

TOWN OF MILFORD

Office of Community Development

Planning • Zoning • Building Safety • Code Enforcement • Health
Economic Development • Active Projects



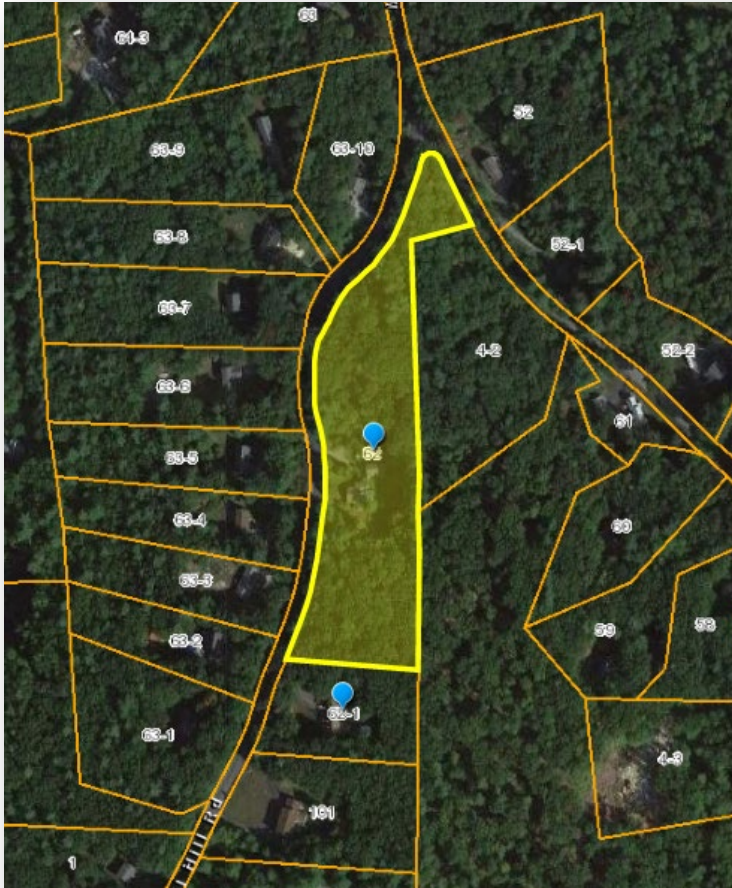
Administrative Review

Date: July 30, 2020
To: Jason Plourde, Chair, Zoning Board of Adjustment
From: Lincoln Daley, Community Development Director
Subject: **Case #2020-14: Christina McMahon for the property located at Milford Tax Map 47, Lot 62, 34 Ball Hill Road - Variance Application** (*Continued from July 2, 2020*)

The applicant is before the Board of Adjustment seeking a VARIANCE from the Milford Zoning Ordinance, Article V, Section 5.04.4. to create a 1.5 acre lot where a minimum of 2 acres are required for a parcel in the Residential 'R' district. In reviewing the files for this property, I offer the following comments:

1. Existing Conditions:
 - a. The subject property is approximately 4.52 acres in area and contains a single-family house centrally located on the lot. The property is primarily undeveloped and is serviced by a private well and septic.
 - b. The property contains more than 1,200 linear feet of frontage on Ball Hill Road and 153 linear feet on Melendy Road.
 - c. Access to the single-family residence is from Ball Hill Road.
 - d. The subject property is situated in an established single-family residential area. To the west of the subject property on Ball Hill Road are single-family homes on properties varying in size from 1.28 acres (Map 47 Lot 63-2) to more than 2 acres. To the north, south, and east lie single-family residences that also range in acreage from 1.28 (Map 47 Lot 62-1) to in excess of 2 acres and conservation land.
2. The applicant is seeking to subdivide 1.5 acres from the southern portion of parent lot to build a single-family residence. The proposed lot would have approximately 300 linear feet of frontage on Ball Hill Road and be serviced by a private well and septic. Similar to the parent lot, the driveway access would be on Ball Hill Road.
3. The proposed 1.5 lot conforms to all dimension requirements of the Zoning Ordinance with the exception of the required 2 acre minimum for a property in the Residential 'R' Zoning District. Pursuant to Article V, Section 5.04.4, a Variance is required to create the 1.5 acre lot
4. At the July 2, 2020 meeting, the Board continued the application to allow the applicant to provide additional information from a land use professional to perform a site evaluation detailing the development options/limitations for the property. See attached site evaluation from Fieldstone Land Consultants dated July 28, 2020.

Aerial Photos of Subject Property:





ZBA Application

MILFORD ZONING BOARD OF ADJUSTMENT

GENERAL PROPERTY INFORMATION FOR ALL APPLICATIONS

Date Received: 5/29/20/6-22-20
 Case Number: 202074
 Application Number: 2020 0850
 Hearing Date: 7-2-2020
 Decision Date: _____
 Decision: _____

PROPERTY INFORMATION

Street Address: 34 Ball Hill Rd
 Tax Map / Parcel #: Tax Map 5762 / Lot 234 Lot Size: 1.5 acres

PROPERTY CURRENTLY USED AS

Single family residence

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

PROPERTY OWNER

Name: Normand Laquerre, Fleurette Laquerre
 Address: 34 Ball Hill Rd
 City/State/Zip: Milford NH
 Phone: () 603.673.2370
 Email: laquerren@aol.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: Christina McMahon
 Address: 63 Burnt Swamp Rd
 City/State/Zip: East Kingston, NH 03827
 Email: christina.mcmahon@live.com
 Phone: () 603.300.2110 Cell: () (same)

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.

