

To: Zoning Board of Adjustment

From: Carter W. Falk, AICP, Deputy Planning Manager/Zoning

Date: April 25, 2023 ZBA meeting

Subj: **USE VARIANCE: Perimeter Place Investments, LLP (Owner) Breakthrough Behavioral & Educational Consultants, LLC (Applicant) 114 Perimeter Road, Units G & H (Sheet E Lot 1509) requesting use variance from Land Use Code Section 190-15, Table 15-1 (#250) to allow a preschool in a portion of an existing building. AI Zone, Ward 1.**

PROPOSAL:

The applicant, Breakthrough Behavioral & Educational Consultants, LLC. is requesting a use variance to occupy a portion of an existing multi-tenant building to allow a preschool for children aged three to five years old with a range of disabilities. The property is located in the Airport Industrial (AI) Zone. The property is 56,105 square feet in area (1.29 acres).

SITE ANALYSIS:

The subject site is located on the southerly side of Perimeter Road, located near the end of the street (see attached maps). To the north, across Perimeter Road, is Airport property with airport hangers, zoned AI. To the east is airport property, zoned AI. To the south is a 75-foot buffer strip owned by the airport, then a single-family home with frontage on Blackfoot Drive, zoned A-Suburban Residence (R30). To the west is a multi-tenant building zoned AI.

According to the Land Use Code, Section 190-15, Table 15-1, Table of Uses (#250), "*schools, academic, nursery and preschool, grade schools, elementary, middle and high schools*" are not permitted in the AI Zone. They are permitted by right in each Commercial Zone - Local Business (LB), General Business (GB), Highway Business (HB), Downtown-1/Mixed Use (D-1/MU) and Downtown-3/Mixed Use (D-3/MU). Further, the proposed use is permitted as a Conditional Use, subject to Planning Board approval, in every Residential Zone – Rural Residence (R40), A-Suburban Residence (R30), B-Suburban Residence (R18), C-Suburban Residence (R9), A-Urban Residence (RA), B-Urban Residence (RB) and C-Urban Residence (RC). The proposed use is not permitted in any of the Industrial zones.

The building is approximately 9,216 square feet in size. The applicant is proposing to use two of the eight tenant spaces in the building, approximately 2,300 square feet. Access to the building is from either one of two driveways to the building from Perimeter Road. The proposed use is for a preschool, Creative Milestones Learning Center, which will provide educational and healthcare services to children with a range of disabilities, from the age of 3-5.

The site has 32 parking spaces, along with spaces in the rear of the building for loading. The proposed preschool requires a maximum parking requirement of 1 space per classroom. The applicant has stated that they have 12 parking spaces available. The applicant has stated that they will have a maximum of 15 students, and no more than 5-6 staff members at the same time. The site has sufficient parking spaces.

The applicant has indicated that the school will have a total of eight employees. Operating hours will be Monday through Friday from 8:00 a.m. – 5:00 p.m., and Saturday from 9:00 am to 1:00 p.m.

The City's Future Land Use Plan identifies the subject property as "Government/Institutional". In order for the ZBA to grant the variance request, the applicant must satisfy all the relevant points of law, as listed below:

Special conditions exist such that literal enforcement of the ordinance results in unnecessary hardship: The applicant must establish that, owing to special conditions of the property that distinguish it from other properties in the area, that (1) 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 (2) that the proposed use is reasonable.

The applicant states that suitable and affordable sites for preschools are hard to find, and that a restrictive interpretation of the ordinance that would prohibit preschools from being established at this site and would have a broader negative impact on the City. The applicant states that the property is well suited for a preschool use.

The proposed use will observe the spirit of the ordinance: 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".

The applicant states that they serve clients in various other sites, including two other centers, one in Nashua and the other in Amherst, as well as within schools and at home, and will integrate Creative Milestones Learning Center at this site with existing land uses and neighborhood character.

The proposed use will not diminish the values of surrounding properties: 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.

The applicant indicates that surrounding property values will not be affected, as it will require no modifications to the building or lot. The applicant states that an existing child services provider is located down the street at 102 Perimeter Road.

Granting of the requested variance will not be contrary to the public interest: 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”.

The applicant states that Creative Milestones Learning Center will offer young children from 3-5 years old the opportunity to attend an inclusive preschool program, led by highly trained educators and behavioral technicians.

Substantial justice would be done to the property owner by granting the variance: the benefits to the applicant must not be outweighed by harm to the general public or to other individuals.

