

TOWN OF MILFORD

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



Administrative Review

Date: March 31, 2023

To: Zoning Board of Adjustment

From: Terrey Dolan, Community Development Director

Subject: Case #2023-04: Pamela Rice for property located at 61 Briarcliff Drive, Tax Map 36, Lot 111.
Special Exception Application - Accessory Dwelling Unit

The applicant is before the Board of Adjustment seeking a Special Exception from the Milford Zoning Ordinance, Article X, Sections, 10.2.1 and 10.2.6 to allow the construction of a 700 square foot, 3 room accessory dwelling unit within the existing single-stall garage structure on a property located 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 0.283 acres in area (12,327.48 sf) with approximately 100 linear feet of frontage on Briarcliff Drive.
- b. The property consists of a 1-story, 3 bedroom, single-family residence and a detached accessory single-stall garage structure. The parcel is serviced by municipal water and waste water.
- c. The subject property is situated in an established single-family residential area and directly abuts residential uses to the north, south, and east.

2. The proposal calls for the construction/conversion of a portion of existing detached garage accessory structure to include 700 square foot (approximate) ground level one bedroom ADU. Access to the accessory dwelling unit through the existing two ground level doors facing the rear of the primary residence.

Upon review of the land-use files and recent MLS information, the accessory garage structure contains an unpermitted, previously partially constructed accessory dwelling unit. The existing accessory dwelling unit appears to be same layout and area as the proposal before the board.

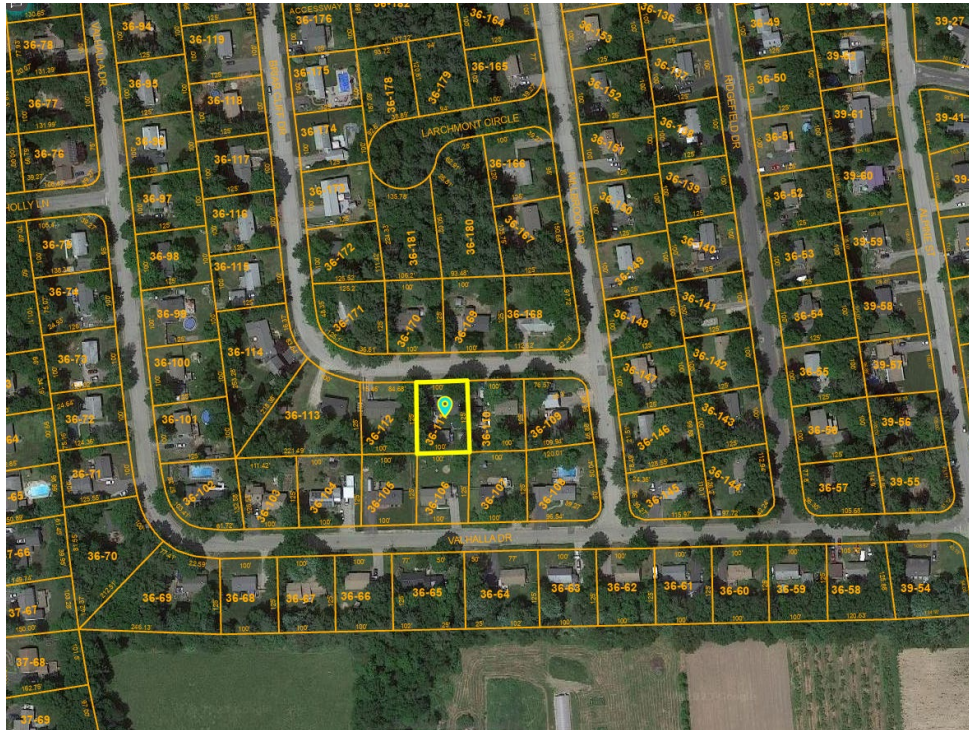
In speaking with the applicant, the property was purchased with the partially completed ADU in place. It would appear that all unpermitted work was completed by the previous property owner. However, it is unclear when said conversion/construction of ADU occurred. Further, the applicant has represented that the ADU will be renovated and will be submitting the required building permit application(s) and materials for the ADU.

