



Barrington Zoning Board of Adjustment

Dimensional Equitable Waiver Request

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.

Date: 02-25-20 Case No. 243-20-GB-20-ZBA Eq. Waiver
 Owner: Michele and Scott Pastre
 Mailing Address: PO Box 883, Sharon, CT 06069
 Applicant: Joel D. Runnals, Norway Plains Associates, Inc.
 Mailing Address: PO Box 249, Rochester, NH 03866-0249
 Phone 603-335-3948 Email jrunnals@norwayplains.com

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.

Req'd	Rec'd
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- | | | | |
|-------------------------------------|--------------------------|---|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 1. Zoning Board of Adjustment Application Checklist (<i>this form</i>) | |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 2. ZBA General Information (Article(s) and Section(s) of Ordinance) | |
| <input type="checkbox"/> | <input type="checkbox"/> | 3. Appeal and Decision | |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 4. Fees - \$150.00 Application <input type="checkbox"/>
\$ 75.00 Legal Notice <input type="checkbox"/>
\$ 7.00 per US Post Office Certified Letter <input type="checkbox"/> | <div style="font-size: 2em; font-weight: bold; margin-bottom: 10px;">RECEIVED</div> <div style="font-weight: bold;">FEB 26 2020</div> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 5. Completed Project Application Form
<input type="checkbox"/> Variance <input type="checkbox"/> Special Exception <input type="checkbox"/> Appeal | <div style="font-size: 1.5em; font-weight: bold;">LAND USE OFFICE</div> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 6. Notarized Letter of Authorization (from property owner(s) if property owner did not sign the application form) | |

- 7. Project Narrative
- 8. HOA Approval (*if applicable*)
- 9. Context or Locus Map (Show Surrounding Zoning Districts)
- 10. Existing Conditions Site Plan or Recorded Subdivision Plan to include well and septic location (may be found at Strafford County Registry of Deeds).
- 11. Existing Conditions Photo Exhibit (*See instruction page for submitting photos*)
Up to four photos may be shown per 8 1/2" X 11" page size
 - a. Show all existing structures on site
- 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)
- 13. Mailing Labels (4 sets)

PART II – REQUIRED PLANS AND RELATED DATA
All Graphics and Plans Shall be to Scale and Dimensioned

- 1. Site Plan - ***Drawn and Stamped by Registered Land Surveyor***
 - a. 24" X 36" – 2 Copies
 - b. 11' X 17" – 6 Copy
 - c. 8 1/2 " X 11" – 1 Copy
- 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
- 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: _____

Barbara Arvine
Staff Signature

2/26/2020
Date

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Land Use Department

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LAND USE OFFICE

Town of Barrington; 333 Calef Highway; Barrington, NH 03825

barrplan@metrocast.net

Phone: 603.664.5798

PART III – PROJECT DESCRIPTION/VARIANCE DETAILS

Case No. 243-20-OR-20-ZBA Eq. Waiver

Project Name: Equitable Waiver Request

Location Address: 1897 Franklin Pierce Highway, Barrington, NH

Map 243 and Lot 20

Zoning District (Include Overlay District if Applicable) General Residential

Property Details:

- Single Family Residential
- Multifamily Residential
- Manufactured Housing
- Commercial
- Mixed Use
- Agricultural
- Other

Use: _____

Number of Buildings: one Height: N/A

Setbacks: Front 40', Rear 30', Side 30'

Description of Request

Cite the Section of the Zoning Ordinance you are requesting a Variance or Special Exception for. If this is an Appeal from an Administrative Enforcement Order, Planning Board Decision, or Zoning Board of Adjustment Decision, please attach pertinent documentation:

Dimensional Equitable Waiver

Project Narrative: *(Please type and attach a separate sheet of paper)*

Barrington Zoning Ordinance Requirements:

Article 4, Dimensional Requirements, Minimum Side Yard Setbacks.

Request: *(You may type and attach a separate sheet of paper)*

Included "Considerations Governing Granting of a Dimensional Equitable Waiver (RSA 674:33-a)"

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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.

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

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

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

4. Granting of the variance would do substantial justice.

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

PART V – If this is a JUSTIFICATION FOR SPECIAL EXCEPTION

Please provide evidence that the requested Special Exception complies by addressing the issues below.

1. No detriment to property values in the vicinity of the proposed development will result on account of: the location or scale of buildings, structures, parking areas, or other access ways; the emission of odors, smoke, gas, dust, noise, glare, heat, vibration, or other pollutants; or unsightly outdoor storage of equipment, vehicles, or other materials.