Normand V. Laquerre 06/06/2020
 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: <u>\$4 x 5</u>	\$20.00
Amount received:	\$95.00
Date Received: <u>ck 10/1</u>	
Check <input checked="" type="checkbox"/> Cash <input checked="" type="checkbox"/>	

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

5/29/2020/6/22/20

Date Received: 2020-14
 Case Number: _____
 Application #: _____
 Date Complete: _____
 Hearing Date: 7-2-20
 Decision Date: _____
 Decision: _____

PROPERTY INFORMATION
Street Address: 34 Ball Hill Road
Tax Map / Parcel #: Tax Map <u>5</u> / Lot <u>231 47/62</u>
<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>5</u> Section <u>5.04.4</u>
Describe the variance you are requesting under the above section of the Ordinance. This request is for a reduced lot area within the Residence "R" District; the existing lot was previously surveyed and subdivided under former zoning regulations which have since been revised. Due to the location of the existing residence the lot line can not be adjusted to accomodate the full 2 acres, resulting in the proposed lot area of 1.5 acres.

General Criteria Section 10.01

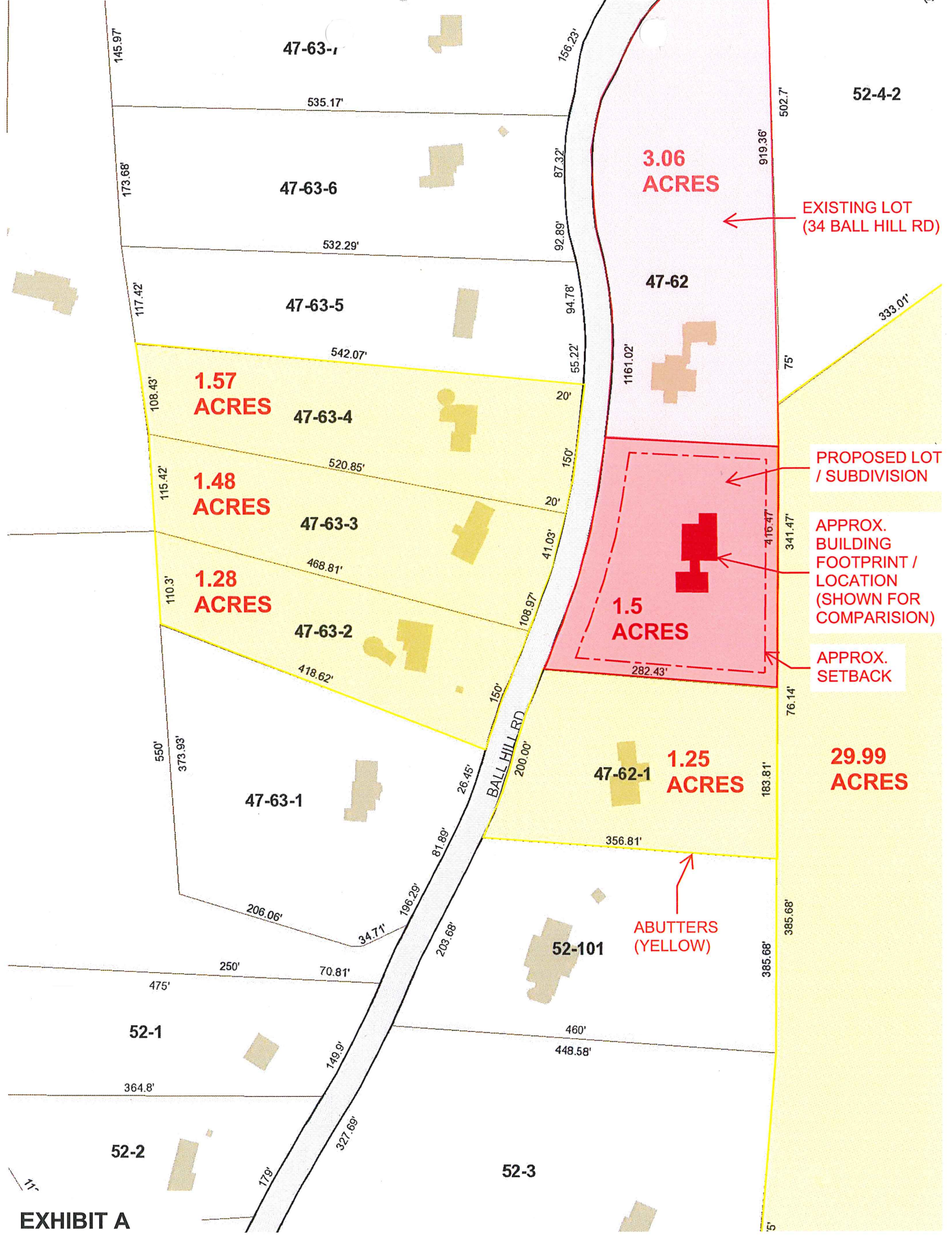
Explain how the proposal meets the following conditions per New Hampshire RSA 674:33.I

- Granting the Variance would not be contrary to the public interest because:
 The proposed parcel maintains similar density, exceeds the required road frontage and will maintain the same use (single family residential) within its neighborhood.
- If the Variance were granted, the spirit of the ordinance would be observed because:
 The proposed parcel remains consistent in character to adjacent lots in both size and use.
- Granting the Variance would do substantial justice because:
 The property owner, now 94 years old, would like to subdivide the property based on criteria set forth by the previously approved subdivision executed in 1987.
- Granting the Variance would not diminish the value of surrounding properties because:
 The proposed parcel exceeds the lot area and road frontage of the previously subdivided adjacent lot.
- Unnecessary Hardship:
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.



