



TOWN OF WARNER

P.O. Box 265, 5 East Main St.
Warner, New Hampshire 03278-0059
Land Use Office: (603)456-2298 ex. 7
landuse@warnernh.gov

General Instructions for an Appeal to the Zoning Board of Adjustment

All applications are subject to RSA 91-A, which affords the public access to government records

Getting Started

Before filling out the application, be certain you know which application you should file. If the application is incomplete, it will be returned causing a delay in the processing of the application and hearing before the Zoning Board of Adjustment (ZBA).

When you're ready to get started, make sure you read everything included with the application, follow all the steps listed and work with the Land Use office to make sure everything is complete before you submit your application.

The burden of preparing and submitting a complete ZBA application is with the applicant.

Types of Appeals

1. Variance

- a. A variance is an authorization, which may be granted under special circumstances, to allow your property relief from requirements specified in the Zoning Ordinance. For a variance to be legally granted, you must show that your proposed use meets the five criteria listed in the Ordinance.
- b. If you have a referral from the Select Board, Planning Board or Building Department, a copy must be included with your application.

2. Special Exception

- a. The Zoning Ordinance provides that uses, buildings or activities in a particular zone will be permitted by Special Exception if specified criteria are met. The necessary criteria for a Special Exception are given in the Ordinance. Your appeal for a Special Exception will be granted if you can show that the criteria stated in the application are met.

3. Appeal of Administrative Decision (RSA 677)

- a. Decisions made by administrative officers involving what the ordinance says and means are appealable by anyone with standing (RSA 677:2). This includes decisions by the Select Board the Planning Board, the ZBA or any other "administrative officer" regarding the terms of the ordinance. This does not mean, however, that decisions to enforce (or not enforce) the ordinance are also appealable to the ZBA. These decisions are discretionary and are not reviewable under RSA 676:5, II (b) or any other statute.
- b. The appeal must be made normally within 30 days of the decision. The appeal will be granted if you can show that the decision was made in error.
- c. A copy of the decision being appealed must be attached to the application.
- d. The ZBA will not reopen a case based on the same set of facts unless it is convinced that the original decision was unlawful or unreasonable.

4. Equitable Waiver of Dimensional Requirements

- a. If you have found that your structure does not conform to the dimensional requirements for the zoning district in which it is located as a result of an error by your builder, yourself or a public official, you may be eligible for an Equitable Waiver. This does not mean that your structure is then legally non-conforming, but rather recognizes the error and prevents any enforcement action against that error in the future. All subsequent construction at the site must then comply with all dimensional requirements.

Application Instructions

1. Read, complete and sign the proper application for the type of appeal required. If the application is incomplete it will be returned, which will cause a delay in the processing of the application and the hearing before the Zoning Board of Adjustment (ZBA).
2. The ZBA strongly recommends that prior to filing an application, the applicants become familiar with the applicable Warner Zoning Ordinance.
3. If a variance is requested, it may be based on a referral from the Select Board, the Planning Board or a denial of a building permit.
4. Please include the following along with your application:
 - a. A list of all abutters within 200 feet of the boundaries of the property on the supplied form. Accuracy of the list is the applicant's responsibility.
 - b. A copy of any order, referral, notice of violation or other communications that pertain to the property.
 - c. A copy of the property deed.
 - d. Authorization from Owner(s) which must be signed by all property owners and designate if someone will speak on behalf of the property owner(s).
 - e. Plot Plans shall:
 - 1) Clearly indicate where the site is located (locus map) and what is proposed *drawn to scale*.
 - 2) Show the boundary lines with footage on all sides and setback lines for the lot.
 - 3) Name the road the lot fronts on.
 - 4) Show all existing structures on the lot, clearly indicating their dimensions, distance from other structures and distance from adjacent property lines drawn to scale and measured from roof overhang.
 - 5) For a proposed structure, include all of the above and a floor plan with dimensions, (length, width, and height) and yard setback distances measured from roof overhang.
5. A check for the correct amount made out to the **Town of Warner** must be provided at the time of filing.

Application Fee		Notification Fee	
Residential	\$50.00	Per Abutter _____ x	\$15.00
Commercial	\$100.00	Newspaper Notification	*\$60.00

*Standard Posting: Intertown Record = \$60.00 Upon request of applicant a Special Posting in the Concord Monitor = \$300.00

6. A completed application must be received at least 21 days prior to the next ZBA meeting. Public notice of the hearing will be posted and printed in a newspaper, and notice shall be given to the applicant, all abutters, and to parties the ZBA may deem to have interest, at least five days prior to the date of the hearing. The applicant and all other parties are expected to appear at the hearing in person, or by agent, to state reasons why the appeal should or should not be granted.

Public Hearing Process

8. The applicant, or the applicant's agent, shall present the application at the hearing. If an attorney represents the applicant and desires to present a written brief, the brief may be delivered with the application.
9. At the beginning of the public hearing the ZBA will decide if the application is complete.
10. After the public hearing, the ZBA will reach a decision. The decision could be postponed to a date specified to allow for additional information or to consult with Town Counsel. After the ZBA reaches a decision, a formal Notice of Decision will be mailed to the applicant and property owner(s), placed in the ZBA files and distributed as specified in the Rules of Procedure.
11. The applicant, Select Board, any party to the action or proceedings, or any person directly affected thereby may appeal for a rehearing. This 30-day time period shall be counted in calendar days beginning with the date following the date upon which the board voted to approve or disapprove the application. (RSA 677:2)

12. **Abutter(s) List instructions:**

- a. Please list the name and addresses of all owners of the property that abut the subject property, defined as follows:
 - 1) Any person whose property is located in New Hampshire and;
 - i. adjoins or is directly across a street or stream from or;
 - ii. has a boundary which is within 200 feet of any boundary of the land under consideration by the ZBA or;
 - iii. has frontage on a pond on which the land under consideration by the ZBA also has frontage.
 - 2) In case of an abutting property being under a condominium or other collective form of ownership, the term “abutter” means the officers of the collective or association, as defined in RSA 356-B:3, XXIII. (also see RSA 672:3)
- b. In addition to abutters, please include the names and addresses of the applicant, owner(s) of the subject property and as applicable, the owner’s agent engineer, land surveyor, architect, soil scientist, wetland scientist, and holders of conservation, preservation, or agricultural preservation restrictions.
- c. If the property abuts a street, the Select Board shall receive a notice as an abutter. If the property abuts a State Highway, the State Department of Transportation as well as the Select Board shall be noticed as abutters. If the property is within ¼ mile of the Warner River, the Warner River Local Advisory Committee shall be noticed as an abutter. If a referral was received from the Planning Board, they shall be noticed as an abutter.
- d. The abutter list must be obtained from the Town of Warner’s Assessors records and submitted with the application.



