

# TOWN OF MILFORD

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



## Administrative Review

**Date:** October 29, 2022  
**To:** Jason Plourde, Chair, Zoning Board of Adjustment  
**From:** Lincoln Daley, Community Development Director  
**Subject:** **Case #2022-26: Roger Aveni and Loretta Aveni Trust U/d/t 1/28/2008 for the property located at 119 Union Street, Tax Map 29, Lot 22 - Variance Application (New Application)**

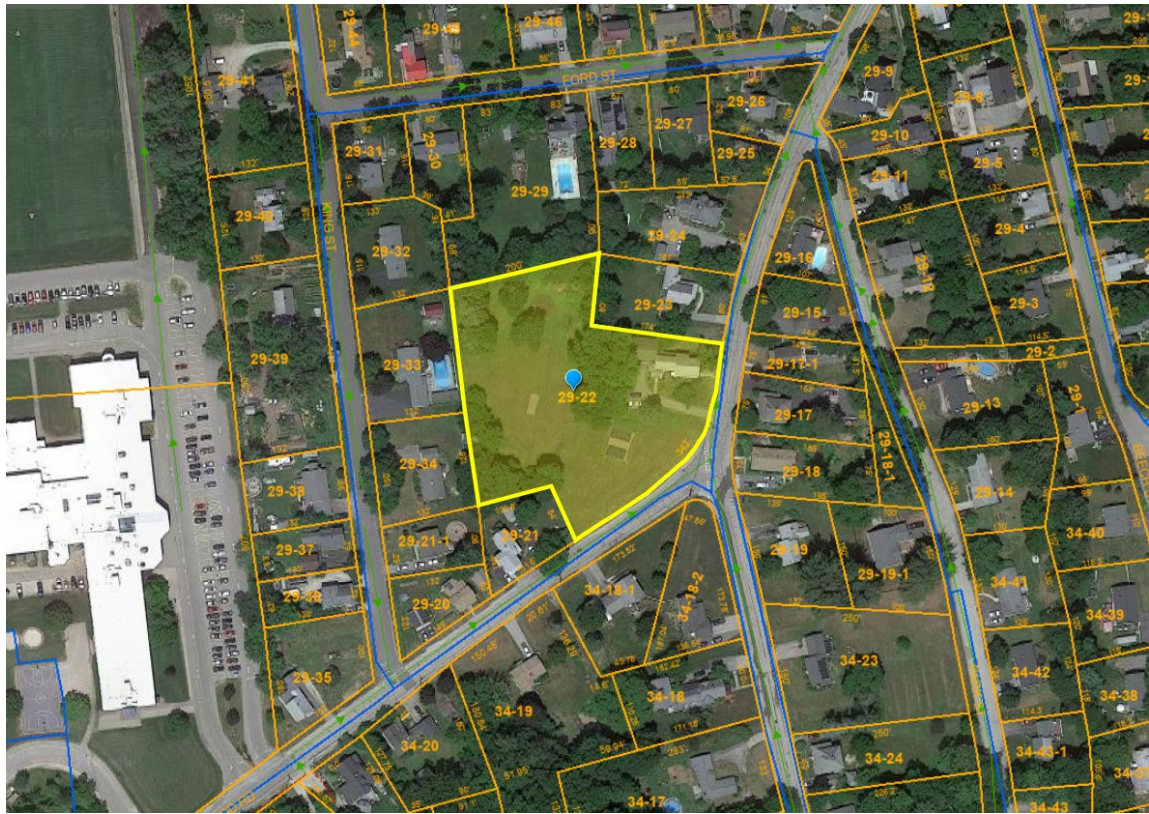
The applicants are before the Board of Adjustment seeking a seeking a Variance from the Milford Zoning Ordinance, Article V, Section 5.02.4.A to allow the subdivision/creation of a lot with 50 feet of frontage on Class V Road where 100 feet is required for a property serviced by both municipal sewerage and water systems located in Residential 'A' Zoning District. In reviewing the files for this property, I offer the following comments:

1. Existing Conditions:
  - a. The subject property is approximately 1.8 acres in area and contains an existing 5,198 s.f. (gross s.f), two-family house located on the northeast portion of the property within the 30 foot front dimensional setback (built in 1830). An attached barn is located to rear of the house and a detached 900 s.f. garage is located immediately to the south.
  - b. The property is serviced by municipal water and private septic.
  - c. The parent property contains approximately 342 linear feet of frontage on Union Street and Osgood Road. The residences are accessed by a single curb cut on Union Street.
  - d. The subject property is situated in an established residential area on Union Street and Osgood Road and abuts residential homes on all four sides.
2. The applicant is seeking to subdivide parent lot, Tax Map 29, Lot 22 into three total lots, Map 29-22, Proposed Lot 1, and Proposed Lot 2. All three lots meet the minimum dimensional requirement for a parcel serviced by municipal water and waste water located in Residential 'A' Zoning District (15,000 min. s.f., 100 ft. min. frontage, 15 foot side/rear and 30 foot front setbacks) with exception of the Lot 1. The proposed lot layout and design of said lot contains 50 linear feet of frontage on Osgood Road where a minimum of 100 feet is required. Said frontage would include the driveway curb cut to the future residence. *(Please note – the location of the existing two-family house on Map 29, Lot 22 located in the 30 foot front dimensional setback on Union Street is a pre-existing, non-conforming condition that predates the adoption of the Zoning Ordinance.)*
3. As stated in the Town's Development Regulations, the proposed subdivision will require the submittal of a subdivision application to and review/approval by the Planning Board. The applicant is scheduled to appear before the Planning Board on November 15, 2022.
4. Milford Zoning Ordinance, Article V, Section 5.02.4.A states that the minimum lot size and frontage for single-family residence and all other acceptable uses in the Residence "A" District serviced by both municipal sewerage and water systems shall be a minimum of 15,000 square feet in area with one hundred

fifty feet (150') of frontage on a Class V or better road. In this instance, the relief sought to allow the 50 feet of frontage would require a Variance in compliance with the Town Zoning Ordinance.

5. The applicant should be prepared to discuss the alternative layout and design of the lots considered to minimize the non-conformity of the lots.
6. As depicted on the proposed subdivision plan, the proposed driveways for Lots 1 and 2 and are located in or in close proximity to the intersection of Osgood Road and Union Street. The applicant should be prepared to provide additional information to ensure that the proposed locations of the driveways conform to the Town's driveway regulations with regards site distance and vehicular/traffic safety.

**Aerial Photos of Subject Property:**



**Street View Photos of Subject Property:**



View looking Southwest Near Intersection of Union Street / Osgood Road



View looking West on Osgood Road



View looking Northeast on Osgood Road





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

11/3 2022

Date Received: \_\_\_\_\_  
 Case Number: TOWN OF MILFORD  
 RECEIVED  
 Application Number: \_\_\_\_\_  
 Hearing Date: OCT 05 2022  
 Decision Date: \_\_\_\_\_  
 Decision PB \_\_\_\_\_ ZBA \_\_\_\_\_ Office \_\_\_\_\_  
20221109

**PROPERTY INFORMATION**

Street Address: 119 Union Street  
 Tax Map / Parcel #: Tax Map 29/Lot 22 Lot Size: 1.8 acres, more or less

**PROPERTY CURRENTLY USED AS**

Residential dwelling on oversized lot.

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

**PROPERTY OWNER**

Name: Roger Aveni, Successor Trustee of the Loretta Aveni Trust u/d/t 1/28/2008  
 Address: 119 Union Street  
 City/State/Zip: Milford, NH 03055  
 Phone: (    ) 603-930-6892  
 Email: roger.aveni@utexas.edu

*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.

Roger Aveni Successor trustee  
 Roger Aveni, Successor Trustee of the Loretta Aveni Trust u/d/t 1/28/2008

**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: \$4.28 x 17	\$72.76
Amount received:	\$147.76
Date Received:	<u>10/5/22</u>
Check <input checked="" type="checkbox"/> Cash _____	
# <u>12359</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 – Special Exception**  
**MILFORD ZONING BOARD OF ADJUSTMENT**

Date Received: \_\_\_\_\_  
 Case Number: \_\_\_\_\_  
 Application #: \_\_\_\_\_  
 Date Complete: \_\_\_\_\_  
 Hearing Date: \_\_\_\_\_  
 Decision Date: \_\_\_\_\_  
 Decision: \_\_\_\_\_

