




# ZBA Application

## MILFORD ZONING BOARD OF ADJUSTMENT

### GENERAL PROPERTY INFORMATION FOR ALL APPLICATIONS

PROPERTY INFORMATION	
Street Address: Ponemah Hill Road	
Tax Map / Parcel #: 43-61	Lot Size: 1.94
PROPERTY CURRENTLY USED AS	
Vacant wooded lot.	
<i>If the application involves multiple lots with different owners, attach additional copies of this page.</i>	
PROPERTY OWNER	
Name: Frederick & Celia Lorden Trust	
Address: 19 Ponemah Hill Road	
City/State/Zip: Milford, NH 03055	
Phone: (    )	
Email:	
<i>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.</i>	
APPLICANT/REPRESENTATIVE	
<input type="checkbox"/> SAME AS OWNER	
Name: Ponemah Pines, LLC	
Address: 476 Route 13S	
City/State/Zip: Milford, NH 03055	
Email: nateb@balldesignbuild.com	
Phone: ( 603 ) 769-9395	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.	
 <i>Norma Glow</i> Property Owner's signature	9/24/19 Date:

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

**Zoning District (check one):**

Residence A  
 Residence B     Residence R  
 Commercial  
 Limited Commercial  
 Industrial  
 Integrated Commercial-Industrial  
 Integrated Commercial-Industrial-2

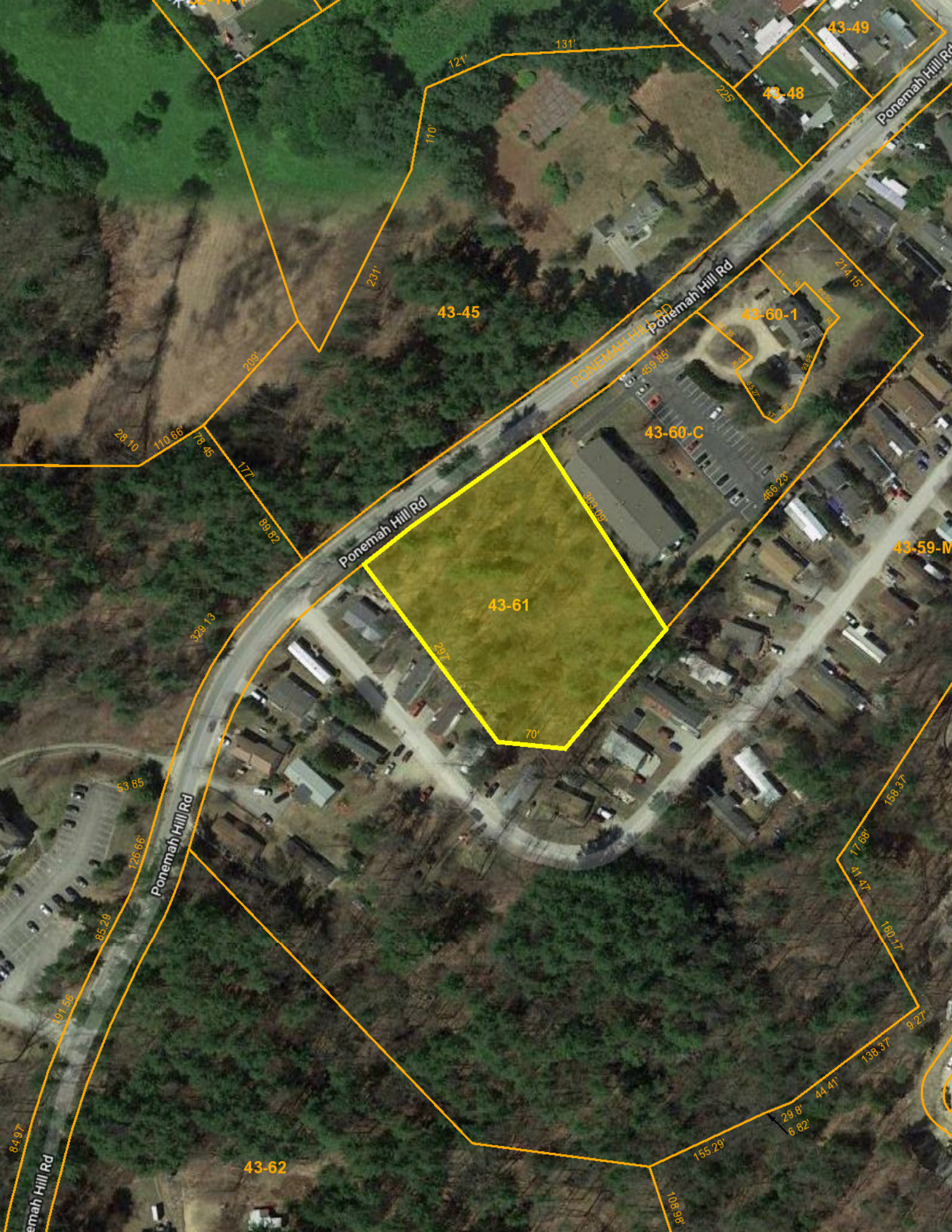
**Overlay District (check any that apply):**

