



ZBA Application
MILFORD ZONING BOARD OF ADJUSTMENT
GENERAL PROPERTY INFORMATION FOR ALL APPLICATIONS

Date Received: 9/1/19
 Case Number: 2019-24
 Application Number: _____
 Hearing Date: 9/19/19
 Decision Date: _____
 Decision: _____

PROPERTY INFORMATION

Street Address: 37 High Street
 Tax Map / Parcel #: 26-136 Lot Size: 9,583 sf (.22 acres)

PROPERTY CURRENTLY USED AS

2-story mixed used building consisting of office space on the first floor and a single-apartment on the second.

If the application involves multiple lots with different owners, attach additional copies of this page.

PROPERTY OWNER

Name: Corey Arbogast
 Address: 277 Day Break Lane
 City/State/Zip: Boone, NC 28607
 Phone: () 603 801 8211
 Email: coreyarbogast@msn.com

The applicant is the person who is making this proposal on behalf of themselves, the owner or a third party. This is usually the same as the property owner, but might be a tenant, someone who plans to purchase the property, an engineer or lawyer, etc. If the applicant is the same as the owner, just check "Same as owner" and leave the rest of this section blank.

APPLICANT/REPRESENTATIVE

SAME AS OWNER
 Name: _____
 Address: _____
 City/State/Zip: _____
 Email: _____
 Phone: () _____ Cell: () _____

The undersigned property owner(s) hereby authorize(s) the filing of this application and agree to comply with all code requirements applicable to this application.

Corey Arbogast 9/1/19
 Property Owner's signature Date:

Zoning District (check one):

- Residence A
- Residence B Residence R
- Commercial
- Limited Commercial
- Industrial
- Integrated Commercial-Industrial
- Integrated Commercial-Industrial-2

Overlay District (check any that apply):

- West Elm Street Overlay
- Nashua/Elm Street Overlay
- Commerce & Community Overlay
- Open Space & Conservation
- Wetlands Conservation
- Groundwater Protection
- Floodplain Management

APPLICATION FEES

Application Fee:	\$75.00
Abutters Fee: \$4 x <u>10</u>	<u>40.00</u>
Amount received:	<u>\$115.00</u>
Date Received:	
Check _____ Cash _____	

THE FEES ASSOCIATED WITH THIS APPLICATION DO NOT APPLY TO ANY OTHER FEES REQUIRED FOR APPROVAL OF THIS PROJECT. PLANNING, IMPACT, BUILDING AND OTHER FEES MAY APPLY.



ZBA Application – Variance
MILFORD ZONING BOARD OF ADJUSTMENT

Date Received: _____
 Case Number: _____
 Application #: _____
 Date Complete: _____
 Hearing Date: _____
 Decision Date: _____
 Decision: _____

PROPERTY INFORMATION
Street Address: 37 High Street
Tax Map / Parcel #: 26-136
<i>A Variance is a use which is not permitted by the Zoning Ordinance. Approval from the Zoning Board of Adjustment is required to allow any use or deviation from the Zoning Ordinance. Please work with the Zoning Administrator to make sure your application is complete and you know what will be required of you at the hearing.</i>
What section of the Zoning Ordinance are you asking to be varied? Article <u> V </u> Section <u> 5.05.1.P </u> Describe the variance you are requesting under the above section of the Ordinance. Seeking to create a two-family residence by converting an existing first floor office of a mixed-use building into a 2nd residential unit on a non-conforming lot within the Commercial Zoning District requiring a minimum of 20,000 square feet and 150 linear feet of frontage. Map 26, Lot 115 consists of 19,166 square feet with 80 linear feet of frontage on High Street.

General Criteria Section 10.01
<i>Explain how the proposal meets the following conditions per New Hampshire RSA 674:33.I</i>
1. Granting the Variance would not be contrary to the public interest because: See attached.
2. If the Variance were granted, the spirit of the ordinance would be observed because: See attached.
3. Granting the Variance would do substantial justice because: See attached.
4. Granting the Variance would not diminish the value of surrounding properties because: See attached.
5. Unnecessary Hardship: <i>This section is the central portion of your argument and is the critical factor that the Zoning Board of Adjustment will need to determine what is unique to your property and not generally applicable to other properties in the area or in town.</i>



ZBA Application – Variance

MILFORD ZONING BOARD OF ADJUSTMENT

A. Owing to special conditions of the property that distinguish it from other properties in the area; denial of the Variance would result in unnecessary hardship because:

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 because :

See attached.

