

# TOWN OF MILFORD

## Office of Community Development

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



### Administrative Review

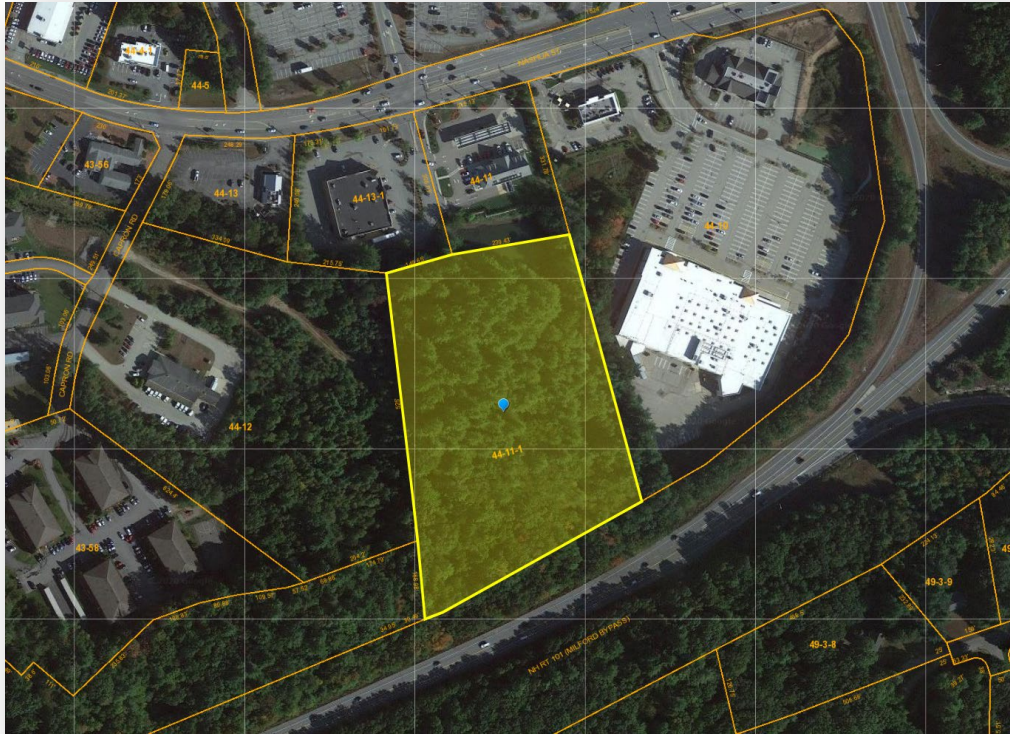
**Date:** August 14, 2020  
**To:** Jason Plourde, Chair, Zoning Board of Adjustment  
**From:** Lincoln Daley, Community Development Director  
**Subject:** **Case #2020-19:** MVC Eye Care / Kevin Chauvette for the property located at Milford Tax Map 44, Lot 11-1 – Variance Application. *(Continued from August 6, 2020)*

The applicants are before the Board of Adjustment seeking a VARIANCE Milford Zoning Ordinance, Article V, Section 5.08.4.A to permit the construction of a commercial building and related site improvements on a lot of record with less than the minimum required frontage (150') on a principle route of access on a Class V road or better in the Integrated Commercial-Industrial ('ICI') District. In reviewing the files for this property, I offer the following comments:

1. Existing Conditions:
  - a. The subject property is approximately 6.85 acres and is undeveloped.
  - b. No current utilities on the subject property. Property would be serviced by municipal water and sewer.
  - c. The property contains no linear frontage on a Class V roadway or better. Access to the property would be through an existing access/egress easement along Map 13 Lot 1, 571 Nashua Street.
2. The applicant is seeking to build a proposed 5,654 sq. ft. building and 40 space commercial development on a portion of the 6.85 acre parcel that contains no legal frontage on a Class V roadway or better.
3. Access to the property is by way of dedicated access easement across Tax Map 44, Lot 13-1 recorded at the HCRD Book 7831 Page 1567). The proposal calls for extending the 25' wide driveway/roadway from Nashua Street/NH Route 101A servicing Walgreens Pharmacy and Cumberland Farms into the subject property.
4. The premises conforms to all site and dimension requirements of the Zoning Ordinance with the exception that the subject property does not contain the required 150 linear feet of frontage on a Class V or better required under Section 5.08.4.A. The proposed commercial use on a minimum area of 20,000 square feet is permitted in Integrated Commercial-Industrial Zone ('ICI'). However, due to the lack of sufficient frontage defined as: "That continuous portion of a lot bordering on a road(s) from which access can be taken, that meets the minimum requirements of the underlying zoning district.", a Variance would be required.
5. This is a reapplication of a previous Variance requests 2012-29 (granted 12/6/12) providing relief from Article V, Section 5.08.4.A to allow the creation of a lot with no frontage on a Class V road or better in the 'ICI' district. Said Variance expired as no work was performed on site within a year after the approval was granted (the 1 year expiration date was recently modified to 2 years). Minutes and decision from both cases have been included.

