoning Ordinance requested by Jason & Sarah Mansfield, to permit the construction of a 20' x 28' single car garage with a five (5) foot rear setback from Sewall Farms Lift station parcel, where thirty (30) feet is required, and an eighteen (18) foot side yard variance that allows the garage to be twelve (12) feet from the edge of the Ladyslipper Drive Right-of-Way on the east side of the property. The property is located at 32 Ladyslipper Drive, Tax Map R4, Lot 136, R2 Zone. The full application is available to view under the October 18, 2021 Zoning Board agenda on the Town website www.newmarketnh.gov and in the Zoning Office at the Town Hall during business hours.

pd 6/18/14
84

**APPLICATION – ZONING BOARD OF ADJUSTMENT
TOWN OF NEWMARKET, NH**

Applicant: Jason Mansfield

Mailing Address: 32 Ladyslipper Drive, Newmarket, NH 03857

Property owner: Jason Mansfield & Sarah Mansfield

Mailing Address: 32 Ladyslipper Drive, Newmarket, NH 03857

Telephone: Cell Phone: 603 583 2461

Email Address: mans442@gmail.com

Do not write in this space
Date filed 9/16/14
Initials SCJ

Location of property: 32 Ladyslipper Drive Tax Map R4-136__ ~~Lot 62~~ Zone R2

Description of property: Current: Single family home. Proposing the addition of detached single car garage

Proposed use or existing use affected: Storage of automobile, etc.

The following pages contain forms for Appeal from Administrative Decision, Special Exception, Variance, & Equitable Waiver. Please fill out appropriate request sheet. All applications will need completed abutters list.

~~~~~

**SECTION 1 APPEAL FROM ADMINISTRATIVE DECISION**

Not applicable

\*\*\*\*\*

**SECTION 2 APPLICATION FOR SPECIAL EXCEPTION**

Not applicable

**SECTION 3 VARIANCE**

A variance is requested from Sections 32.87 & 32.89 of the Newmarket Zoning Ordinance to permit the construction of a single car garage at five (5) feet from Sewall Farms Open Space/Lift Station (#135) as opposed to the required setback thirty (30) feet, AND a twelve (12) foot variance that allows the garage to be 32 feet from edge of Ladyslipper Drive Street, on East side of property. All other existing setbacks will be maintained. Please see the attachment that shows a simple graphic of the proposal.

\*\*\*\*\*

Please sign below for all applications:

Applicant   
Signature

Applicant Jason Mansfield  
Please Print

Owner   
Signature

Owner Jason Mansfield  
Please Print

Owner \_\_\_\_\_  
Signature

Owner \_\_\_\_\_  
Please Print

Date 9/10/21

### ABUTTERS LIST

1. List the tax map, lot number, name(s) and mailing address of the **property owner(s), applicant (if different from property owners) and all abutters and any others requiring notification**, as shown in Town records, not more than five days prior to submittal per RSA 676:4,I(b). This may be typed on a separate sheet. Please indicate the date of preparation and sign your name on each sheet.
2. As applicable, list the name, mailing address, daytime phone number, and fax number of the Applicant's Authorized Representative and any surveyor, engineer, architect or soil scientist whose stamp and signature appear in the application materials. Use a separate piece of paper if needed.
3. **Fill out two adhesive mailing labels for EVERY entry on the list. Labels must not exceed 1" tall by 2.75" long in order to fit on the certified mail tags.**
4. **The determination of abutters is the responsibility of the applicant.** This list will not be reviewed for compliance with statutory requirements. Use abutters information available at Town Hall Assessing Office. Do not use information from any other source to determine abutters (online, website, memory, etc.)

| Map   | Lot   | Owner                                                | Mailing Address |
|-------|-------|------------------------------------------------------|-----------------|
| _____ | _____ | <u>PROPERTY OWNER-MUST BE INCLUDED PER STATE LAW</u> |                 |
| _____ | _____ | <u>APPLICANT, IF DIFFERENT FROM PROPERTY OWNER</u>   |                 |
| _____ | _____ | <u>AUTHORIZED AGENT, IF APPLICABLE-PER STATE LAW</u> |                 |

All abutters (use separate sheet, if necessary): ON ATTACHED SHEET

|       |       |       |
|-------|-------|-------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

\_\_\_\_\_  
Date of preparation: \_\_\_\_\_

I hereby certify that all information presented on this form is, to the best of my knowledge, correct. \_\_\_\_\_

Signature of preparer

### CHECKLIST

Go over the list and make sure that you have included everything on it **BEFORE** submitting your application.

1. Letter of Violation/Denial - From the Administrative Officer. \_\_\_\_\_
2. Plot map – As close to scale as possible showing
  - a. boundaries \_\_\_\_\_
  - b. setbacks \_\_\_\_\_
  - c. streets \_\_\_\_\_
  - d. existing or proposed structures \_\_\_\_\_
  - e. access roads \_\_\_\_\_
  - f. abutters \_\_\_\_\_
3. List of abutters – Every owner of every property, the owner of the property involved in the request, the applicant if different from the property owner, any authorized agent representing the owner or applicant at the meeting, with correct mailing addresses (see instruction sheet for full details). \_\_\_\_\_
4. ~~Two adhesive mailing labels~~ per every abutter not to exceed 1" tall by 2.75" long.
5. Section number of the ordinance involved. \_\_\_\_\_
6. Fees. \_\_\_\_\_
7. Letter of permission from property owner(s) if someone is representing them at the meeting. \_\_\_\_\_



# List of Abutters

Jason Mansfield  
32 Ladyslipper Drive  
Newmarket, NH 03857

Chris James  
30 Ladyslipper Drive  
Newmarket, NH 03857

James Mongeon  
30 Ladyslipper Drive  
Newmarket, NH 03857

Bounpheng Vongsa  
29 Ladyslipper Drive  
Newmarket, NH 03857

Todd Berry  
29 Ladyslipper Drive  
Newmarket, NH 03857

Greg Renard  
29 Ladyslipper Drive  
Newmarket, NH 03857

Sewall Farm Community Assoc  
C/O Great North Property Management  
3 Holland Way  
Exeter, NH 03833

*See attached pages for variance criteria:*

### ***VARIANCE CRITERIA***

The local ordinance cannot limit or increase the powers of the Board to grant variances under this authority, but this power must be exercised within bounds. In several decisions from 1952 to the present, the Supreme Court has declared that each of the following criteria must be found in order for a variance to be legally granted:

**CRITERION 1.** Granting the Variance would not be contrary to the public interest.

**Granting the Variance would not be contrary to public interest, as the proposed building will not affect the usage of the existing abutting properties in terms of drainage/erosion, aesthetics, views, or other conditions to public interest.**

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**CRITERION 2.** If the variance were granted, the spirit of the ordinance would be observed because **the proposed variance would continue to protect abutting properties sensible privacy and continued land usages as it would with the existing offset requirements. The character of the neighborhood will not be inhibited by this proposal, as there would be no change to automotive or pedestrian traffic, fire safety, neighboring sunlight, or air circulation for abutting properties. Therefore, no negative impact to public health would occur with approval of this application.**

**CRITERION 3.** Granting the variance would do substantial justice because **the current offsets of 30 feet is inhibitive to allow sensible usefulness of the tax assessed property. Nearby properties, such as lot # 42, have less rear setback requirements.**

**CRITERION 4.** If the variance were granted, the values of the surrounding properties would not be diminished. **The property values of surrounding properties shall not be diminished, as the architectural design of the proposed garage will match style and materials used in general construction contractor guidelines. This will be enhancement to the community, with a Cape Cod style design, utilizing modern construction standards and materials.**

**CRITERION 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 unnecessary hardship because:

1. 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:
2. **The existing setbacks requirement of 30 feet against the rear facing property line is not consistent with other property setbacks in the neighborhood, as mentioned above regarding Lot # 42. Adjacent Lot # 38 also has a less restrictive set back against a similar open space lot. In addition, the setback of 30 feet from street side property pin would prohibit ease of a driveway permit.**

AND

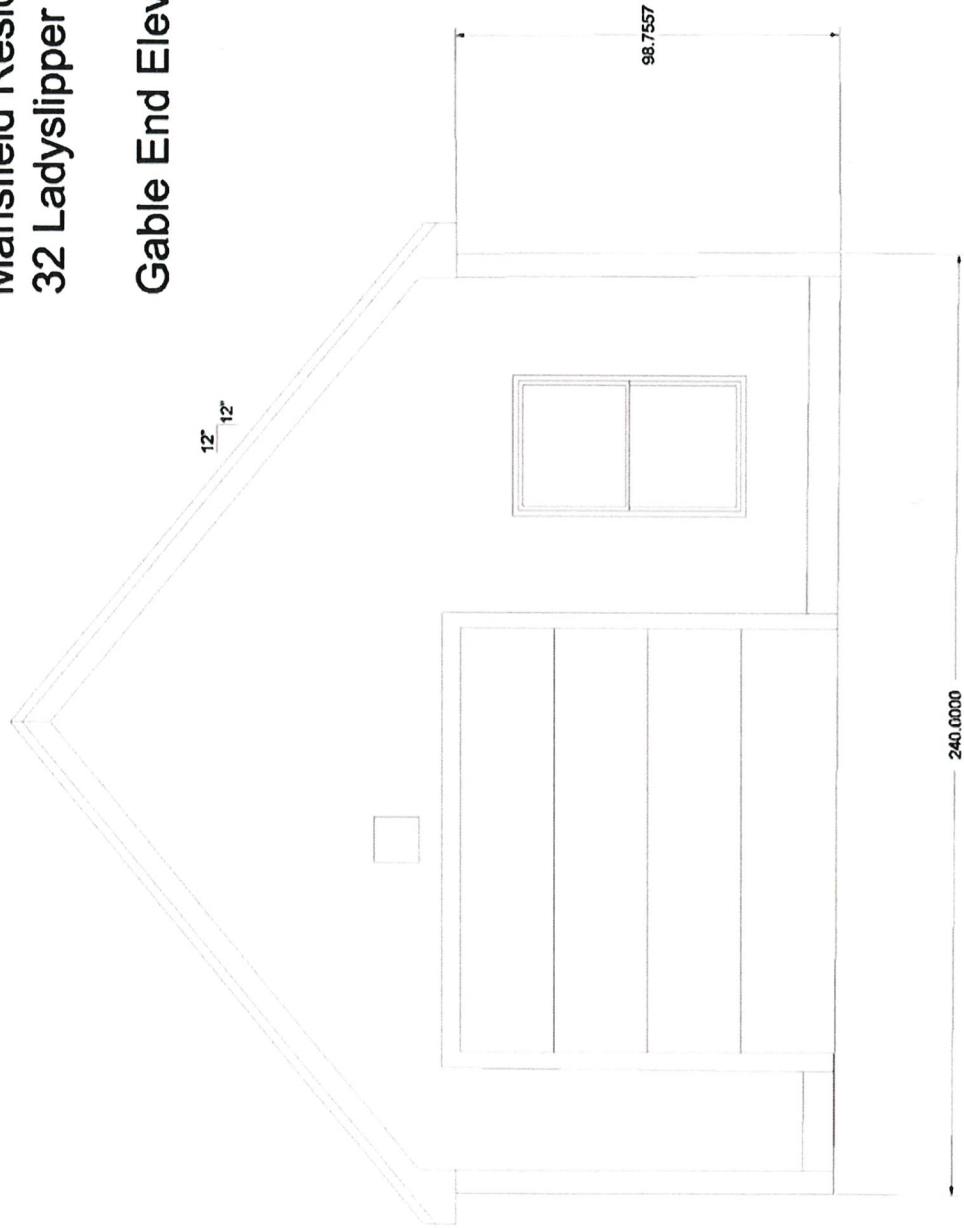
2. **The proposed use is a reasonable one because it provides sensible use of my full tax assessed property dimensions without inhibiting the character of the neighborhood nor property values of abutting neighbors. In fact, this addition of the garage will enhance the value of the proposed property and potential increase the value of adjacent properties. The proposed single car garage is a reasonable addition to the property which allows sensible use.**

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 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 reasonable use of it.

