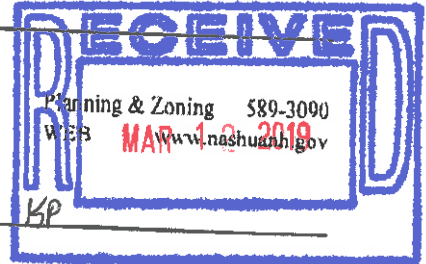




City of Nashua
Planning Department
 229 Main Street
 Nashua, New Hampshire 03061-2019



VARIANCE APPLICATION (ZBA)

PLEASE NOTE: INCOMPLETE OR ILLEGIBLE APPLICATIONS WILL BE RETURNED TO APPLICANT.

This application must be completed and submitted to the Planning Department no later than the dates listed on the Zoning Board of Adjustment (ZBA) schedule sheet. Please print clearly or type.

1. VARIANCE INFORMATION

a. ADDRESS OF REQUEST 21 1/2 Fairmount Street
 Zoning District RB Sheet 62 Lot 190

b. VARIANCE(S) REQUESTED:
A variance to permit creation of a lot having 45.9 feet of frontage where 50 feet is required; and, having 48.77 feet of width where 60 feet is required - Section 190-16-Dimension Matrix (Table 16-3).

c. LAND USE CODE SECTION(S) REQUESTING VARIANCE(S) FROM 190-16, Table 16-3 Dimensional Matrix

2. GENERAL INFORMATION

a. **APPLICANT / OPTIONEE** (List both individual name and corporate name if applicable)

(Print Name): Bruce E. Kinville
 Applicant's signature [Signature] Date 3/12/19
 Applicant's address 33 South Depot Road, Hollis, NH 03049
 Telephone number H: [Redacted] C: 857-207-1717 E-mail: bkinville9@yahoo.com

b. **PROPERTY OWNER (Print Name):** Bruce E. Kinville

*Owner's signature [Signature] Date 3/12/19
 Owner's address 33 South Depot Road, Hollis, NH 03049
 Telephone number H: [Redacted] C: 857-207-1717 E-mail: bkinville9@yahoo.com

*Agents and/or option holders must supply written authorization to submit on behalf of owner(s).

OFFICE USE ONLY Date Received 3/12/19 Date of hearing 4/9/19 Application checked for completeness: [Initials]

PLR# 2019-00047 Board Action _____
 \$ _____ application fee Date Paid _____ Receipt # _____
 \$ _____ signage fee Date Paid _____ Receipt # _____
 \$ _____ certified mailing fee Date Paid _____ Receipt # _____

1-150
1260

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3. PURPOSE OF REQUEST

Answer all questions below. Provide as much information as available to give the ZBA the necessary facts to review your case. Attach additional sheets if necessary. See "Procedures for Filing a Variance" for further information.

- 1. **Granting of the requested variance will not be contrary to the public interest, because:** (The proposed use must not conflict with the explicit or implicit purpose of the ordinance and that it must not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure "public rights.")

See attached.

- 2. **The proposed use will observe the spirit of the ordinance, because:** (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.")

See attached.

- 3. **Substantial justice would be done to the property-owner by granting the variance, because:** (The benefits to the applicant must not be outweighed by harm to the general public or to other individuals.)

See attached.

- 4. **The proposed use will not diminish the values of surrounding properties, because:** (The Board will consider expert testimony but also may consider other evidence of the effect on property values, including personal knowledge of the members themselves.)

See attached

VARIANCE APPLICATION

Page 3

Address

[Redacted Address Box]

5. Special conditions exist such that literal enforcement of the ordinance results in unnecessary hardship, because: (The applicant must establish that because, because of the special conditions of the property in question, the restriction applied to the property by the ordinance does not serve the purpose of the restriction in a "fair and reasonable" way. Also, you 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. Alternatively, you can establish 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.

See attached. [Redacted]

4. USE VARIANCE ADDITIONAL INFORMATION

Please answer all questions below that are applicable. Your answers to these questions will allow staff to better understand your request.