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 :
The proposed parcel is based on a plan set forth by a previous survey / approved subdivision completed by the owner. The proposed parcel was always intended to be sold (at the appropriate time) and the prior subdivision was designed based on former zoning regulations which have since changed. Due to the location of the existing residence the lot line can not be adjusted to accomodate the full 2 acres, resulting in the proposed area of 1.5 acres.
AND
ii. The proposed use is a reasonable one because:
The proposed parcel remains consistent in character to adjacent lots in both size and use.
(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 current lot configuration is longer than it is deep, with an existing residence located towards the center. While the lot conforms to the intent of the current zoning ordinance based on frontage requirements it does not quite allow the 2-acre minimum lot area which, in strict conformance with the Ordinance, would prohibit further development. Based on the aforementioned criteria it is believed that the proposed development would remain consistent with the spirit of the Ordinance in use and density.
(C) Not withstanding 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:
See above.
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.



47-63-1

535.17'

47-63-6

532.29'

47-63-5

542.07'

1.57
ACRES

47-63-4

520.85'

1.48
ACRES

47-63-3

468.81'

1.28
ACRES

47-63-2

418.62'

47-63-1

206.06'

52-1

364.8'

52-2

52-101

52-3

52-4-2

3.06
ACRES

47-62

1.5
ACRES

1.25
ACRES

29.99
ACRES

EXISTING LOT
(34 BALL HILL RD)

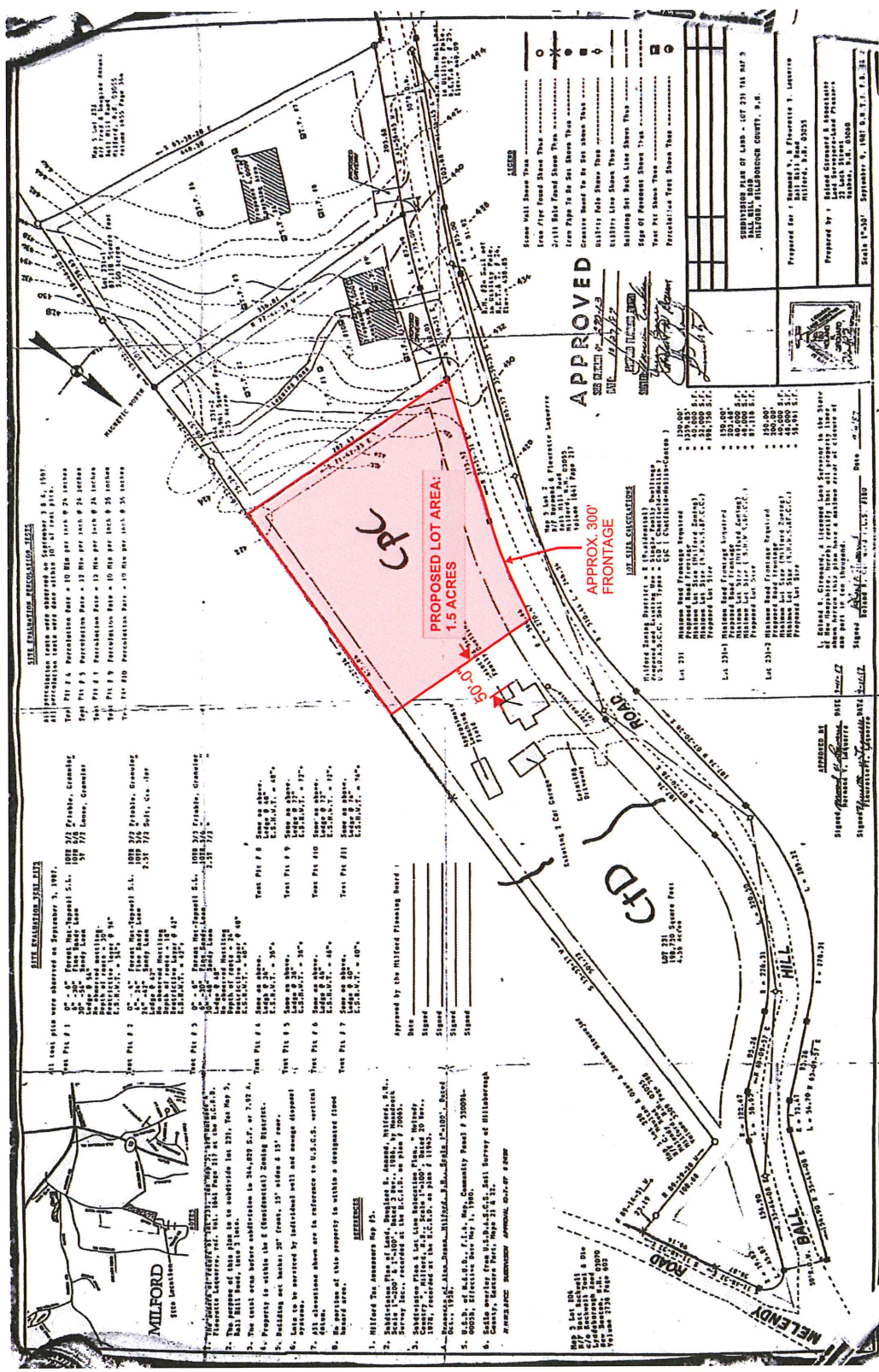
PROPOSED LOT /
SUBDIVISION

APPROX.
BUILDING
FOOTPRINT /
LOCATION
(SHOWN FOR
COMPARISON)

APPROX.
SETBACK

ABUTTERS
(YELLOW)

EXHIBIT A



SITE EXAMINATION - 8/24/57

All measurements were observed on September 3, 8 & 11, 1957. All measurements were observed on September 3, 8 & 11, 1957. All measurements were observed on September 3, 8 & 11, 1957.