**There would be an unnecessary hardship if the proposal is not accepted as there would be no other option to economically build a single car garage on the property without enduring expensive landscaping foundation preparations and similar thirty (30) foot offset requirements on the Ladyslipper Drive street side of the property. In addition, building with the existing offsets would interfere with existing characteristics of the current property, such as the backyard deck and various trees. In addition, a driveway path would interfere with the existing fire hydrant on the property (see attachment). Therefore, building a single car garage on the property with the existing set back requirements would create an awkward appearance that would diminish the property appearance.**

Mansfield Residence  
32 Ladyslipper Dr.

Gable End Elevation



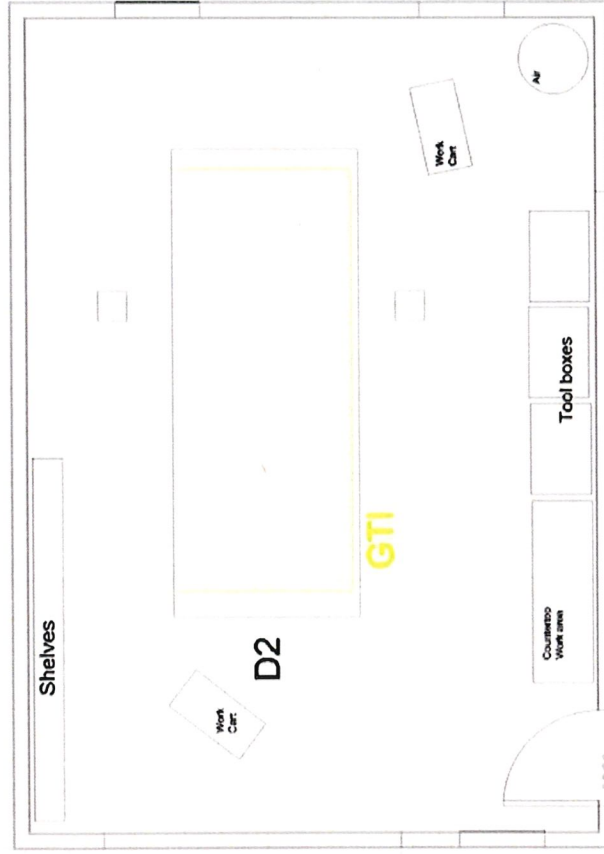
Mansfield residence  
32 Ladyslipper Dr.

Garage Floor Plan

28'-0"  
241 0000

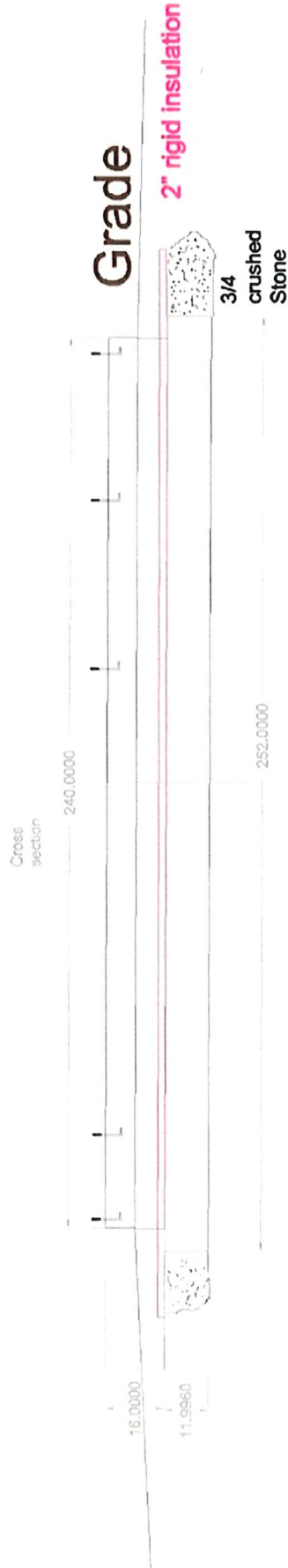
10'-0"  
120 0000

20'-0"  
240 0000