PROPERTY INFORMATION
Street Address: 119 Union Street
Tax Map / Parcel #: Tax Map 29/Lot 22
<p><i>A Special Exception is a use which is permitted by the Zoning Ordinance, but requires approval from the Zoning Board of Adjustment. Most special exceptions have a list of additional criteria that must be met in order for the ZBA to approve the application.</i></p> <p><b>*Note that in addition to the specific criteria that may be listed for a particular special exception, all special exceptions are subject to the general criteria in Section 10.02.1 of the Zoning Ordinance.</b></p>
<p>What section of the Zoning Ordinance are you applying under?</p> <p>Article <u> V </u> Section <u> 5.02.4 </u></p> <p>Describe the <b>use</b> you are proposing under the above section of the Ordinance. The Applicant is proposing a three lot subdivision that will subdivide the existing lot with an existing residence into one lot with the existing residence and two new lots.</p>

**Application for  
(check all that apply):**

- Change/Expansion of Non-conforming Use/Structure (2.03.1.C)
- Wetland Buffer Impact (6.02.6)
- Accessory Dwelling Unit (10.2.6)
- Office in Res-A & B (10.2.7)
- Home Business (7.12.6)
- Side/Rear Yard Setback Reduction (Zoning District Specific)
- Other

**General Criteria Section 10.02.1**

Describe the project you are requesting a Special Exception for:  
 One of the unimproved lots will have 50 feet of frontage where 100 foot is required.

**Explain how the proposal meets the general criteria as specified in Article X, Section 10.02.1 of the Zoning Ordinance:**

A. The proposed use is similar to those permitted in the district because:  
 All three lots will be used for residential purposes, the property is in the Residential A District and the surrounding properties are used for residential purposes.

B. The specific site is an appropriate location for the proposed use because:  
 See A., above. In addition, two of the three lots will comply with or exceed the dimensional requirements of the District. And, although the third lot will not meet the required frontage, the third lot will significantly exceed the required size.

C. The use as developed will not adversely affect the adjacent area because:  
 See A. and B., above. One lot out of three with reduced frontage will not adversely affect the neighborhood.

D. There will be no nuisance or serious hazard to vehicles or pedestrians because:  
 The proposed use is for only three residential lots. The area is equipped with sidewalks. There is adequate sight distance for the driveways.

E. Adequate appropriate facilities will be provided for the proper operation of the proposed use because:  
 The three lots all meet or exceed size requirements. Two of the three lots meet the frontage requirements. All three lots will be served by municipal water and sewer.





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

TOWN OF MILFORD  
RECEIVED  
OCT 27 2022  
PB \_\_\_\_\_ ZBA \_\_\_\_\_ Office \_\_\_\_\_

Date Received: 10-5-22  
Case Number: 2022-24  
Application #: 20221109  
Date Complete: \_\_\_\_\_  
Hearing Date: 11-3-22  
Decision Date: \_\_\_\_\_  
Decision: \_\_\_\_\_

**PROPERTY INFORMATION**

Street Address: 119 Union Street

Tax Map / Parcel #: Tax Map 29/Lot 22

*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.*

What section of the Zoning Ordinance are you asking to be varied?

Article V Section 5.02.4A

Describe the variance you are requesting under the above section of the Ordinance.

This Applicant proposes to subdivide a lot with an existing residence into three lots, one with the residence and two unimproved lots. Two lots will have the required 100 feet of frontage; one lot will have 50 feet of frontage.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**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:  
Granting the variance will not change the essential character of the neighborhood. The neighborhood is zoned for single-family residential use. Two of the three lots meet all zoning requirements and the third meets all but the 100 feet of frontage required. There are other lots in the area that lack 100 feet of frontage. Nor will granting the variance threaten the public health, safety or welfare.

2. If the Variance were granted, the spirit of the ordinance would be observed because:  
See 1., above.

3. Granting the Variance would do substantial justice because:  
Denial of the variance imposes a burden upon the Applicant by denying a reasonable use of the land without a corresponding off-setting benefit to the public

4. Granting the Variance would not diminish the value of surrounding properties because:  
Granting the variance will not cause a diminution in value of the surrounding properties. The proposed use is permitted. All three lots equal or exceed the required lot size and setback requirements. Only one lot requires a single variance.