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P.O. Box 265, 5 East Main St.
Warner, New Hampshire 03278-0059
Land Use Office: (603)456-2298 ex. 7
landuse@warnernh.gov

Application for Variance

The applicant hereby requests a Variance to the terms of:

Article: II Section: C.2. of the Warner Zoning Ordinance

Applicant/Contact Person:

Name of Applicant: Peacock Hill Road LLC Date: 7/23/2025

Mailing Address: 15 Constitution Drive, Suite 1A

Town: Bedford State: NH Zip: 03110

Telephone: Alternate: Email:

Owner of Property:

Name of Owner: Same as above. Date:

Mailing Address:

Town: State: Zip:

Telephone: Alternate: Email:

Location of Property:

Map#: 7 Lot#: 39 & 39-1 Zoning District: R-2, R-3

Address: Route 103, Warner, NH

Describe the request:

Pursuant to a letter dated June 23, 2025 from Chrissy Almanzar, Town of Warner Land Use Department

interpreting the buildable area regulations, the Applicant requests a variance from Zoning Ordinance

Article II.C.2, to allow for the lots' buildable area located in two zoning districts to be combined for

the purpose of satisfying Ordinance requirements.

Application for Variance

State in writing how the following conditions pertain to the property and be prepared to present the application at a public hearing. The burden of proof is on the applicant to show that all conditions have been met.

Warner Zoning Ordinance Article XVII and RSA 674:33

1. Granting the variance will not be contrary to the public interest because.

See attached Narrative.

2. Granting the variance will not be contrary to the spirit of the ordinance.

See attached Narrative.

3. By granting the variance substantial justice is done.

See attached Narrative.

4. By granting the variance the value of surrounding properties are not diminished.

See attached Narrative.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

a. For purposes of this subparagraph, “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area:

- i. 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
- ii. The proposed use is a reasonable one.

See attached Narrative.

OR

b. 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 a reasonable use of it.

ALL APPLICABLE PAGES MUST BE COMPLETED TO BE ACCEPTED

Authorization from Owner(s):

1. I (We) hereby designate A. Eli Leino, Esq. & Jason Lopez to serve as my (our) agent and to appear and present said application before the Warner Zoning Board of Adjustment [ZBA].

2. By submitting this application, I (We) hereby authorize and understand that agents of the Town may visit the site without further notice. I (We) further understand the ZBA may at some point during the review process schedule a public site visit, which will be duly posted.

3. I (We) understand that the ZBA will review the application/plan and/or may send the application/plan out for review. The applicant shall pay for such a review.

4. To the best of my (our) knowledge, the information provided herein is accurate and is in accordance with the Town of Warner Zoning Ordinance and other land use regulations of the Town and other applicable state and federal regulations which may apply.

Signature of Owner(s):  Date: 7/22/25

Date: _____

Signature of Applicant(s)
if different from Owner: _____ Date: _____

Date: _____

Printed name of person(s) who signed above:

Gary Fitzgerald, Member

For Zoning Board of Adjustment Use Only

Assigned Case #:

Date Received at Land Use Office:

Received by:

Fee Amount: Cash: Check #: Other:

Abutter List Received: Yes: No:

Date of Review: Date of Hearing: Date Approved:

Town of Warner Zoning Board of Adjustment Abutter(s) List

Please list all abutters within 200 feet of the boundaries of the property. Applicant must reference and follow stipulations on Page 3 of the Application Instructions. In addition to abutters, please include the names and addresses of the applicant, owner(s) of the subject property, and, as applicable, the owners' agent, engineer, land surveyor, architect, soil scientist, wetland scientist, and holders of conservation, preservation, or agricultural preservation restrictions.

Map: _____ Lot: _____ Name: <u>see attached</u>
Address: _____
Map: _____ Lot: _____ Name: _____
Address: _____
Map: _____ Lot: _____ Name: _____
Address: _____
Map: _____ Lot: _____ Name: _____
Address: _____
Map: _____ Lot: _____ Name: _____
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Address: _____
Map: _____ Lot: _____ Name: _____
Address: _____
Map: _____ Lot: _____ Name: _____
Address: _____

Applicant Name: _____

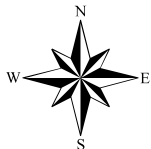
Parcel: Map: _____ Lot: _____

Application Checklist

Applications must be received 21 days prior to the next regular ZBA meeting

Have you included		Item	Land Use Office	
Yes	No		Yes	No
X		Application fees paid		

Include 1 original and 8 copies of the following				
X		Completed application for the type of appeal requested		
X		Owner Authorization Form, signed by all owners		
		If the application is based on a referral from the Select Board, the Planning Board, or a denial of a building permit from the Building Department it must be include with the application		
X		Other communication received from the Select Board, Planning Board, Building Department, or State agencies that pertains to the property (if applicable)		
X		Current copy of the deed to verify owner(s) and easements		
X		List of all abutters within 200 feet of the boundaries, or with shared water frontage		
X		Plot plan as described below		
Plot plan shall include the following <u>drawn to scale</u>				
X		Indicate where the site is located in Warner (locus map)		
X		Property boundary line measurements including setbacks on all sides and name of the frontage road.		
X		Include all existing structures, clearly indicate their dimensions, distance from other sturctures and from adjacent property lines measured from the roof overhang		
		For a proposed structure, include all of the above plus a floor plan with dimensions (lenghth, width, height)		



