FRANCIS X. BRUTON, III CATHERINE A. BERUBE

OF COUNSEL.

JAMES H. SCHULTE

Bruton & Berube, PLLC

ATTORNEYS AT LAW

798 Central Avenue Dover, NH 03820

TEL (603) 749-4529 (603) 743-6300 FAX (603) 343-2986

www.brutonlaw.com

May 4, 2016

VIA HAND DELIVERED

Marcia Gasses
Planner and Land Use Administrator
Town of Barrington
Land Use Department
P.O. Box 660
333 Calef Hwy
Barrington, NH 03825

RE: John and Linda Svenson & Garth and Elizabeth Svenson

Map 235, Lots 1, 2, & 3

9 & 19 Christmas Lane, Barrington, NH

Dear Ms. Gasses:

Enclosed please find an original and seven (7) copies of a revised application for variance relative to the above referenced properties together with two (2) full size copies of the associated revised plan set, one (1) letter size copy of the plan set, and four (4) sets of labels for all abutters.

We understand that Ken Berry of Berry Surveying & Engineering has already provided these plans to you electronically.

We also understand that the abutters list previously submitted has already been updated to reflect Mark and Sherry Rowell as the current owners of Map 239, Lot 3, as opposed to Helen K. Lawson Henderson.

We look forward to working with the Town and the Zoning Board of Adjustment regarding this project.

Sincerely

Francis X. Bruton, III

E-mail: fx@brutonlaw.com

FXB/mas Enclosures

cc: John and Linda Svenson

Garth and Elizabeth Svenson Berry Surveying & Engineering LAND USE OFFICE

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Barrington Zoning Board of Adjustment Zoning Ordinance Variance and Special Exemption Application Checklist

Please schedule a meeting with staff before submitting your application.

This checklist has been prepared to assist you in submitting a complete application to the Town of Barrington. At the Pre-Application meeting, staff will check off the items on this list that are required with your submission.

This document constitutes a public disclosure under RSA Chapter 91 - A, Access to Governmental Records and Meetings.

239-3/235-1,2,3-TC-16-Variance

PART I - GENERAL REQUIREMENTS

All Graphics shall be to Scale and Dimensioned

Description of Documents Required for Complete Application. No application shall be accepted without all items marked below.

Reg'd	Rec'd		
	X	Zoning Board of Adjustment Application Checklist (thi	is form)
	X	ZBA General Information (Article(s) and Section(s) of	**
Not Ap	plicable	3. Appeal and Decision	
	X	4. Fees - \$150.00 Application ★ \$ 75.00 Legal Notice ★ \$ 7.00 per US Post Office Certified Letter ★ \$ 7.00 per US Post Office Certified Letter ★	00 x 21 abutters = \$147.00
	×	5. Completed Project Application Form	ppeal
	x	Notarized Letter of Authorization (from property owner not sign the application form)	r(s) if property owner did
П	X	7. Project Narrative	
I	licable	8. HOA Approval (if applicable)	LAND USE OFFICE
or Abb	abic		UAY C 4 7016

Page 1 of 6 Revised 06/15/2011

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	X	9. Context or Locus Map (Show Surrounding Zoning Districts)
	X	 Existing Conditions Site Plan or Recorded Subdivision Plan to include well and septic location (may be found at Strafford County Registry of Deeds).
	X	11. Existing Conditions Photo Exhibit (See instruction page for submitting photos) Up to four photos may be shown per 8 ½" X 11" page size a. Show all existing structures on site
	X	12. List of Certified Abutters (Include Applicant and all licensed professionals, i.e., engineer, architect, land surveyor, or soil scientist, whose seals are affixed to the plan, as well as any holder of a conservation or agricultural easement)
	X	13. Mailing Labels (4 sets)
		PART II – REQUIRED PLANS AND RELATED DATA All Graphics and Plans Shall be to Scale and Dimensioned
	X	 Site Plan - Drawn and Stamped by Registered Land Surveyor 24" X 36" - 2 Copies 11' X 17" - 6 Copy 8 1/2 " X 11" - 1 Copy
□ Not Appli	□ cable	 2. Elevations: Show all sides of building and indicate building heights a. 24" X 36" – 2 Copies b. 11' X 17" – 6 Copy c. 8 1/2 " X 11" – 1 Copy
□ Not Appli	□ icable	3. Floor Plans a. 24" X 36" – 2 Copies b. 11' X 17" – 6 Copy c. 8 1/2 " X 11" – 1 Copy
	×	4. All drawings and any revised drawings must be submitted in PDF format
		5. OTHER:
		6. Your Appointment Date and Time for Submitting the Complete Application is:
		4/27/2016
Bar Staff	bara Signatur	Date 5/4/2014

