

# TOWN OF MILFORD

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



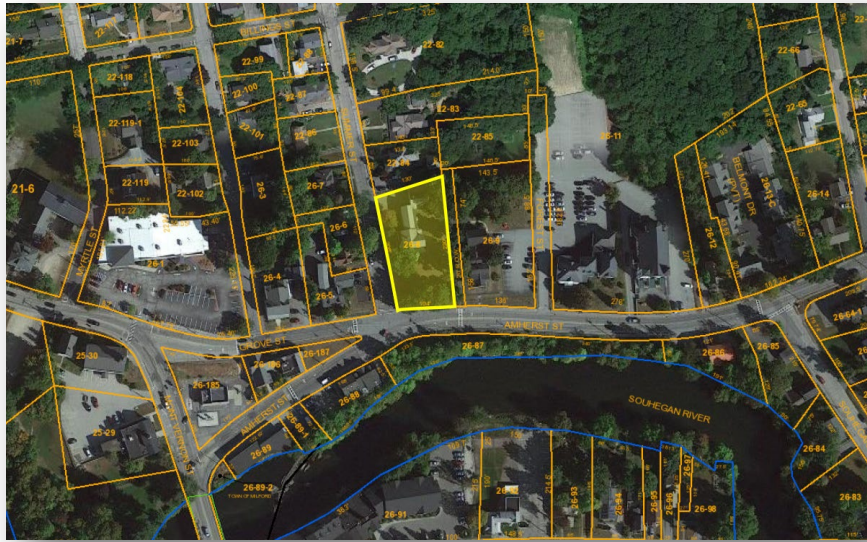
## Administrative Review

**Date:** March 11, 2022  
**To:** Jason Plourde, Chair, Zoning Board of Adjustment  
**From:** Lincoln Daley, Community Development Director  
**Subject:** **Case #2022-03 Wade Methe & Kyle Todd, Tax Map 26, Lot 9, 26 Amherst Street.** Variance Application for relief from the Milford Zoning Ordinance, Article V, Section 5.02 to allow the conversion of an existing two-family to a three-family (multi-family) residence in the Residential 'A' District.

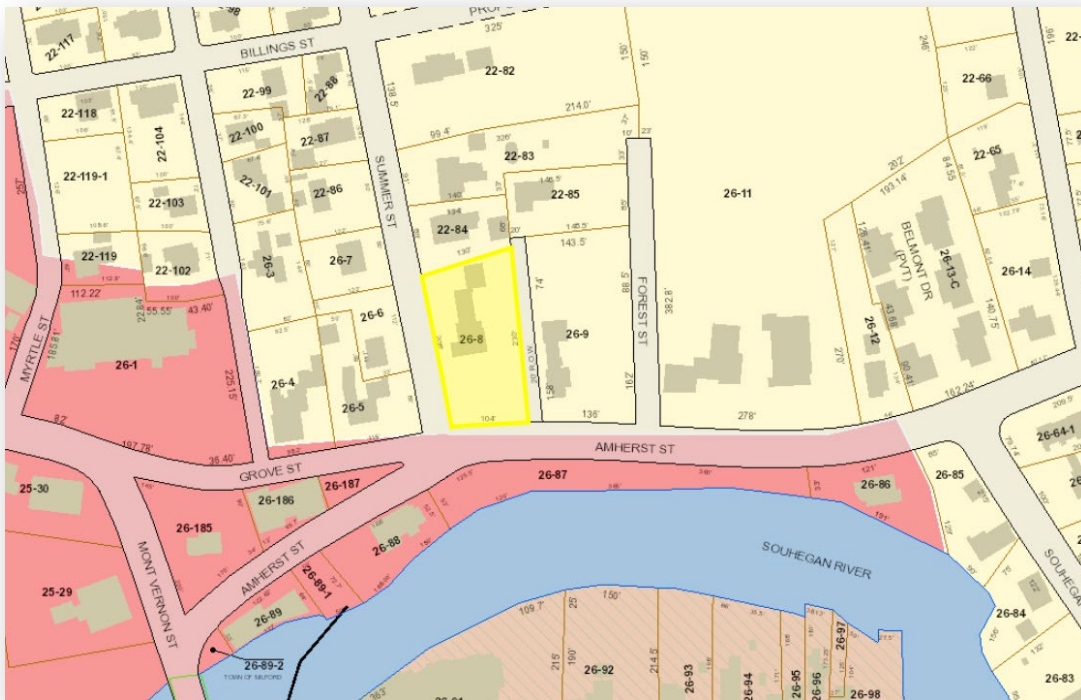
The applicant is before the Board of Adjustment seeking a VARIANCE from the Milford Zoning Ordinance, Article V, Section 5.02 to allow the conversion of an existing, approved two-family to a three-family (multi-family) residence in the Residential 'A' District. In reviewing the files for this property, I offer the following comments:

1. Existing Conditions:
  - a. The subject property is approximately .77 acres (33,541 square feet) with more than 136 linear feet of frontage on Amherst Street and an additional 250 linear feet on Forest Street. The property is bounded by the Roman Catholic Bishop Church to the east a 3 unit multi-family residence to the west, single family homes to the north and the Souhegan River to the south. The surrounding neighborhood contains a mixture of single, two-family, and multi-family residences. (See Attached Neighborhood Use Analysis)
  - b. The property is partially developed and contains a 6,885 gross square foot single-family residence and attached garage located on the southern portion of the property. The property also contains 20 space parking lot. The north portion of the property has remained forested and undeveloped.
  - c. The property and building was formerly used by the previous owner, Roman Catholic Bishop Church, as their rectory.
  - d. Access to the property is by way of curb cut on Forest Street.
2. The applicant proposes to convert the existing two-family to a three-family (multi-family) residence. As the Board may recall, the applicant was previously appeared before the Board on March 4, 2021 and received a Variance to convert then single-family residence into a two-family residence (Case #2021-06).
3. Minimal improvements are being proposed to the exterior of the residential building. The majority of changes (although also minimal) will be internal and focus on renovating the garage structure to include a third unit. As depicted in the Neighborhood Use Analysis tax map below, the subject property directly abuts or is in close proximity to a number of existing two- and multi-family residential uses.
4. Pursuant to Section 5.02 Residential A District a three-family residence is not a permitted use in the district. The intent of the Residence A District is to provide for low-density or low-intensity uses, primarily single-family residential on individual lots. The proposed use requires a Variance for relief from the referenced section of the Zoning Ordinance.

**Aerial Photos of Subject Property:**

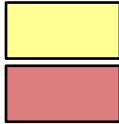


**Zoning Tax Map:**



**Zoning District**

Residential A Zoning District –  
Commercial Zoning District –



**Street Photos of Subject Property**



**Street Photos of Subject Property (Continued)**





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

TOWN OF MILFORD  
 RECEIVED  
 FEB 02 2022  
 PB ZBA Office

Date Received: 2-2-22  
 Case Number: 2022-03  
 Application Number: 20220254  
 Hearing Date: 3-3-22  
 Decision Date: \_\_\_\_\_  
 Decision: \_\_\_\_\_

**PROPERTY INFORMATION**

Street Address: 26 Amherst Street  
 Tax Map / Parcel #: Map 26 / Lot 9      Lot Size: 33,557 sqft / 0.77 acres

**PROPERTY CURRENTLY USED AS**

Two Family

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

**PROPERTY OWNER**

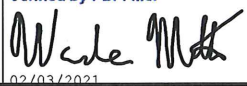

Name: Wade Methe & Kyle Todd  
 Address: 26 Amherst Street  
 City/State/Zip: Milford, NH 03055  
 Phone: (603) 831-1537  
 Email: wmethe@gmail.com

*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.

*Verified by PDFFiller*  
            3February2021  
 02/03/2021  
 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 <sup>4</sup>	\$16.00
Amount received:	\$91.00
Date Received:	<u>CF</u>
Check <input checked="" type="checkbox"/> Cash <input type="checkbox"/>	<u>1185360</u>

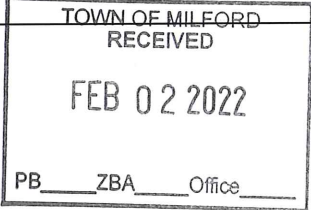
*THE FEES ASSOCIATED WITH THIS APPLICATION DO NOT APPLY TO ANY OTHER FEES REQUIRED FOR APPROVAL OF THIS PROJECT. PLANNING, IMPACT, BUILDING AND OTHER FEES MAY APPLY.*



**ZBA Application - Variance**  
**MILFORD ZONING BOARD OF ADJUSTMENT**

PROPERTY INFORMATION
Street Address: 26 Amherst Street
Tax Map / Parcel #: Map 26 / Lot 9
<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>2.1</u> Describe the variance you are requesting under the above section of the Ordinance. Change-of-Use of a Two-Family dwelling to a Three-Family dwelling, being situated in a Residence "A" District.