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 :

The property is much larger than the minimum lot size required in the District and substantially larger than other properties in the area. The general public purpose of the frontage requirement is to prevent the overcrowding of houses or other structures within the District. Strict application of the Ordinance to the Applicant's property is unnecessary to achieve this purpose because of the three proposed lots, only one will have reduced frontage and development of this property as proposed precludes crowding of the lots and does not result in the creation of an excessive number of lots.

AND

ii. The proposed use is a reasonable one because:

The proposed use is reasonable because the use is permitted and all of the requirements of the Ordinance are met except for the frontage.

(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:

N/A

(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:

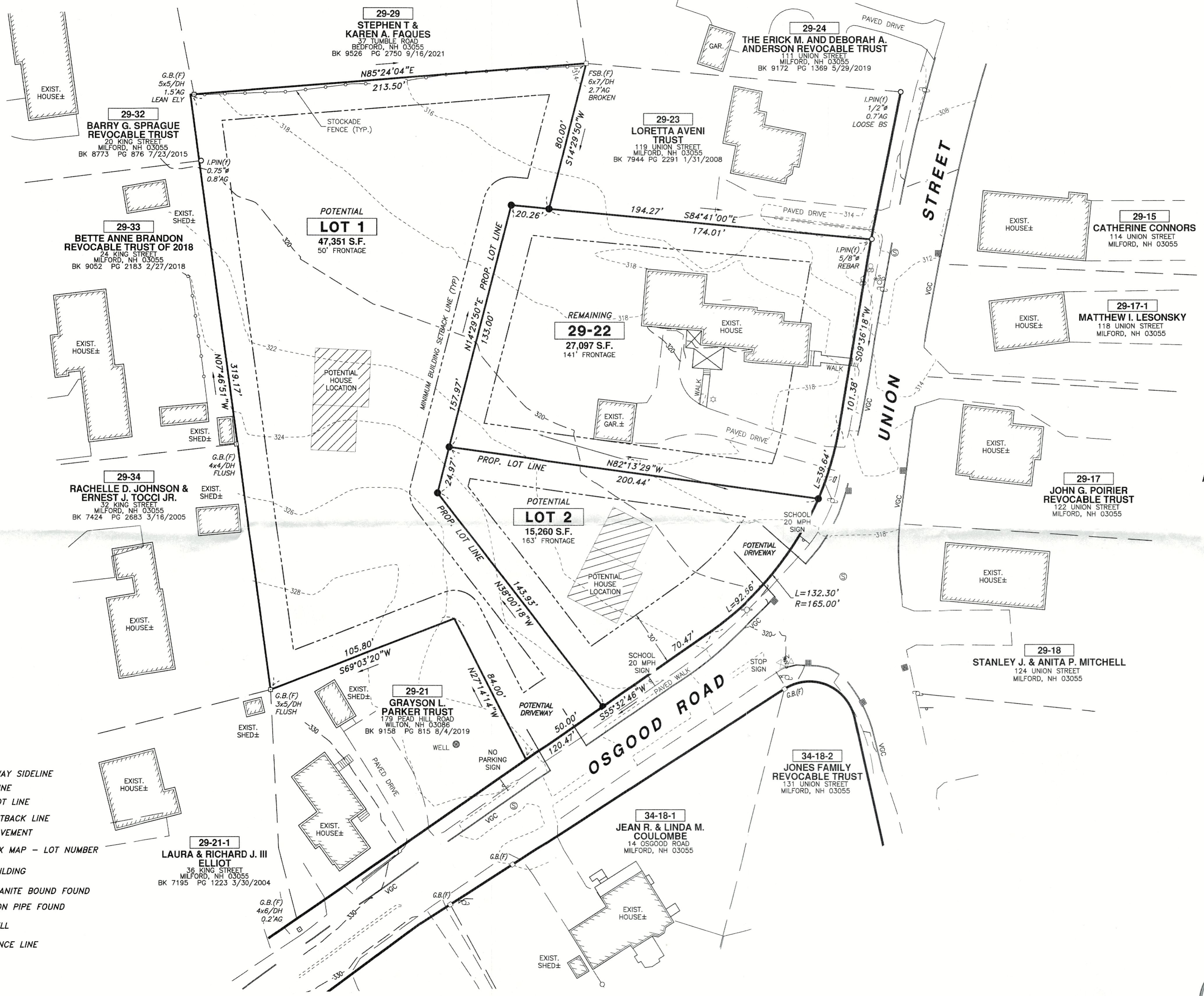
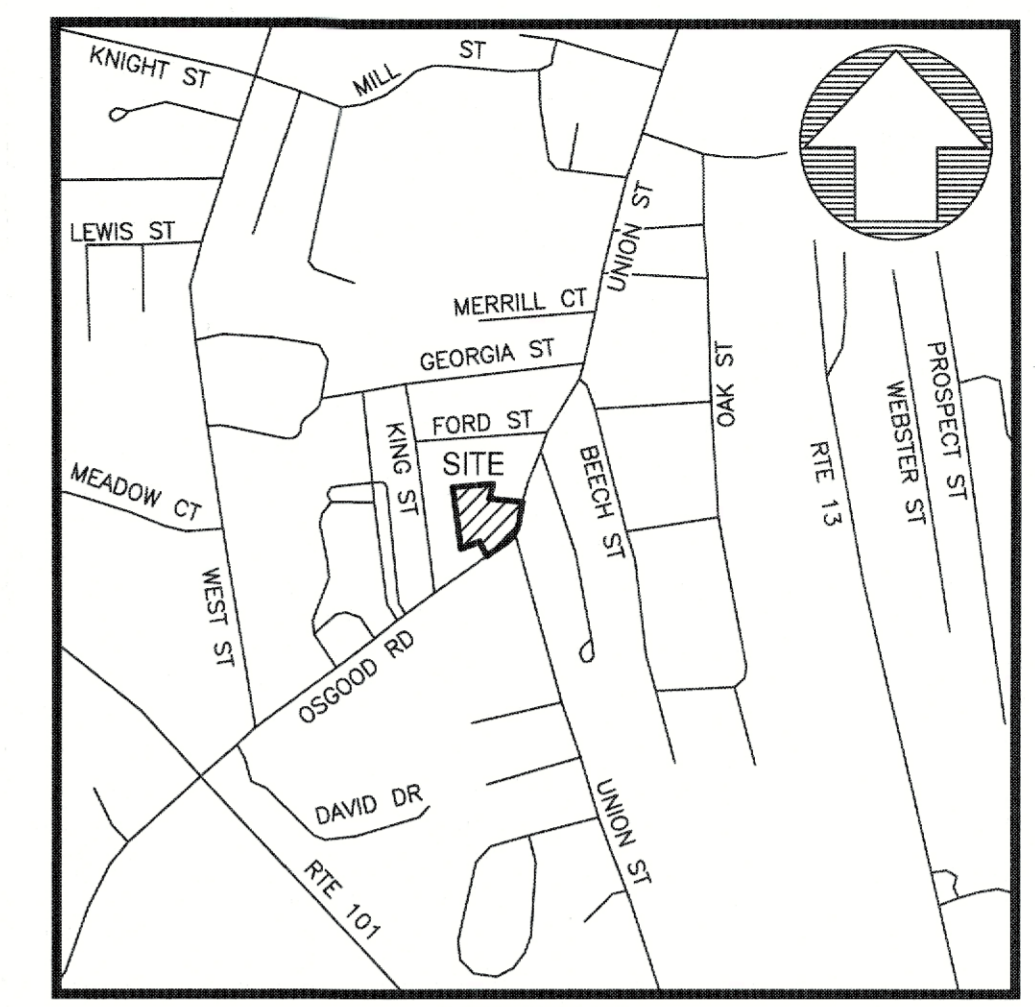
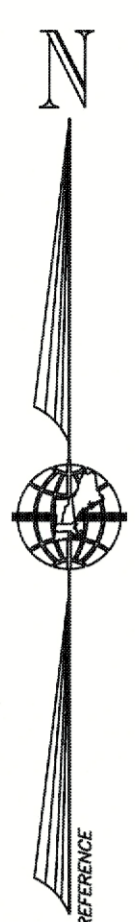
N/A

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.