Test Pit #1 10' - 20' - 30' - 40' - 50' - 60' - 70' - 80' - 90' - 100' - 110' - 120' - 130' - 140' - 150' - 160' - 170' - 180' - 190' - 200' - 210' - 220' - 230' - 240' - 250' - 260' - 270' - 280' - 290' - 300' - 310' - 320' - 330' - 340' - 350' - 360' - 370' - 380' - 390' - 400' - 410' - 420' - 430' - 440' - 450' - 460' - 470' - 480' - 490' - 500' - 510' - 520' - 530' - 540' - 550' - 560' - 570' - 580' - 590' - 600' - 610' - 620' - 630' - 640' - 650' - 660' - 670' - 680' - 690' - 700' - 710' - 720' - 730' - 740' - 750' - 760' - 770' - 780' - 790' - 800' - 810' - 820' - 830' - 840' - 850' - 860' - 870' - 880' - 890' - 900' - 910' - 920' - 930' - 940' - 950' - 960' - 970' - 980' - 990' - 1000'

SUBDIVISION PLAN OF LAND - LOT 231 1/2 AC. 8/24/57

Submitted by: **Richard S. Lancaster**
 Prepared by: **Richard S. Lancaster**
 Scale: 1" = 30'

APPROVED

SEP 24 1957

APPROVED

SEP 24 1957

PROPOSED LOT AREA: 1.5 ACRES

APPROX. 300' FRONTAGE

MILFORD ROAD

MELMENDY ROAD

CPL

CPD

50'-0" 00'

APPROVED

SEP 24 1957

APPROVED

SEP 24 1957

APPROVED

SEP 24 1957

APPROVED

SEP 24 1957

APPROVED

SEP 24 1957

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SEP 24 1957

TO:

Town of Milford Zoning Board of Adjustment

ATTN: Kellie Walsh and Lincoln Daley

1 Union Square, Milford NH 03055

603.249.0600

kwalsh@milford.nh.gov

ldaley@milford.nh.gov

www.milford.nh.gov

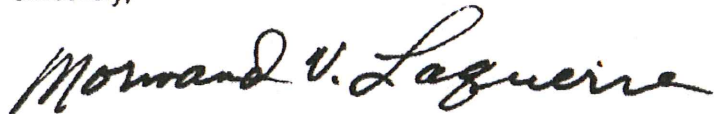
May 12, 2020

To Whom it May Concern,

I, Normand Laquerre, am writing this letter to authorize Christina McMahon to act on my behalf with regard to the property I own at 34 Ball Hill Road in Milford NH. This representation pertains to correspondence and application forms required from your office henceforth as it relates to the possible variance and subdivision of this property (Tax Map 5, Lot 231).

Please feel free to contact me at any time should you have questions about this matter.

Sincerely,



Normand Laquerre, Property Owner

34 Ball Hill Road

Milford, NH 03055

laquerren@aol.com

603.673.2370

ATTN:
Town of Milford Zoning Board of Adjustment
1 Union Square, Milford NH 03055
603.249.0600
www.milford.nh.gov

May 29, 2020

Hi there,

To whomever is reading I hope this letter finds you well. I'm writing in regard to a recently submitted zoning variance application pertaining to Tax Map 5 / Lot 231 since it only felt right to explain the circumstances for this application before stepping back to let things run their course. I'll open by saying that Normand Laquerre and I are recent friends due to an unlikely turn of events. It all started with me reaching out to him about a different matter which led to the discussion of who we are, what we've done with our lives and the eventual proposal of subdividing this property.

To explain a little about myself: I was born and raised a native of southern NH and this has always been the only place I want to call home. I've been looking for property over the last six years or so which has included lots, fixer-uppers, auctions, you name it. I've battled against over-asking offers. I've gone through several house inspections. I've worked with civil and structural engineers trying to make properties work which eventually had to be turned away from. All of this after finishing graduate school at the end of a recession (which yielded few jobs in my field and at low pay) right up to now when the market is beyond the reach of anyone with a single income and graduate school loans. In the midst of an era full of DIY-ers / HGTV rehabbers the entire market has skyrocketed and saying that it's hard to make a real place for yourself without encumbering massive debt along the way feels like an understatement.

Normand is a World War II veteran and native to southern New Hampshire as well. He purchased a large plot of land along Ball Hill Road back in the 1960's which was subdivided into many of the lots that are there now. He comes from a time where acres were sold for tens of dollars - not thousands. He once sold an easement on his property for a single dollar because of the principle of the circumstance. He makes promises on handshakes and treats them as contracts which is a policy he said he has sworn to throughout his entire career in negotiations. He's never owed a mortgage and he lives comfortably on the savings he earned from wise investments. In the end I hated to send your committee this application without an explanation of the specific circumstance and with the appearance of trying to convince you of Normand's 'hardship'. Normand has no hardship. He did not set out to sell this property at all let alone in the interest of financial gain. He extended a hand when he felt it was needed and I trust this is true to the character he's displayed throughout his life. I can promise you the offer he presented to me is not something I will likely see again in my lifetime and I still do not know

Darlene Bouffard

From: Kellie Walsh
Sent: Monday, June 1, 2020 10:58 AM
To: Darlene Bouffard
Subject: FW: Town of Milford - Letter of Intent / Zoning Variance for Tax Map 5 / Lot 231
Attachments: 34 Ball Hill Rd_20200529 Letter of Intent.pdf