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



**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 conversion of the existing dwelling structure to allow a third apartment will not be contrary to the public interest because the neighborhood currently consists of a mix of single and multi-family dwellings. There will be no noticeable impact on public health, safety and welfare, ~~except for the positive benefits gained from property improvements~~
- If the Variance were granted, the spirit of the ordinance would be observed because:  
 Although the residence "A" district is primarily a single-family district, the neighborhood was developed prior to the zoning with multi-family dwellings. The proposed additional apartment will not conflict with the spirit of the ordinance because the use will remain ~~low-intensity~~
- Granting the Variance would do substantial justice because:  
 Substantial justice will be done because allowing an additional apartment will justify substantial upgrades to the property. This, in turn, enhances the neighborhood's desirability and value. This creates public benefit.
- Granting the Variance would not diminish the value of surrounding properties because:  
 The current 0.77 acre site easily accomodates parking requirements and minimizes any impact on surrounding properties.
- 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.*

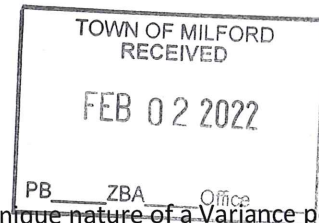


**ZBA Application – Variance**  
**MILFORD ZONING BOARD OF ADJUSTMENT**

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 :
Surrounding properties have permitted and legal multi-family structures. Unnecessary hardship will result because the degree to which the property can be improved will significantly decrease without the additional unit.
AND
ii. The proposed use is a reasonable one because:
It is similar to those that exist in the neighborhood. The property is unique in that the existing structure allows for an additional apartment, without increasing any impacts on surrounding properties.
(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 size and layout of the barn, once storage and operating space for the S.H.A.R.E. program, no longer lends itself to practical use as a business. Allowing upfitting to an apartment provides for a reasonable adaptive reuse.
(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 <b>physical disability</b> 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: <b>6.03.5 Floodplain Management:</b> 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.
<b>ATTACHMENTS – additional information may be needed to help the Zoning Board of Adjustment fully understand your petition.</b> 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.





## **ZBA Application – General Information** **MILFORD ZONING BOARD OF ADJUSTMENT**

*This application must be complete and filed in the Milford Office of Community Development, along with an abutter list, and with all fees paid, on the official submittal date for the meeting at which the application is to be considered. An application shall not be deemed complete unless all materials have been submitted and necessary fees have been paid.*

*If you have any questions about how to complete this application, please contact the Office of Community Development. We will be happy to help you understand the Zoning Board application process and legal requirements, but we cannot give you legal advice. If you are uncertain about how the zoning laws apply to your case, we recommend that you obtain professional advice.*

### **General Instructions**

Use this form for **all** applications to the Milford Zoning Board of Adjustment, except:

- If the Selectmen, Planning Board, Building Inspector, or any other town board or official has made a decision to allow someone else to do something that you do not think they should be allowed to do. In that case, use the ***Third-Party Appeal of Administrative Decision*** form.
- To ask the Zoning Board to hold a new hearing to reconsider a decision that was made at a previous meeting, use the ***Request for Rehearing*** form.

### **Contents of an Application**

Your application must include the “General Information” section and at least one application for a special exception, variance, equitable waiver, or appeal of administrative decision.

You may include more than one application section, as long as they are all for the same proposed use.

For example, you might appeal an administrative decision, and also apply for a variance that would permit the same use, in case the appeal is denied; or you might have a proposed use that would require several variances and special exceptions.

Please work with the Office of Community Development to help you determine what you are applying for or asking relief from.

### **Fee**

The fee is \$75 for the application, plus \$4 for each abutter.

### **Abutter List**

The abutter list must include the name and mailing address of:

- the applicant,
- the property owner or owners,
- every person who owns property which touches any lot involved in the application (even at a corner) or is directly or diagonally across a road, stream, river, or railway right-of-way from a lot involved in the application, **and**
- the holders of any conservation, preservation, or agricultural preservation restrictions on any of the lots involved in the application.