- a. Total number of employees [Redacted] Number of employees per shift [Redacted]
b. Hours and days of operation [Redacted]
c. Number of daily and weekly visits to the premises by customers, clients, vendors and solicitors [Redacted]
d. Number of daily and weekly commercial deliveries to the premises [Redacted]
e. Number of parking spaces available [Redacted]
f. Describe your general business operations:

[Redacted]

g. Describe any proposed site renovations, including, but not limited to - landscaping, lighting, pavement, structural changes, signage, access and circulation:

[Redacted]

I hereby acknowledge that I have read this application and state that the above is correct and agree to comply with all the city ordinances and state laws regulating construction. I understand that only those point specifically mentioned are affected by action taken on this appeal.

[Handwritten Signature]
Signature of Applicant

[Handwritten Date: 3/12/19]
Date

[Handwritten Name: Bruce Kinville]
Print Name

[Handwritten Date: 3/12/19]
Date

The staff report for a Use Variance request will be available no later than Friday of the week before the ZBA meeting. If you would like a copy, please indicate below:

- [] I will pick it up at City Hall
[] Please email it to me at [Redacted]
[] Please mail it to me at [Redacted]

ATTACHMENT IN SUPPORT OF APPLICATION FOR A VARIANCE

APPLICATION FOR A VARIANCE

This form constitutes a request for a variance from the literal provisions of the Land Use Codes City of Nashua, New Hampshire, Section 190-16-Dimension Matrix (Table 16-3) in order to permit subdivision of Map 62, Lot 190. The lot is in the RB Zone:

FACTS

Map 62, Lot 190 is approximately 23,236 square feet in an area where the zone requires 6,000 square feet. The Applicant is requesting variances to permit subdivision of the one (1) lot (23,236 square feet) into two (2) lots with each lot having an area of 11,821 square feet, more or less. The lots will have frontage on Paxton Terrace and Fairmount Street.

Because of the present shape and configuration of the existing lot, the Applicant needs relief from the frontage requirement and relief from the lot width requirement. All other dimensional requirements are met.

The existing lot is larger than the typical lot in the immediate neighborhood. The existing lot has frontage on Paxton Terrace which is a dead-end cul-de-sac which provides public road frontage for approximately sixteen (16) other lots. The other lots are typically 6,000-7,000 square feet each. Most of the lots have duplexes while some of the lots have multifamily buildings.

1. **Granting of the requested variance will not be contrary to the public interest, because:**

The proposed subdivision is not in conflict with the direct or implied purpose of the Nashua Zoning Ordinance. The area is sufficient (11,200 vs. 6,000) and the shape of the resulting lots is reasonable. There is ample access for safety and emergency vehicles. Both lots have sufficient areas for a building. The existing home is not unreasonably large and will not cause difficulties.

The proposal will not alter the character of the neighborhood in any fashion as it will have a permitted use and will be consistent in size and shape. It will not threaten health, safety or public welfare because the infrastructure (roads, sewer, water utilities) is in place and sufficient. While the specific provisions of the area dimensions are not met, the basic purpose for those area dimensions is met.

The proposal will not harm public rights or the private property rights of others.

2. **The proposed use will observe the spirit of the ordinance** because:

The requirement that the proposal be consistent with the spirit of the Ordinance is related to the requirement that it not be contrary to public interest. The above discussion is applicable.

The spirit of the Ordinance is to permit permitted uses in a fashion consistent with the neighborhood and without threatening public health, safety or welfare. This proposal is consistent with the spirit of the Ordinance. It will not cause overcrowding, it will permit ample air space around buildings and it will allow adequate access for a reasonable use. While the specifics of the provisions of the Ordinance are not met, the dimensional variance is necessary to enable the Applicant's reasonable use of the Property because of the shape of the existing lot and the application of those rules to the existing area.

This is not a use variance and only permitted uses will be requested. There is no way for the Applicant to subdivide without a variance, even though the existing lot is substantially larger than all other lots in the area.

3. **Substantial justice will be done by granting the variance** because:

The proposed request is consistent with the present neighborhood of the area. Lot size is appropriate, frontage is consistent and lot shape is consistent. Strict application of the rules does not provide a gain to the general public. Strict application of the rules would cause substantial loss to the Applicant.