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 _____	
Amount received:	
Date Received:	
Check _____ Cash _____	

*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.*



43-45

43-48

43-49

43-60-1

43-60-C

43-61

43-59-M

43-62

Ponemah Hill Rd

PONEMAH HILL RD  
Ponemah Hill Rd

emah Hill Rd

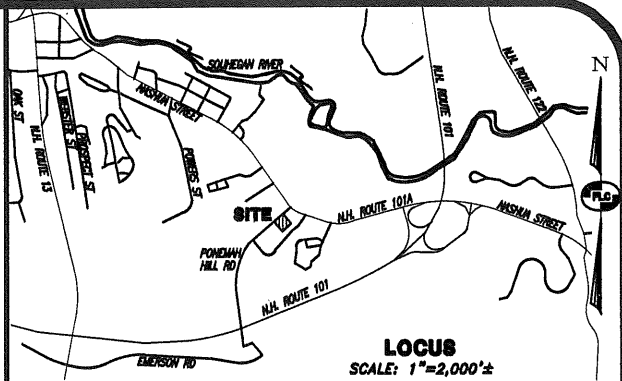
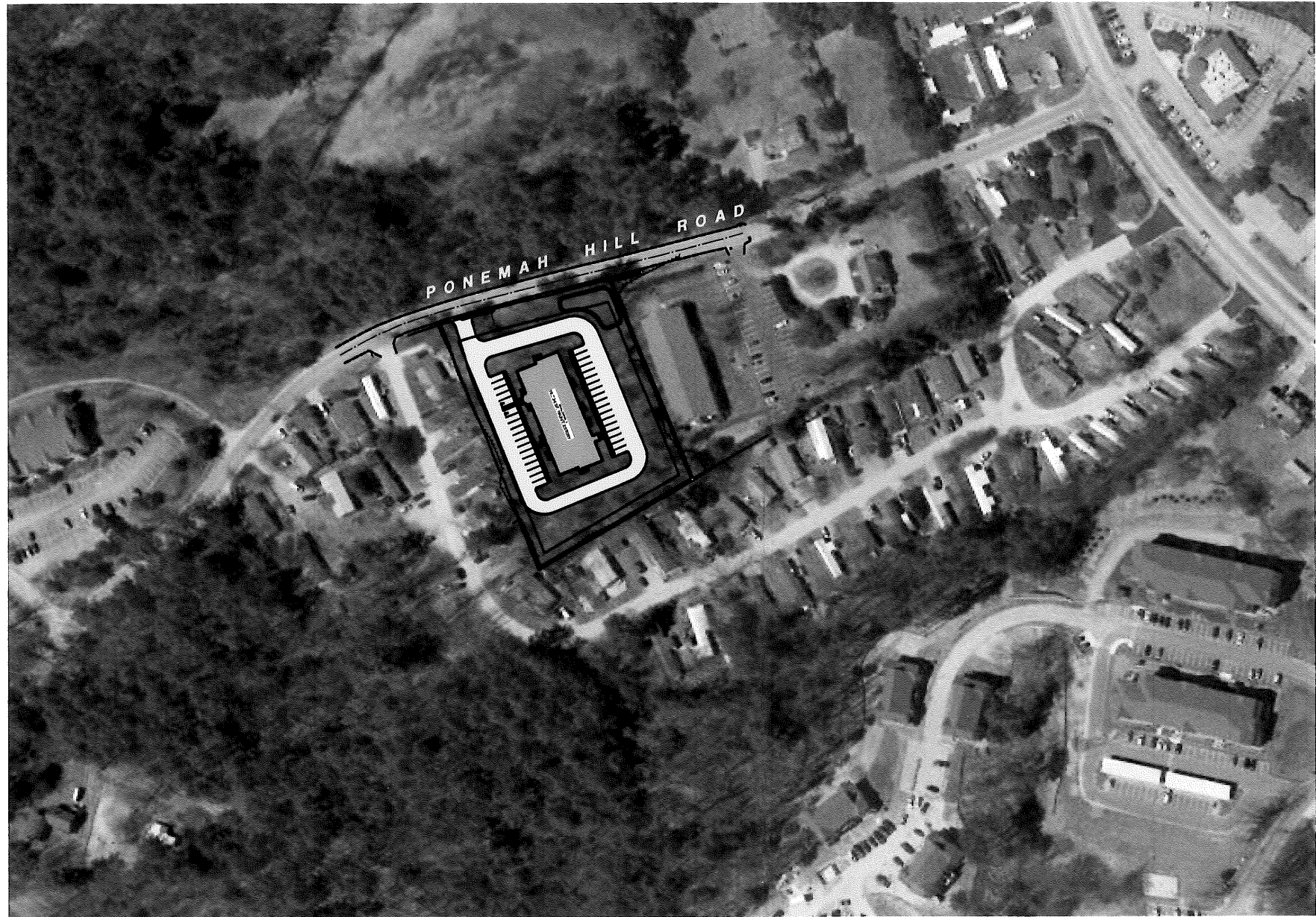
**LEGEND:**