6. Recommend that the applicant further explain the extent and terms of the recorded easement.
7. In addition, should the Board of Adjustment grant the Variance Request, the applicant will be required to follow two additional steps in compliance with NH RSA 674:41 prior to the property owner being able to obtain a building permit.
  - a. Review and comment by the Planning Board provided to the local governing body (Board of Selectmen) on the matter of issuance of building permit for the subject lot, and,
  - b. The Board of Selectmen votes to authorize the issuance of a building permit.

**Aerial Photo(s) of Subject Property:**



**Tax Map of Subject Property:**





**ZBA Application**

MILFORD ZONING BOARD OF ADJUSTMENT  
PB \_\_\_\_\_ ZBA \_\_\_\_\_ Office \_\_\_\_\_

TOWN OF MILFORD  
RECEIVED  
JUN 22 2020

**GENERAL PROPERTY INFORMATION FOR ALL APPLICATIONS**

Date Received: 6-22-2020  
Case Number: 2020-18  
Application Number: \_\_\_\_\_  
Hearing Date: 7-16-2020  
Decision Date: \_\_\_\_\_  
Decision: \_\_\_\_\_

**PROPERTY INFORMATION**  
Street Address: 0 Nashua Street  
Tax Map / Parcel #: 44-11-1 Lot Size: 6.85 Acres

**PROPERTY CURRENTLY USED AS**  
Undeveloped

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

**PROPERTY OWNER**  
Name: ASRT, LLC  
Address: 111 Bow Street  
City/State/Zip: Portsmouth, NH 03801  
Phone: 603 234-3400  
Email: John@SamonasGroup.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 MVC Eye Care  
Name: Kevin Chauvette,  
Address: 2075 South Willow Street  
City/State/Zip: Manchester, NH 03103  
Email: kchauvette@outlook.com  
Phone: ( 603 ) 644-6100 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.  
John 6/21/20  
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 12  
Amount received: 4800  
Date Received: \_\_\_\_\_  
Check     Cash      
check # 11781

*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: Nashua Street
Tax Map / Parcel #: 44-11-1
<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>5.08.4:A</u> Describe the variance you are requesting under the above section of the Ordinance. <u>Existing Lot with no frontage on a Class V or better road.</u> <u>A Variance was unanimously approved December 6, 2012 -ZBA Case #2012-29.</u> <u>The approved variance granted expired one year following per Article X, Section 10.060.</u>

**General Criteria Section 10.01**

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

1. Granting the Variance would not be contrary to the public interest because:  
 Lot 44-11-1 is an existing tax lot, approved by the Planning Board March 26, 2013 #SD2013-04 HCRD Plan #37742. Access to the parcel is through a deeded easement on lot 44-13-1 recorded at the HCRD Bk 7831 Page 5246 (1A) as shown on the approved subdivision plan - HCRD Plan #37742.
2. If the Variance were granted, the spirit of the ordinance would be observed because:  
 The initial intent to access the build-able upland on existing lot 44-11-1 would be through the recorded easement from Nashua Street and maintains harmony with the existing commercial uses abutting the parcel.
3. Granting the Variance would do substantial justice because:  
 The objective in 2013 and today is to develop the site with a shared driveway to Nashua Street.
4. Granting the Variance would not diminish the value of surrounding properties because:  
 The use proposed is allowed in the ICI District. The setbacks from abutting parcels will be maintained. Development on abutting lots are similar in scale and use and development will not diminish their value.
5. 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 :

Deeded access, that makes the lot viable, was provided by an easement through the abutting lot 44-13-1. This parcel is unique due to its size, the 523'+ frontage along NH Route 101 (limited access right of way) and the large upland areas that are naturally subdivided by wetlands shown on the lot.