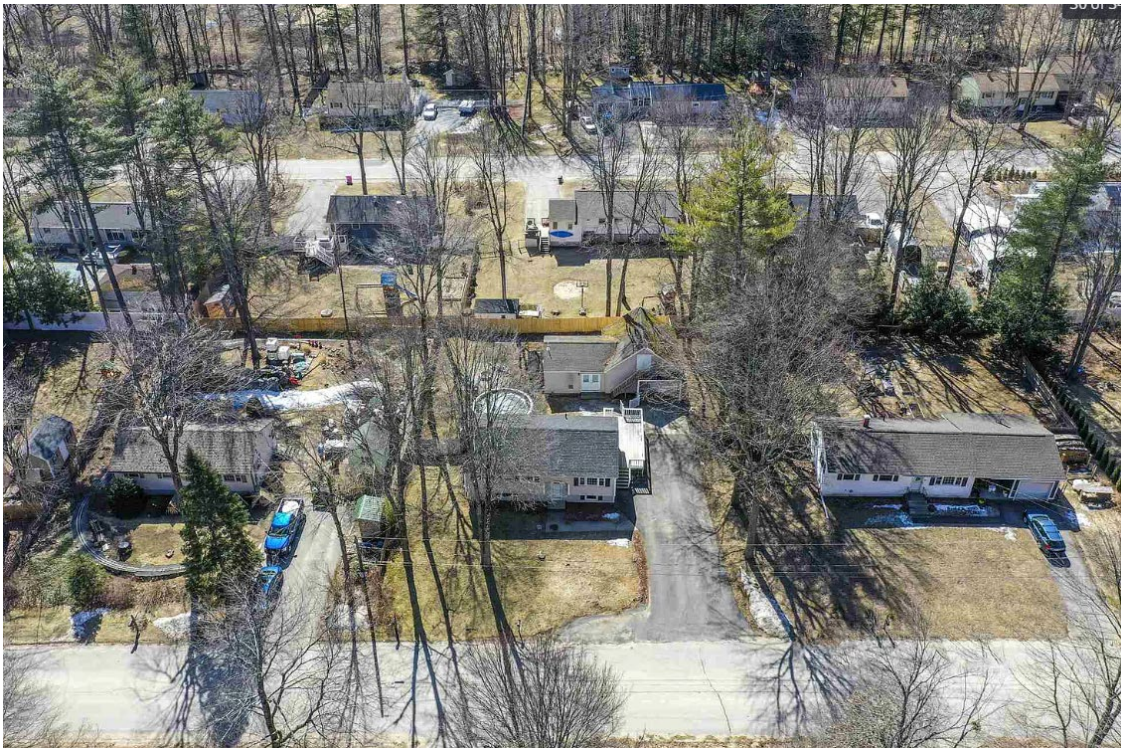
3. An ADU is a permitted use in the Residential 'A' zoning district through the issuance of a Special Exception pursuant to Zoning Ordinance, Article 5.02.2.A.13 and Article X, Section 10.2.6. In this instance, the existing accessory dwelling unit was not approved/permitted (by the Board of Adjustment or Building Department). As such, the Applicant must obtain Special Exception approval to continue the use and is subject to Section 10.2.6.C which includes the following criteria:

- a. The ADU complies with all requirements in 10.02.6.A.
- b. Prior to the Special Exception application being heard by the Zoning Board of Adjustment, a compliance inspection shall be conducted by the Code Enforcement Department.
- c. Within forty-five (45) days of the approval of a Special Exception to allow the continuation of an existing unpermitted ADU, the applicant shall complete one of the following:

- i. If the ADU has been found to meet all applicable codes, or will need alterations that do not require a building permit, obtain a certificate of compliance from Code Enforcement based on the code compliance inspection; or
 - ii. If the ADU has been found not to meet all applicable codes, and a building permit is required, the ADU shall pass all required inspections and obtain a certificate of occupancy.
4. Upon review, the application pursuant to the Section 10.02.6.A, the submittal meets the majority of the requirements of the Zoning Ordinance. However, more information and clarification is required from the applicant prior to the Board rendering a decision.
 - a. The proposal calls for the construction of one ADU consisting of one bedroom with maximum area of 700 square feet. The primary residence will be owned and occupied by the property owner.
 - b. No proposed architectural plans have been submitted as part of the application. The proposal calls for renovating the interior of the extended existing garage structure. To date, the applicant has not represented any exterior changes to the structure. More details are required regarding the proposed layout, access, and egress to the ADU.
 - c. The property appears to have sufficient parking to manage the single-family residence and the proposed addition of the accessory dwelling unit. However, the applicant will need provide more details regarding the onsite parking and stacking/circulation of vehicles. No curb cuts are being added.
 - d. The property and house are serviced by public water and waste water. The ADU will also be serviced by public water and sewer. The applicant has demonstrated that adequate provisions have been provided for a water supply and sewerage disposal method for the ADU. It is not known the full extent of the utility improvements. As such, the applicant will need to work with Milford Water/Sewer Departments to connect/permit to the municipal system.
 - e. The applicant will need to explain the reasons for locating the entrance/exits along the front of the building and not the sides or rear of the structure.

Aerial Photos of Subject Property:





Street Photos of Subject Property:



Subject Property Looking South



Subject Property Looking South



Subject Property Looking East

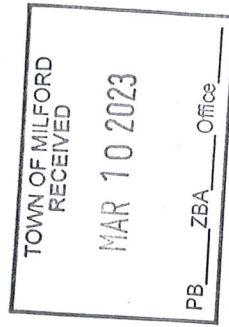


Subject Property Looking West





**Town of Milford
Zoning Board of Adjustment**



Date Received:	
Case #:	TOWN OF MILFORD RECEIVED
Application #:	MAR 09 2023
Payment amount:	
Date:	PB ZBA Office By:

36/111
APP 20230510

Application for Special Exception

Name of Applicant: Pamela Rice Phone #: 603-703-9196

Email: price24@comcast.net

Address: 61 Briarcliff Drive, NH 03055

Owner: Adam E. & Rebecca L. Young
(If same as applicant, write "Same")

Owner's Address: 61 Briarcliff Drive, Milford, NH 03055
(If same as applicant, write "Same")

Property Location: 61 Briarcliff Drive Map 36 Lot 111

Description of property: Tax Map 36 Lot 111 is 0.286 acres with 100.00 feet of frontage
along Briarcliff Drive. Present use is residential.

(Lot dimension, total area, present use)

This application is not considered acceptable unless all required statements have been made and all sections completed. Additional information may be supplied on separate sheets if necessary.

Fees: \$75.00 per case plus abutter fees, including owner and representative (if applicable).

Section 1 - APPLICATION FOR SPECIAL EXCEPTION

A Special Exception, as specified in Article X Section 10.02.6 of the Zoning Ordinance, is requested to permit:

(See Attached Sheets)

Explain how the proposal meets the Special Exception 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:

(See Attached Sheets)

B. The specific site is an appropriate location for the proposed use because:

(See Attached Sheets)

C. The use as developed will not adversely affect the adjacent area because:

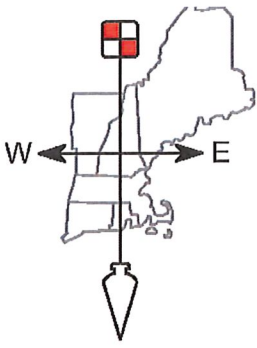
(See Attached Sheets)

D. There will be no nuisance or serious hazard to vehicles or pedestrians because:

(See Attached Sheets)

E. Adequate appropriate facilities will be provided for the proper operation of the proposed use because:

(See Attached Sheets)



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LAND CONSULTANTS, PLLC

206 Elm Street, Milford, NH 03055 - Phone: 603-672-5456 - Fax: 603-413-5456
www.FieldstoneLandConsultants.com

SPECIAL EXCEPTION CRITERIA ARTICLE X: SECTION 10.02.6

Description of proposed use: The purpose of this special exception application is to allow for the construction of a one-bedroom Accessory Dwelling Unit (ADU) within the existing detached garage located at 61 Briarcliff Drive, Milford NH 03055. The proposed ADU and principal residence will meet all requirements of Zoning District Residence "A" and Article X, Section 10.02.6 for Accessory Dwelling Units.