Land Use Department

Town of Barrington; 137 Ramsdell Lane; Barrington, NH 03825 planner.cbrawders@barrington.nh.gov Phone: 603.664.5798

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PART III – PROJECT DESCRIPTION/VARIANCE DETAILS

039-2/235-1,2	2,3-TC-16	-Variance			
Project Name <u>John &</u>	Linda Svenson ar	nd Garth & Elizabe	eth Svenso	n and 1962 Real Esta	te, LLC
Location Address	8 19 Christmas	Lane and 625 Fra	nklin Pierc	e Highway, Barringto	n, NH
Map and Lot Map 23	5, Lots 1, 2 & 3	and Map 239, Lot	2		
Zoning District (Inclu	de Overlay Distri	ict if Applicable)	Town Cer	iter (TC)	
		//ultifamily Reside //ixed Use □ Agr		nufactured Housing Other	
Use: commercial, resi	lential and open s	space			
Number of Buildings: _	N/A	Height:	N/A		
Setbacks: Front	Back	Side_		Side	
If this is an Appeal from a of Adjustment Decision, Article 16.3.2 (2) and Project Narrative: (Pleas	please attach pertir	nent documentation	n:		
See attache	ed.				
Barrington Zoning Ordinance Requirements:					
See attach	ed.				
Request: (You may type and attach a separate sheet of paper)					
See attach	ed.				

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PART IV - If this is a JUSTIFICATION FOR VARIANCE

The Zoning Board of Adjustment may not authorize a zoning ordinance variation unless ALL of the following criteria are met. Please provide evidence that the requested Variance complies by addressing the issues below.

·				
	2. Granting the variance would be consistent with the spirit of the Ordinance.			
	See attached.			
	3. Granting the variance will not result in diminution of surrounding property values.			
	See attached.			
	4. Granting of the variance would do substantial justice.			
	See attached.			
	5. Granting of the variance would not be contrary to the public interest.			
See attached.				
P plic:	PART V – If this is a JUSTIFICATION FOR SPECIAL EXCEPTION lease provide evidence that the requested Special Exemption complies by addressing the issues below.			
emi	1. No detriment to property values in the vicinity of the proposed development will result on bunt of: the location or scale of buildings, structures, parking areas, or other access ways; the ssion of odors, smoke, gas, dust, noise, glare, heat, vibration, or other pollutants; or unsightly loor storage of equipment, vehicles, or other materials.			
	No hazard will be caused to the public or adjacent property on account of potential fire, osion, or release of toxic materials.			