The applicant states that there is a great need for preschool services in Nashua, due to increased demand from the public and the closure of existing preschool facilities.



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

Planning & Zoning 589-3090
 WEB www.nashuanh.gov

VARIANCE APPLICATION (ZBA)

PLEASE NOTE: INCOMPLETE OR ILLEGIBLE APPLICATIONS WILL NOT BE ACCEPTED

I. VARIANCE INFORMATION

1. ADDRESS OF REQUEST 114 PERIMETER ROAD, UNITS G&H NASHUA, NH 03063

Zoning District AI Sheet E Lot 1510

2. VARIANCE(S) REQUESTED:

Seeking variance that would allow for a preschool to be operated at site.

II. GENERAL INFORMATION

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

(Print Name): Cylvia Masoni / BREAKTHROUGH BEHAVIORAL & ED. CONS. LLC

Applicant's signature [Signature] Date 3/17/2023

Applicant's address 78 NORTHEASTERN BLVD, UNITS 3 & 4 NASHUA, NH 03062

Telephone number H: _____ C: 310-560-9439 E-mail: CMASONI@KINPATHIC.COM

2. **PROPERTY OWNER (Print Name):** PERIMETER PLACE INVESTMENTS LLP

*Owner's signature [Signature] Date 3-17-23

Owner's address 11 NORTHEASTERN BLVD NASHUA, NH 03062

Telephone number H: _____ C: 603 3309680 E-mail: _____

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

OFFICE USE ONLY Date Received 3/17/23 Date of hearing 4/25/23 Application checked for completeness: LF

A# 23-0049 Board Action _____

\$ 900 application fee Date Paid _____ Receipt # _____

\$ 15 signage fee Date Paid _____ Receipt # _____

\$ _____ certified mailing fee Date Paid _____ Receipt # _____

Land Use Code Section(s) Requesting Variances From: 190-15, table 15-1 (#250)

III. 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 it must not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure "public rights.")

Breakthrough Behavioral and Educational Consultants (DBA, kin:pathic), an agency providing educational and healthcare services to children with a range of disabilities, seeks a zoning variance to establish a Creative Milestones Learning Center at 114 Perimeter Road. This will offer young children aged three to five the opportunity to attend an inclusive preschool program led by our highly trained educators and behavioral technicians. No modifications to the building or lot will be required.

- 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.")

Our agency serves clients in various settings, including two existing centers in Southern New Hampshire (one in Nashua and the other in Amherst), as well as within schools (including the Nashua School District), and at home. We will integrate Creative Milestones Learning Center at 114 Perimeter Road with existing land uses and neighborhood character as we have at all of our present locations.

- 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.)

There is a great need for preschool services in Nashua, NH, due to increased demand from the public and the closure of existing preschool facilities. Moreover, the site has been empty for over a year due to the difficulty of finding a suitable tenant.

- 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.)

The requested variance will not affect surrounding property values as it will require no modifications to the building or lot. We are also proactively introducing ourselves to abutters and airport management through meetings and letters. An existing child services provider, Constellation Behavioral Services, is already located nearby at 102 Perimeter Rd, also in the Airport Industrial zone.

- 5. **Special conditions exist such that literal enforcement of the ordinance results in unnecessary hardship,** because: (The applicant must establish that 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.

Suitable and affordable sites for preschools are very hard to find in Nashua, New Hampshire. A restrictive interpretation of the ordinance code that would prohibit preschools from being established at this site would have a broader negative impact on the Nashua, New Hampshire, community and quality of life. The property is very well suited for use by a preschool and will not require any costly modifications, unlike other potential occupants.

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

Operating a preschool.

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

NONE

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 points specifically mentioned are affected by action taken on this appeal.


Signature of Applicant

3/17/23
Date

Print Name

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
- Please mail it to me at

F-419
SAMUEL A. & BARBARA TAPPOSI
472 ANTONI STREET
NASHUA, N.H.