AND

ii. The proposed use is a reasonable one because:

It is similar to the existing uses along Nashua Street. The lot would be the new home of MVC Eyecare of Milford, currently located on the abutting lot 44-10. Access to the existing lot is not permitted from NH Route 101 (limited access right of way). Access is through the deeded easement listed at a signalized intersection.

(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:

(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:

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.





R:\PROJECTS\444-MVC-1014 - MVC\DWG\CURRENT\444-Conceptual Plan June 22 2020.dwg



**The Dubai Group, Inc.**  
 136 Harvey Rd. Bldg B101  
 Londonderry, NH 03053  
 603 438 6462

Engineers  
 Planners  
 Surveyors  
 TheDubayGroup.com



REVISIONS:		
REV.	DATE	COMMENT

DRAWN BY: WA  
 CHECKED BY: YRD  
 DATE: JUNE 17, 2020  
 SCALE: 1"=20'  
 PROJECT: Conceptual Plan June 22 2020  
 DEED REF:

PROJECT  
**MVC EYE CARE**  
 MAP 44 LOT 11-1  
 NASHUA STREET  
 MILFORD, NH

FOR  
**MVC Eye Care**  
 2075 SOUTH WILLOW STREET  
 MANCHESTER, NH 03103

SHEET TITLE:  
**CONCEPTUAL SITE PLAN**  
**JUNE 22, 2020**





**The Dubai Group, Inc.**  
136 Harvey Rd. Bldg B101  
Londonderry, NH 03053  
603-458-6462

Engineers  
Planners  
Surveyors  
TheDubayGroup.com



1 INCH = 40 FEET

REVISIONS:			
REV.	DATE:	COMMENT:	BY:

DRAWN BY: REK  
CHECKED BY: DM  
DATE: JUNE 17, 2020  
SCALE: 1"=40'  
PROJECT: Conceptual Plan June 22 2020  
DEED REF: -

PROJECT:  
**MVC EYE CARE**  
MAP 44 LOT 11-1  
NASHUA STREET  
MILFORD, NH

FOR:  
**MVC Eye Care**  
2075 SOUTH WILLOW STREET  
MANCHESTER, NH 03103

SHEET TITLE:  
**OVERVIEW PLAN**

PROJECT #444 SHEET 1 of 2

MAP 44 LOT 10  
559 NASHUA STREET  
(RETAIL CENTER)  
OSJ OF MILFORD, NH LLC  
375 COMMERCE PARK ROAD  
NORTH KINGSTON, RI 02852  
ZONE ICI

MAP 44 LOT 11  
583 NASHUA STREET  
(CONV. STORE & GAS STATION)  
ASRT, LLC  
CUMBERLAND FARMS INC  
165 FLANDERS ROAD  
WESTBOROUGH, MA 01581  
ZONE ICI

MAP 44 LOT 11-1  
0 NASHUA STREET  
(VACANT LAND)  
ASRT, LLC  
111 BOW STREET  
PORTSMOUTH NH 03801

MAP 44 LOT 13-1  
571 NASHUA STREET  
(PHARMACY)  
WALGREEN EASTERN CO. INC  
REAL ESTATE TAX DEPT.  
PO BOX 1159  
DEERFIELD, IL 60015-1159  
ZONE ICI

MAP 43 LOT 12  
14 CAPRON ROAD  
(US POST OFFICE)  
US POSTAL SERVICE  
8 GRIFFIN ROAD  
N. WINDSOR, CT 06006-7001  
ZONE ICI

MAP 43 LOT 57  
28 EAST RIDGE DRIVE  
(APARTMENTS & SELF STORAGE)  
LITTLE NELL TRUST  
GERALDINE M. DUPONT TRUSTEE  
289 PINE STREET  
MANCHESTER, NH 03101  
ZONE B