Page 4 of 6 Revised 06/15/2011

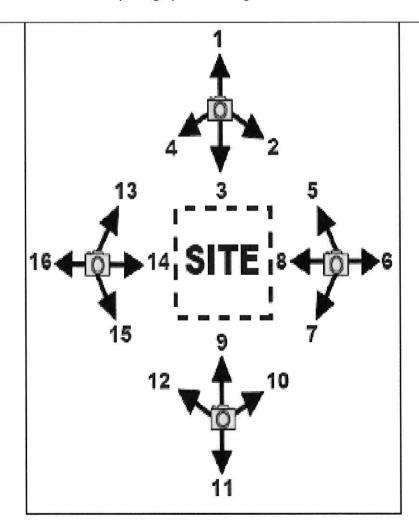
			and the second second
	re demand on municipal services and faci re protection, and schools.	lities, including, but not limited to w	vaste
quality standards, nor	ed use will not result in the degradation will it have adverse effects on the naturals of significant habitat or flood control p	al functions of wetlands on the site	
exception upon mor	iding principles specified above, the ZBA e stringent standards if the Board deter Ith and welfare of the town and its resion following and should be addressed	mines that such conditions are necestents. Such conditions may include	essary
☐ 1. Front, side,	or rear yards in excess of the minimum i	requirements of this Ordinance.	
2. Screening of devices.	of the premises from the street or adjace	nt property by walls, fences, or othe	er
☐ 3. Limitations maximum requiremen	on the size of buildings and other structonts of this Ordinance.	ures more stringent than minimum	or
4. Limitations	on the number of occupants and metho	ds and times of operation.	
☐ 5. Regulation	of the design and location of access drive	es, sidewalks, and other traffic featu	ires.
☐ 6. Location ar	nd amount of parking and loading spaces	in excess of existing standards.	
☐ 7. Regulation	of the number, size, and lighting of signs	in excess of existing standards.	
Linda Syen	3/3/12 authornor 5/9/14	1962-Real Estate, LLC By: Holy Rosary Regional Cre Its Duly Authorized Member	dit Union,
Luna 5/5	116 () Style	By: Brian Hughes, President &	CEO
Signature of A	Applicant July July 5/3/16	5-3-16	Date
John P. Svei	15/3/6 RM Sverden 5/2/1	1962 Real Estate, LLC By: Holy Rosary Regional Cre	dit Union,
Signature of (Dwner MM	Its Duly Authorized Member	Date
Judd)	. 30	By: Brian Hughes, President &	CEO
6/3/1	/		SE OFFIC

SITE / CONTEXT PHOTOS

Using Guidelines Below

Provide color photographs showing the site and surrounding buildings/properties in order to provide staff, boards and commissions with a visual impression of the current site conditions.

- 1. Photos are to be taken looking toward the site and adjacent to the site.
- 2. Photos should show adjacent improvements and existing on-site conditions.
- 3. Number the photographs according to view.



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John & Linda Svenson 9 Christmas Lane Map 235, Lot 1 & lot 3

Garth & Elizabeth Svenson 19 Christmas Lane Map 235, Lot 2

1962 Real Estate, LLC 40 Wakefield Street Rochester, NH 03866

APPLICATION FOR VARIANCES

Introduction

The property subject to this application is depicted on the Town of Barrington tax maps at Map 235, Lots 1, 2, & 3 and Map 239, Lot 2. Lot 1& 3 on Map 235 are owned by John and Linda Svenson. Lot 2 on Map 235 is owned by Garth & Elizabeth Svenson. Lot 2 of Map 239 is owned by 1962 Real Estate, LLC. The plan of development includes adjusting certain lot lines amongst the lots, with approximately 2.1 acres being transferred from Map 235, Lot 2 to Map 235, Lots 1 & 3. Also, a portion of land will be added from Map 235, Lot 1 to Map 239, Lot 2, with a certain portion of land added from Map 239, Lot 2 to Map 235, Lot 1, as depicted on the enclosed plans. Thus, although the owners of Lot 2 are referenced herein as Applicants, the development plan, after the referenced lot line adjustment, will relate to only the adjusted Map 235, Lot 1 & 2 and Map 239, Lot 2. Reference to the "**Property**" herein shall mean reference to the adjusted Map 235, Lots 1 & 3 and Map 239, Lot 2. Please note that the lot lines set forth on the plans submitted herein contain conceptual measurements, as the plans are not yet subject to a formal survey. To the extent the variances requested herein are granted, the ratios discussed herein are approximate and may be changed to a small degree upon survey.

The Property will be comprised of approximately 37.50 acres. To the extent the variances set forth herein are granted, the Property will be subject to certain lot line adjustments for the commercial lots, and then Map 235, Lots 1 & 2 will be consolidated and subdivided into a commercial subdivision and subsequent resident subdivision with all of the lots configured in accordance with the Conceptual PUD plan submitted herein.