AND

ii. The proposed use is a reasonable one because:

See attached.

(B) Explain how, if the criteria in paragraph (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:

See attached.

(C) Notwithstanding paragraph (B) above, a Variance may be granted without finding a hardship arising from the terms of the Zoning Ordinance when reasonable accommodations are necessary to allow a person or persons with a recognized **physical disability** to reside in or regularly use the premises, provided that:

N/A

1. The Variance requested under this paragraph shall be in harmony with the general purpose and intent of the Zoning Ordinance because:

In addition, Variances may have extra criteria that must be met. This includes, but is not limited to:

6.03.5 Floodplain Management: The criteria for evaluation is listed in 6.03.5:B General Conditions and the applicable conditions are listed in 6.03.5:C. If your project is covered by this regulation, include your answers to the required criteria as specified in the referenced Section of the Milford Zoning Ordinance as an attachment under Section 3 C. of this application.

ATTACHMENTS – additional information may be needed to help the Zoning Board of Adjustment fully understand your petition.

- A. A plan of the property and all buildings, drawn to scale, is required.
- B. A Building Permit Application as needed (to be determined by the building official.)
- C. Additional explanations, justification, abutters' statements, letters, etc.



ZBA Application – Variance
MILFORD ZONING BOARD OF ADJUSTMENT

Please read the following information that is designed to help you understand the unique nature of a Variance petition.

Town of Milford Zoning Ordinance can be found at:

[http://planning.milfordnh.info/DOCUMENTS/ZONING%20ORDINANCE%20MASTER%20\(2011\).pdf](http://planning.milfordnh.info/DOCUMENTS/ZONING%20ORDINANCE%20MASTER%20(2011).pdf)

NH RSAs, Chapters 672-677 can be found at:

<http://www.gencourt.state.nh.us/rsa/html/NHTOC/NHTOC-LXIV.htm>

VARIANCE: A variance is an authorization, which may be granted under special circumstances, to use your property in a way that is not permitted under the strict terms of the zoning ordinance. If you are applying for a variance, you must first have some form of determination that your proposed use is not permitted without a variance. Most often, this determination is a denial of a building permit. A copy of the determination must be attached to your application.

For a variance to be legally granted, you must show that your proposed use meets all five (5) of the following conditions:

- a. Granting the Variance would not be contrary to the public interest.

A variance would be considered contrary to the public interest if it unduly and to a marked degree violated the basic zoning objectives of the Zoning Ordinance. Will the variance alter the essential character of the neighborhood or threaten the health, safety, or general welfare of the public?

- b. Granting the Variance would observe the spirit of the ordinance.

This requires that the effect of the variance be evaluated in light of the goals of the zoning ordinance.

- c. Substantial justice would be done by granting the Variance.

Substantial justice is done when any loss to the individual is not outweighed by a gain to the general public.

- d. Granting the Variance would not diminish the value of surrounding property.

The applicant, to convince the Zoning Board must explain that granting the variance will not decrease the value of surrounding property.

- e. Denial of the Variance would result in an unnecessary hardship.

The first requirement is that there are special conditions or characteristics applying to the property (such as, but not limited to, exceptional narrowness, shallowness, or shape of the property, or exceptional topographical conditions), that distinguish it from other properties in the area. Because of these special conditions, 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 finally, the proposed use must be a reasonable one. You must explain what makes the property unique and why a "hardship" would be created if the terms of the ordinance were strictly applied.

In lieu of a claim of unnecessary hardship, the Variance may be granted when reasonable accommodations are necessary to allow a person or persons with a recognized physical disability to reside in or regularly use the premises, provided that any Variance sought shall be in harmony with the general purpose and intent of the zoning ordinance and the Variance shall survive only so long as the particular person or persons have a continuing need to use the premises. To meet this criterion, explain the accommodations that are necessary and identify the person or persons and provide evidence of their disability.