TOWN OF MILFORD  
RECEIVED  
JUN 22 2020  
PB ZBA Office

**REFERENCE PLAN**

- TAX LOT 44 LOT 11, SUBDIVISION PLAN, 583 NASHUA STREET (NH ROUTE 101A), MILFORD, NEW HAMPSHIRE, OWNED 7 PREPARED FOR, JOHN SAMONAS" SCALE: 1"=50', DATED FEBRUARY 19, 2012, REVISED APRIL 22, 2013

**GENERAL NOTES:**

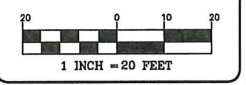
- OWNER OF RECORD:  
MAP 44 LOT 11-1  
ASRT, LLC  
111 BOW STREET  
PORTSMOUTH, NH 03801  
BOOK 8769 PAGE 0003
- THIS PLAN IS FOR CONCEPTUAL PURPOSES ONLY. BASE INFORMATION WAS TAKEN ENTIRELY FROM REFERENCE PLANS BY OTHERS AND THE TOWN OF MILFORD GIS. THIS PLAN IS NOT THE RESULT OF AN ACTUAL FIELD SURVEY.
- PROPOSED IS A 5,654 SF PROFESSIONAL OFFICE WITH SUPPORTING INFRASTRUCTURE FOR MVC EYE CARE.
- THE SUBJECT PARCEL 44-11-1 IS ZONED ICI - INTEGRATED COMMERCIAL-INDUSTRIAL.
- A PORTION OF LOT 44-11-1 LIES WITHIN THE LEVEL II PROTECTION AREA AS SHOWN ON THIS PLAN. REFER TO MAP ENTITLED "GROUNDWATER PROTECTION DISTRICT - MILFORD, NH", DATED OCTOBER 24, 2002 OR AS AMENDED.
- YARD REQUIREMENTS: EACH STRUCTURE SHALL BE SET BACK AT LEAST THIRTY (30) FEET FROM THE FRONT LOT LINE AND FIFTEEN (15)

- FEET FROM SIDE AND REAR PROPERTY LINES. (COMPLIES) THE MINIMUM FRONTAGE REQUIRED = 150' (FRONTAGE FOR EXISTING LOT IS ON NH ROUTE 101 WITH AN ACCESS EASEMENT ACROSS LOT 44-13-1 FROM NASHUA STREET)
- THE PROPOSED SITE WILL BE SERVICED BY TOWN WATER AND TOWN SEWER. CONTRACTOR/ENGINEER WILL COORDINATE WITH UTILITY COMPANIES LOCATION AND REVISIONS TO EXISTING SERVICE LINES AND CONNECTIONS.
  - ALL WORK TO BE DONE IN CONFORMANCE WITH THE TOWN OF MILFORD REGULATIONS. ALL STRUCTURES, AND DRAINAGE TO MEET TOWN OF MILFORD SPECIFICATIONS.
  - THE MAXIMUM HEIGHT OF THE PROPOSED BUILDING OR STRUCTURE IN THE INTEGRATED COMMERCIAL-INDUSTRIAL DISTRICT SHALL BE FORTY (40) FEET. (COMPLIES)
  - ALL OUTDOOR LIGHTING SHALL BE DOWNCAST AND SO DIRECTED AND SHIELDED THAT NO GLARE WILL SPILL OUT ONTO NEIGHBORING PROPERTIES OR ROADS.
  - PARKING CALCULATIONS:  
ALL OFF-STREET PARKING AND LOADING OR UNLOADING SPACES SHALL BE AT LEAST TEN FEET (10) FROM ANY PUBLIC STREET RIGHT-OF-WAY AND SHALL BE SEPARATED FROM SUCH RIGHT-OF-WAY BY A GRANITE CURB AND LANDSCAPING AS REQUIRED IN 6.08 LANDSCAPING STANDARDS.  
REQUIRED:  
4 PER PRACTITIONER - 2 TOTAL FUTURE PRACTITIONERS X 4 = 8 SPACES REQUIRED  
PLUS ONE PER EVERY 2 EMPLOYEES - 10 EMPLOYEES / 2 = 5 SPACES REQUIRED  
RETAIL SPACE=APPROX. 750 SF = 10 SF = 3 SPACES REQUIRED  
MINIMUM REQUIRED SPACES = 16  
PROPOSED ON SITE = 40 (ADDITIONAL PARKING SHOWN TO ALLOW FOR SHIFT CHANGE & ADDITIONAL EMPLOYEES)