The Property is located in the Town Center (TC) zoning district. Pursuant to Article 3.3.6 of the Barrington Zoning Ordinance, certain non-residential uses are permitted as a matter of right if designed in accordance with the Table of Dimensional Requirements. Thus, to the extent the Applicants desire to locate only non-residential uses on the Property, the Property may be subdivided in accordance with the plan entitled, "Commercial Conceptual Subdivision Detail." The Applicants have repeatedly been advised by real estate professional and developers that the creation of what would amount to an industrial park is unsuited for the location and non-marketable. The other alternative is to provide for residential uses pursuant to the Planned Unit Development (PUD) regulations set forth in Article 16 of the Barrington Zoning Ordinance of Publicance o

Article 16 of the Barrington Zoning Ordinance regulates PUDs. The purpose of a PUD is to offer an alternative approach that provides a neighborhood environment. The standards are intended to provide the Town with a flexible alternative that facilitate high quality design and encourage a mixed use of land, where developers can also provide land for civic and open spaces.

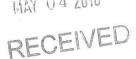
Based upon Article 16.3.2 of the Barrington Zoning Ordinance, which utilized a net density calculation of residential density, the 37.5 acres that comprise the Property would yield 10 house lots. The specific calculation requires first, that only 25% of the total land be allowed for residential use, resulting in 9.38 acres [37.5 acres X 0.25 = 9.38 acres]. Further, the number of permitted residential house lots is $10 \left[(43,560 \text{ X } 8.69 \text{ Acres} = 408,375) / 40,000 = 10.21 \right]$. When calculating this net density, the regulations specify a denominator of 40,000 sq. ft. per lot; however, pursuant to Article 16.3.2 (2), the regulations also permit a minimum residential house lot of 10,000 sq. ft. the Applicant proposes to use a minimum lot size of approximately 16,250 sq. ft., and that this lot size be used to calculate net density. If so permitted, the net density of the project would permit 25 house lots within the roughly 37 acres. It is believed that in order to foster the goals of the Town Center concept, there must be more than 10 permissible residential lots, and that given the size of the parcel and its location away from NH Route 125 (Calef highway), that locating 25 residential lots within the roughly 37 acres is in line with the intent behind the Town Center concept, and is reasonable. Thus, the first variance is a request for relief from Article 16.3.2 (2) to permit the net density for a single family dwelling to be based upon 16,250 sq. ft., rather than 40,000 sq. ft.

Article 16.5.2 of the Barrington Zoning Ordinance requires that the commercial component of a PUD be at least fifty (50%) of the total development tract. The Applicants' development plan provides for a commercial component of approximately 26.5% At the same time, and in order to promote the concept of civic / open space use within the development plan, and based upon the unique characteristics of the parcels and its location from NH Route 125, the Applicants have provided for a civic / open space component of approximately 42.1%, where 10% is required. In this instance, the Applicants have provided for a commercial component in the areas closest to Route 9 and Route 125. In addition, the Applicant has provided open space through the proposed development plan. Part of the open space has been designated as a "Proposed Playground Area" that will be dedicated to use by the Town should it desire to construct a public (civic) playground. In addition, the plan will provide for public trails. Part of the plan will include a deed restriction on land currently owned by an Applicant (depicted as parcel C4) to provide that the parcel shall only be used for commercial purposes upon any sale of the parcel. Thus, the second variance is a request for relief from Article 16.5.2 to permit the commercial component of the PUD development plan to be 26.5% of the total development tract.

For the reasons set forth herein, the Applicants respectfully submit that the grant of the variances is reasonable and can be supported by the following evidence:

Part of the plan will include a deed restriction on land currently owned by an Applicant (depicted as parcel C4) to provide that the parcel shall only be used for commercial purposes upon any sale of the parcel. LANDUS





Variance Requirements:

1. Special conditions exist such that literal enforcement of the Ordinance will result in unnecessary hardship to the applicant as defined under applicable law.

As one can see from the enclosed plans, the Property is unique in this case as, although it is located in the Town Center District, the land is off-set from NH Route 125, without direct access to Route 125. Most of the property zoned Town Center is located along NH Route 125, with access to the road, or is comprised of wider and larger parcels of land. The net density calculation only allows for 10 house lots and limited commercial lots that could be utilized. As a result, however, the open and civic space far exceeds the 10% requirement. In addition, the Property is narrow enough that the proposed commercial uses are limited if they are to be located adjacent to NH Route 9 for access to customers and Barrington residents. The general purpose of the ordinance is to promote orderly development and to protect the health, safety and general welfare of the public.