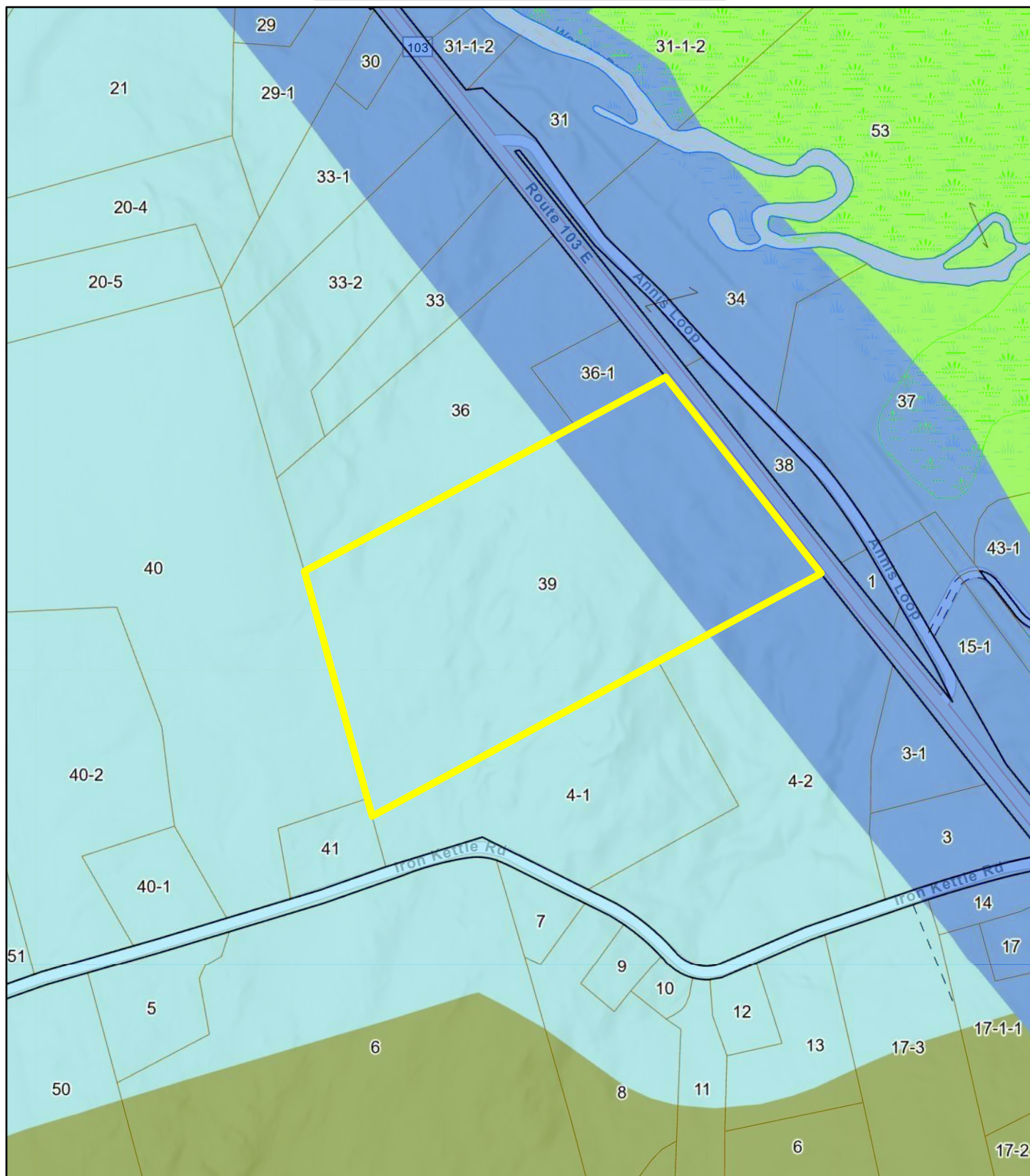
Warner, NH

1 inch = 500 Feet



www.cai-tech.com

July 15, 2025



Data shown on this map is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this map.

Abutter's List
Route 103
Warner, NH
KNA#24-0307-1
Updated 7/21/2025

Tax Map 7	Lot 39	Owner/ Applicant Peacock Hill Road, LLC C/O Fitzgerald 145 Old Town Road Weare, NH 03281
Tax Map 3	Lot 1 4-2	Direct Abutters Donald & Laura Green 460 Route 103 East Warner, NH 03278
3	4-1	M&P Brown Family Rev. Trust Trustees Michael W. & Paula J. Brown 100 Iron Kettle Road Warner, NH 03278
7	34	Nathanael M Burrington PO Box 221 Warner, NH 03278
7	36	Donald C & Barbara M Lassonde 402 Route 103 East Warner, NH 03278
7	36-1	Dan A Richardson 406 Route 103 East Warner, NH 03278
7	38	Czora Revoc Trust of 2016 Trustee Brian J Czora 60 Annis Loop Warner, NH 03278
7	40	Richard Cook & Rebecca Courser 374 Schoodac Road Warner, NH 03278
7	41	David P & Ann S Ries 115 Chestnut Circle Lincoln, MA 01773

NHDOT – District 5
16 East Point Drive
Bedford, NH 03110

Town of Warner -Select Board
PO Box 265
Warner NH 03278

Town of Warner -Planning Board
PO Box 265
Warner NH 03278

Warner River LAC
Daniel Morrissey, Chair
561 South Road
Hopkinton, NH 03229

Professionals to be notified:

Surveyor

J.E. Belanger Land Surveying PLLC
61 Old Hopkinton Road
Dunbarton, NH 03046

Engineer

Keach-Nordstrom Associates Inc.
10 Commerce Park North, Suite 3B
Bedford, NH 03110

Soil Scientist

Hurley Environmental & Land Planning, LLC
PO Box 356
Epsom, NH 03234

Wetland Scientist

Timothy Ferwerda - Ferwerda Mapping LLC
43 Bartlett Hill Road
Deering, NH 03244

Attorney

Bernstein Shur
A. Eli Leino, Esq.
PO Box 1120
Manchester, NH 03105-1120

Return to:
Grantee
15 Constitution Drive
Suite 1A
Bedford, NH 03110

T.S. \$2,025.00

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS: That Joseph L. Anthony, Single, for consideration paid grant(s) to Peacock Hill Road LLC, a New Hampshire Limited Liability Company, with a principal place of business of 15 Constitution Drive, Suite 1A, Bedford, New Hampshire 03110, with WARRANTY COVENANTS:

A certain tract or parcel of land, situated in the Town of Warner, County of Merrimack and State of New Hampshire, described as follows:

Beginning at a point on the Westerly side of Route 103, at the Northeasterly corner of the herein described parcel at an iron pin found; thence running S 22 degrees 34' 10" E a distance of five hundred fifty and eighty-eight hundredths (550.88) feet, more or less, to a concrete bound set; thence S 23 degrees 06' 10" E a distance of three hundred sixty-eight and four hundredths (368.04) feet, more or less, to a concrete bound found; thence along said course a distance of thirty-two and ninety-four hundredths (32.94) feet, more or less, to a steel pin found; thence turning and running S 78 degrees 27' 45" a distance of seven and sixteen hundredths (7.16) feet, more or less, to a drill hole at the Northeasterly end of a stone wall; thence running S 78 degrees 27' 45" W along a stone wall a distance of one hundred and fifty hundredths (100.50) feet, more or less, to a point; thence running S 77 degrees 10' 10" W along said stone wall a distance of one hundred thirty-seven and four hundredths (137.04) feet, more or less, to a point; thence running S 77 degrees 36' 40" W along said stone wall a distance of two hundred ninety and fifteen hundredths (290.15) feet, more or less, to a point; thence running s 77 degrees 12' 15" W along said stone wall a distance of one hundred forty-five and seventy hundredths (145.70) feet, more or less, to a point; thence running S 80 degrees 19' 30" W along said stone wall a distance of thirty-four and forty-four hundredths (34.44) feet, more or less, to a point; thence running S 76 degrees 47' 25" W a distance of two hundred thirty-seven and thirteen hundredths (237.13) feet, more or less, to a point on the stone wall; thence running S 77 degrees 49' 45" W along said stone wall a distance of two hundred ninety-nine and thirty-five hundredths (299.35) feet, more or less, to a point; thence running S 77 degrees 00' 10" W along said stone wall a distance of six hundred thirty-three and forty one hundredths (633.41) feet, more or less, to a drill hole at a corner of stone walls; thence turning and running N 01 degrees 32' 25" W a distance of fifty-two and fifty-eight hundredths (52.58) feet,

more or less, to a point; thence running N 01 degrees 34' 20" E a distance of four hundred thirty-three and fifty hundredths (433.50) feet, more or less, to a point on a stone wall; thence running N 01 degrees 28' 05" E along said stone wall a distance of three hundred twenty-seven and forty-three hundredths (327.43) feet, more or less, to a point; thence running N 02 degrees 15' 25" E along a stone wall a distance of one hundred three and two hundredths (103.02) feet, more or less, to a steel pin at a corner of stone walls; thence turning and running N 79 degrees 39' 10" E along a stone wall a distance of forty-two and seventy-six hundredths (42.76) feet, more or less, to a point; thence running N 76 degrees 03' 45" E along said stone wall a distance of one hundred sixty-seven and seventy-seven hundredths (167.77) feet, more or less, to a point; thence running N 77 degrees 00' 40" E along said stone wall a distance of five hundred thirty-five and seventy-two hundredths (535.72) feet, more or less, to a point along said stone wall; thence running N 76 degrees 00' 15" E along said stone wall a distance of four hundred three and ten hundredths (403.10) feet, more or less, to a point on said stone wall; thence running N 77 degrees 27' 40" E along said stone wall a distance of one hundred forty-three and ninety-three hundredths (143.93) feet, more or less, to a point along said stone wall; thence N 77 degrees 09' 40" E along said stone wall a distance of one hundred ninety-nine and eighty-five hundredths (199.85) feet, more or less, to the point of beginning. Containing 34.60 acres, more or less.