- OPEN SPACE: AN AMOUNT EQUAL TO NOT LESS THAN THIRTY (30) PERCENT OF THE TOTAL LOT AREA SHALL BE PROVIDED. MORE THAN 30% PROVIDED
- IN THE EVENT ACCUMULATIONS OF WINTER SNOW VOLUMES GENERATED EXCEED ON-SITE STORAGE CAPACITIES, EXCESS VOLUMES OF SNOW SHALL BE REMOVED FROM THE SITE BY THE PROPERTY OWNER AND DISPOSED OF AT A LEGAL DUMPING SITE.
- ALL GRASS AND LANDSCAPED AREA MAINTENANCE SHALL BE PERFORMED WITH JUDICIOUS USE OF ORGANIC PESTICIDES, HERBICIDES AND FERTILIZERS, ALL OF WHICH SHALL BE APPLIED BY A LICENSED APPLICATOR.
- LOT 44-11-1 DOES NOT LIE WITHIN THE 100 YEAR FLOOD PLAIN PER FLOOD INSURANCE RATE MAP NUMBER 33011C0458D WITH AN EFFECTIVE DATE OF SEPTEMBER 25, 2009.
- ALL WATER, SEWER, ROAD (INCLUDING PARKING LOT) AND DRAINAGE WORK SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE TOWN OF MILFORD'S WATER UTILITIES DEPARTMENT AND PUBLIC WORKS DEPARTMENT STANDARDS.
- PROPERTY OWNER IS RESPONSIBLE FOR THE OPERATION AND MAINTENANCE OF THE ON-SITE CONVEYANCE SWALES, AND, RAIN-GARDENS.
- THE PROJECT IS SUBJECT TO POLICE IMPACT FEES.
- A SPECIAL EXCEPTION IS REQUIRED FOR IMPACT OF THE 25' WETLAND BUFFER TO ACCESS THE SITE FROM AN EXISTING ACCESS EASEMENT THROUGH LOT 44-13-1. APPLICATION HAS BEEN MADE TO TOWN OF MILFORD ZONING BOARD OF ADJUSTMENT.
- A PERMIT WILL BE REQUIRED FROM THE STATE OF NEW HAMPSHIRE DEPARTMENT OF ENVIRONMENTAL SERVICES WETLANDS BUREAU TO CONSTRUCT THE ACCESS DRIVE AS SHOWN ON PLAN. THE STATE PROCESS REQUIRES A REVIEW BY THE MILFORD CONSERVATION COMMISSION.