The general purpose of the Town Center District is to provide for a mixed use of commercial, residential and civic/open space. The Applicants' development plan is an example of such a mixed use concept, given the constraints upon the land as described above. In this instance, the Applicant seeks to locate a single-family residence in the area that is also suitable, per the purposes of the specific zone, for two-family and multifamily dwellings. As such, the purpose of the ordinance and the purposes of the specific restrictions as to net density for the residential lots and as to the required commercial component will be preserved given the design set forth in the Applicants' development plan. Thus, the Applicants respectfully submit that there is no relationship between the general public purpose of the ordinance, and the specific application of the net density requirement and required commercial component, given the proposed uses submitted by the Applicants.

The proposed use is reasonable as it provides for the location of more than ten (10) single-family residences within the Property and provides for as much of a commercial component as is possible given the location and constraints of the Property, while providing an abundant amount of open/civic space within the Property, making the use reasonable considering the special conditions of the property.

2. Granting the variance would be consistent with the spirit of the Ordinance.

The Applicant respectfully submits that if the variances are granted, the spirit of the ordinance would be observed as the use in question is suitable, considering configuration of the lot and the location of the property to NH Route 125. The spirit of the zone is to foster a mixed use of residential, commercial, civic and open space. Given the constraints of the property, the Applicants have 78 proposed the only reasonable plan that can accomplish the mixed use goal, and provide a vibrant area within the Town, all consistent with the intent of the Town Center zone.

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To be contrary to the public interest or injurious to the public rights of others, the variance must unduly and in a marked degree conflict with the ordinance, such that it violates the ordinance's basic zoning objectives. It is respectfully submitted, that given the reasons set forth above, the granting of the variances will promote the ordinance's basic zoning objectives as envisioned by the Town Center District.

3. Granting the variances will not result in diminution of surrounding property values.

It is respectfully submitted that all of the surrounding properties have a value associated with them that is premised upon the existence of the same type of structure to be located upon the Applicants' property. In this instance, the location of the commercial uses along or near NH Route 9, with a mix of residential and civic uses further away from NH Route 9 will have no negative affect upon any abutter with respect to its property, as the use will be consistent with other uses in the near vicinity, and consistent with the intent of the existing zoning.

4. Granting the variances will do substantial justice.

The grant of the variances would due substantial justice as it would allow the Applicants' property to be utilized in a similar fashion to other properties located within the area, by allowing the location of commercial used adjacent to NH Route 9, while providing a cluster of residential uses, where such use exceeds the required minimum lot size of 10,000 sq. ft. by approximately 50% or more (lot sizes will range from approximately 15,000 sq. ft. to 17,000 sq. ft.

This test considers whether the benefit to the Applicants outweighs the burden to the public. In this instance, given the proposed development plan, there will be no burden to the public whatsoever. Accordingly, the benefit to the Applicants would exceed the burden to the public, thus resulting in substantial justice being done.

5. Granting of the variance would not be contrary to the public interest.

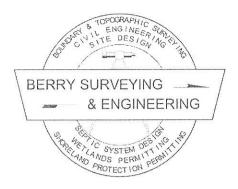
The Applicant respectfully submits that the proposed use represents a reasonable use of the Property in question. By permitting the use, the public interest is served by permitting orderly development in an area where such development has already occurred. In this instance, the Property is unique in terms of its location, and lack of proximity to NH Route 125. It is understood that the basic intent of the Town Center zoning is to create a mixed use of commercial and residential uses. In the first instance, the net density calculation allows for only 10 houses within approximately 37 acres. This limited amount of housing will not create the desired effect of having residential uses co-mingle with commercial and civic uses. In order for the Applicants to design a project that represents a PUD, more residential units are required. In addition, the location of the single-family residence as depicted on the Plan represents a context sensitive design considering the sounding properties within the area. Given the shape and location of the Property, and given the surrounding commercial properties located adjacent to the Property, the Applicants submit that requiring 50% commercial use within the Property will not

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accommodate the desired residential or civic/open space uses that are provided in the Applicants' proposal. As such, the proposed use will not be contrary to the public interest, as the use will not "alter the essential character of the locality." Granting the variance will permit the use of the lot as intended and consistent with the purposes of the Town Center zone.