2. No hazard will be caused to the public or adjacent property on account of potential fire, explosion, or release of toxic materials.

3. No creation of a traffic safety hazard or substantial traffic congestion will result in the vicinity of the proposed development.

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4. No excessive demand on municipal services and facilities, including, but not limited to waste disposal, police and fire protection, and schools.

5. The proposed use will not result in the degradation of existing surface and groundwater quality standards, nor will it have adverse effects on the natural functions of wetlands on the site that would result in the loss of significant habitat or flood control protection.

In addition to the guiding principles specified above, the ZBA may condition the granting of a special exception upon more stringent standards if the Board determines that such conditions are necessary to protect the health and welfare of the town and its residents. Such conditions may include the following and should be addressed in the Narrative:

- 1. Front, side, or rear yards in excess of the minimum requirements of this Ordinance.
- 2. Screening of the premises from the street or adjacent property by walls, fences, or other devices.
- 3. Limitations on the size of buildings and other structures more stringent than minimum or maximum requirements of this Ordinance.
- 4. Limitations on the number of occupants and methods and times of operation.
- 5. Regulation of the design and location of access drives, sidewalks, and other traffic features.
- 6. Location and 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.


Signature of Applicant

02-25-20
Date

Signature of Owner

Date

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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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Considerations Governing Granting of a Dimensional Equitable Waiver (RSA 674:33-a):

1. The violation was not noticed or discovered by any owner, former owner, owner's agent or representative, or municipal official, until after a structure in violation had been substantially completed, or until after a lot or other division of land in violation had been subdivided by conveyance to a bona fide purchaser for value.

January 21, 2020 Norway Plains Associates, Inc. (NPA) was contracted by New Style Homes to perform a boundary survey of Tax Map 243, Lot 20 at 1897 Franklin Pierce Highway and to prepare a Foundation Location Plan to be submitted to the Building Department in order to obtain a certificate of occupancy permit. Prior to the survey request the dimensional violation had not been discovered.

February 11, 2020 NPA performed their field work as part of the contracted boundary survey. Boundary evidence and site features were located. As part of the field procedure the existing structures were located. An existing shed, an existing building that will be removed, and a new dwelling/building were located along with the associated exterior steps and decks. All building construction was completed prior to NPA performing their field work.

The construction contractor and New Style Homes attempted to place the proposed building on the site according to the issued building permit and the approved septic design. The error in the placement of the building was not discovered or realized until NPA drafted the finished foundation location plan on February 20, 2020.

2. The violation was not an outcome of ignorance of the law or ordinance, failure to inquire, obfuscation, misrepresentation, or bad faith on the part of any owner, owner's agent or representative, but was instead caused by either a good faith error in measurement or calculation made by an owner or owner's agent, or by an error in ordinance interpretation or applicability made by a municipal official in the process of issuing a permit over which that official had authority.

As part of the construction project and permitting New Style Homes contracted Highland Soil Services (HSS) to provide a new NHDES Subsurface septic system design for the proposed dwelling/building. HSS's septic design plan shows the proposed building to be approximately thirty five feet (scaled distance) from the property line that runs along the chain link fence. The encroaching steps and deck are approximately four and a half feet wide. The septic design allowed an extra half of a foot more than the required thirty foot setback. The Owners and New Style Homes did use the correct procedures by contracting reputable professions to assist in the construction project. All parties were aware of the required dimensional setbacks and attempted to adhere to the thirty foot setback. Human error was the factor in the incorrect placement of the structure and the resulting violation.

3. That the physical or dimensional violation does not constitute a public or private nuisance, nor diminish the value of other properties in the area, nor adversely affect any present or permissible future uses of any such property.

The attached Foundation Location Plan by NPA shows the location of the violation and the access to and around the site and the neighboring parcels which will not be affected by granting this waiver. Current or future uses of neighboring Ganaan Chapel will not be obstructed. Any uses on the property of 1897, FPH also will not be adversely affect by granting the requested waiver.

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4. That due to the degree of past construction or investment made in ignorance of the facts constituting the violation, the cost of correction so far outweighs any public benefit to be gained, that it would be inequitable to require the violation to be corrected.

The included Foundation Location Plan by NPA shows the location of the violation and that the access and driveway to and around the site. By granting this waiver the current site conditions will not limit the use or access to the owner's property or the neighboring parcels nor will it adversely affect the future uses of said properties.