Facts supporting this request:

- The proposed use shall be similar to those permitted in the district:** The existing lot and dwelling has access off Briarcliff Drive. This lot is located within the Residence "A" District of the Town of Milford Zoning Ordinance. The proposed use is permitted and similar to others in the district. This request is to allow construction within the existing garage on-site to be utilized as an Accessory Dwelling Unit (ADU). The existing dwelling is a single-family residential use which is the same as other homes in the area; ADU is to encompass 700 square feet of the garage and will be utilized as and ADU for extended member of same family occupying the primary residence. Proposed primary dwelling and ADU meet all dimensional and use requirements as outlined in Section 10.02.6 of Milford Zoning Ordinance.
- The Specific Site is an appropriate location for the proposed use because:** The proposed single-family residence and associated ADU is located in a residential subdivision in a residential area or the town.
- The use as developed will not adversely affect the adjacent area because:** The proposed ADU is located within the existing garage with similar building size and appearance of other dwellings in the area and meets all other criteria as outlined in Section 10.02.6. of the Ordinance.
- There will be no nuisance or serious hazard to vehicles or pedestrians:** The proposed primary residence and ADU will meet all local regulations and have no difference from other similar dwellings and uses in the area and will not create any nuisance or serious hazard to vehicles or pedestrians.
- Adequate appropriate facilities will be provided for proper operation of the proposed use:** The proposed use of the existing garage on-site is to be utilized as an ADU. The design will meet all local regulations and will utilize existing site services.

10.02.6 ACCESSORY DWELLING UNITS (2017)

A. In all cases involving an Accessory Dwelling Unit (ADU):

1. An ADU shall meet the following minimum requirements:

a. Only one (1) ADU shall be allowed per property. (2013)

Only one ADU proposed

b. Either the principal dwelling unit or the ADU must be owner occupied. (2017)

Dwelling(s) to be owner occupied

c. The size of an ADU shall be no more than 750 SF gross floor area. (2017)

Proposed ADU is 700 SF

d. The ADU shall include no more than two (2) bedrooms. (2017)

Proposed ADU is one bedroom

e. No additional curb cuts shall be allowed.

Proposed ADU does not have additional curb cuts

- f. An attached ADU shall have and maintain at least one common interior access between the principal dwelling unit and the ADU consisting of a connector that is a minimum of 36" in width or a doorway a minimum of 32" in width. (2017) **Proposed ADU is within the detached garage**
- g. The ADU shall be located in an existing or proposed single-family dwelling, its detached accessory structure(s), or as a stand-alone dwelling unit subordinate to the single-family dwelling. (2017)
Proposed ADU is located within the detached garage
- h. Deleted (2013)
- i. An existing, nonconforming, single-family residential structure or its detached accessory structure shall not be made more nonconforming. (2013)
Proposed ADU is part of new construction within the existing garage and will not make structure non-conforming
- j. An ADU shall meet all applicable local and State Building, Fire and Health Safety Codes. (2012)
Proposed ADU is will comply with all codes
- k. Must have adequate provisions for a water supply and sewerage disposal method for the ADU, in accordance with NH RSA 485-a:38 Approval to Increase Load on a Sewage Disposal System (as amended). (2017)
Proposed ADU is located within the existing garage and will utilize both a municipal sewer and water connection
2. The Board of Adjustment, prior to granting a Special Exception, shall conduct a hearing to determine if the proposed ADU complies with the following criteria:
- a. The ADU must be developed in a manner which does not alter the character or appearance of the principal use as a single-family dwelling. (2017)
Proposed ADU will not alter character or appearance of principal dwelling
- b. The ADU is intended to be secondary and accessory to a principal single-family dwelling unit.
Proposed ADU is secondary to principal dwelling
- c. The ADU shall not impair the residential character of the premises nor impair the reasonable use, enjoyment and value of other property in the neighborhood.
Proposed ADU will not impair residential character or premises nor impair reasonable use or value of other properties
- d. Adequate off-street parking must be provided.
Proposed ADU will have adequate off street parking
- e. Any necessary additional entrances or exits shall be located to the side or rear of the building whenever possible. **Any necessary additional entrances / exits will be located on side or rear whenever possible**
- B. All ADUs must apply for a compliance inspection when a change of ownership occurs, to ensure compliance with Section 10.02.6:A. **Proposed ADU will apply for compliance inspection when change of ownership occurs**