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BERRY SURVEYING & ENGINEERING

335 Second Crown Point Road Barrington, NH 03825 Phone: (603) 332-2863 Fax: (603) 335-4623 www.BerrySurveying.Com

April 21, 2016

Abutters List

Owners of Record

Tax Map 235, Lot 001

John & Linda Svenson PO Box 10 Barrington, NH 03825

Tax Map 235, Lot 002

Garth & Elizabeth Svenson PO Box 10 Barrington, NH 03825 Book 3366, Page 451

Tax Map 235, Lot 003

John & Linda Svenson PO Box 10 Barrington, NH 03825

Tax Map 239, Lot 002

1962 Real Estate LLC 40 Wakefield St. Rochester, NH 03866 Book 4266, Page 115

Abutters

Tax Map 234, Lots 057

Marla L & Mark J Lemos Marla L Lemos Rev Tr 1164 Ocean Blvd Rye, NH 03870 Book 4218, Page 912

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Tax Map 235, Lot 004

Kimberly Boyer PO Box 387 Barrington, NH 03825-0387

Tax Map 235, Lot 005

Barrington Pines LLC PO Box 60 Ctr Strafford, NH 03815

Tax Map 235, Lot 006

CANUSA Properties LLC 428 Calef Hwy Barrington, NH 03825 Book 2695, Page 546

Tax Map 235, Lot 007

Frisbie Foundation 11 Whitehall Rd Rochester, NH 03867

Tax Map 235, Lot 008

Barrington Pines LLC PO Box 60 Ctr Strafford, NH 03815

Tax Map 235, Lot 009

Barrington Pines LLC PO Box 60 Ctr Strafford, NH 03815

Tax Map 235, Lot 010

Barrington Pines PO Box 60 Ctr Strafford, NH 03815





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335 Second Crown Pt. Rd., Barrington, NH 03825 (603) 332-2863 / (603) 335-4623 FAX www.BerrySurveying.Com

Tax Map 235, Lot 011

Eric M Stevenson 7 Prescott Ln Hampton Falls, NH 03844 Book 4103, Page 666

Tax Map 235, Lot 012

AIDA LLC 11 Whitehorse Dr Rye, NH 03870 Book 3235, Page 283

Tax Map 238, Lot 001

Bernard F & Susan D Bennett 611 Franklin Pierce Hwy Barrington, NH 03825 Book 3954, Page 119

Tax Map 238, Lot 002

Cobb-Horton Ent Inc Melinda Morgan 5 Nute Rd Dover, NH 03820 Book 4087, Page 979

Tax Map 238, Lot 003

Linda L C Svenson PO Box 10 Barrington, NH 03825 Book 4022, Page 576

Tax Map 238, Lot 051

614 FPH Real Estate LLC PO Box 57 Barrington, NH 03825 Book 4255, Page 396

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Tax Map 239, Lot 001

Peter & Sarah Ward 643 Franklin Pierce Hwy Barrington, NH 03825-3826

Tax Map 239, Lot 001-001

David & Glenda Henderson Und Int Liv Rev Tr ½ 1273 Winged Foot Ln Denver, NC 28037-6520

Tax Map 239, Lot 003

Mark K. and Sherry B. Rowell 624 Franklin Pierce Highway Barrington, NH 03825

Tax Map 239, Lot 004

Joshua R Dijoseph Jessica Sutton 17 Belle Ln Lee, NH 03861 Book 3366, Page 305

Tax Map 239, Lot 007

Town Center Properties 270 Gulf Rd Dover, NH 03820

Professionals

Kenneth A. Berry PE LLS Christopher R. Berry, Project Manager Berry Surveying & Engineering 335 Second Crown Point Road Barrington, NH 03825

Francis X. Bruton, III, Esquire Bruton & Berube, PLLC 798 Central Ave Dover, NH 03820



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