The proposal will not alter the character of the area and it will not injure the rights of others or the rights of the general public.

4. **The proposed use will not diminish the values of surrounding properties,** because:

The proposal is reasonable and consistent with permitted uses and permitted areas. It will not cause unreasonable noise, traffic or esthetics. There will be no negative impact on surrounding values.

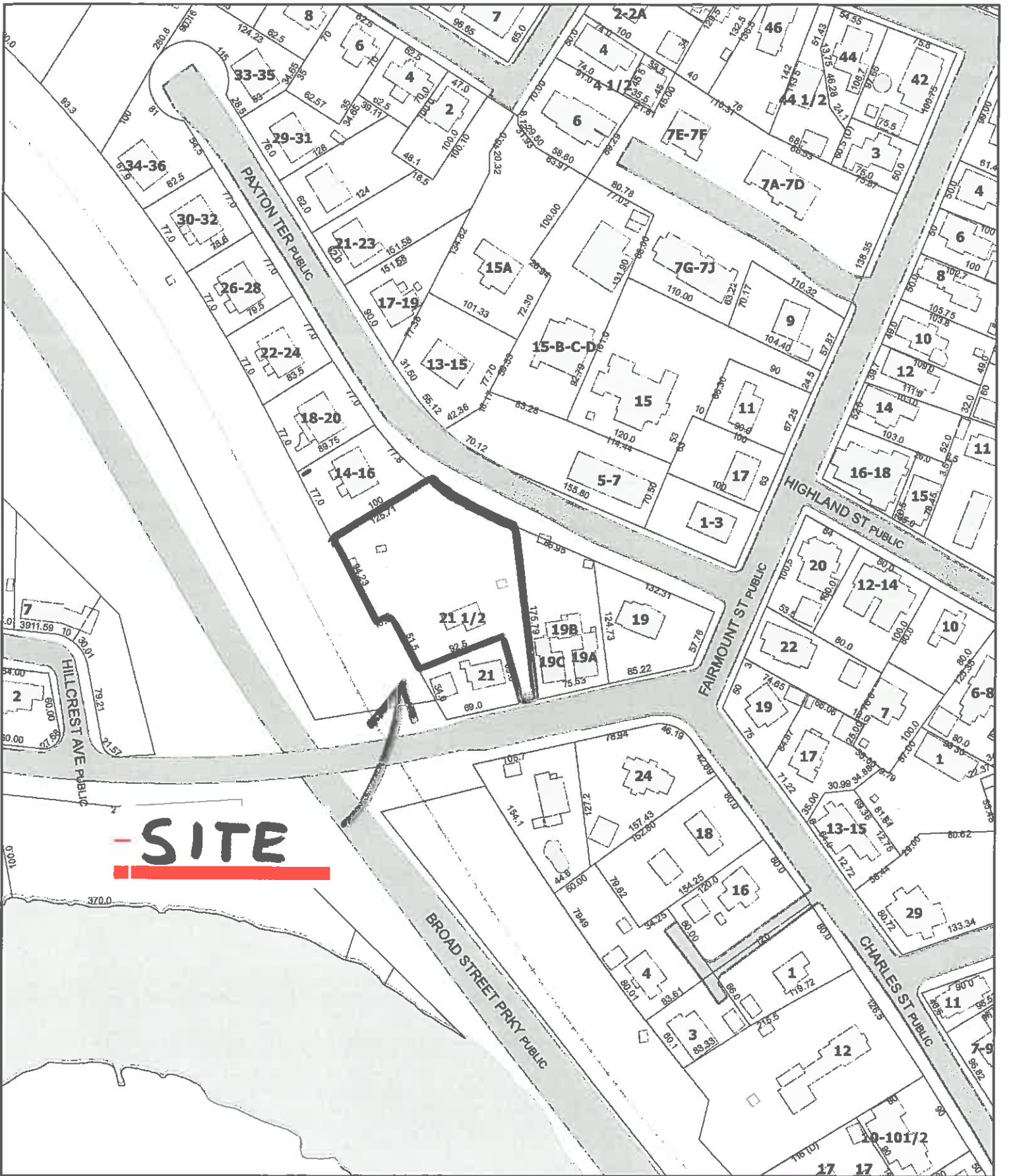
5. **Literal enforcement of the ordinance results in unnecessary hardship,** because:

The existing lot has an unusual shape and it also has some steep slopes and difficult topography. It has frontage on Paxton Terrace and also Fairmount Street. The other boundary of the lot is the railroad. The two (2) proposed lots were designed to accommodate the existing home and to provide ample options for a new home in the newly created and vacant lot.