***It is your responsibility to provide an accurate abutter list. A Zoning Board decision that is made without notifying all abutters may not be valid and an abutter who was not properly notified may be able to have the decision overturned.***



## **ZBA Application – General Information** **MILFORD ZONING BOARD OF ADJUSTMENT**

### **Preparing an Abutters List**

1. Here are some guidelines to help you prepare an abutters list.
  - a. Find the lot(s) you are interested in and their abutting lots from the tax maps in the Community Development or Assessors Offices.
  - b. Go to the Milford Assessors Office to check whether the town has a record of any of the abutting lots having been sold more recently than the records available online through the Milford GIS or Vision software.
  - c. Check whether there is any conservation, preservation, or agricultural preservation parcels that are adjacent to your lot. Make sure you get the correct mailing address for the entity that holds the title to this type of lot. It may be a home owners association, a conservation group or the Town of Milford.
2. For the purpose of notification by the Town of Milford Zoning Board of Adjustment, any property being,
  - a. Under a condominium or other collective ownership, the term “abutter” means the officers of the collective or association, as defined in RSA 356-B:3XXIII
  - b. Under a manufactured housing park form of ownership defined in RSA 205-A:1, the term “abutter” includes the manufactured housing park owner and tenants who own manufactured housing which adjoins or is directly across the street, stream, or active railroad from the land under consideration by the Zoning Board of Adjustment.
  - c. An active railroad property, the owner of which shall be notified.

**In cases where the applicant is different from the owner of the land under consideration by the Zoning Board of Adjustment, the term “abutter” shall include the owner AND the applicant.**

For the purpose of receiving testimony only, and not for the purpose of notification, the term “abutter” shall include any person who is able to demonstrate that their land will be directly affected by the proposal under consideration by the Zoning Board of Adjustment.

### **Addition information**

1. The Town of Milford only has lot and owner information for properties located within the Town of Milford. If the lot under consideration abuts an adjoining town you will need to go to that municipality for abutter information.

### **Burden of Proof**

The applicant shall have the burden of proving any historical facts relevant to a case before the Zoning Board. Such relevant facts include, but are not limited to, the date on which a lot, structure, or use came into existence, violation history, open permits or applications.

The existence of a structure or use on a particular date may be established by testimony or by documentary evidence.

### **Supporting Documents**

The following information may be required to deem your application “complete.”

1. Floor Plans
2. Plot Plans
3. Conservation Commission Report
4. Septic system analysis
5. Any additional information that supports your application as determined by the Community Development Office



LOCATION MAP  
(NOT TO SCALE)

**NOTES:**

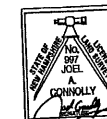
- 1) THE INTENT OF THE BOUNDARY LINES OF MAP 28 LOT 9.
- 2) THIS PLAN IS THE RESULT OF AN ON-THE-GROUND SURVEY BY THIS OFFICE ON JULY 15 & 16, 2020.
- 3) THE BEARING SHOWN HEREON ARE BASED ON GPS OBSERVATIONS BY THIS OFFICE ON JULY 15, 2020.
- 4) MAP 28 LOT 9 IS SUBJECT TO A RIGHT OF WAY ("AS NOW USED" ON JUNE 8, 1865) OVER THE WESTERLY PORTION OF SAID LOT AS RESERVED IN BOOK 355 PAGE 486 (NO WIDTH GIVEN).

**PLAN REFERENCES:**

- 1) HILLSBOROUGH COUNTY REGISTRY OF DEEDS (H.C.R.D.) PLAN 10230.

**CERTIFICATION:**

I CERTIFY THAT THIS SURVEY PLAT IS NOT A SUBDIVISION PURSUANT TO THIS TITLE AND THAT THE LINES OF STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED AND THAT NO NEW WAYS ARE SHOWN.