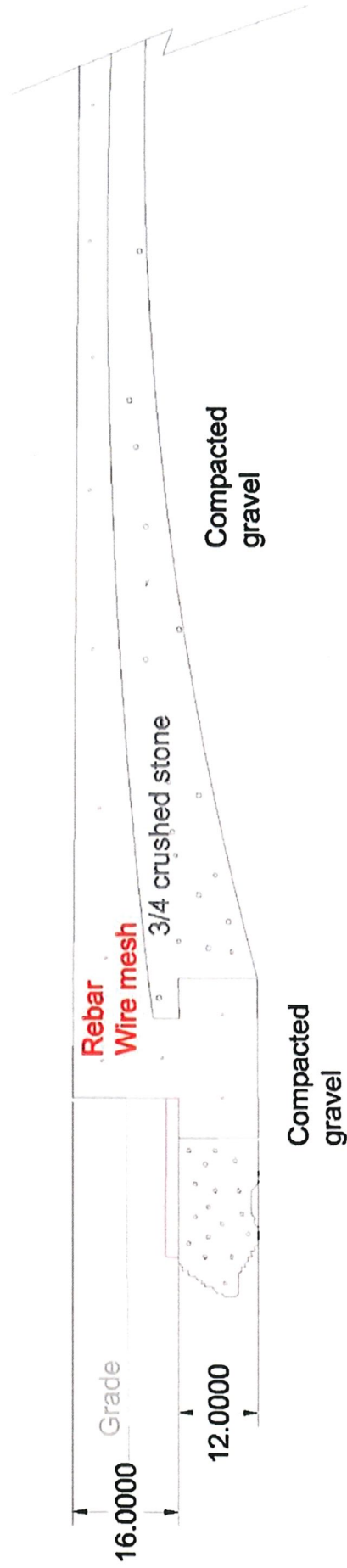
Mansfield Residence  
32 Ladyslipper Dr.

Foundation Plan



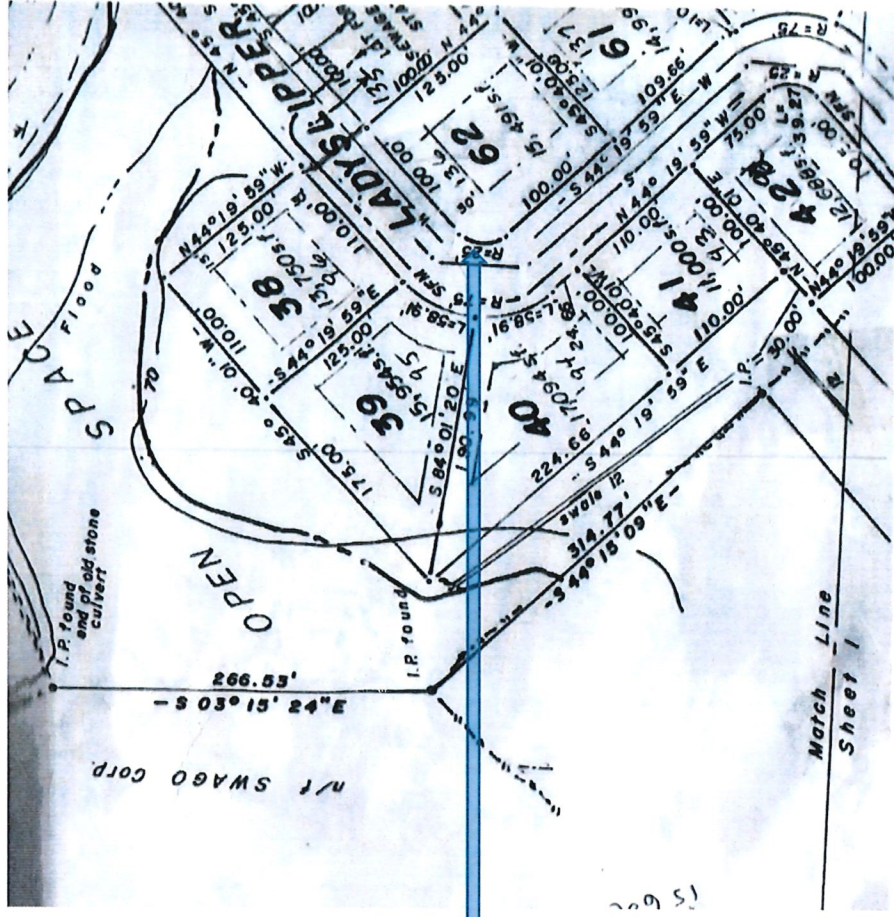
Mansfield residence  
32 Ladyslipper Dr.

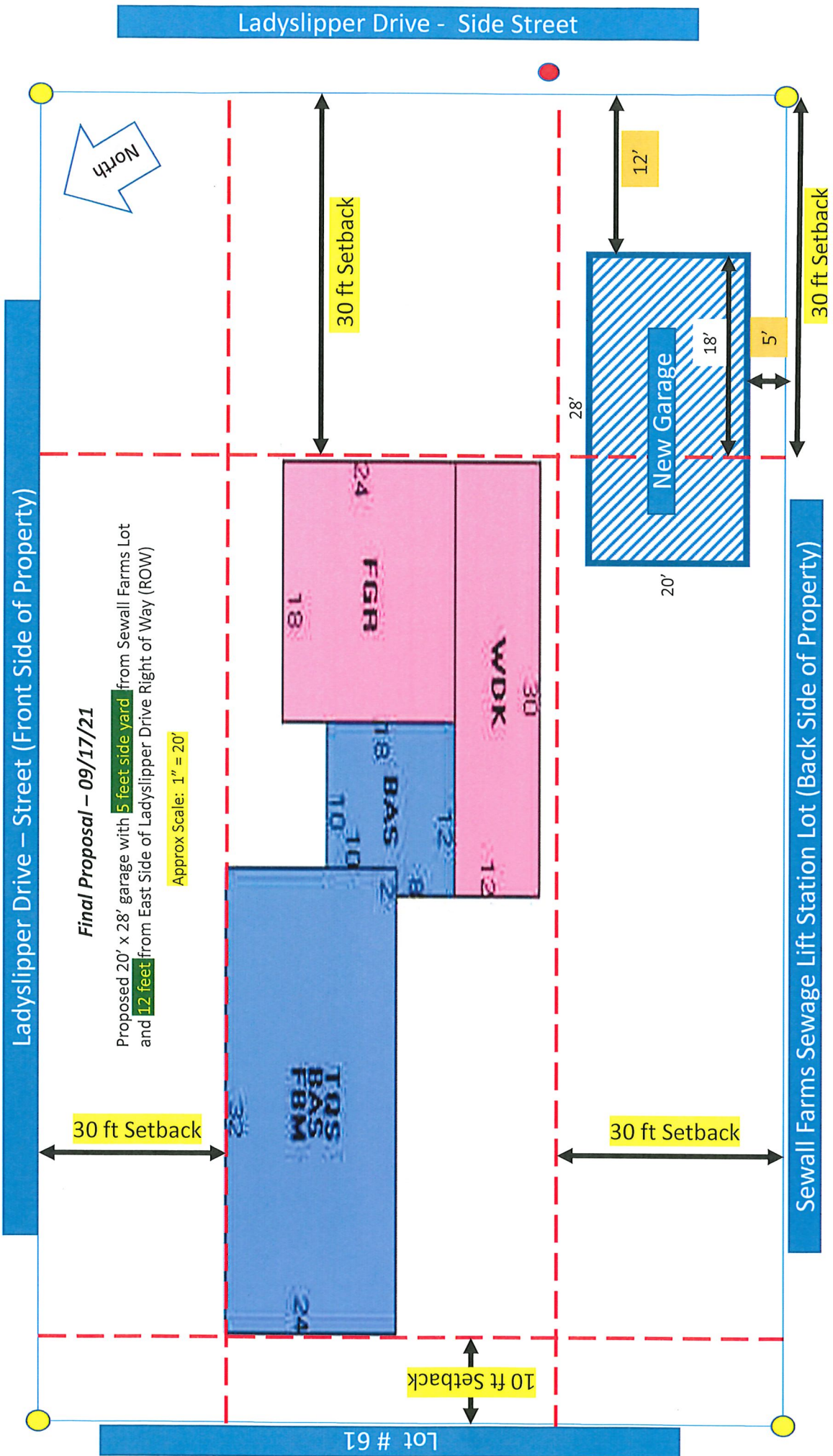
Foundation Cross Section





# UPDATE – 9/7/21





## Reasons for Re-application

- Wrong property pin used in previous application (back corner of lot)
- Desire to increase SF over previous application





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## TOWN OF NEWMARKET, NEW HAMPSHIRE

### **ATTACHMENTS:**

| Description                       | Upload Date | Type            |
|-----------------------------------|-------------|-----------------|
| Legal Notice, Application, Plans, | 9/22/2021   | Backup Material |
| Photos, Abutter Letter, Plan      | 9/27/2021   | Backup Material |

FOUNDED DECEMBER 15, 1727

CHARTERED JANUARY 1, 1991



TOWN OF NEWMARKET, NEW HAMPSHIRE  
OFFICE *of the* ZONING BOARD OF ADJUSTMENT

**LEGAL NOTICE**

**NEWMARKET ZONING BOARD OF ADJUSTMENT**

**MONDAY, OCTOBER 18, 2021  
7:00 P.M.**

**TOWN COUNCIL CHAMBERS**

There will be a public hearing on an application for a Variance from Section 32-155 (C)(4) Wetland Protection Overlay District, requested by Robert & Natalie Hassold, to permit the expansion of an existing deck 10'x16'deck with a 10'X12 addition. The proposed deck expansion will infringe upon a 25 foot wide "no cut, no disturbance" wetlands buffer adjacent to poorly drained "hydric" soils along the easterly side of the property. The encroachment is an area of approximately 25 square feet. The property is located at 6 Honeycomb Way Lot, Tax Map R3, Lot 23-19, M4 Zone. The full application is available to view under the October 18, 2021 Zoning Board agenda on the Town website [www.newmarketnh.gov](http://www.newmarketnh.gov) and in the Zoning Office at the Town Hall during business hours.