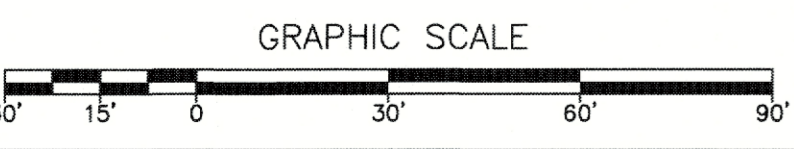
**ATTACHMENTS – additional information may be needed to help the Zoning Board of Adjustment fully understand your petition.**

- 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.



- NOTES:**
1. THE OWNER OF RECORD OF LOT 29-22 IS THE LORETTA AVENI TRUST, DEED REFERENCE IS VOL. 7944 PG. 2293, DATED 1/28/08 IN THE HCRD.
  2. THE PURPOSE OF THIS PLAN IS TO DEPICT A POTENTIAL 3 LOT SUBDIVISION OF EXISTING PARCEL 29-22 AS WELL AS DEMONSTRATE THE POTENTIAL LOT FRONTAGE AMOUNTS IN ORDER TO SEEK A ZONING SPECIAL EXCEPTION FOR A REDUCED FRONTAGE LOT SHOWN HERE AS "LOT 1"
  3. PARCEL IS LOCATED WITHIN THE RESIDENTIAL A ZONING DISTRICT. MINIMUM CONVENTIONAL REQUIREMENTS INCLUDE 15,000 S.F. OF AREA WITH 100' OF FRONTAGE. MINIMUM SETBACKS INCLUDE 30' FRONT, 15' SIDE AND 15' FROM REAR. PARCEL MAY BE SUBJECT TO OTHER OVERLAY DISTRICTS NOT NOTED OR SHOWN HEREON.
  4. BOUNDARY INFORMATION SHOWN HEREON FOR LOT 29-22 IS BASED UPON RECORD DEED INFORMATION AND PHYSICAL EVIDENCE RECOVERED.
  5. EXISTING LOT 29-22 AND THE POTENTIAL LOTS SHOWN HEREON ARE TO BE SERVICED BY MUNICIPAL WATER SUPPLY AND MUNICIPAL SEWER.
  6. THE TOPOGRAPHY AND OBSERVABLE SITE IMPROVEMENTS SHOWN ON LOT 29-22 ARE THE RESULT OF A GROUND SURVEY PERFORMED BY THIS OFFICE DURING JULY, 2022. OFFSITE DETAIL SHOWN IS APPROXIMATE BASED UPON AERIAL PHOTOS AND TOWN OF MILFORD GIS DATA.

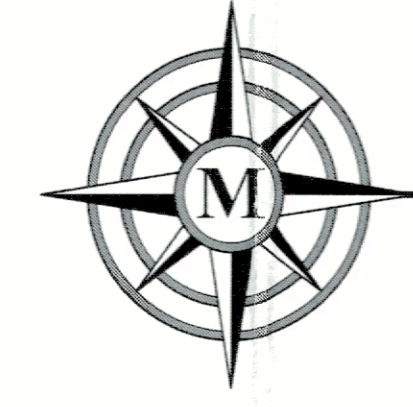
- LEGEND:**
- RIGHT-OF-WAY SIDELINE
  - PROPERTY LINE
  - ABUTTING LOT LINE
  - - - BUILDING SETBACK LINE
  - - - EDGE OF PAVEMENT
  - 29-22 EXISTING TAX MAP - LOT NUMBER
  - EXISTING BUILDING
  - EXISTING GRANITE BOUND FOUND
  - EXISTING IRON PIPE FOUND
  - EXISTING WELL
  - EXISTING FENCE LINE



REV.	DATE	DESCRIPTION	C/O	DR	CK
D					
C					
B					
A					

ZONING BOARD OF ADJUSTMENT EXHIBIT  
LAND OF:  
**THE LORETTA AVENI TRUST**  
TAX MAP 29 LOT 22  
MILFORD, NEW HAMPSHIRE

SCALE: 1" = 30'      OCTOBER 4, 2022



**MERIDIAN**  
LAND SERVICES, INC.  
ENGINEERING | SURVEYING | PERMITTING  
SOIL & WETLAND MAPPING | SEPTIC DESIGN  
31 OLD NASHUA ROAD, AMHERST, NH 03031 TEL. 603-673-1441  
MERIDIANLANDSERVICES.COM FAX 603-673-1584

TOWN OF MILFORD  
RECEIVED  
OCT 05 2022  
PB\_ZBA\_Office

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