The new building is a manufactured modular unit that arrives with the doorways already installed. The alternative of relocating the existing doorway and associated deck/stairs would require a major remodeling of the exterior as well as the interior of new building. The minimum impact that this violation has on this and abutting properties justifies the request for an Dimensional Equitable Waiver to allow the deck and stairs to remain as shown on the NPA plan.

5. If all 4 of the above are not proven by the property owner, an equitable waiver may still be granted if the property owner can prove to the satisfaction of the Board that the violation has existed for 10 years or more, and that no enforcement action, including written notice of violation, has commenced against the violation during that time by the municipality or any person directly affected.

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Equitable Waivers of Dimensional Requirements

- RSA 674:33-a, ZBA can grant equitable waivers from
- physical layout, mathematical or dimensional requirements imposed by ZO
 - but not use restrictions – see, Schroeder v. Windham, 158 N.H. 187 (2008)

Equitable Waivers of Dimensional Requirements

- Owner has burden of proof on four (4) criteria:
 - that the violation was not noticed or discovered by any owner, agent or municipal representative, until after the violating structure had been substantially complete, or until after a lot or other division of land in violation had been subdivided by conveyance to a bona fide purchaser for value. RSA 674:33-a, I(a);
 - that the violation was not an outcome of ignorance of the law, failure to inquire, obfuscation, misrepresentation or bad faith on the part of the owner or its agents, but was instead caused by either a good faith error in measurement or calculation made by the owner or its agent, or by an error of ordinance interpretation or applicability by a municipal official in the process of issuing a permit over which he has authority. RSA 674:33-a, I(b);

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Equitable Waivers of Dimensional Requirements

- that the physical or dimensional violation does not constitute a public or private nuisance, nor diminish surrounding property values, nor interfere with or adversely affect any present or permissible future use of any such property. RSA 674:33-a, I(c); and
- that due to the degree of construction or investment made in ignorance of the violation, the cost of correction so far outweighs any public benefit to be gained such that it would be inequitable to require a correction. RSA 674:33-a, I(d).

Equitable Waivers of Dimensional Requirements

- If the violation has existed for more than 10 years and that no enforcement action, including written notice of violation, has commenced during such time by the municipality or any person directly affected, then Owner can gain a waiver even without satisfying the first and second criteria. RSA 674:33-a, II.

ARTICLE 4 DIMENSIONAL REQUIREMENTS

4.1 General Provisions

4.1.1.....Minimum Standards

No building or structure shall be erected, enlarged, altered or moved, nor shall any existing lot size be changed or new lot created, except in accordance with the standards prescribed in Table 2, Table of Dimensional Standards or as otherwise specified herein.

Table 2 Table of Dimensional Standards (a)								
Zoning District	Min. Lot Size (sq.ft.) (b)	Min. Lot Frontage (ft.) (b)	Min. Yard Setbacks (ft.)(i)			Max. Bldg. Height		Max. Lot Coverage (f)
			Front	Side	Rear	Feet	Stories	
General Residential	80,000(c)	200	40	30	30	35	2.5	40%
Neighborhood Residential	80,000(c)	200	40	30	30	35	2.5	40%
Village District (Residential)	80,000(c)	200	40	30	30	35	2.5	40%
Village District (Non-Residential)	30,000(g)	75	20	15	15	40(j)	3	60%
Town Center	20,000(h)	40	20(k)	15	15	40(j)	3	80%
Regional Commercial	40,000(d)	200	75(e)	30	30	40(j)	3	50%

Footnotes:

- (a) All development is subject to the additional and supplemental dimensional standards prescribed in Article 4 of this Ordinance.
- (b) Refer to Article 4.2 for calculating the minimum lot size per dwelling unit within each district.
- (c) Minimum lot sizes and frontage may be reduced as part of a Conservation Subdivision in accordance with Article 6 of this Ordinance.
- (d) Minimum lot sizes for residential dwelling units in the RC district shall be in accordance with Section 4.2 of this Ordinance.
- (e) A greenbelt shall be maintained along the frontage of parcels on Route 125 in accordance with Subsection 4.2.3, Paragraph 4), of this Ordinance.
- (f) Maximum lot coverage means the area of the lot covered by an impervious surface. Calculation of maximum lot coverage in a Planned Unit Development (PUD) shall be in accordance with Subsection 16.3.3. All development is subject to the provisions of Article 12, Groundwater Protection, with regard to the creation of impermeable surfaces.
- (g) The minimum lot size for single-family dwelling units must comply with the provisions of Subsection 4.2.1 of this Ordinance, which are the same requirements for constructing a single-family dwelling in the GR and NR districts, as well as all other applicable provisions. Refer to section 4.2.2 for further specifications regarding minimum lot size and building size requirements in the VD district.
- (h) Refer to Section 4.2.4 for additional provisions regarding minimum lot size and building size in the TC district.
- (i) Increases in the Minimum Yard Setbacks may be required as part of the Site Plan Review or building permit process in order to comply with Life Safety Code requirements. Additional buffers may also be required between residential and nonresidential uses in the VD, RC, and TC districts as specified in Article 4, as well as other sections of this Ordinance.
- (j) No structure may contain occupied residential building space above 35 ft. unless said structure contains a sprinkler system.
- (k) The setback for all new structures shall be fifty (50) feet from the edge of the right-of-way along Route 125 and Route 9. No new structures (except signs) may be placed within this setback area.