Attachment 1: Board of Adjustment Application

1. Granting the Variance would not be contrary to the public interest because:

The proposed conversion of the first floor office space to a residence (apartment) creating a two-family residence would be in like kind and consistent with the surrounding neighborhood and historical use of the property. Originally built in the 1853, the building has been historically used as a two-family residential use. In the late mid to late 1980's the first floor apartment was converted into a law office. This particular section of the Commercial Zoning District on High Street is primarily residential in nature comprised of single-family, two-family, and multi-family uses on similarly legally non-conforming lots. (See Attachment 2 – High Street Area Map.)

2. If the Variance were granted, the spirit of the ordinance would be observed because:

Two-family residential homes are permitted as an acceptable use in the Commercial Zoning District as are mixed uses. Originally built in the 1853, the building has been historically used as a two-family residential use. The creation of the lot and two-family use pre-dates the adoption of the Zoning Ordinance in 1969. The dimensional requirements in the Zoning Ordinance were eventually amended requiring larger lot sizes and frontage requirements. However, a two-family use was still permitted. This resulted in the subject lot becoming a legally, non-conforming lot. The granting of the Variance to re-establish the two-family residence on a pre-existing, non-conforming parcel would be in the spirit of the ordinance. The proposal would not change/impact the character and is consistent with the existing uses (predominantly comprised of single-family and two-family uses) directly abutting the subject parcel and neighborhood with similarly legally non-conforming lots, and lastly, the historical use of the property.

3. Granting the Variance would do substantial justice because:

Re-establishing the two-family will result in substantial justice. The property and building have been historically used as a two-family residential use. Prior to mid to late 1980's, the use of the building was a two-family residence. The proposal would not change/impact the character and is consistent with the existing uses (predominantly comprised of single-family and two-family uses) directly abutting the subject parcel and neighborhood with similarly legally non-conforming lots, and lastly, the historical use of the property. Further, the exterior of the building will remain unchanged and continue to preserve the residential architecture. All construction associated with the second residential unit would be contained within the building.

4. Granting the Variance would not diminish the value of surrounding properties because:

The granting of the Variance to re-establish the two-family residence would not diminish the value of the surrounding properties. The proposed use and subject parcel are similar to the uses and existing substandard conditions (minimum dimensional requirements) of the surrounding properties and would not change the character of this section of the Commercial Zoning District. (See Attachment 2 – High Street Area Map.) Further, the building features and exterior will remain unchanged and continue to preserve the residential character and architecture. All construction associated with the second residential unit would be contained within the building.

Further, the proposed two-family will not adversely impact traffic on High Street and the property contains sufficient parking (4 spaces required) for both units.

5. Unnecessary Hardship:

A. Owing to special conditions of the property that distinguish it from other properties in the area; denial of the Variance would result in unnecessary hardship because:

- 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 because:

The application of the ordinance provisions (e.g. 20,000 s.f. minimum lot size and 150 linear feet of frontage requirements for a two-family use) to this property would not advance the purposes of the ordinance provisions in a fair and substantial way. The property has long history of being a two-family residence. The creation of the lot and the two-family use pre-date the adoption of the Zoning Ordinance in 1969. The purpose is to re-establish the permitted two-family use on a substandard lot. The proposed use on a legally, non-conforming lot is consistent with the current and historical uses (predominantly comprised of single-family and two-family residences) directly abutting the subject parcel and neighborhood and located on similarly legally, non-conforming lots within this section of the Commercial Zoning District.

AND

- ii. The proposed use is a reasonable one because:

Owing to special conditions of the property, the proposed use on a substandard lot within this section of the Commercial Zoning District is reasonable. The proposed use and subject parcel are similar to the uses and existing substandard conditions (minimum dimensional requirements) of the surrounding properties and would not change the character of this section of the Commercial Zoning District. (See Attachment 2 – High Street Area Map.) The building features and exterior will remain unchanged and continue to preserve the residential character and architecture. All construction associated with the second residential unit would be contained within the building. Further, the proposed two-family will not adversely impact traffic on High Street and the property contains sufficient parking (4 spaces required) for both units.

- B. Explain how, if the criteria in paragraph (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:

The application of the minimum dimensional lot size and frontage requirements to allow the proposed two-family residential use (a permitted use) on a pre-existing, non-conforming property within this section of the Commercial Zoning District creates a significant hardship. Re-establishing the two-family residence would be in like kind and consistent with the surrounding neighborhood and historical use of the property. This particular section of the Commercial Zoning District on High Street is primarily residential in nature comprised of single-family, two-family, and multi-family uses on similarly legally non-conforming lots. (See Attachment 2 – High Street Area Map.)