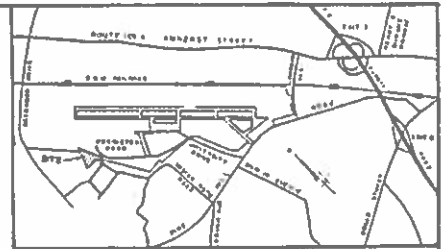
LOT F-451
JAMES M. & MEREDITH TAPPOSI
26 FAIRBANK BUCK ROAD
NASHUA, NH
57,000 S.F. OR 1,301 ACRES

LOT 1500
PERIMETER RD. ASSOC., INC.
3 FLAGG ST. DR.
NASHUA, NH 03061

PERIMETER ROAD

1 STORY WOOD BUILDING

N
BLACKFOOT DRIVE



VICINITY MAP
SCALE 1:2000

PLAN REFERENCE:

1. FINAL SUBDIVISION AND EASEY EASE DEVIATION PLAN MAP E (LOTS 1501) THRU 1510, NASHUA MUNICIPAL REPORT, NASHUA, N.H. PARISHAD: 44-145-3 ZONING DISTRICT, 2004, JOHN PETERSON, ENGINEER, INC. 1001 WIL BUCK, NASHUA, NH. TEL: 852-6561. SCALE 1"=240'. DATE: AUGUST 1998. BY HAMILTON ENGINEERING ASSOCIATES, INC. AS RECORDED AT THE HILLSBOROUGH COUNTY REGISTRY OF DEEDS AS PLAN NO. 19030.
2. FINAL SITE PLAN MAP E LOTS 1507 & 1510 PERIMETER ROAD, NASHUA, NH PREPARED FOR MICHAEL CALLAHAN, SCALE: 1"=150'. DATE: AUG. 12, 1994. BY HAMILTON ENGINEERING ASSOCIATES, INC.

NOTES:

1. PRESENT ZONING: R-1, STURROTT INDUSTRIAL.
2. TOTAL AREA: LOT PLAN SHEET E - 6,400 S.F.
3. ELEVATIONS ARE MDSMETIC AND ARE BASED ON THE BENCH CENTERLINE BEARING OF 74° 41' 00".



TITLE INSURANCE PLAN
MAP E LOT 1500
PERIMETER RD. NASHUA, N.H.
PREPARED FOR
MICHAEL CALLAHAN

SCALE 1" = 50'	DATE: DECEMBER 28, 1987	JOB No 861300
DRAWN BY: REB	SHEET 1 OF 1	Hamilton Engineering Assoc., Inc. 100 Perimeter Road Nashua, New Hampshire 603-883-0482
CREATED BY: A.T.C.		
APPROVED BY: D.A.F.		

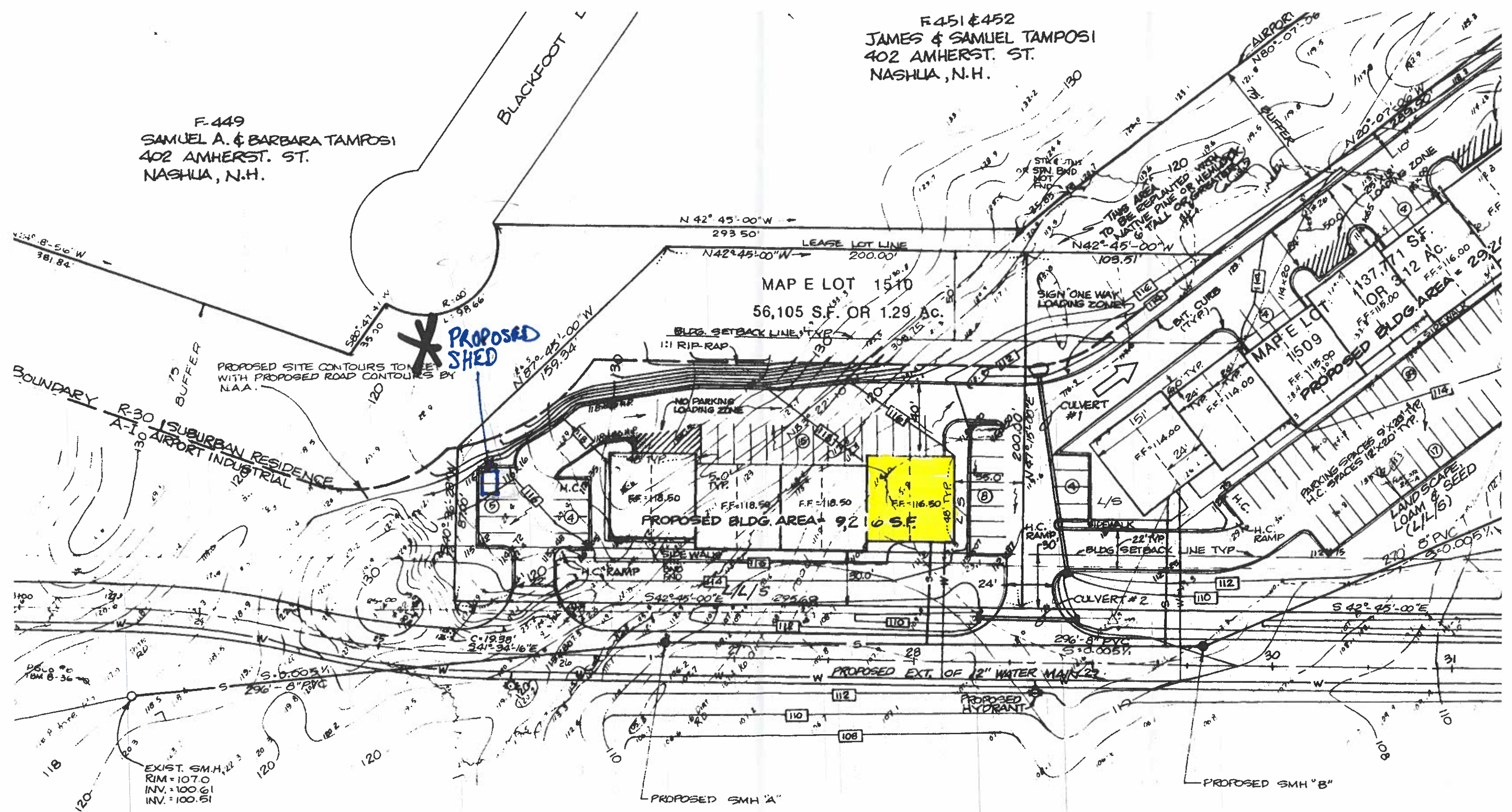
I HEREBY CERTIFY THAT THIS PLAN IS BASED ON AN ACTUAL FIELD SURVEY CONDUCTED IN DECEMBER 1987, AND THE ERROR OF CLOSURE IS 1:10,000 OR BETTER.