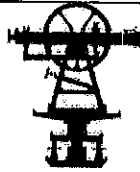
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NORWAY PLAINS ASSOCIATES, INC.
LAND SURVEYORS • SEPTIC SYSTEM DESIGNERS • CIVIL ENGINEERS

P.O. Box 2492
Continental Blvd. (03867)
Rochester, NH 03866-0249
Phone: (603) 335-3948 / (800) 479-3948
Fax: (603) 332-0098



P. O. Box 268
31 Mooney St.
Alton, NH 03809
Phone & Fax: (603) 875-3948
www.norwayplains.com

February 25, 2020

Town of Barrington Zoning Board of Adjustment
P.O. Box 660
333 Calef Highway
Barrington, NH 03825

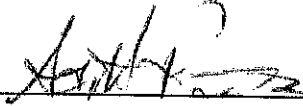
**RE: Letter of Authorization.
Equitable Waiver Request
1897 Franklin Pierce Highway
Barrington Tax Map 243, Lot 20.**

We, Michele and Scott Pastre and owners of Tax Map 243, Lot 20, hereby authorize Norway Plains Associates, Inc. and its professionals as decision-making representatives and designate them as signatories regarding the above referenced application. We additionally authorize Norway Plains Associates, Inc. to represent us before the Boards &/or Committees affiliated with the Town of Barrington in this approval process.

By: 

Michele Pastre

Date: 02-25-2020

By: 

Scott Pastre

Date: 02-25-2020

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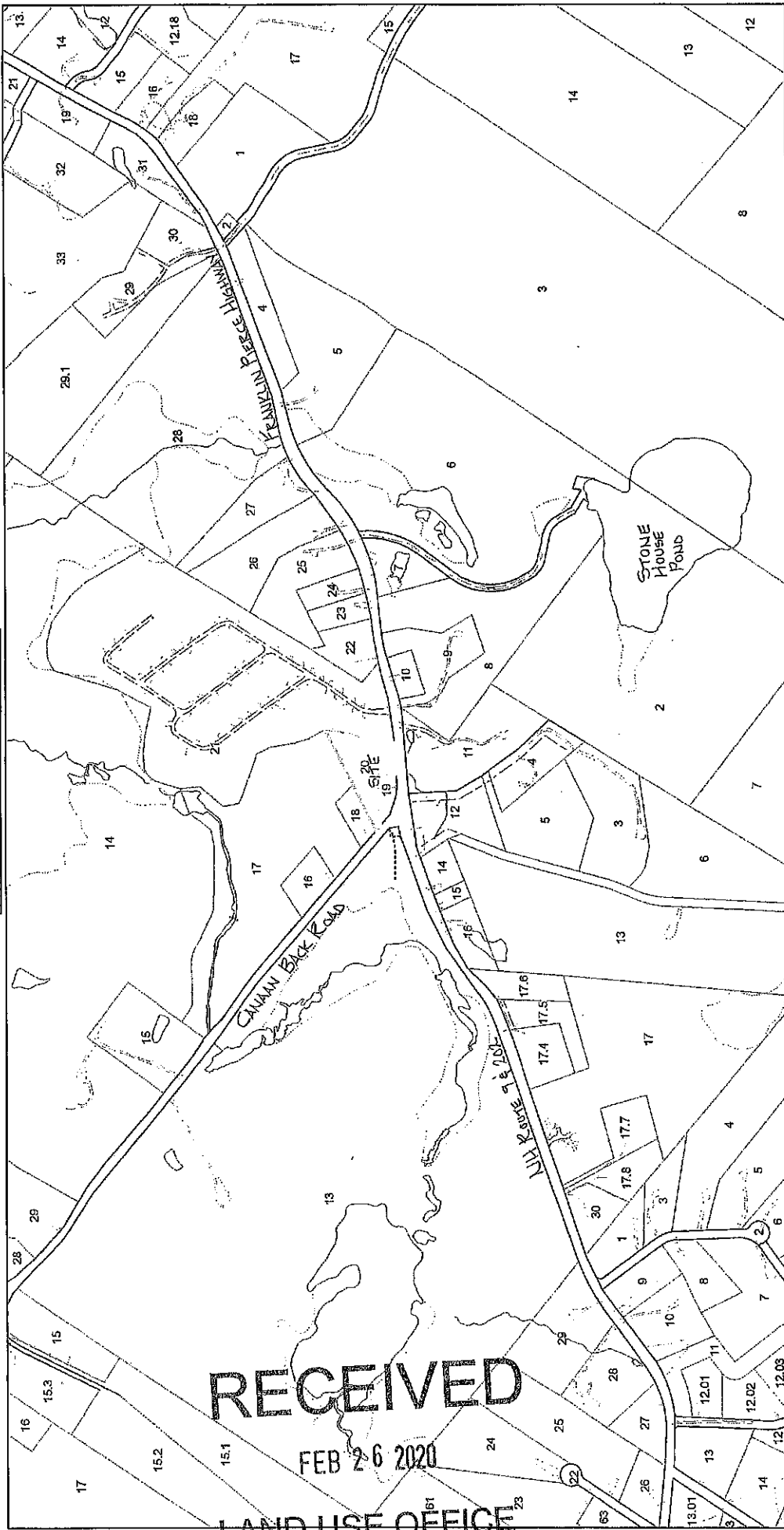
Barrington Tax Map