Engineers  
 Planners  
 Surveyors  
 TheDubayGroup.com

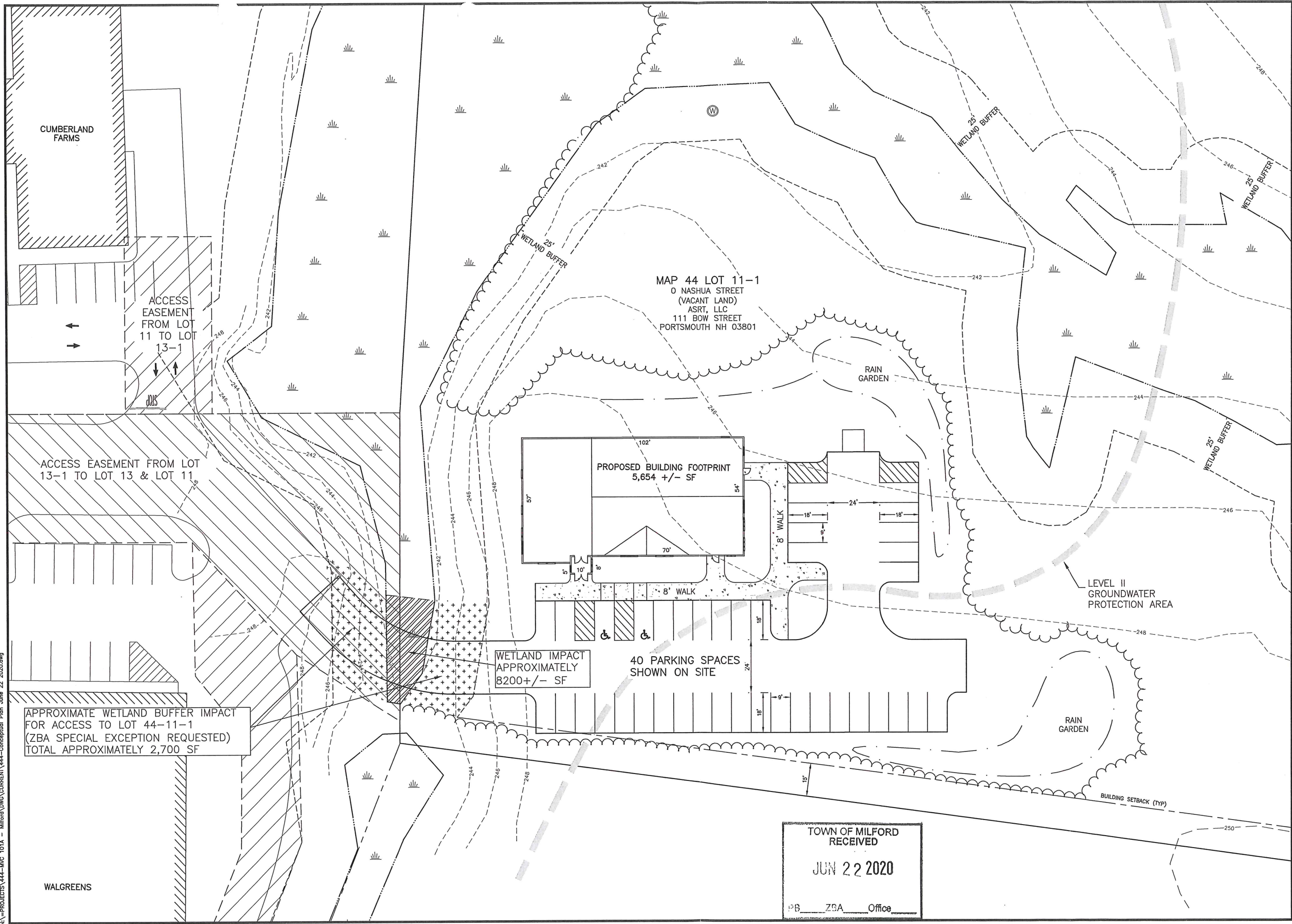


REVISIONS:			
REV.	DATE	COMMENT	BY

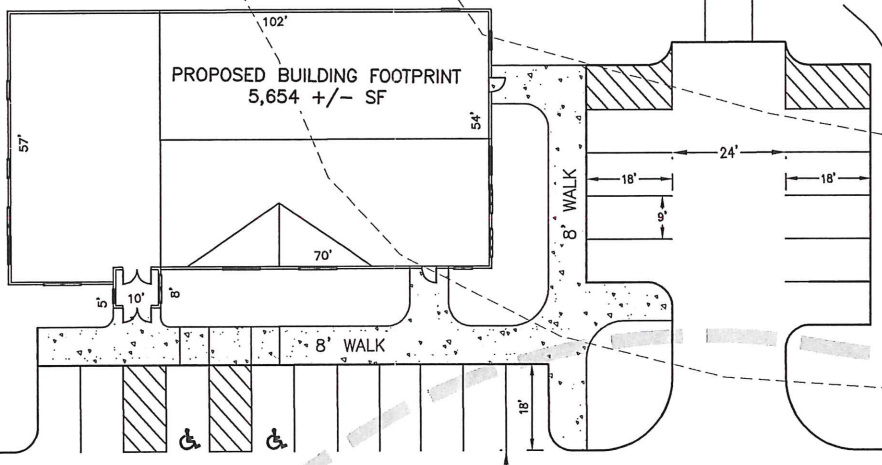
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 4/11/20 Conceptual Plan June 22 2020  
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PROJECT:  
**MVC EYE CARE**  
 MAP 44 LOT 11-1  
 NASHUA STREET  
 MILFORD, NH  
 FOR  
**MVC Eye Care**  
 2075 SOUTH WILLOW STREET  
 MANCHESTER, NH 03103