pd 163.00

Applicant: Robert + Natalie Hassold

Mailing Address: 6 Honeycomb Way

Email Address: RD HASSOLD@COMCAST.NET

Property owner: Robert + Natalie Hassold

Mailing Address: 6 Honeycomb Way

Home Phone: None Cell Phone: 603 498 3266

Email address: RD HASSOLD@COMCAST.NET  
NHASSOLD@COMCAST.NET

Location of property: 6 Honeycomb Way Map R3 Lot 23-19 Zone M-4

Description of property: Single Family residence

Proposed use or existing use affected: Expansion of existing deck  
of 10'x12' with infringing 8 ft x 5 ft  
(per slope from 0 to setback by 8 ft long  
to a depth of 5 ft.)

The following pages contain forms for Appeal from Administrative Decision, Special Exception, Variance, & Equitable Waiver. Please fill out appropriate request sheet. All applications will need completed abutters list.

\*\*\*\*\*

**SECTION 3 VARIANCE**

A variance is requested from Section 32-155 C-4\_of the Newmarket Zoning Ordinance to permit \_\_\_\_\_

\_For n vertical expansion of an existing deck of 10 X 12' with two posts that will be located in the wetland set back, one approximately 2' and the corner post 5' creating no other disturbance to the wetlands, located at 6 Honeycomb Way in the M4 District

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*See attached pages for variance criteria*

## **VARIANCE CRITERIA**

The local ordinance cannot limit or increase the powers of the Board to grant variances under this authority, but this power must be exercised within bounds. In several decisions from 1952 to the present, the Supreme Court has declared that each of the following criteria must be found in order for a variance to be legally granted:

**CRITERION 1.** Granting the Variance would not be contrary to the public interest.

\_\_\_As the public interest is in preserving the wetlands and as the proposed ~~vertical~~ deck will be supported by two post which one will be just within the set back and the corner post 5' into the set back there will be no adverse effect to the wetlands.

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**CRITERION 2.** If the variance were granted, the spirit of the ordinance would be observed because:

\_\_\_The Spirit of the Ordinance will be observed through thoughtful development that preserves and protects our natural resources, reflecting that I, as the property owner, has maintained the wetland setback area with plantings of plants and lawn enhancing the protection of the wetlands

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**CRITERION 3.** Granting the variance would do substantial justice because:

\_\_\_Granting would do substantial justice for the expanded vertical deck as it would allow me to better enjoy, the natural beauty, ecological integrity, promoting a place for us and visitor to enjoy while maintain and preserving the wetlands as in the Vision Statement of the Master Plan

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**CRITERION 4.** If the variance were granted, the values of the surrounding properties would not be diminished.

As proposed and presented, with letters of the abutting owners, the proposed deck would not be injurious to adjacent properties, would not cause a diminution of area property values and would not constitute a nuisance or a danger to the health, safety and general welfare of the community

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**CRITERION 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 unnecessary hardship because:

1. 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:

Hardship is related to the strange configuration of the wetlands set back, as the present deck is not in the set back and as the wetlands line runs in a curved manner and is within 5' of the structure at its furthest point and making any reasonable use of the land, the operative use is "reasonable", a word that has been central to the development of the common law. The lot in this case has a strange configuration due to wetlands set back and is a reasonable use of the property for the deck expansion.

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AND

2. The proposed use is a reasonable one because:

It will allow a reasonable use without harm to others

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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, 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 reasonable use of it.

As all properties in the area are not equal in their setbacks to the wetlands and each properties have its own unique values relating to the wetlands, this property, for a vertical deck expansion cannot be used in strict conformance with the ordinance, and a variance is therefore necessary to enable reasonable use of it.

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**APPLICATION – ZONING BOARD OF ADJUSTMENT  
TOWN OF NEWMARKET, NH**

Applicant: \_\_\_\_\_ (See  
Attached) \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Property owner: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_

Email Address: \_\_\_\_\_

Location of property: \_\_\_\_\_ Tax Map \_\_\_\_\_ Lot \_\_\_\_\_ Zone \_\_\_\_\_

Description of property: \_\_\_\_\_ Single Family Residence (Lot 19 within Rockingham Green  
Open Space Development) \_\_\_\_\_

Do not write in  
this space

Date filed  
\_\_\_\_\_  
\_\_\_\_\_

Initials \_\_\_\_\_

Proposed use or existing use affected

Expansion of an existing 10 foot x 16 foot deck which will infringe upon the 25 foot “no-cut no disturbance” wetland buffer adjacent to poorly drained “hydric” soils along the easterly boundary of Tax Map R3, Lot 19 as shown on the attached site plan. Proposed encroachment is a pie-shaped area of approximately 25 square feet.

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**SECTION 3 VARIANCE**

A variance is requested from Section 32- 155 C (4) of the Newmarket Zoning Ordinance to permit disturbance to Wetlands Protection buffer requirements which states under “Poorly Drained Soils” Hydric B soils.

“There shall be no disturbance of any kind (including but not limited to construction, filling, dredging, and/or removal of vegetation” within such wetlands or within 25 foot buffer adjacent to said wetlands.”



### ***VARIANCE CRITERIA***

The local ordinance cannot limit or increase the powers of the Board to grant variances under this authority, but this power must be exercised within bounds. In several decisions from 1952 to the present, the Supreme Court has declared that each of the following criteria must be found in order for a variance to be legally granted:

The Applicant wishes to expand an existing 10 foot x 16 foot deck with a 10 foot x 12 foot addition to the deck. Approximately 25 square feet will encroach upon the 25 foot buffer as shown on the attached site plan. The impact to the wetland buffer will be minimal as the area was previously disturbed during site construction. The existing deck is elevated. The only disturbance to existing conditions will be the installation of two support posts: a corner post, one approximately five (5) feet and the second two (2) feet from the wetlands buffer line.