ARBOGAST, COREY J
277 DAY BREAK LN
BOONE, NC 28607-9416

ARBOGAST, COREY J & TAMMY
277 DAY BREAK LN
BOONE, NC 08607-9416

BIALCZAK, MARTIN & MARSIL
70 FRANKLIN ST
MILFORD, NH 03055-3703

BORRUM, TYLER JOHN
BARISANO, HEATHER CYNTHIA
211 NASHUA ST
MILFORD, NH 03055

LACHAPPELLE, LOIS
931 WILTON RD
MASON, NH 03048

LYDON, MATTHEW D
50 HIGH ST
MILFORD, NH 03055

POPLAR, BRENDA
PO BOX 543
MILFORD, NH 03055-0543

SENTRY MANAGEMENT CORP TR
SOUHEGAN VILLAGE REAL EST
660 HARVEY RD
MANCHESTER, NH 03103-3320

WHEELER, JEFFREY C & CHRI
18 HIGH ST
MILFORD, NH 03055



50 foot Abutters List Report

Milford, NH
September 10, 2019

Subject Property:

Parcel Number: 026-136-000-000
CAMA Number: 026-136-000-000
Property Address: 37 HIGH ST

Mailing Address: ARBOGAST, COREY J
277 DAY BREAK LN
BOONE, NC 28607-9416

Abutters:

Parcel Number: 026-114-000-000
CAMA Number: 026-114-000-000
Property Address: 18 HIGH ST

Mailing Address: WHEELER, JEFFREY C & CHRISTINA
18 HIGH ST
MILFORD, NH 03055

Parcel Number: 026-115-000-000
CAMA Number: 026-115-000-000
Property Address: 30 HIGH ST

Mailing Address: ARBOGAST, COREY J & TAMMY L
277 DAY BREAK LN
BOONE, NC 08607-9416

Parcel Number: 026-116-000-000
CAMA Number: 026-116-000-000
Property Address: 50 HIGH ST

Mailing Address: LYDON, MATTHEW D
50 HIGH ST
MILFORD, NH 03055

Parcel Number: 026-124-000-000
CAMA Number: 026-124-000-000
Property Address: 221 NASHUA ST

Mailing Address: POPLAR, BRENDA
PO BOX 543
MILFORD, NH 03055-0543

Parcel Number: 026-125-000-000
CAMA Number: 026-125-000-000
Property Address: 211 NASHUA ST

Mailing Address: BORRUN, TYLER JOHN BARISANO,
HEATHER CYNTHIA
211 NASHUA ST
MILFORD, NH 03055

Parcel Number: 026-126-000-000
CAMA Number: 026-126-000-000
Property Address: 199 NASHUA ST

Mailing Address: SENTRY MANAGEMENT CORP TRSTEE
SOUHEGAN VILLAGE REAL ESTA TRS
660 HARVEY RD
MANCHESTER, NH 03103-3320

Parcel Number: 026-133-000-000
CAMA Number: 026-133-000-000
Property Address: 70 FRANKLIN ST

Mailing Address: BIALCZAK, MARTIN & MARSILDA
70 FRANKLIN ST
MILFORD, NH 03055-3703

Parcel Number: 026-135-000-000
CAMA Number: 026-135-000-000
Property Address: 53 HIGH ST

Mailing Address: LACHAPELLE, LOIS
931 WILTON RD
MASON, NH 03048

Parcel Number: 026-136-000-000
CAMA Number: 026-136-000-000
Property Address: 37 HIGH ST

Mailing Address: ARBOGAST, COREY J
277 DAY BREAK LN
BOONE, NC 28607-9416

Town of Milford



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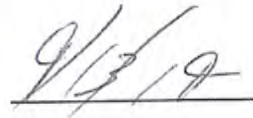
September 13, 2019

To Whom It May Concern

I give Susan Robinson authorization to speak on me behalf at the Public Hearing related to the variances of 37 High Street, Milford, NH, 03055.