**EXISTING FEATURES**

- RIGHT-OF-WAY LINE
- BOUNDARY LINE
- ABUTTING LOT LINE
- BUILDING SETBACK LINE
- EDGE OF PAVED ROAD
- STONE WALL
- EDGE OF TREE LINE
- 500' — 10' CONTOUR INTERVAL
- 502' — 2' CONTOUR INTERVAL
- CHAINLINK FENCE
- OH — OVERHEAD UTILITY LINE
- W — WATER LINE
- S — SEWER LINE
- (H) DRILL HOLE FOUND
- (P) IRON PIN FOUND
- (P) IRON PIPE FOUND
- (H) P.O. HOLE FOUND
- UTILITY POLE & GUY WIRE
- CATCH BASIN (SQUARE)
- SEWER MAN-HOLE
- WATER HYDRANT
- WATER VALVE
- WATER SHUT-OFF
- WELL
- SINGLE SIGN POST
- 43-81 TAX MAP & LOT NUMBER

**PROPOSED FEATURES**

- EDGE OF PAVEMENT
- PAVED AREA
- PROPOSED BUILDING
- PROPOSED DECK



**NOTES:**

1. THE OWNER OF RECORD FOR TAX MAP 43 LOT 81 IS THE FREDERICK & CELIA LORDEN TRUST - 19 PONEMAH HILL ROAD, MILFORD, NH 03055. THE DEED REFERENCE FOR THE PARCEL IS VOL.53669 PG.782 DATED SEPTEMBER 16, 1992 IN THE H.C.R.D.
2. THE PURPOSE OF THIS PLAN IS TO DEPICT A PROPOSED 18-UNIT MULTI-FAMILY BUILDING WITH ASSOCIATED SITE IMPROVEMENTS ON TAX MAP PARCEL 43-81 AS SHOWN.
3. THE TOTAL AREA OF TAX MAP PARCEL 43-81 IS 83,514 S.F. OR 1.91 ACRES, WITH 249± FEET OF FRONTAGE ON PONEMAH HILL ROAD.
4. ZONING FOR THE ENTIRE PARCEL IS RESIDENTIAL-B DISTRICT  
MINIMUM LOT SIZE - 20,000 S.F.  
MINIMUM LOT FRONTAGE - 150 FT.  
MINIMUM BUILDING FRONT SETBACK: 30 FT.  
MINIMUM BUILDING SIDE SETBACK: 15 FT.  
MINIMUM BUILDING REAR SETBACK: 15 FT.  
MAXIMUM BUILDING HEIGHT: 35 FT.  
MINIMUM OPEN SPACE: 30%
5. HORIZONTAL ORIENTATION IS BASED ON REFERENCE PLAN #1. VERTICAL DATUM IS ASSUMED.
6. THE SURFACE FEATURES AND SITE TOPOGRAPHY SHOWN ARE THE RESULT OF AN ONSITE FIELD SURVEY BY THIS OFFICE DURING THE MONTH OF OCTOBER 2012 TOGETHER WITH REFERENCE PLAN CITED HEREON.