Generally, area and dimensional requirements are established to avoid overcrowding, provide safe access for emergency vehicles and to permit location of new buildings in a safe, accessible way without adverse impact to the neighborhood. Dimensional requirements are also helpful in establishing lot area.

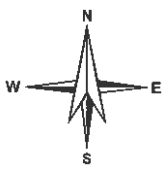
All of the purposes of dimensional requirements have been accomplished under this proposal even though the strict application of the provisions of the Ordinances have not been met. There is safe access. The two (2) new lots are larger than many of the existing lots in the neighborhood. All infrastructure is in place and adequate. To require strict application will not provide any gain to the public or the neighbors and will not advance the purposes of the regulations.

There is no substantial relationship to strict application of the provisions of the regulations and the purpose of the regulations.



SITE

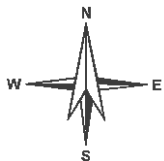
21 1/2 Fairmount Street

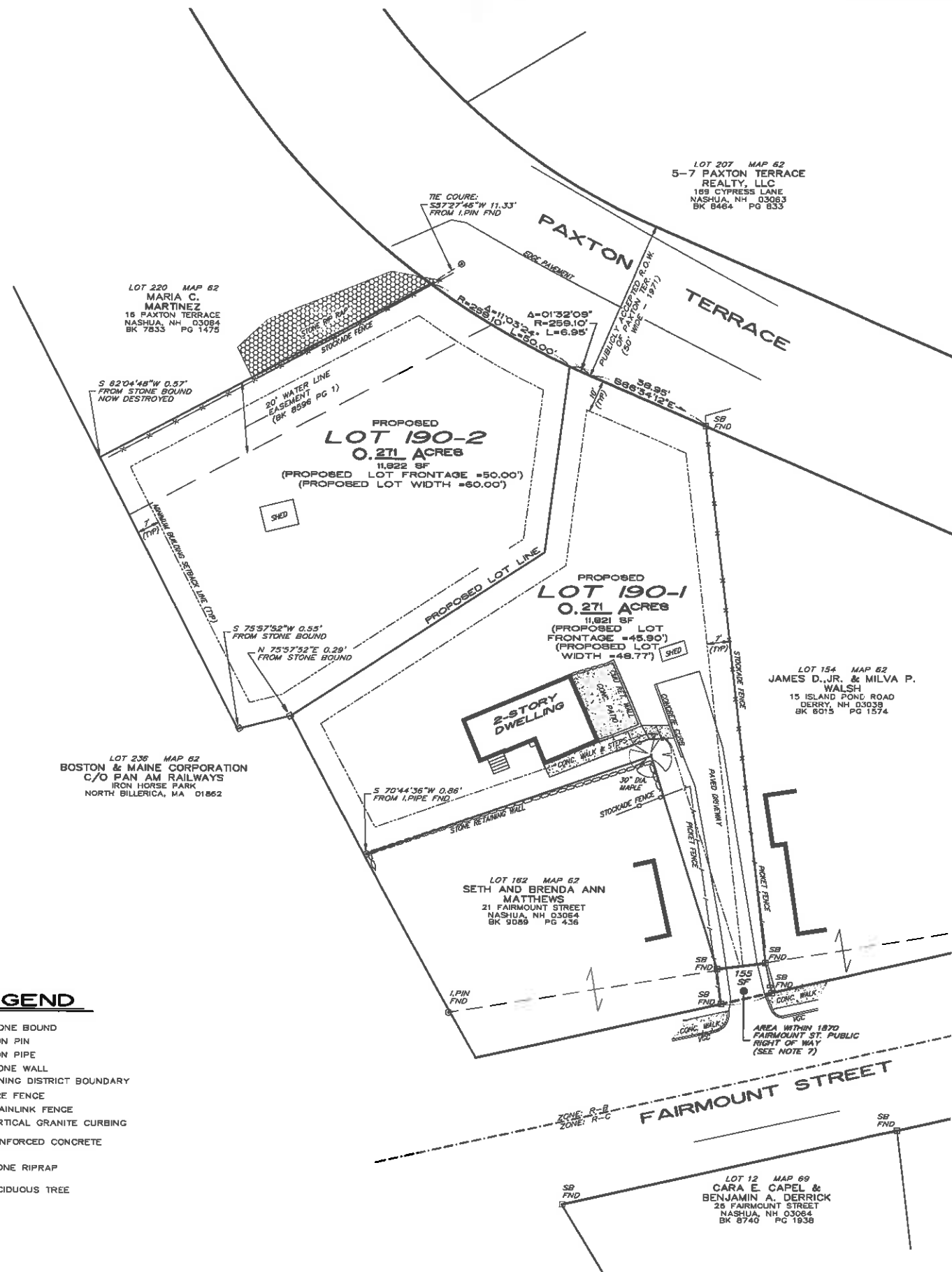




SITE

21 1/2 Fairmount Street



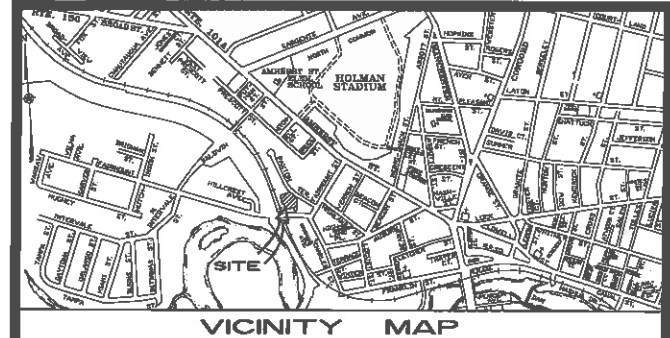


PLAN REFERENCES:

1. PLAN OF LAND, TIMBERLINE INC., PAXTON TERRACE, NASHUA, NH, DATED SEPT. 1963, PREPARED BY A.E. MAYNARD, RECORDED H.C.R.D. PLAN 2584