Subject to and with the benefit of the following:

Any and all matters as shown or noted on plan recorded in said Registry as Plan #12109.

Application of Current Use with the Town of Warner recorded at Book 1799, Page 949.

Petition for Commissioners' Return of New Hampshire Department of Public Works recorded at Book 739, Page 310.

Emendation Commissioners' Return of Highway Layout recorded at Book 991, Page 365.

Boundary Revision Agreement recorded at Book 1862, Page 172.

Meaning and intending to describe and convey the same premises conveyed to Joseph L. Anthony by virtue of a Warranty Deed from W. Jed Larson and Janet A. Larson, dated March 17, 2021 and recorded in the Merrimack County Registry of Deeds at Book 3729, Page 1057.

Said premises are not the homestead property of the within grantor nor any spouse.

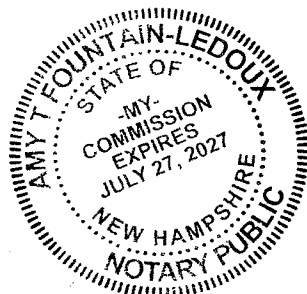
Executed this 29 day of June, 2023.

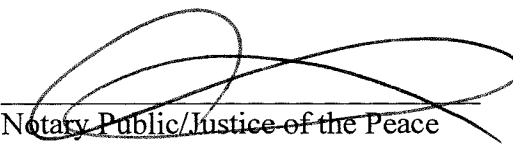


Joseph L. Anthony

State of New Hampshire
County of Hillsborough

Then personally appeared before me on this 29 day of June, 2023 the said Joseph L. Anthony and acknowledged the foregoing to be his voluntary act and deed.





Notary Public/Justice of the Peace
Commission expiration:

**Peacock Hill Road LLC
Route 103, Warner, NH
Map 7, Lots 39 & 39-1**

VARIANCE NARRATIVE

Introduction

Town of Warner Assessor's Map 7, Lot 39 (the "Property") is ±34.6 acres with the front portion of the Property located in the R-2 Zoning District and the rear portion in the R-3 Zoning District. On May 5th, 2025, the Warner Planning Board voted to conditionally approve a Subdivision for of the Property into three lots, each containing more than five acres. One of the resulting lots is to be used for a single-family home and the two larger lots to be used for multifamily housing. On June 2, 2025, the Warner Planning Board voted to accept a site plan application as substantially complete for the development of two lots as multifamily housing, with the proposed buildings located entirely in the R-2 zone. During the meeting questions arose regarding the application of the relevant buildable area calculations. On June 23, 2025, Chrissy Almanzar, Land Use, Town of Warner, sent the Applicant a letter interpreting Zoning Ordinance Article II.C.2, stating in part:

"[I]f you wish to build a development completely in the R-2 district, you will have to comply with all of the requirements applicable to the portion of the lot in the R-2 district, including the requirement of 5 acres of land in the R-2 district for the units proposed ...[or] seek a variance for "buildable area" from the ZBA."

In response to Ms. Almanzar's letter, the Applicant is filing this variance request (in conjunction with an Application for Administrative Appeal). For the reasons set forth herein, the proposal meets each criteria of RSA 674:33, and accordingly, the Applicant respectfully requests that a variance be granted.

Warner Zoning Ordinance Article XVII and RSA 674:33

1. Granting the variance will not be contrary to the public interest because:

A variance is contrary to the public interest when it unduly, and in a marked degree, conflicts with the Ordinance such that it violates the Ordinance's basic zoning objectives. *Malachy Glen Assocs., Inc. v. Town of Chichester*, 155 N.H. 102, 105 (2007). There are two methods for determining whether a variance violates a zoning ordinance's basic zoning objectives: (1) "whether granting the variance would alter the essential character of the neighborhood" or (2) "whether granting the variance would threaten the public health, safety or welfare." *Harborside Assocs., L.P. v. Parade Residence Hotel, LLC*, 162 N.H. 508, 514 (2011).

The variance requested here will not alter the essential character of the neighborhood nor threaten the public health, safety, or welfare. Granting the requested relief would allow the Applicant to construct four multifamily housing units per lot in the R-2 zone, where it is an allowed use. The variance is necessary because the lot is divided by the zoning line and one reading of the Zoning

Ordinance does not allow buildable area in another zone, albeit on the same property, to count toward the minimum buildable area calculation. Of note, multifamily housing is allowed in the R-3 zone by special exception, so the use complies with the basic zoning objectives of that zone as well.

Additionally, there is no risk to the public health, safety, or welfare that would arise from the Applicant's proposal. The new residences will provide necessary attainable housing options while not negatively impacting area traffic or emergency access. But for the buildable area solely in R-2 zone, the project is fully Ordinance compliant, so there will be no issue of overcrowding or anything else the Ordinance seeks to limit.

2. Granting the variance will not be contrary to the spirit of the ordinance:

The requirement that the variance not be "contrary to the public interest" is "related to the requirement that the variance be consistent with the spirit of the Zoning Ordinance." *Malachy Glen*, 155 N.H. at 105.

As noted above, the improvements will be consistent with the character of the area and Ordinance and will allow the Property to be put to its highest and best reasonable use without negatively impacting any neighbor or the public at large. The proposed variance does not conflict with the purpose and intent of the R-2 or R-3 district (namely, "residential use" and "planned growth [in] areas adjacent to the village center." *See* Ordinance at Article VI-VII.) and does not violate the basic objectives of the Ordinance. The development is proposed on lots significantly greater than the density calculations require so there will be no discernable change to the basic and essential character of the neighborhood by the granting of this variance, which observes the spirit of the Ordinance.

3. By granting the variance substantial justice is done:

The New Hampshire Supreme Court has held that measuring substantial justice requires balancing public and private rights. "Perhaps the only guiding rule is that any loss to the individual that is not outweighed by a gain to the general public is an injustice." *Harborside Assocs., L.P. v. Parade Residence Hotel, LLC*, 162 N.H. 508, 515 (2011). This development will aid the public by providing a manageable number of reasonably priced market-rate condominium units on a road capable of handling any increased traffic load. These attractive condominium units will not compete for resources or negatively affect any other residential properties. There is no injury to the public if the variance is granted because it will allow the Applicant to realize reasonable property rights while helping the community meet a distinct need for additional housing.