Barrington, NH

1 inch = 549 Feet



February 12, 2020



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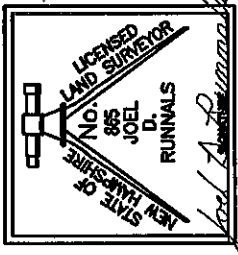
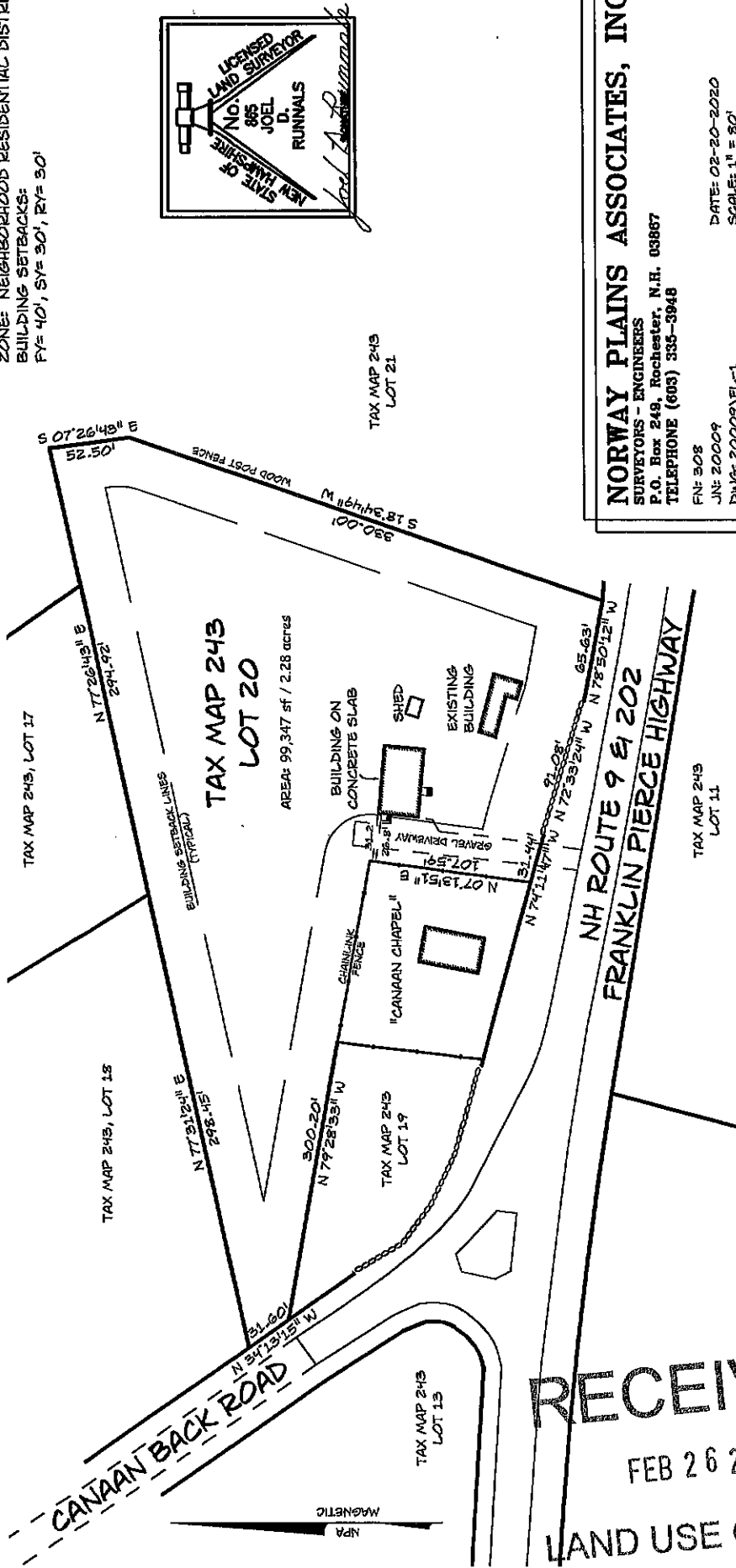
The property data available on this site is updated periodically. The Town of Barrington makes no warranties with regard to its accuracy or completeness and assumes no liability associated with the use of this data.