**CRITERION 1.** Granting the Variance would not be contrary to the public interest.

The public interest served by this application is to preserve wetlands and their buffers. The only impact will be the installation of two (2) support posts, which will not adversely affect the wetlands and their buffers.

**CRITERION 2.** If the variance were granted, the spirit of the ordinance would be observed because:

The spirit of the ordinance will be observed through thoughtful development that preserves and protects our natural resources, reflecting that the property owner will maintain the adjacent area with the planting of plants and lawn, as has already been done, to enhance the wetlands that are nearby.

**CRITERION 3.** Granting the variance would do substantial justice because:

The granting of the variance would do substantial justice as the expanded deck would allow the Applicant to better enjoy the nature beauty, ecological integrity and promote a place for his family and guests to enjoy the amenities in their backyard while maintaining and preserving the quality of nearby wetlands as set forth in the Vision Statement of the Master Plan.

**CRITERION 4.** If the variance were granted, the values of the surrounding properties would not be diminished.

As presented in the letters of support from the abutting property owners, the proposed deck would not be injurious to adjacent properties, would not cause a diminution of property values in the area, would not constitute a nuisance, or danger to the health, safety, and general welfare of the community.

**CRITERION 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 unnecessary hardship because:

1. 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:

There is unnecessary hardship related to the unique and unusual configuration of Lot 19, which provides only a limited area to build a home, without impacts to the adjacent wetlands and their buffers. The wetlands buffer line runs in a curved fashion across the lot which is within five (5) feet of the existing home, making reasonable use of my property very difficult. "Reasonable" use is a word that is central to the development of common law which defines zoning law as it applies to the situation.

AND

2. The proposed use is a reasonable one because:

The strange configuration of the wetlands buffer on the lot makes reasonable use of the property very constraining and should have been considered by the builder in laying out this lot in design of the subdivision. Instead a physical hardship was created rendering a large portion of the lot as being unusable, depriving us of full enjoyment of our land.

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 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 reasonable use of it.

All properties in the subdivision are not equal with respect to wetland buffers. Each property in the development has unique values and each that is impacted by wetlands has varying functional values defining their significance. The current regulations do not allow for a reasonable deck expansion and therefore, it cannot be used in strict conformance with the Zoning Ordinance and, therefore, a variance is necessary to enable reasonable use of the property.

*Please include this addendum as part of our Zoning Board of Adjustment application*

Natalie Hassold Robert D Hassold

*September 22, 2021*



TOWN OF NEWMARKET, NEW HAMPSHIRE

August 19, 2021

Robert D Hassold  
6 Honeycomb Way  
Newmarket NH 03857

RE: Deck Permit Application – 6 Honeycomb Way – Map R3 Lot 23-19

Dear Mr. Hassold,

I have received a permit application for the expansion of your existing 10' x 16' deck by the construction of a 10' x 12' addition to the deck. After review, I find that I must deny the permit for the following reasons;

1. No constructions details were submitted beyond the plan view showing the 10' x 12' addition. Before a permit can be issued you must submit plans showing that the construction of this deck will meet the State Building Code.
2. A site plan showing the wetlands and the associated buffer was not submitted. Without this plan I cannot make a determination as to the infringement of the proposed deck into the 25' wetlands buffer required by the Newmarket Municipal Code (NMC) and Planning Board approval for your subdivision,. Using information from the building file it appears to me that the proposed deck will infringe 12' into the 25' buffer required by NMC section 32-155 (c)(4) Poorly Drained Soils.



You have the right to apply to the Newmarket Zoning Board of Adjustment (ZBA) for a variance to allow this construction. The ZBA will not hear the appeal until you have hired a licensed NH professional to develop a plan showing the extent of the infringement. (See ZBA application requirements)

You also have the right to appeal this decision to the ZBA. Any appeal of this decision will also need to be accompanied by a plan done by a licensed NH professional showing the setback from the wetlands and its associated buffer.

During the review, it was noted that your building, as constructed, uses the complete buildable area of your lot. The left side is constructed at the building setback and the right side is built to within one foot of the wetland buffer. It was also noted that you have constructed and maintained lawn and gardens in the 25' wetlands buffer.

If you have any questions please feel free to contact this office.

Sincerely,

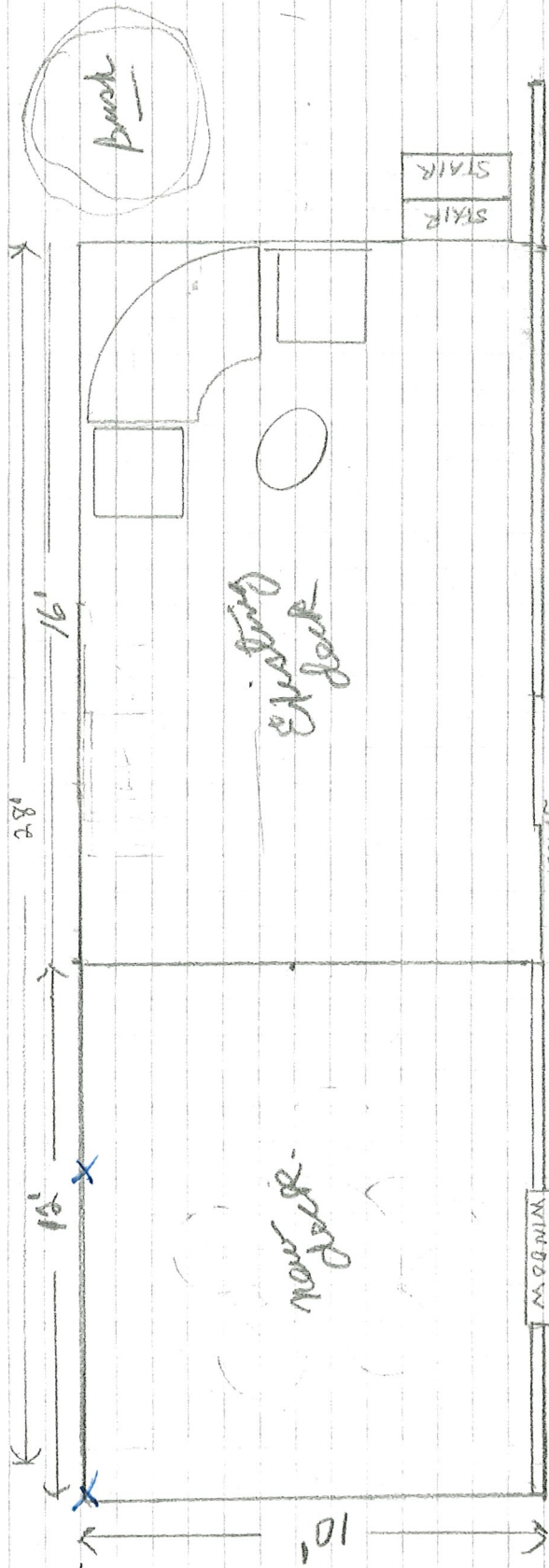
Peter E. Rowell  
Interim Building Inspector

CC: Town Planner

APPLICATION OF  
ROBERT D. HASSOLD

6 Honeycomb Way  
Newmarket, NH  
03857

MAP R-3 LOT 19-19



HOUSE

$\frac{1}{4}'' = 1'$

9/8/2021

David & Linda Older  
8 Honeycomb Way  
Newmarket, NH 03857  
(607) 373-1814

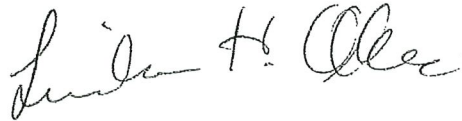
To Whom It May Concern

We have no problem with Robert and Natalie Hassold at 6  
Honeycomb Way Newmarket NH 03857 extending their deck to the  
corner of their house.