4. By granting the variance the value of surrounding properties are not diminished:

The most proximate houses, those on Route 103 and Annis Loop, are significantly screened by an existing woodland buffer, so this project will have no effect on residential property values. Additionally, use of this property for small-scale condominium housing will enhance the local

customer base for existing businesses on Route 103, potentially increasing the value of those properties.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

a. For purposes of this subparagraph, “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area:

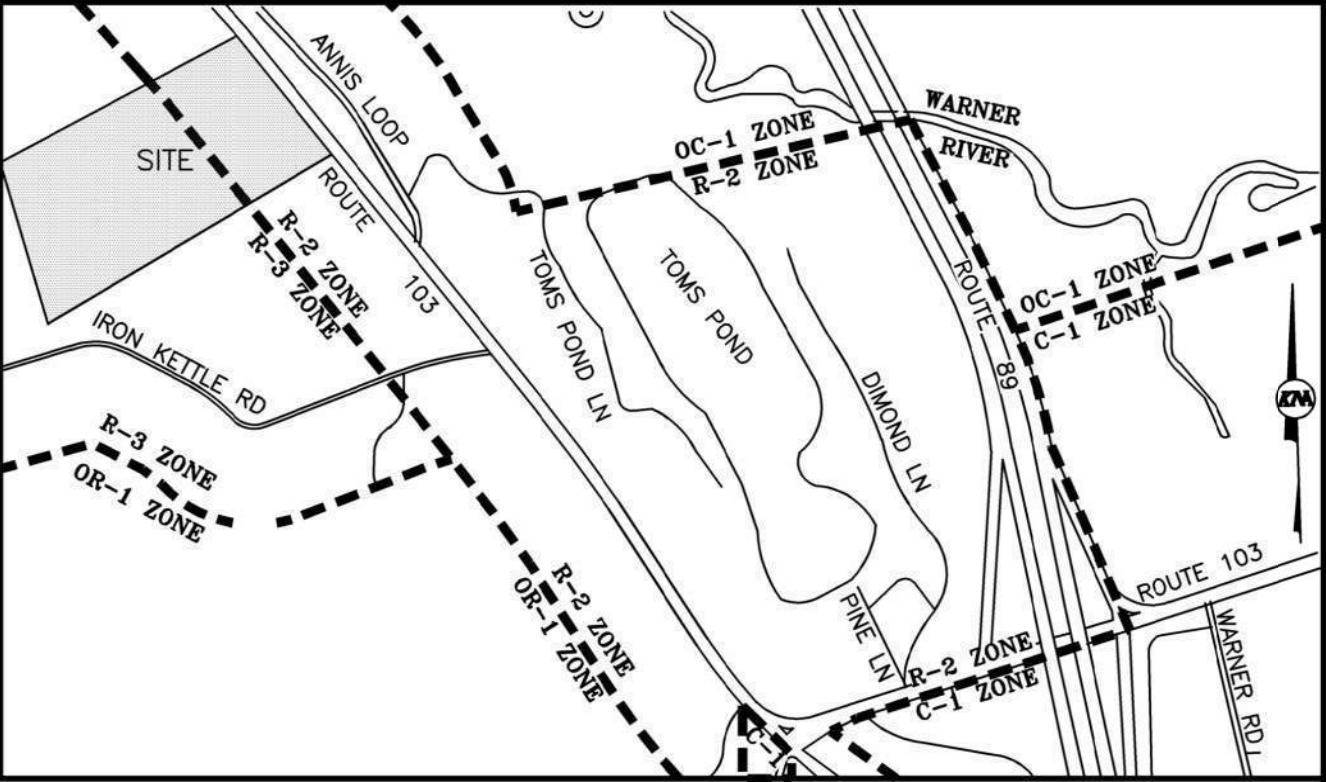
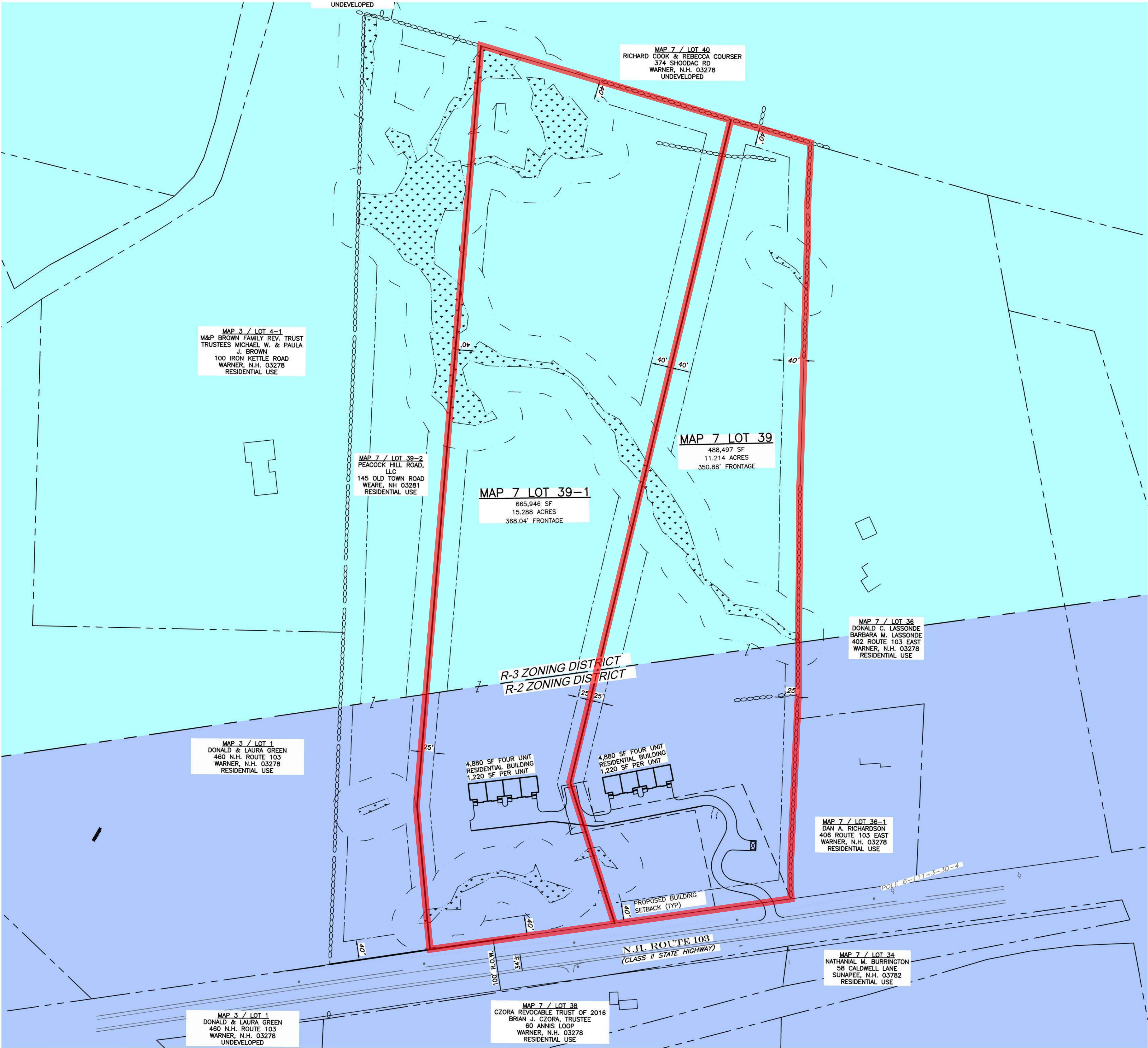
The property’s size and location at the edge of multiple zoning districts are each special conditions of the property that distinguish it from its neighbors and other properties in Warner at large. The significant tree coverage and the Applicant’s plan not to develop the area in the R-3 zone adds screening and privacy that are beneficial for residential use on the site and to those properties abutting it.

i. 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;

Fundamentally, the Applicant is trying to construct four units on a ± 11.214 acre lot, and an additional four units on ± 15.288 acres. The fact that the R-3 and R-2 zone lines bisect the property does not reduce the *actual* size of the lots, but does create an unfair burden with regard to calculating buildable area in each zone. Moving the proposed development to the R-3 zone where there is sufficient buildable area would require a special exception. While “a special exception is a use permitted upon certain conditions as set forth in a town’s zoning ordinance,” *Geiss v. Bourassa*, 140 N.H. 629, 631 (1996), the proposed use is allowed by right in the R-2 district, demonstrating a municipal preference for siting it in that zone. Of note, the R-2 zone is designed for medium density, whereas the R-3 zone is designed for low density. This proposal will allow medium density in R-2 while preserving open space in R-3.

ii. The proposed use is a reasonable one.