Michael Callahan 12/29/87
MICHAEL CALLAHAN, P.E.
HAMILTON ENGINEERING ASSOCIATES, INC.
100 PERIMETER RD.
NASHUA, NH 03061



F.451 & 452
JAMES & SAMUEL TAMPOSI
402 AMHERST. ST.
NASHUA, N.H.

F.449
SAMUEL A. & BARBARA TAMPOSI
402 AMHERST. ST.
NASHUA, N.H.



APPROVED
ON 190-131
K. Che
7/18

APPROVED
JAN 08 2019

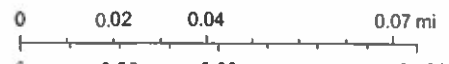
114 Perimeter Road



4/5/2023

- Address Points
- Road Names
- CONSERVATION LAND
- DEDICATED OPEN SPACE; PARK RECREATION LAND

1:2,242



14 Perimeter Road

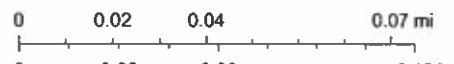


4/6/2023

Address Points

Road Names

1:2,242



Falk, Carter

From: Cylvia Masoni <cmasoni@kinpathic.com>
Sent: Thursday, April 13, 2023 11:04 AM
To: Falk, Carter
Subject: Re: question on classrooms 114 Perimeter Rd

CAUTION: This email came from outside of the organization. Do not click links/open attachments if source is unknown.

The maximum number of students that we will have is 15 and no more than 5-6 staff at the same time. We will not have all kids in the same classroom as well. We will need to wait to have the licenser come and evaluate which classroom we will be able to use for the classrooms especially since not all will be used for that purpose.

On Thu, Apr 13, 2023 at 10:57 AM Falk, Carter <CarterF@nashuanh.gov> wrote:

Hi Cylvia,

Question - how many classrooms are proposed at 114 Perimeter Road? The parking requirement to meet the City's ordinance is 1 space per classroom.

Thanks!

Carter

Carter W. Falk, AICP

Deputy Planning Manager/Zoning

Community Development Dept.

229 Main Street

P.O. Box 2019

Nashua, NH 03061-2019

falkc@nashuanh.gov

603 589-3116 p

The Scale is 1/8" : 1'

~~main~~ 492-5782 Payer

Rick Palmer
881-9084
889-7832

Diagram of Units G & H at 114 Per in Nashua, New Hampsi

PICK TWO CHOICES

13.6