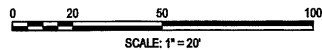
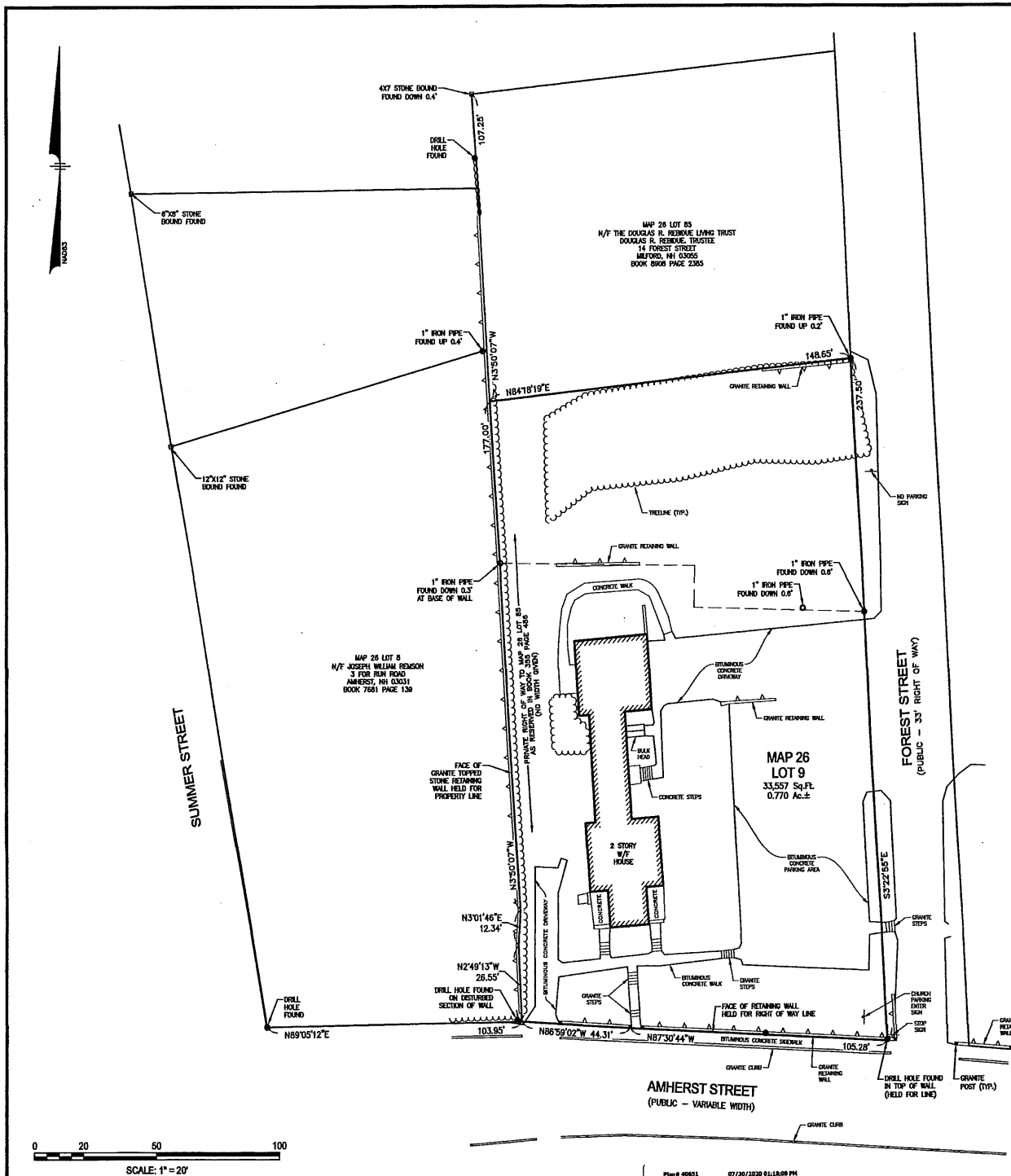
JOEL A. CONNOLLY, ILS 997

7/21/2020  
DATE

NO.	DESCRIPTION	BY	DATE
REVISIONS			
<b>BOUNDARY SURVEY</b>			
ASSESSORS MAP 28 LOT 9 26 AMHERST STREET MILFORD, NEW HAMPSHIRE PREPARED FOR: <b>DIOCESE OF MANCHESTER</b> 153 ASH STREET MANCHESTER, NH 03104			
<b>GPI</b>		Engineering Design Planning Construction Management	Greenman-Pedersen, Inc. 44 Stiles Road Suite One Salem, NH 03079
SCALE: 1"=20'	DATE: JULY 20, 2020	DRAWING NO. 20187 TMS.dwg	
DRAWN BY: JAC	CHECKED BY: JAC	PROJECT NO. NEX-2020187	SHEET NO. 1 OF 1