A proposed use is presumed to be reasonable if it is a permitted use under the Town’s Ordinance. *Malachy Glen*, 155 N.H. at 107. Multi-family residence at this density is permitted on the Property by right and is a reasonable use. *See id.* Only the buildable area calculation requirements of the Ordinance are impacted.



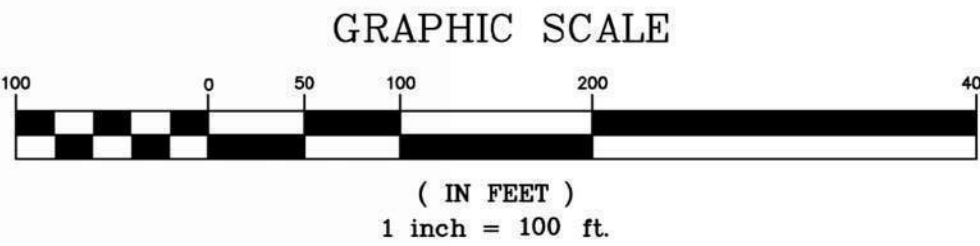
VICINITY MAP
SCALE: 1" = 1,000'

- NOTES:**
- THE PURPOSE OF THIS PLAN IS TO DEPICT THE IMPROVEMENT REQUIRED FOR A 4-UNIT BUILDING ON ASSESSOR'S MAP 7 LOTS 39 AND 39-1, SHOWN HEREON.
 - REFERENCE THESE PARCELS AS LOT 39 ON WARNER TAX MAP 7.
 - MAP 7 LOT 39 IS PRIMARILY FORESTED AND CONTAINS NO EXISTING STRUCTURES. IT IS PARTIALLY CLEARED AND CONTAINS AN EXISTING GRAVEL DRIVEWAY AND RIPRAP DRAINAGE DITCHES. THE EXISTING AREA IS 1,507,247 S.F. OR 34.60 AC.
 - SUBJECT PARCELS ARE SITUATED IN THE R2 AND R3 DISTRICT, BUT CONSTRUCTION IN ITS ENTIRETY WILL TAKE PLACE IN R2. THE FOLLOWING DIMENSIONAL STANDARDS APPLY:

REQUIREMENT	R2	R3
MIN BUILDABLE AREA	2 ACRES	3 ACRES
MIN LOT FRONTAGE	200 FT	250 FT
FRONT SETBACK	40 FT	50 FT
SIDE SETBACK	25 FT	40 FT
REAR SETBACK	25 FT	40 FT
MIN STRUCTURE SETBACK FROM WETLANDS	50 FT	50 FT
 - BUILDABLE AREA REQUIRED**

UNITS ON MAP 7 LOT 39	MINIMUM AREA REQUIRED: 2 AC + (1/2 x 2 ACRES)/EXTRA UNIT x 3 EXTRA UNITS = 5 AC	MINIMUM AREA PROVIDED: 8.774 ACRES
UNITS ON MAP 7 LOT 39-1	MINIMUM AREA REQUIRED: 2 AC + (1/2 x 2 ACRES)/EXTRA UNIT x 3 EXTRA UNITS = 5 AC	MINIMUM AREA PROVIDED: 11.050 ACRES
 - AN INVESTIGATION OF FEMA'S NATIONAL FLOOD INSURANCE RATE MAPPING FOR MERRIMACK COUNTY, NEW HAMPSHIRE (PANEL NO. 33013C0294E) HAVING AN EFFECTIVE DATE OF APRIL 19, 2010 SUGGESTS THOSE PORTIONS OF THE SUBJECT PARCEL SHOWN ON THIS PLAN IS NOT SITUATED IN A DESIGNATED FLOOD HAZARD AREA HAVING A BASE FLOOD ELEVATION (100-YEAR) ELEVATION OF 396.
 - TOPOGRAPHICAL SURVEY INFORMATION SHOWN HEREON IS REFERENCED TO THE NATIONAL GEODETIC VERTICAL DATUM (NGVD) OF 1929.

LOT NUMBER	LOT AREA (SF)	LOT AREA (ACRES)	R-2 BUILDABLE AREA (ACRES)	R-3 BUILDABLE AREA (ACRES)	TOTAL BUILDABLE AREA (ACRES)
MAP 7 LOT 39	488,497	11.2140	4.3100	4.4640	8.7740
MAP 7 LOT 39-1	665,946	15.2280	2.5480	8.5020	11.0500



ZONING BOARD EXHIBIT PLAN
JENNESSTOWN MANOR
MAP 7, LOTS 39 & 39-1
ROUTE 103
WARNER, NEW HAMPSHIRE
MERRIMACK COUNTY

OWNER/APPLICANT:

PEACOCK HILL ROAD, LLC
145 OLD TOWN ROAD
WEARE, NH 03281
BK. 3829 PG. 2512



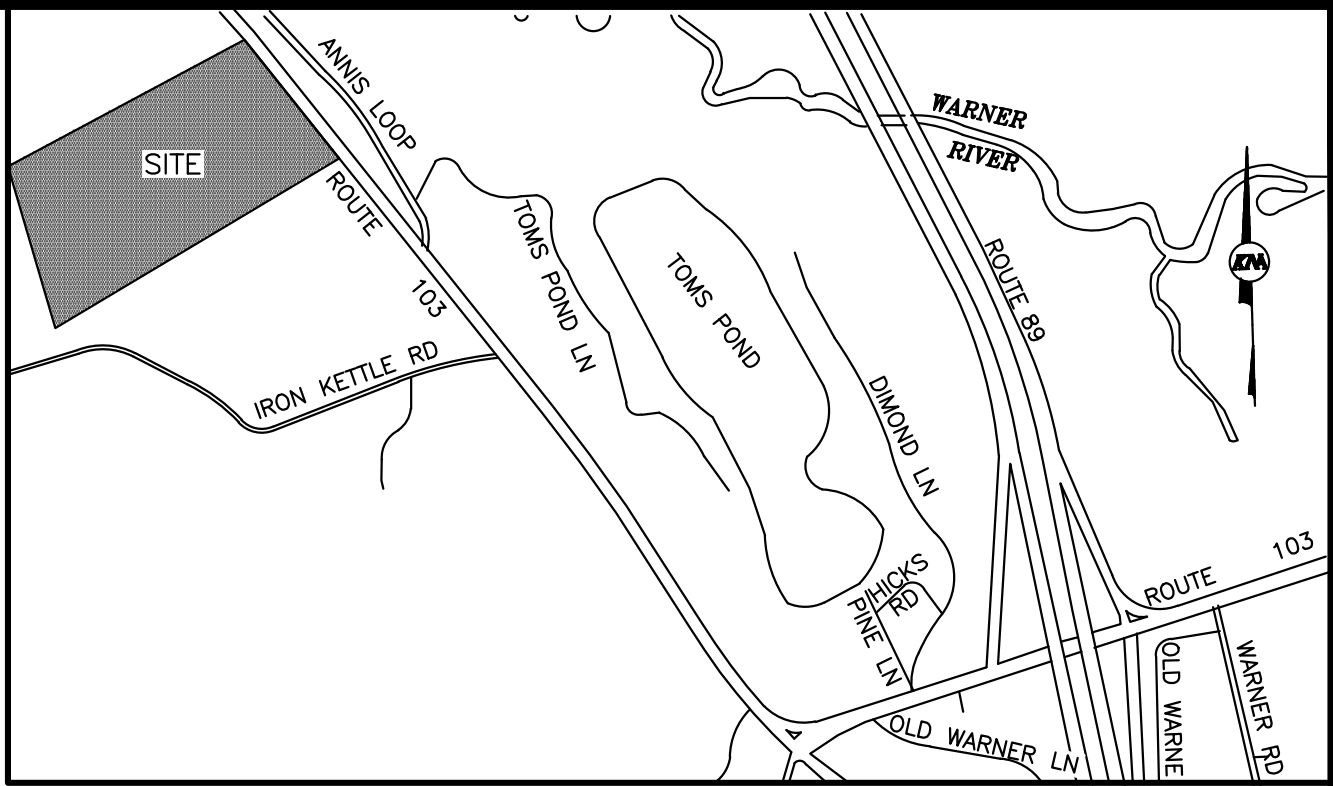
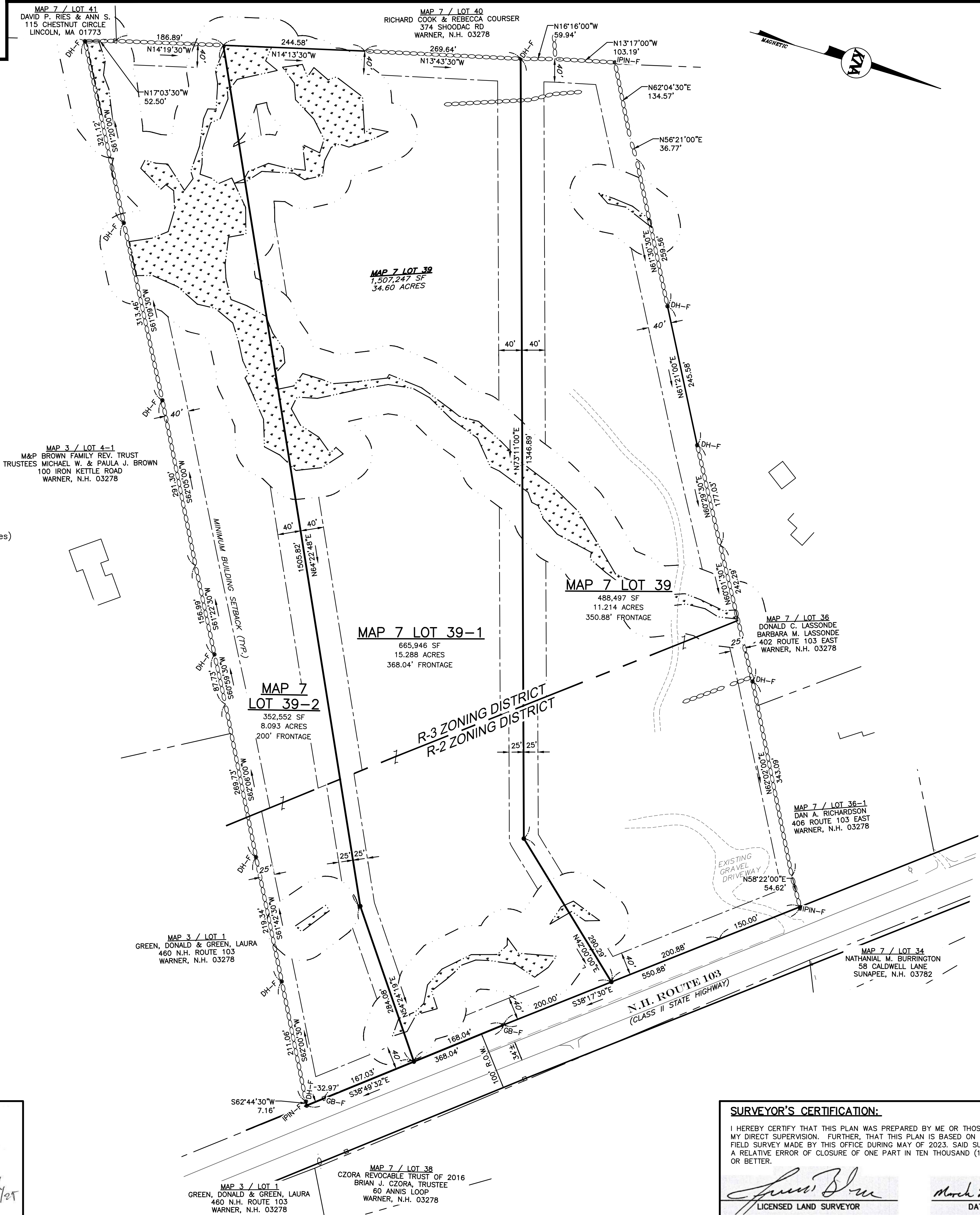
KEACH-NORDSTROM ASSOCIATES, INC.

Civil Engineering Land Surveying Landscape Architecture
10 Commerce Park North, Suite 3B, Bedford, NH 03110 Phone (603) 627-2881

REVISIONS			
No.	DATE	DESCRIPTION	BY
1	5/22/25	PER PB AND AOT COMMENTS	AEW
DATE: MARCH 25, 2025		SCALE: 1" = 100'	
PROJECT NO: 24-0307-1		SHEET 1 OF 1	

UTILITY NOTE

THE UNDERGROUND UTILITIES DEPICTED HEREON HAVE BEEN DRAWN FROM FIELD SURVEY INFORMATION AND OR PLOTTED FROM EXISTING DRAWINGS. KEACH-NORDSTROM ASSOCIATES, INC. MAKES NO GUARANTEES THAT THE UNDERGROUND UTILITIES DEPICTED COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. FURTHER, KEACH-NORDSTROM ASSOCIATES, INC. DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED. ALTHOUGH THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM THE INFORMATION AVAILABLE. KEACH-NORDSTROM ASSOCIATES, INC. HAS NOT PHYSICALLY LOCATED THE UNDERGROUND PORTIONS OF THE UTILITIES.