2. MAP 62 LOT 190, PMW WATERLINE UTILITY EASEMENT PLAT, 21 1/2 FAIRMOUNT STREET, NASHUA, NEW HAMPSHIRE, PREPARED BY PROMISED LAND SURVEY, LLC, DATED APRIL 4, 2013, RECORDED H.C.R.D. PLAN 37790
3. CONSOLIDATION & SUBDIVISION PLAN, ASSESSOR SHEET 62 LOTS 163, 164 & 165, PREPARED FOR RICHARD THERIAULT, PREPARED BY ROLAND GIRAUD & ASSOC., DATED 3/14/1988, RECORDED H.C.R.D. PLAN 22182
4. PLAN OF LAND OF GLADYS L. BLANCHARD, FAIRMOUNT STREET, NASHUA, NH, DATED JULY 1982, PREPARED BY NED SPAULDING, RECORDED H.C.R.D. PLAN 3633
5. PLAN & PROFILE, PAXTON TERRACE, NASHUA, NH, DATED SEPTEMBER 1969, PREPARED BY A.E. MAYNARD, ON FILE WITH THE CITY OF NASHUA ENGINEERING DEPARTMENT AS ACCEPTANCE PLAN 866
6. PLAN OF FAIRMOUNT ST, DATED DEC 1969, PREPARED BY C.S. KIDDER, ON FILE WITH THE CITY OF NASHUA ENGINEERING DEPARTMENT AS PLAN 2-73

ZONING NOTE

THE ZONING/BUILDING SETBACKS DEPICTED ON THIS PLAN ARE THOSE WE HAVE INTERPRETED FROM THE LATEST ZONING ORDINANCE OF THE MUNICIPALITY AND, AS SUCH, ARE ONLY OPINIONS EXPRESSED BY HAYNER/SWANSON, INC. THE FINAL INTERPRETATION OF THE ORDINANCE CAN ONLY BE MADE BY THE APPROPRIATE ZONING AUTHORITY. SINCE BUILDING ORIENTATION, PROPOSED USES, AND OTHER FACTORS CAN AFFECT THE SETBACKS, PRIOR TO ANY DEVELOPMENT OF THIS PROPERTY, THE BUILDER/OWNER MUST CONSULT WITH THE TOWN/CITY TO INSURE THE CORRECT APPLICATION OF THE ZONING ORDINANCE.