7. THE UNDERGROUND UTILITIES SHOWN HAVE BEEN COMPILED IN PART FROM PLANS OF RECORD AND FIELD LOCATION. THE LOCATION OF UNDERGROUND UTILITIES SHOULD BE CONSIDERED APPROXIMATE AND SHOULD BE FIELD VERIFIED PRIOR TO ANY EXCAVATION OR CONSTRUCTION ACTIVITIES.
8. THERE ARE NO JURISDICTIONAL WETLANDS ON-SITE PER FIELD INVESTIGATION BY THIS OFFICE.
9. PARKING CALCULATION:  
MULTI-FAMILY USE: 2 SPACES PER DWELLING UNIT.  
PROPOSED BUILDING CONSISTS OF 18 DWELLING UNITS: 18 UNITS X 2 SPACES = 36.  
36 SPACES ARE PROVIDED INCLUDING TWO VAN ACCESSIBLE HANDICAP PARKING SPACES.
10. EXTERIOR LIGHTING IS TO BE PROVIDED BY ONE POLE MOUNTED LIGHT AS SHOWN. ALL PROPOSED SITE LIGHTING SHALL BE DOWNCAST TO PREVENT LIGHT POLLUTION.
11. THERE IS NO PROPOSED PROJECT SIGNAGE AT THIS TIME. FUTURE SIGNAGE WILL REQUIRE PERMITTING PRIOR TO INSTALLATION.
12. MINIMUM "OPEN SPACE" AREA: 30% OF LOT AREA REQUIRED. THIS PROPOSAL PROVIDES 1.05 ACRES OR 85% OF THE TOTAL PARCEL AREA OF 1.91 ACRES.
13. BASED ON A FIELD INSPECTION, THE ENTRANCE TO THE SITE SATISFIES THE TOWN OF MILFORD REQUIREMENTS FOR MINIMUM SAFE SITE DISTANCE.
14. SOIL TYPE FOR THE ENTIRE PROPERTY IS H8a - HINCKLEY LOAMY SAND, 0 TO 3% SLOPES. SOURCE USDA NRCS WEB SOIL SURVEY.
15. THE SITE IS LOCATED WITHIN THE LEVEL 1 GROUNDWATER PROTECTION DISTRICT. THE SITE LIES OUTSIDE ALL WELLHEAD SANITARY RADIUS.
16. THE SITE IS CURRENTLY VACANT AND NOT SERVICED BY OVERHEAD UTILITIES OR BY MUNICIPAL SEWER AND WATER.
17. THE SUBJECT PARCEL IS NOT LOCATED IN A FLOOD HAZARD AREA AS DETERMINED FROM THE FLOOD INSURANCE STUDY (FIRM), HILLSBOROUGH COUNTY, TOWN OF MILFORD, NEW HAMPSHIRE, COMMUNITY NO. 330098, PREPARED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, MAP NUMBER: 33011004560, DATED: SEPTEMBER 25, 2009.
18. ANY STUMPS OR DEBRIS ENCOUNTERED DURING CONSTRUCTION WILL BE REMOVED FROM THE SITE AND DISPOSED OF PROPERLY.