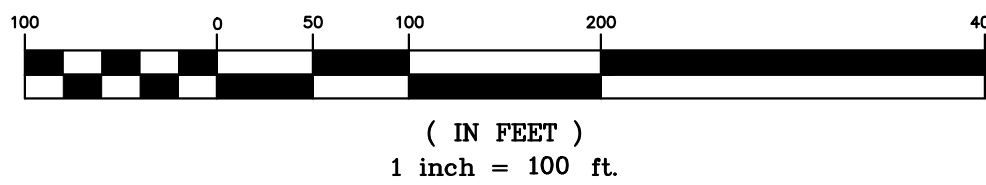


VICINITY MAP
SCALE: 1" = 1,000'

- NOTES:**
1. THE PURPOSE OF THIS PLAN IS TO SUBDIVIDE MAP 7 LOT 39 INTO 3 LOTS AS SHOWN HEREON AND NO OTHER PURPOSE.
 2. MAP AND LOT NUMBERS INDICATE THE TOWN OF WARNER ASSESSOR'S MAP AND LOT NUMBERS
 3. THE EXISTING AREA OF THE PARCEL IS 1,507,247 S.F. OR 34.60 ACRES.
 4. MAP 7 LOT 39 IS PRIMARILY FORESTED AND CONTAINS NO EXISTING STRUCTURES. IT IS PARTIALLY CLEARED AND HAS AN EXISTING GRAVEL DRIVEWAY.
 5. SUBJECT PARCEL IS SITUATED IN THE R2 AND R3 DISTRICT. THE FOLLOWING DIMENSIONAL STANDARDS APPLY:

REQUIREMENT	R2	R3
MIN BUILDABLE AREA	2 ACRES	3 ACRES
MIN LOT FRONTAGE	200 FT	250 FT
FRONT SETBACK	40 FT	50 FT
SIDE SETBACK	25 FT	40 FT
REAR SETBACK	25 FT	40 FT
MIN STRUCTURE SETBACK FROM WETLANDS	50 FT	50 FT
 6. BOUNDARY INFORMATION SHOWN HEREON IS BASED ON AN ACTUAL FIELD SURVEY PERFORMED BY THE OFFICE OF J.E. BALENGER LAND SURVEYING, PLLC IN MAY OF 2023.
 7. THE PROPOSED PARCELS ARE ALL OVER 5 ACRES IN SIZE AND THEREFORE DO NOT REQUIRE NHDES SUBDIVISION APPROVAL.
 8. MAP 7 LOTS 39 AND 39-1 WILL HAVE A SHARED DRIVEWAY.
 9. THE PROPOSED PARCELS WILL BE SERVICED WITH ON-SITE WATER SUPPLY AND ON-SITE SEWAGE DISPOSAL SYSTEMS.
 10. AN INVESTIGATION OF FEMA'S NATIONAL FLOOD INSURANCE RATE MAPPING FOR MERRIMACK COUNTY, NEW HAMPSHIRE (PANEL NO. 33013C0294E) HAVING AN EFFECTIVE DATE OF APRIL 19, 2010 SUGGESTS THOSE PORTIONS OF THE SUBJECT PARCEL SHOWN ON THIS PLAN IS NOT SITUATED IN A DESIGNATED FLOOD HAZARD AREA HAVING A BASE FLOOD ELEVATION (100-YEAR) ELEVATION OF 396.
 11. TOPOGRAPHICAL SURVEY INFORMATION SHOWN HEREON IS REFERENCED TO THE NATIONAL GEODETIC VERTICAL DATUM (NGVD) OF 1929.
 12. THE LOCATION OF ANY UNDERGROUND UTILITY INFORMATION SHOWN HEREON IS APPROXIMATE. KEACH-NORDSTROM ASSOCIATES, INC. MAKES NO CLAIM TO THE ACCURACY OR COMPLETENESS OF THE UTILITIES SHOWN. PRIOR TO ANY EXCAVATION ON SITE THE CONTRACTOR OR OWNER SHALL CONTACT DIG-SAFE AT 811.
 13. SUBJECT TO EASEMENTS, RIGHTS AND RESTRICTIONS SHOWN OR IDENTIFIED HEREON ARE THOSE FOUND DURING RESEARCH AT THE MERRIMACK COUNTY REGISTRY OF DEEDS. OTHER EASEMENTS, RIGHTS AND RESTRICTIONS MAY EXIST WHICH A TITLE EXAMINATION OF THE SUBJECT PREMISES MAY DETERMINE.
 14. THE APPLICANT SHALL OBTAIN ANY OTHER FEDERAL, STATE, OR LOCAL APPROVALS THAT MAY BE REQUIRED.
 15. THE SUBDIVISION REGULATIONS OF THE TOWN OF WARNER ARE A PART OF THIS PLAT, AND APPROVAL OF THE PLAT REQUIRES THE COMPLETION OF ALL THE REQUIREMENTS OF SAID SUBDIVISION REGULATIONS EXCEPTING ONLY ANY RELAXATION OF REQUIREMENTS GRANTED IN WRITING BY THE PLANNING BOARD.
 16. SHEET 1 SHALL BE RECORDED IN THE MERRIMACK COUNTY REGISTRY OF DEEDS. ALL THREE SHEETS IN THE PLAN SET ARE ON FILE WITH THE TOWN OF WARNER.

GRAPHIC SCALE



SUBDIVISION PLAN
JENNESSTOWN MANOR
MAP 7, LOT 39
ROUTE 103
WARNER, NEW HAMPSHIRE
MERRIMACK COUNTY

OWNER/APPLICANT:

PEACOCK HILL ROAD, LLC
145 OLD TOWN ROAD
WEARE, NH 03281
BK. 3829 PG. 2512

KEACH-NORDSTROM ASSOCIATES, INC.
Civil Engineering Land Surveying Landscape Architecture
10 Commerce Park North, Suite 3B, Bedford, NH 03110 Phone (603) 627-2881

REVISIONS

No.	DATE	DESCRIPTION	BY

DATE: MARCH 25, 2025

SCALE: 1" = 100'

PROJECT NO: 24-0307-1

SHEET 1 OF 3

SURVEYOR'S CERTIFICATION:

I HEREBY CERTIFY THAT THIS PLAN WAS PREPARED BY ME OR THOSE UNDER MY DIRECT SUPERVISION. FURTHER, THAT THIS PLAN IS BASED ON AN ACTUAL FIELD SURVEY MADE BY THIS OFFICE DURING MAY OF 2023. SAID SURVEY HAS A RELATIVE ERROR OF CLOSURE OF ONE PART IN TEN THOUSAND (1:10,000) OR BETTER.

[Signature]
LICENSED LAND SURVEYOR

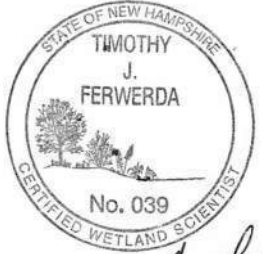
March 21/25
DATE

WETLAND CERTIFICATION:

TIMOTHY FERWERDA, CERTIFIED WETLAND SCIENTIST #39 OF FERWERDA MAPPING LLC, OF DEERING, NH, PERFORMED THE WETLAND IDENTIFICATION AND DELINEATION IN DECEMBER, 2022 ACCORDING TO THE CORPS OF ENGINEERING WETLAND DELINEATION MANUAL AND THE REGIONAL SUPPLEMENT TO THE CORPS OF ENGINEERS WETLAND DELINEATION MANUAL; NORTH CENTRAL AND NORTHEAST REGION, VERSION 2.0, JANUARY 2012, US ARMY CORPS OF ENGINEERS.

CERTIFIED WETLAND SCIENTIST

DATE



[Signature]
3/24/25