SHEET TITLE:  
**CONCEPTUAL SITE PLAN**  
 JUNE 22, 2020



MAP 44 LOT 11-1  
 0 NASHUA STREET  
 (VACANT LAND)  
 ASRT, LLC  
 111 BOW STREET  
 PORTSMOUTH NH 03801



WETLAND IMPACT  
 APPROXIMATELY  
 8200 +/- SF

40 PARKING SPACES  
 SHOWN ON SITE

ACCESS EASEMENT FROM LOT  
 13-1 TO LOT 13 & LOT 11

ACCESS EASEMENT FROM LOT  
 11 TO LOT 13-1

APPROXIMATE WETLAND BUFFER IMPACT  
 FOR ACCESS TO LOT 44-11-1  
 (ZBA SPECIAL EXCEPTION REQUESTED)  
 TOTAL APPROXIMATELY 2,700 SF

TOWN OF MILFORD  
 RECEIVED  
 JUN 22 2020  
 PB ZBA Office

WALGREENS

**Town of Milford**  
CONSERVATION COMMISSION

1 Union Square  
Milford, NH 03055-4240  
(603) 249-0628  
www.milford.nh.gov/conservation  
conservation@milford.nh.gov



August 17, 2020

To: Zoning Board of Adjustment

**Re: Case # 2020-18 Map44 Lot11-1 Special Exception Application  
MVC Eye Care / Kevin Chauvette**

To the Board,

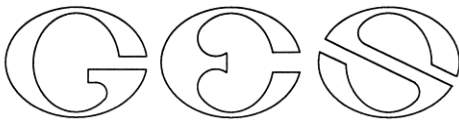
Several members of the Milford Conservation Commission (MCC) visited the site in the company of Luke Hurley, wetland scientist, and Randy Knowles, Dubai Group, who are representing the applicant on August 17, 2020.

The members walked the prospective area of the wetland and buffer impact and the future location of the building and parking lot. The members used the criteria in Section 6.02.7 of the Milford Zoning Ordinance to evaluate the wetland buffer impact. The MCC members approve this application because:

1. This crossing is necessary to access the lot
2. The culvert is being placed in the narrowest section of the wetland which will minimize the impact to the wetland functions
3. A 24" reinforced concrete pipe is larger than the existing structure which will permit easier wildlife movement through the wetland
4. The capacity for the wetland to continue to hold and treat stormwater will not be diminished by this crossing
5. The wetland is on a site that has seen a lot of human activity in the past. This crossing should not have any impact on the wetland capacity to hold water so that the surrounding landscape won't flood. Any embankment required for the crossing will be stabilized per regulations to avoid the erosion of materials into the wetland. The additional materials shouldn't have any effect on the buffer functionality
6. The cumulative effect if any or all abutters were to exercise the same degree of impact will probably not harm the functionality of the wetland and buffer. This appears to be a wetland complex which was designed to hold and continues to manage stormwater runoff from the surrounding properties and from the Route 101 Bypass, and
7. The impact of this project does not appear to substantively alter the functionality of the wetland or its buffer. It may improve wildlife movement through the wetland with the installation of the larger concrete pipe.

Very Respectfully,

Chris Costantino  
Milford Conservation Commission | Coordinator



GOVE ENVIRONMENTAL SERVICES, INC.

August 10, 2020

Randy Knowles, ASLA  
Vice President Planning  
The Dubai Group Inc.  
136 Harvey Road Bldg. B101  
Londonderry, NH 03053

Re: MVC Eyecare, Milford  
Subject: Functions and Values Assessment

Dear Mr. Knowles

Per your request I completed a functions and values assessment of the wetland area on the above-referenced parcel as it applies to the proposed impacts for access into the site. The wetland is a combination of forested/scrub shrub, intermittent stream and open ponded wetland system, dominated by red maple and white pine in the tree layer, highbush blueberry, winter berry and dogwood in the shrub layer and cinnamon, sensitive fern, sedges and grasses in the herbaceous layer within the intermittent stream portion. The pond area is comprised of similar vegetation throughout the classes, however, is primarily devoid of vegetation in the open water portion.