FOUNDATION LOCATION PLAN

NOT FOR MORTGAGE LOAN PURPOSES

LOCATION: 1897 FRANKLIN PIERCE HIGHWAY, BARRINGTON, NH OWNER OF RECORD: MICHELE & SCOTT PASTRE S.C.R.D. BOOK 4335, PAGE 562 TAX MAP 243, LOT 20

ZONE: NEIGHBORHOOD RESIDENTIAL DISTRICT
 BUILDING SETBACKS:
 FY= 40', SY= 30', RY= 30'



NORWAY PLAINS ASSOCIATES, INC.
 SURVEYORS - ENGINEERS
 P.O. Box 249, Rochester, N.H. 03867
 TELEPHONE (603) 335-3948
 FAX: 308
 JNF: 20009
 DWG: 20009FLV-1
 DATE: 02-20-2020
 SCALE: 1" = 50'

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ABUTTERS LIST
MICHELE & SCOTT PASTRE OF MAP 243, LOT 20
1897 FRANKLIN PIERCE HIGHWAY, BARRINGTON, NH

<u>MAP/LOT:</u>	<u>APPLICANT:</u>	<u>MAILING ADDRESS</u>
243/20	Michele & Scott Pastre	PO Box 883, Sharon, CT 06069

ABUTTERS:

<u>MAP/LOT:</u>	<u>NAME</u>	<u>MAILING ADDRESS</u>
243/11	Philip & Karen Boodey Revocable Living Trust	55 Old Settlers Road, Barrington, NH 03825
243/13	Roger & Carla Williams	84 Canaan Back Road, Barrington, NH 03825
243/18	Same as 243/13	
243/19	Canaan Chapel Associates	55 Old Settlers Road, Barrington, NH 03825
243/21	Toys Manufactured Housing	15 Nashoba Drive, Rochester, NH 03867
243/21(T)	Stacy Sweet	23 Estate Drive, Barrington, NH 03825
243/21(T)	Jessica & Reginald Wentworth	17 Estate Drive, Barrington, NH 03825
243/21(T)	Elizabeth McGaughey Willis	9 Union Street, Newport, NH 03773
243/21(T)	Thomas & Linda Girouard	37 Estate Drive, Barrington, NH 03825
243/21(T)	David & Linda Leathers	43 Estate Drive, Barrington, NH 03825
243/21(T)	Debra Santos	5 First Street, Barrington, NH 03825
243/21(T)	Sheila & Roy Chittum	20 Estate Drive, Barrington, NH 03825

PROFESSIONAL CONTACTS:

Agent:	Joel Runnals, LLS	Norway Plains Associates, Inc. PO Box 249 Rochester, NH 03866-0249
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Builders:	Michael Alfrey	New Style Homes 22 Milton Road Rochester, NH 03868
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FEB 2 2020

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