From: Christina McMahon [<mailto:christina.mcmahon@live.com>]
Sent: Friday, May 29, 2020 11:18 PM
To: Lincoln Daley; Kellie Walsh
Subject: Town of Milford - Letter of Intent / Zoning Variance for Tax Map 5 / Lot 231

Good evening,

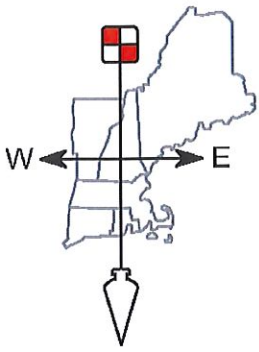
I wanted to circle back about the upcoming ZBA agenda (scheduled for June 4th). I see that the application I sent did not make it for this round as I know it was not submitted on time, but I'd like to confirm if this will be able to make it for the next review.

Also attached here is a letter that I would like to pass along to the board for consideration. Please just let me know if there is anything else I can provide to make this case worth consideration.

Thank you again for your time,

Christina McMahon, AIA

w: caveneyarch.com | christinamcmahon.wix.com/design | shasta-la-vista.com



FIELDSTONE

Surveying ♦ Engineering
Land Planning ♦ Septic Designs

LAND CONSULTANTS, PLLC

206 Elm Street, Milford, NH 03055 - Phone: 603-672-5456 - Fax: 603-413-5456

www.FieldstoneLandConsultants.com

July 28, 2020

Milford Zoning Board of Adjustment
Attn: Kellie Shamel, Town Planner
1 Union Square
Milford, NH 03055

Re: Christina McMahon
Tax Map 47 Lot 62
34 Ball Hill Road
(Dimensional Variance Request)

Dear Milford ZBA Board Members,

Fieldstone Land Consultants, PLLC has been asked to conduct a site evaluation regarding subdivision and development potential of Map 47, Lot 62. A site visit was conducted on July 24, 2020 by Christopher A. Guida, CWS, CSS Certified Wetland / Soil Scientist and Licensed Septic Designer. The property is located at 34 Ball Hill Road and consists of 4.56+/- acres and is currently occupied by a single family dwelling constructed around 1961 within a 1987 single family residential subdivision and is bordered by residential dwellings and town conservation land.

Existing Characteristics

Vegetation:

The property is dominated mature mixed hardwood and softwood over story with open understory of saplings and shrubs.

Soils:

According to NRCS Web Soil Survey, Soils on the property are mapped as Well-Drained Chatfield-Hollis-Canton Complex with 8-15% slopes on the southern portion of the lot and Chatfield-Hollis-Rock Outcrop Complex with 15-35% slopes on the northern portion of the lot. The site visit confirmed that the northern section had extremely steep slopes in excess of 35% and bedrock outcrops which are prohibitive for the placement of on-site sewage disposal systems. Soils with rock outcrops / shallow bedrock are also prohibitive to the placement of on-site septic systems since Env-Wq 1000 rules for state subdivisions and on-site septic systems require a minimum of 4 ft separation between restrictive soil features such as bedrock. The soils mapped on the southern portion of the lot appear to be suitable for on-site sewage disposal system but would need to be confirmed with a test pit in accordance with state subdivision and septic design requirements.

Jurisdictional Wetlands:

Wetlands were observed to be present on the northern portion of the lot within the low point of a ravine between two steep slopes. The wetland had characteristics of a potential vernal pool which would typically have at least a 75 ft setback for septic systems and NHDES Wetlands Bureau would likely request 100 ft non-disturbance buffer as part of any subdivision proceedings. The presence of the wetlands within the center of the widest part of northern section coupled with adjacent steep slopes with shallow ledge would preclude any realistic feasible building location in the area north of the existing dwelling. There were no Jurisdictional Wetlands observed on the southern portion of the property.

Driveway Access / Public Safety:

Ball Hill Road along the northern portion of the subject site has a steep grade in excess of 17% along with a blind "S" turn with less than 100 ft of sight distance in either direction which is where a driveway would need to be located to access that portion of the lot. The road has a speed limit of 30 mph into a dangerous acute angle intersection with Melendy Road which has only a yield sign traveling south uphill onto Ball Hill Road, no stop or yield sign travelling north from Ball Hill Road and a stop sign on Melendy Road travelling northerly at intersection of Ball Hill Rd. Town driveway regulations require 300' all season sight distance 10' back from edge of roadway and 3'9" high as well as maximum grade of 10% and a 4% slope down from roadway so that drainage does not enter the town road off the driveway. None of these conditions are realistically feasible along the northern section of Ball Hill Road due to the steep slopes uphill in excess of 35% on a narrow lot, steep slopes and sharp curves of Ball Hill Road, wetland setbacks and ledge areas.

Ball Hill Road is nearly level along the southern portion of the lot, slopes grade down away from the roadway and there is over 300' of all season safe sight distance in both directions.

Summary:

The existing dwelling at 34 Ball Hill Road is located in the center of the parcel, the area to the north of the house would be considered non-buildable for all intents and purposes due to the inherent characteristics of the natural conditions and narrow and irregular geometry of the existing lot lines. The conditions restrictive to development include steep slopes in excess of 35%, exposed and shallow ledge, Jurisdictional Wetlands setbacks, Town Driveway Design requirements including 10% maximum slopes and safe sight distance.

The area to the south of the existing house would be considered acceptable for development pending satisfactory test pit to verify soil conditions for on-site septic system in accordance with NHDES Env-Wq 1000. The southern portion meets all other requirements including building setbacks, driveway design and safe sight distance requirements.