INSTRUCTIONS FOR SPECIAL EXCEPTION

The Zoning Board of Adjustment strongly recommends that, before making any appeal (application), you become familiar with the Milford Zoning Ordinance¹ and with New Hampshire TITLE LXIV, Revised Statutes Annotated, RSAs, Chapters 672-677², covering planning and zoning. Additionally, you may seek guidance through the Office of Community Development.

ABUTTERS: List the map, lot, abutter name, and mailing information. This information can be found in the Milford Assessing Office.

For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a condominium or other collective form of ownership, the term "abutter" means the officers of the collective or association, as defined in RSA 356-B:3, XXIII. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a manufactured housing park form of ownerships defined in RSA 205-A:1, the term "abutter" includes the manufactured housing park owner and the tenants who own manufactured housing which adjoins or is directly across the street, stream, or active railroad from the land under consideration by the local land use board. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being an active railroad property, the owner of the railroad property shall be notified. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case where the applicant is different from the owner of the land under consideration by the local land use board, the term "abutter" includes the applicant.

For purposes of receiving testimony only, and not for purposes of notification, the term "abutter" shall include any person who is able to demonstrate that his/her land will be directly affected by the proposal under consideration.

SPECIAL EXCEPTION: Certain sections of the Zoning Ordinance allow the Zoning Board of Adjustment, in appropriate cases and subject to appropriate conditions, to make special exceptions to the terms of the ordinance. All special exceptions must meet five basic criteria:

1. The proposed use shall be similar to those permitted in the district.
2. The specific site is an appropriate location for the proposed use.
3. The use as developed will not adversely affect the adjacent area.
4. There will be no nuisance or serious hazard to vehicles or pedestrians.
5. Adequate appropriate facilities will be provided for the proper operation of the proposed use.

To the best of your ability, explain why your request for a Special Exception meets each of the above criteria.

Instructions continued on the next page.

¹ 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)

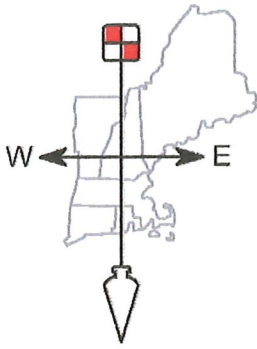
² NH RSAs, Chapters 672-677 can be found at:

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

In addition, several types of Special Exceptions have their own criteria that must be met. These include, but are not limited to:

1. **2.03.1:C Non-conforming Use and Structure:** alteration, expansion, or change of a non-conforming use or structure.
2. **6.02.6 Wetland Conservation District:** 6.02.6:A wetlands and 6.02.6:B wetland buffers not located in the right-of-way of a public road. The criteria for evaluation are listed in Section 6.02.7.
3. **7.02.1:C On-site Sewage Disposal Systems:** installation or modification of an on-site sewage disposal system within twenty-five hundred feet of a town well.
4. **7.05.2 Existing Manufactured Mobile Home Parks:** expansion of existing manufactured mobile home parks in the Industrial District.
5. **7.06.7:H Off Premise Signs:** Permanent off premise signs in the A, B, R, C-OSC and LCB Districts.
6. **10.02.3 Home Occupations.**
7. **10.02.4 Self-service Storage Facilities.**
8. **10.02.6 Accessory Dwelling Units.**
9. **10.02.7 Office in the Residence A and B Districts.**

If your project is covered by one (or more) of the above situations, 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.



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February 15, 2023

Town of Milford
Zoning Board of Adjustment
Town Hall
1 Union Square
Milford, NH 03055

RE: Pamela Rice
Tax Map Parcel 36-111
61 Briarcliff Drive
Milford, NH 03055
(Special Exception)

To Whom It May Concern:

The undersigned being the owner of the above referenced lot hereby authorizes Fieldstone Land Consultants, PLLC to act as their agent in filing and seeking all necessary approvals from local, state and federal regulations for Tax Map Parcel 36-111.