**OWNER OF RECORD:**

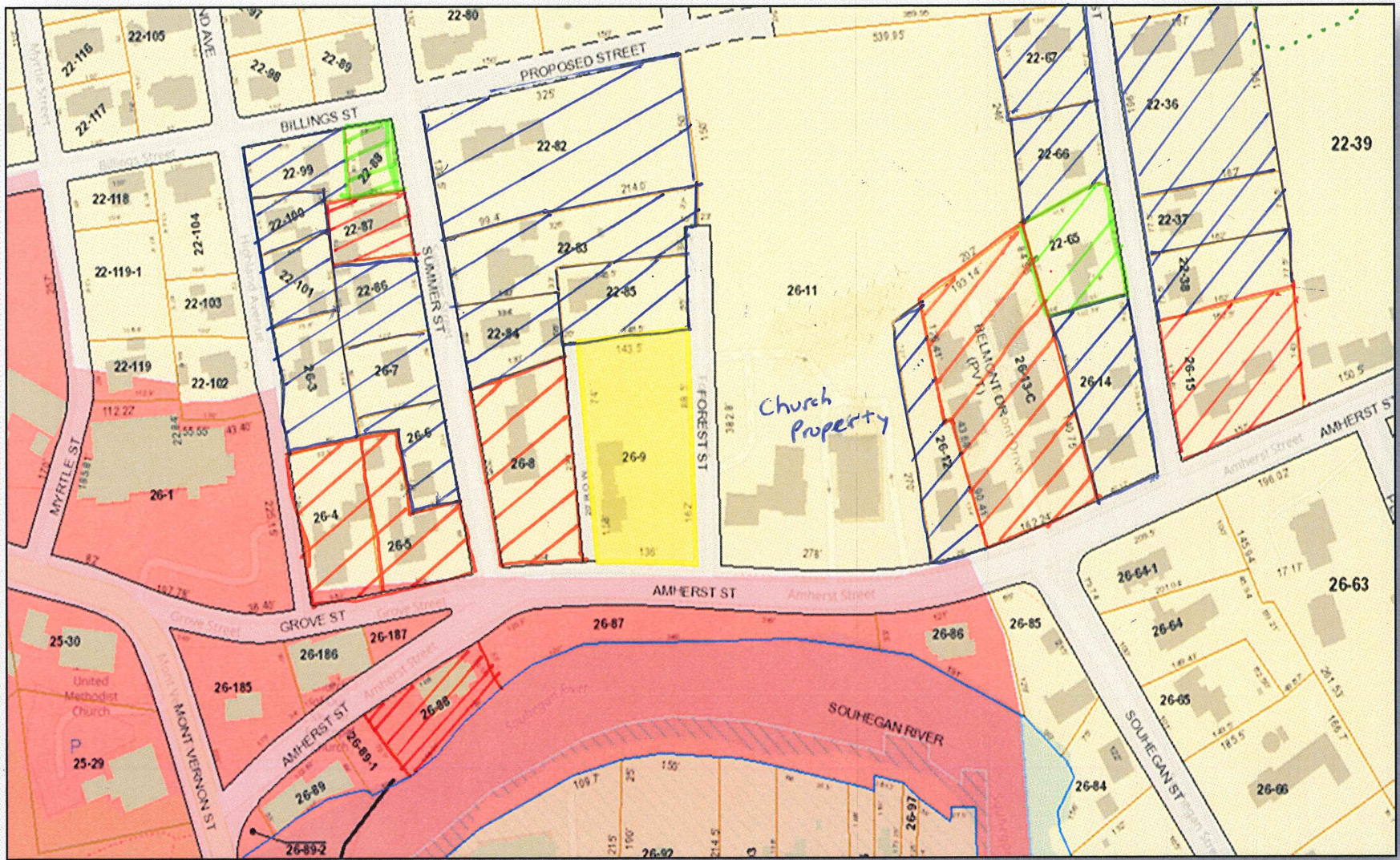
ROMAN CATHOLIC BISHOP  
OF MANCHESTER  
153 ASH STREET  
MANCHESTER, NH 03104  
BOOK 5204 PAGE 1053



Plan # 40651 07/30/2020 01:18:09 PM  
Page 1 of 1  
Edward S. Scapellato  
Register of Deeds, Hillsborough County  
1501 W. WALDEN ST. 25-20

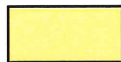
40651 DWG 1 of 6

# Neighborhood Use Analysis

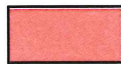


## Zoning District

Residential A Zoning District –



Commercial Zoning District –



## Land Use

Single-Family



Two-Family



Multi-family