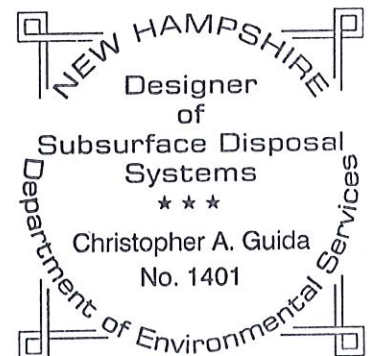
Please feel free to contact me with any additional questions or concerns.

Sincerely,

FIELDSTONE LAND CONSULTANTS, PLLC



Christopher A. Guida, CWS, CSS
Certified Wetland and Soil Scientist / Principal



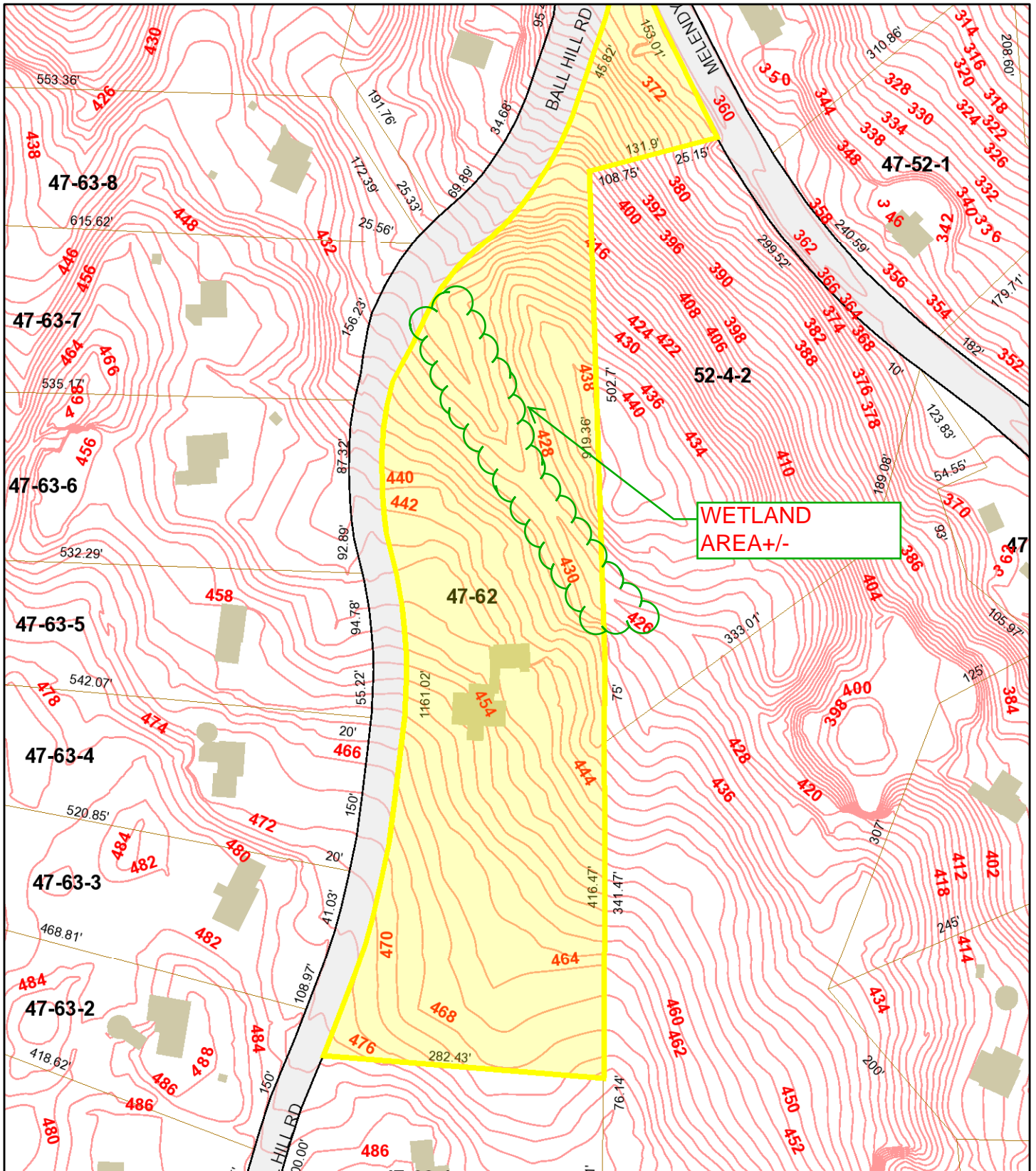


Milford, NH

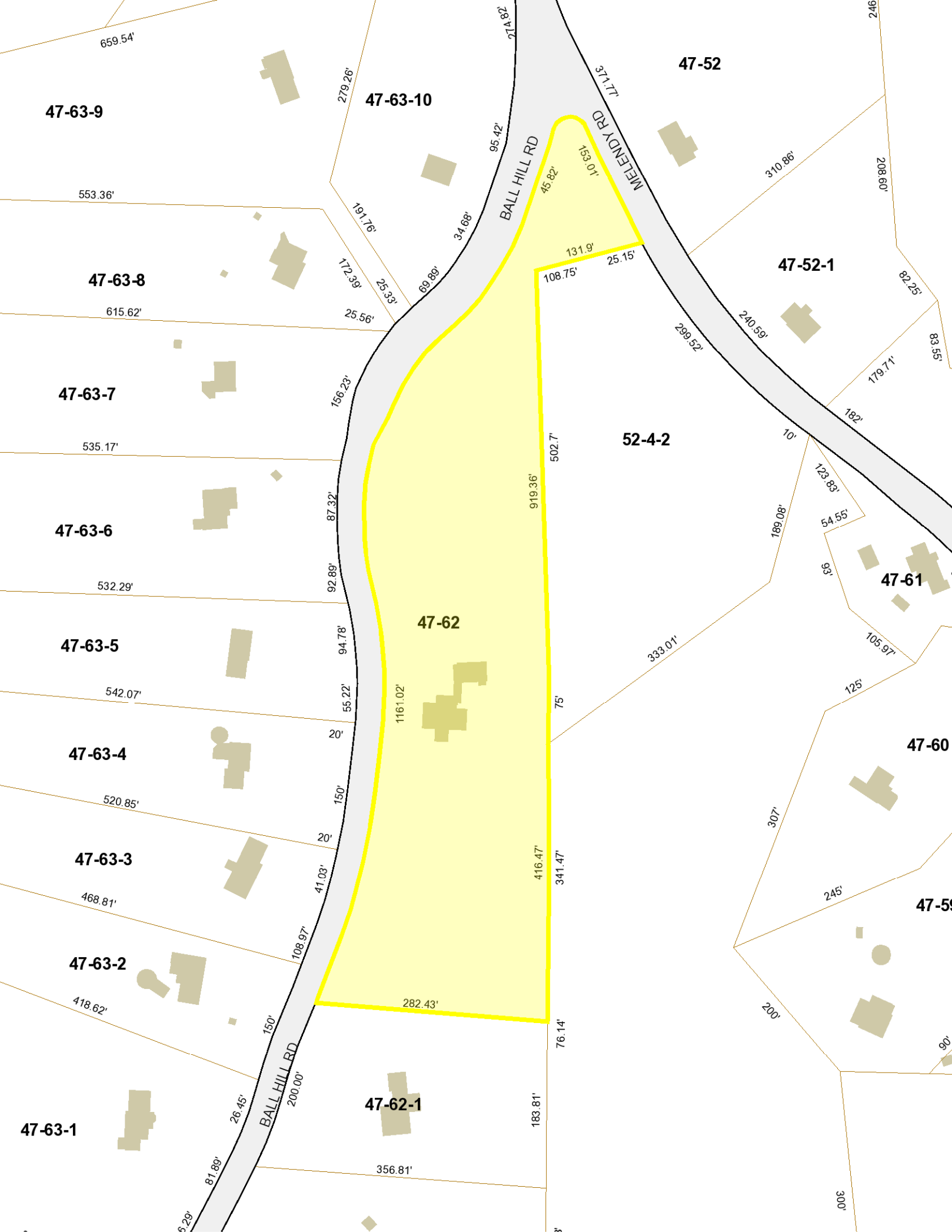
1 inch = 138 Feet



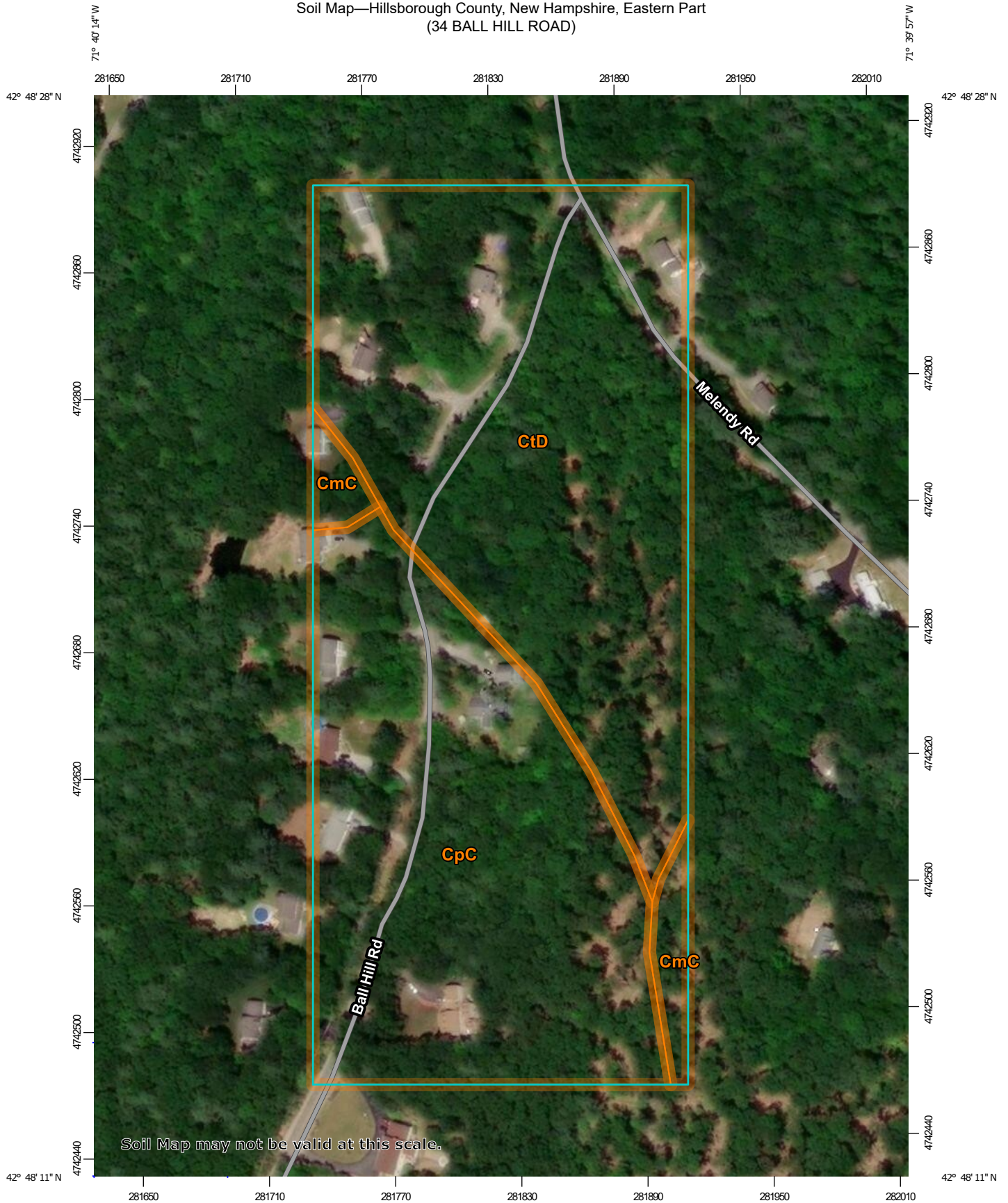
July 23, 2020



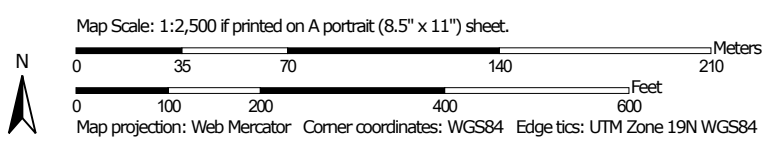
Data shown on this map is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this map.



Soil Map—Hillsborough County, New Hampshire, Eastern Part
(34 BALL HILL ROAD)



Soil Map may not be valid at this scale.



Soil Map—Hillsborough County, New Hampshire, Eastern Part
(34 BALL HILL ROAD)


MAP LEGEND

Area of Interest (AOI)

 Area of Interest (AOI)

Soils

 Soil Map Unit Polygons

 Soil Map Unit Lines