NOTES:

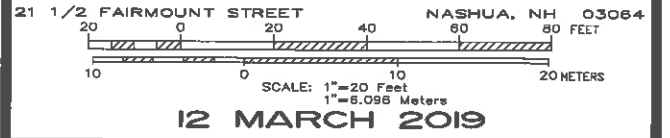
1. SITE AREA:
 LOT 190: 0.543 ACRES (23,634 SF)
 PROPOSED LOT 190-1: 0.271 ACRES (11,821 SF)
 PROPOSED LOT 190-2: 0.271 ACRES (11,822 SF)
2. PRESENT ZONING: R-2; URBAN RESIDENCE
 MINIMUM LOT REQUIREMENTS:
 - LOT AREA: 6,000 SF
 - LOT FRONTAGE: 60 FEET
 - LOT WIDTH: 60 FEET
 MINIMUM BUILDING SETBACK REQUIREMENTS:
 - FRONT YARD: 10 FEET
 - SIDE YARD: 7 FEET
 - REAR YARD: 20 FEET
3. LOT NUMBERS REFER TO THE CITY OF NASHUA ASSESSORS MAP 62 AND 69.
4. THE BEARING SYSTEM FOR THIS SURVEY IS BASED ON NH STATE PLANE NAD 1983.
5. PURPOSE OF PLAN:
 THIS PLAN IS GENERATED FOR ZONING PURPOSES ONLY, DEPICTING A PROPOSED CONCEPTUAL SUBDIVISION OF LOT 190 ALONG WITH THE RELATED FRONTAGE AND LOT WIDTH ZONING VARIANCE RELIEF REQUIRED.
6. ALL KNOWN UNDERLYING TITLE ISSUES SHALL BE RESOLVED PRIOR TO RECORDING OF A PLAN AT THE HILLSBOROUGH COUNTY REGISTRY OF DEEDS.
7. A 166 SF AREA OF THE ORIGINAL FAIRMOUNT STREET RIGHT OF WAY SHOWN ON PLAN REFERENCE 6 AND ACCEPTED BY THE CITY OF NASHUA IN 1970 IS DEPICTED HEREON. IN 1936 THE CITY OF NASHUA DEEDED A PORTION OF THE 1870 RIGHT OF WAY TO EACH OF THE TWO ADJUTING LOTS (LOT 154 AND LOT 182). NO DEED WAS FOUND FROM THE CITY OF NASHUA TO THE SUBJECT PROPERTY OWNERS FOR THIS 166 SF AREA.
8. PRESENT OWNERS OF RECORD:
 MAP 62, LOT 160
 PATRICIA A. KINVILLE (PARCEL A) BK 1746 PG 313
 BRUCE EDWARD KINVILLE (PARCEL B) BK 6087 PG 1735
 21 1/2 FAIRMOUNT STREET
 NASHUA, NH 03064

No.	DATE	REVISION	BY

ZONING CONCEPT PLAN
 (MAP 62, LOT 190)
21 1/2 FAIRMOUNT STREET
 NASHUA, NEW HAMPSHIRE

PREPARED FOR:
BRUCE EDWARD KINVILLE
 21 1/2 FAIRMOUNT STREET NASHUA, NH 03064

RECORD OWNER:
PATRICIA A. KINVILLE & BRUCE EDWARD KINVILLE
 21 1/2 FAIRMOUNT STREET NASHUA, NH 03064



HSI Hayner/Swanson, Inc.
 Civil Engineers/Land Surveyors
 3 Congress Street Nashua, NH 03062 (603) 883-2037
 131 Middlesex Turnpike Burlington, MA 01803 (781) 203-1501
 www.haynerswanson.com