David M Older

A handwritten signature in cursive script, appearing to read "David M Older", with a long horizontal flourish extending to the right.

Linda H Older

A handwritten signature in cursive script, appearing to read "Linda H Older", with a long horizontal flourish extending to the right.

9/8/2021

David & Linda Older  
8 Honeycomb Way  
Newmarket, NH 03857  
(607) 373-1814

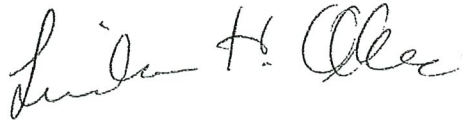
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Linda H Older

A handwritten signature in cursive script, appearing to read "Linda H Older", with a long horizontal flourish extending to the right.



626.01'

S 45°27'09" E 285.88'

Mblu R3/ 23/ 19/ 1

Owner HASSOLD ROBERT

TMR3/L9-6

TMR3/L9-5

8" GRANITE BOUND  
FOUND LAYING ON  
GROUND

CALVARY CEMET

PROPOSED  
OPEN SPACE LOT 54  
1,730,336 Sq. Ft.  
39.723 Acres

ROUTE 108

DAYBREAK DRIVE

PROPOSED  
RIGHT-OF-WAY  
EASEMENT  
8,829 Sq. Ft.  
0.203 Acres

PROPOSED ROAD  
164,610 Sq. Ft.  
3.779 Acres

PROPOSED  
OPEN SPACE LOT 53  
1,793,576 Sq. Ft.  
41.175 Acres

6 HONEYCOMB WAY

25' "NO-CUT"  
WETLAND BUFFER

~POND~

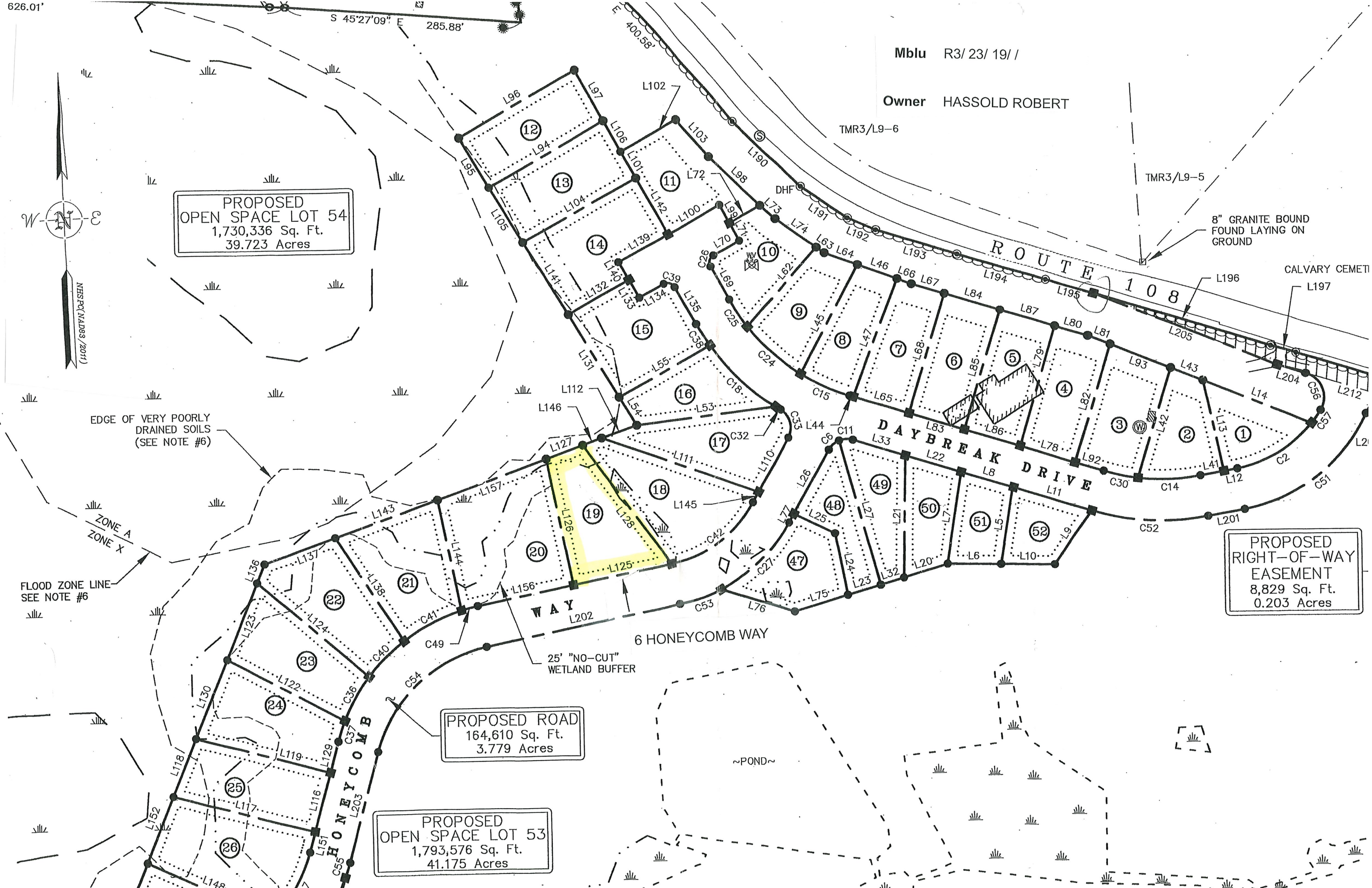


NHSPC(NAD83/2011)

EDGE OF VERY POORLY  
DRAINED SOILS  
(SEE NOTE #6)

FLOOD ZONE LINE  
SEE NOTE #6

ZONE A  
ZONE X





Diane hardy

---

**From:** Robert Hassold <rdhassold@comcast.net>  
**Sent:** Wednesday, September 22, 2021 3:35 PM  
**To:** Diane hardy  
**Subject:** IMG\_0534.jpg Hassold neighbor letter

**September 9, 2021**

To Whom It May Concern;

I am an abutting neighbor at 4 Honeycomb Way to the Hassold's at 6 Honeycomb Way. I am in complete support of their proposed deck expansion.