Very truly yours,

Signature:

Print:

Rebecca Young

Date

2/20/2023



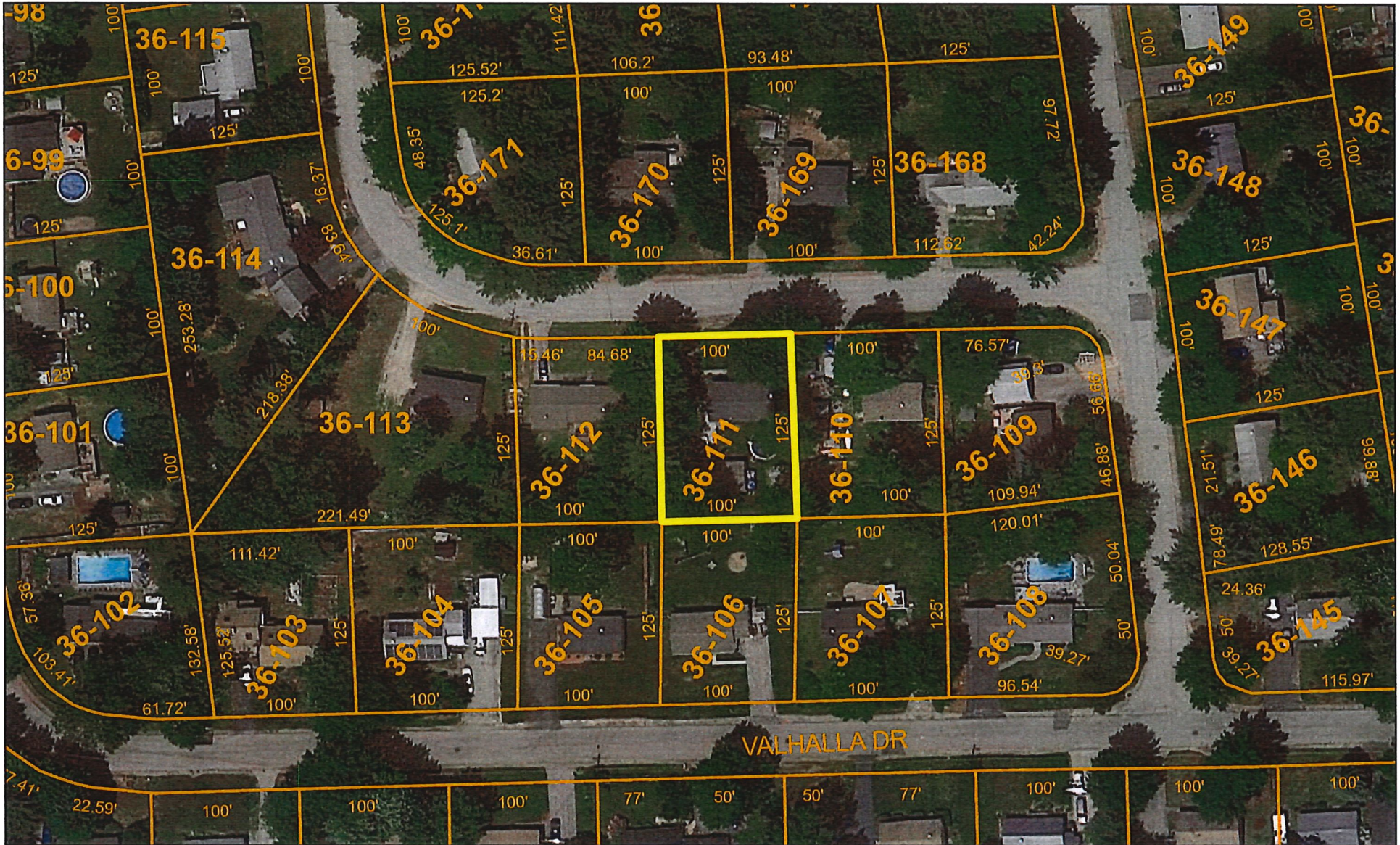
Town of Milford, NH

1 inch = 94 Feet



March 30, 2023

www.cai-tech.com



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