REV.	DATE	DESCRIPTION	C/O	DR	CK

**AERIAL EXHIBIT PLAN**  
**TAX 43 MAP LOT 81**  
**(PONEMAH HILL ROAD)**  
**MILFORD, NEW HAMPSHIRE**

**PREPARED FOR:**  
**PONEMAH PINES, LLC**  
**LAND OF:**  
**FREDERICK & CELIA LORDEN TRUST**  
**19 PONEMAH HILL ROAD, MILFORD NH 03055**

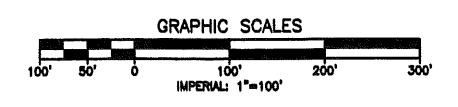
SCALE: 1" = 100' SEPTEMBER 19, 2019

Surveying ♦ Engineering ♦ Land Planning ♦ Permitting ♦ Septic Designs

**FIELDSTONE**  
**LAND CONSULTANTS PLLC**

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

**REFERENCE PLAN:**  
\*PONEMAH HILL CONDOMINIUM - PONEMAH HILL ROAD, MILFORD, N.H. - PREPARED FOR - PONEMAH HILL CONDOMINIUM - C/O ROBERT MOULON - 9 PONEMAH HILL ROAD - MILFORD, N.H. 03055. SCALE: 1"=40'. DATED SEPTEMBER 3, 1999 & REVISED THROUGH AUGUST 23, 2004 BY JUSTIN PARKHURST & RECORDED AS PLAN #35894 IN THE H.C.R.D.

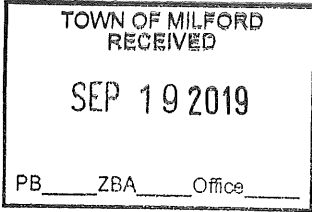




**ZBA Application - Variance**  
**MILFORD ZONING BOARD OF ADJUSTMENT**

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

PROPERTY INFORMATION
Street Address: Ponemah Hill Road (no formal address)
Tax Map / Parcel #: 43 / 61
<i>A Variance is a use which is not permitted by the Zoning Ordinance. Approval from the Zoning Board of Adjustment is required to allow any use or deviation from the Zoning Ordinance. Please work with the Zoning Administrator to make sure your application is complete and you know what will be required of you at the hearing.</i>
What section of the Zoning Ordinance are you asking to be varied? Article <u>5</u> Section <u>5.03.4(A)</u>
Describe the variance you are requesting under the above section of the Ordinance. We are requesting a variance from Article 5, Section 5.03.4(A) to allow the construction of a 18-Unit multi-family residential building on the subject property.



**General Criteria Section 10.01**

**Explain how the proposal meets the following conditions per New Hampshire RSA 674:33.1**

- Granting the Variance would not be contrary to the public interest because:  
**\*\*Please see attached\*\***
- If the Variance were granted, the spirit of the ordinance would be observed because:  
**\*\*Please see attached\*\***
- Granting the Variance would do substantial justice because:  
**\*\*Please see attached\*\***
- Granting the Variance would not diminish the value of surrounding properties because:  
**\*\*Please see attached\*\***
- 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 :

**\*\*Please see attached\*\***

AND

ii. The proposed use is a reasonable one because:

**\*\*Please see attached\*\***

(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:

**\*\*Please see attached\*\***

(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:

NA

1. The Variance requested under this paragraph shall be in harmony with the general purpose and intent of the Zoning Ordinance because:

NA

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.*

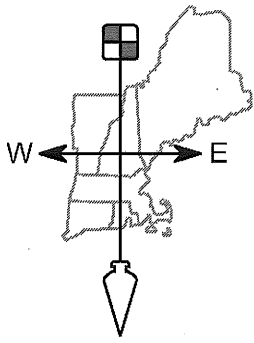
- d. Granting the Variance would not diminish the value of surrounding property.