Overall, the ponded area, which this assessment focuses on, has moderate to low functions and values. This is due to the proximity of the pond to urban development consisting of active gas station, pharmacy, and large retail stores. Because of the proximity to these sites, there is the potential for various pollutants to runoff into the pond, where it can be collected and naturally treated and attenuated with the long duration of holding time with the lack of a well defined outlet. Also, because of the holding of water, it presents the additional functions/values of moderate wildlife habitat, scientific value due to the easy access and visual quality/aesthetics, as the contrasting area is heavily developed.

Based on the location of the proposed crossing, this will limit the impact to the far western portion of the wetland and will not result in the loss of any of these functions and values, as there is a cart path cutting through this area currently. By limiting the impacts to this side, the overall functions and values will not be diminished.

Please let me know if you have any questions or need anything else.

Sincerely,

Luke D. Hurley, CWS, CSS  
Vice President  
Gove Environmental Services, Inc.

# Wetland Function-Value Evaluation Form

Total area of wetland: \_\_\_\_\_ Human made? \_\_\_\_\_ Is wetland part of a wildlife corridor? No or a 'habitat island'? \_\_\_\_\_  
 Adjacent land use Urban, highway \_\_\_\_\_ Distance to nearest roadway or other development 20 feet \_\_\_\_\_  
 Dominant wetland systems present POW \_\_\_\_\_ Contiguous undeveloped buffer zone present No \_\_\_\_\_  
 Is the wetland a separate hydraulic system? No If not, where does the wetland lie in the drainage basin? Middle \_\_\_\_\_  
 How many tributaries contribute to the wetland? 1 \_\_\_\_\_

Wetland ID: 1  
 Latitude \_\_\_\_\_ Longitude \_\_\_\_\_  
 Prepared by: LDH Date 8/10/20  
 Wetland Impact:  
 Type Fill \_\_\_\_\_ Area 8,200 sf  
 Evaluation based on:  
 Office \_\_\_\_\_ Field X \_\_\_\_\_  
 Corps manual wetland delineation completed? Y X N

Function/Value	Occurrence Y/N	Rationale (Reference #)*	Principal Function/Value(s)	Comments
Groundwater Recharge/Discharge	Y	1,2,5,7,9,15	Y	
Floodflow Alteration	Y	3,4,5,6,7,8,9,10,11,13,15,17	Y	
Fish and Shellfish Habitat				No fish or shellfish were observed
Sediment/Toxicant Retention	Y	1,2,3,4,5,6,7,12,13,	Y	
Nutrient Removal	Y	2,4,5,6,7,10,	Y	
Production Export	N		N	
Sediment/Shoreline Stabilization	N		N	
Wildlife Habitat	N	3,5,6,7,8,	N	
Recreation	N		N	
Educational/Scientific Value	Y	3,4,8,12,	N	
Uniqueness/Heritage	N		N	
Visual Quality/Aesthetics	Y	1,2,3,5,6,9,11	Y	
Endangered Species Habitat				Unknown
Other				

Notes:

\*Refer to backup list of numbered considerations.



CUMBERLAND FARMS

MAP 44 LOT 11-1  
0 NASHUA STREET  
(VACANT LAND)  
ASRT, LLC  
111 BOW STREET  
PORTSMOUTH NH 03801

EXIST ACCESS DRIVE

RAIN GARDEN

299.0 299.0

PROPOSED BUILDING FOOTPRINT  
5,654 +/- SF

14 = 251

8' WALK

18'

24'

18'

8' WALK

18'

24'

18'

9'

WETLAND IMPACT  
APPROXIMATELY  
1600 +/- SF

40 PARKING SPACES  
SHOWN ON SITE



APPROXIMATE WETLAND BUFFER IMPACT  
FOR ACCESS TO LOT 44-11-1  
(ZBA SPECIAL EXCEPTION REQUESTED)  
TOTAL APPROXIMATELY 5900 +/- SF

2000 +/- SF PAVEMENT THROUGH BUFFER  
3900 +/- SF REVEGETATED SLOPES (TEMPORARILY  
IMPACT)

WALGREENS

WALGREENS

70 LF 24" PCP  
FBS INV. = 292.60  
FBS OUT = 290  
SS = 0.036

PRELIMINARY  
GRADING AUG 13 2020