Respectfully,



Joyce Gilbert  
4 Honeycomb Way  
Newmarket, NH 03857

Sent from my iPhone

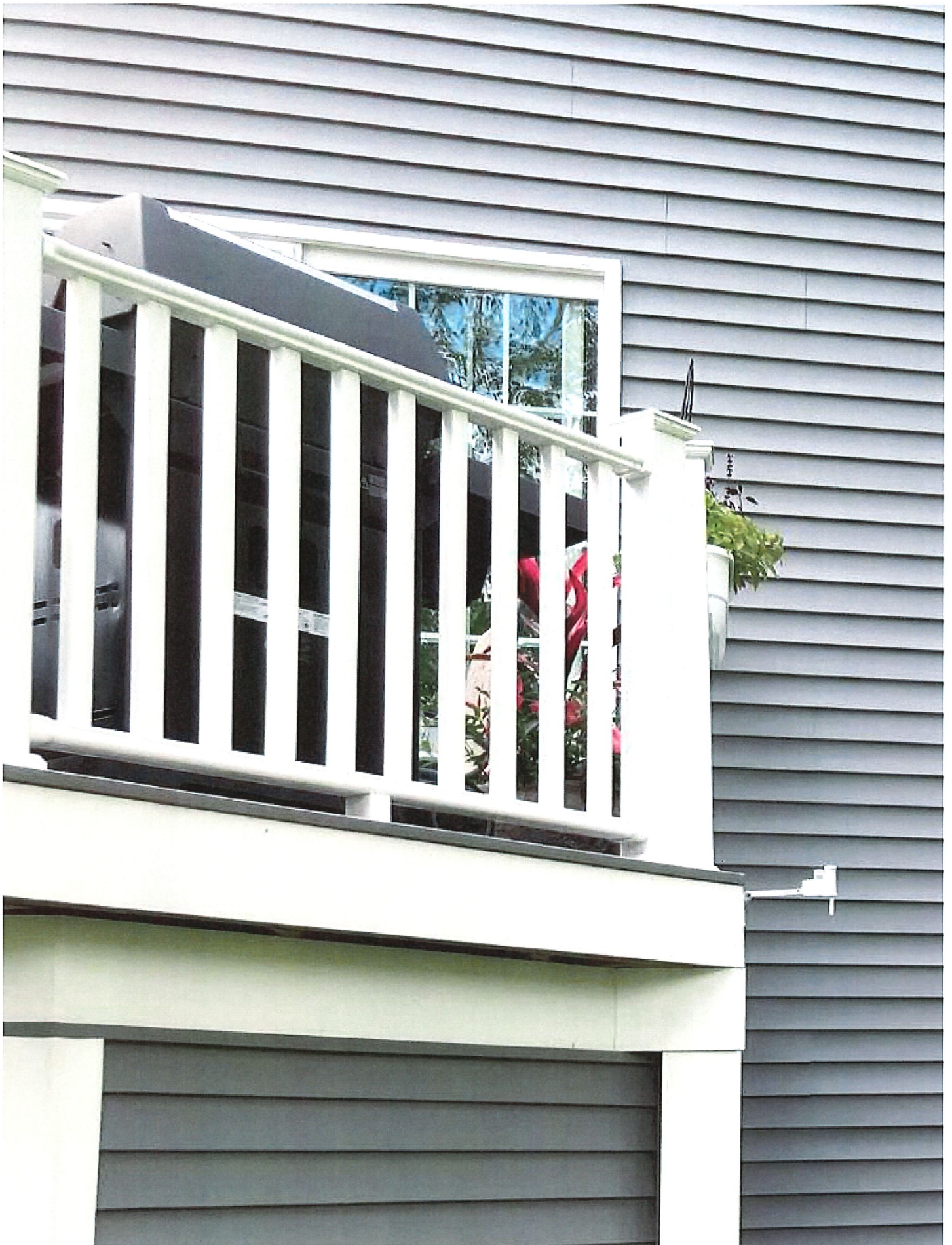














TAX MAP R3 LOT 23-54  
ROCKINGHAM GOLF LLC  
3 PENSTOCK WAY  
NEWMARKET, NH 03857  
R.C.R.D. BOOK 5503, PAGE 219

Building Photo



(<http://images.vgsi.com/photos/NewMarketNHPhotos/A00\00\64\33.jpg>)

## 6 HONEYCOMB WAY

Application of Robert and Natalie Hassold  
Variance from Section 32-155 (C) (4)

To allow the addition of an approximately  
10' X 12' deck within a 25 foot

"No Cut/No Disturbance"

Wetlands Buffer

Hydric "B" Soil (Poorly Drained Soils)

### LEGEND

JURISDICTIONAL WETLAND SYMBOL

POORLY DRAINED  
VERY POORLY DRAINED

25 foot Wetlands Buffer

### Owner of Record

Owner HASSOLD ROBERT  
Co-Owner HASSOLD NATALIE  
Address 6 HONEYCOMB WAY  
NEWMARKET, NH 03857

TAX MAP R3 LOT 23-19  
Wetland Buffer Encroachment  
Approximately 25 square feet

New 10' X 12' Deck

25 foot  
Wetlands  
Buffer

HONEYCOMB  
WAY

Approximate Scale: 1" = 20'