 Soil Map Unit Points

Special Point Features



Blowout



Borrow Pit



Clay Spot



Closed Depression



Gravel Pit



Gravelly Spot



Landfill



Lava Flow



Marsh or swamp



Mine or Quarry



Miscellaneous Water



Perennial Water



Rock Outcrop



Saline Spot



Sandy Spot



Severely Eroded Spot



Sinkhole



Slide or Slip



Sodic Spot



Spoil Area



Stony Spot



Very Stony Spot



Wet Spot



Other



Special Line Features

Water Features



Streams and Canals

Transportation



Rails



Interstate Highways



US Routes



Major Roads



Local Roads

Background



Aerial Photography

MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:20,000.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service

Web Soil Survey URL:

Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Hillsborough County, New Hampshire, Eastern Part

Survey Area Data: Version 22, May 29, 2020

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: May 22, 2015—Jun 14, 2017

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Map Unit Legend

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
CmC	Canton fine sandy loam, 8 to 15 percent slopes, very stony	0.7	3.5%
CpC	Chatfield-Hollis-Canton complex, 8 to 15 percent slopes	8.4	44.3%
CtD	Chatfield-Hollis-Rock outcrop complex, 15 to 35 percent slopes	9.8	52.1%
Totals for Area of Interest		18.9	100.0%



PHOTO 1
Southern Portion
Driveway Sight
Distance Facing
South



PHOTO 2
Southern Portion
Driveway Sight
Distance Facing
North



PHOTO 3
Northern Portion
Driveway Sight
Distance South

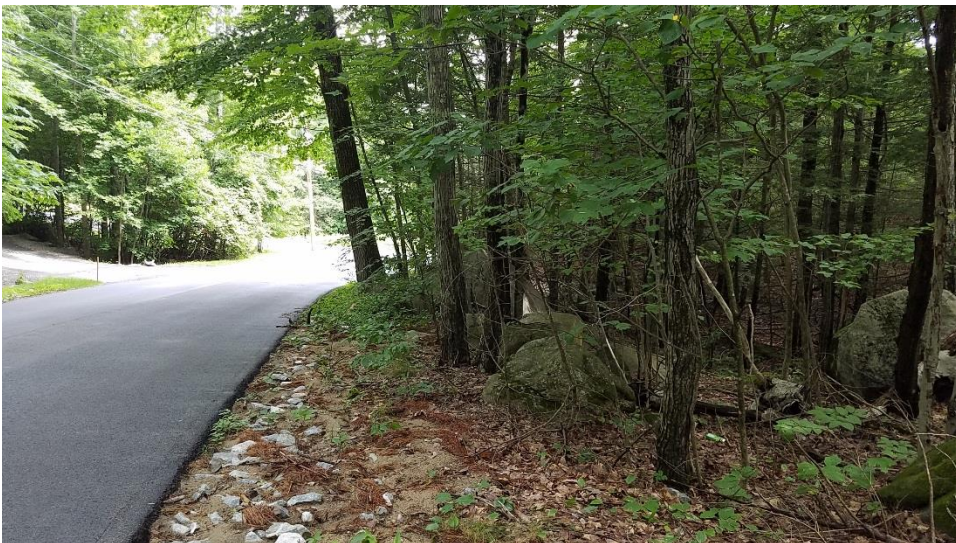


PHOTO 4
Northern Portion
Driveway Sight
Distance Facing
North



PHOTO 5
Jurisdictional
Wetland-Potential
Vernal Pool-
Northern Section



PHOTO 6
Steep Slopes -
Northern Section