Corey Arbogast



Date

Attachment 2: High Street Area Map



September 12, 2019

Milford, NH

1 inch = 60 Feet

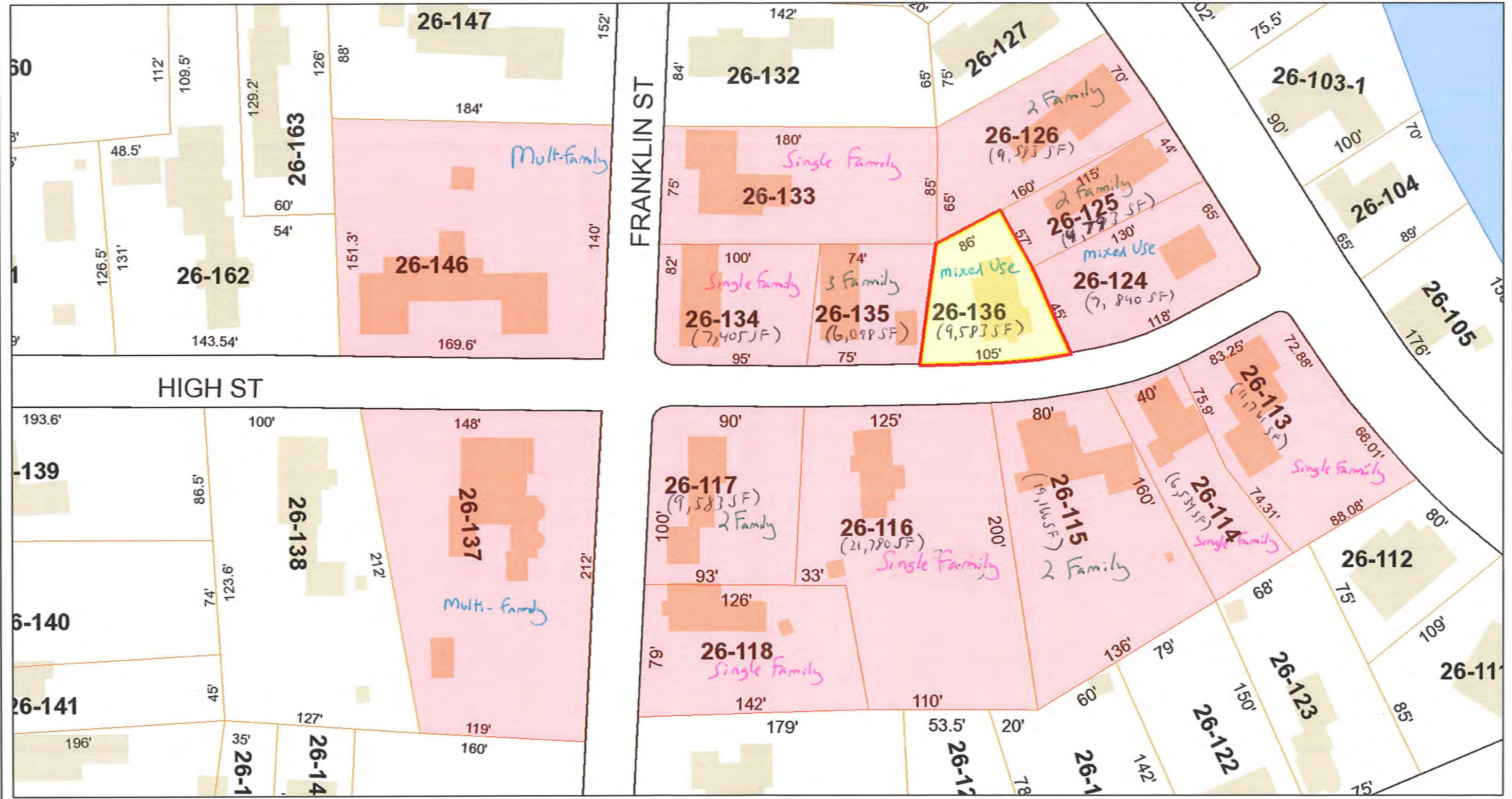


View
 Single Family
 2 Family
 Multi-Family
 Mixed Use

- Single Family Residential
- Two Family Res Use
- Three or more Unit Res. Use
- Building Containing Both Commercial/Non-Res Use and Res Use.



www.cai-tech.com



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.

Project Area Map: 37 High Street, Map 11 Lot 19