*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.



# FIELDSTONE

Surveying ♦ Engineering  
Land Planning ♦ Septic Designs

LAND CONSULTANTS, PLLC

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

## VARIANCE CRITERIA

(VARIANCE FROM ARTICLE V SECTION 5.03.4(A))

Tax Map Parcel 43-61

Ponemah Hill Road, Milford, NH

September 19, 2019

Prepared For:

Ponemah Pines, LLC

A Variance is requested under Section 5.03.4(A) of the Milford Zoning Ordinance to permit the construction of an 18-Unit Multifamily Residential Building on the subject property. The subject parcel consists of 1.94 acres of land and is situated in the Residence "B" District. Article 5 Section 5.03.4(A) of the Zoning Ordinance deals with multi-family residences in the Residence "B" district and more specifically the allowed densities.

The subject property consists of approximately 1.94 acres of land and has frontage along Ponemah Hill Road. The property is currently vacant but is surrounded by higher density developments including a 52 unit mobile home park to the south and east, a 22 unit multi-family residential development to the north and a 36 unit multi-family residential development to the west.

Our client would like to develop the subject property into an 18-Unit Multifamily Residential Building. The underlying zoning only permits a density of 5 units per acre, or 9.7 units so we are seeking relief to allow an increased density to 18 units which would be more in character with the neighborhood.

The numbered items below correlate to the questions asked in the Town Application for a Variance.

1. Granting the variance would not be contrary to the public interest because:  
Granting this variance would allow for the productive use of the existing property. In general the areas surrounding this property consist of a mixture of housing stock with increased densities. Given this the proposed development of the subject property would be in harmony with the surroundings. This proposal will therefore not have a negative impact on the neighborhood, the public health, safety or welfare and as such would not be contrary to the public interest.
2. If the Variance were granting, the spirit of the ordinance would be observed because:  
The proposal for this site is consistent with the surround areas. We believe the spirit of the ordinance is to manage development so that there is harmony in neighborhoods with adequate buffering and separation between properties. When you look at the proposed

Ponemah Pines, LLC

Variance Criteria - (Variance From Section 5.03.4A)

Tax Map Parcel 43-61, Ponemah Hill Road

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development and its surroundings you can see that the proximity of the surrounding developments actually burdens the subject property. Due to this the best development for this property is a single multi-family residential building. This development is most consistent with the surroundings and allows for increased separation and buffering to the neighboring developments. When you contemplate these factors we believe this proposal is in spirit with the ordinance. This project will also address an increasing local demand for apartments, will increase the Town tax base and will allow reasonable use of the subject property with no measurable negative impact on the neighborhood, the public health, safety or welfare. For all of these reasons we believe that granting the variance would observe the spirit of the ordinance.

3. Granting the variance would do substantial justice because:

Substantial justice is done when the loss of denying a variance exceeds the gain to the general public in strictly enforcing the ordinance.

In this instance granting this variance would allow for the productive use of the property. The proposed use would be consistent with its surroundings and the proposed layout would provide adequate buffering to the abutting properties. This project would have minimal impacts on local services, would increase the tax base for the Town and would address a local demand for residential housing.

On the other hand we do not see how denying the variance would result in an appreciable gain to the public.

Thus, granting this variance will do substantial justice.

4. Granting the Variance would not diminish the value of surrounding properties because:

This requested variance will not diminish the character of the neighborhood as this type of development at the requested density already exists on the neighboring properties. Since this proposal is in harmony with the surroundings the proposed development should not produce any different or significant traffic, noise, or odors or other detrimental impacts to the surrounding area. Granting this variance, therefore, will not result in a diminution of property values for surrounding properties.

5. Unnecessary Hardship

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:

1. No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because:

Section 5.03.4(A) of the Milford Zoning Ordinance limits the density of multi-family



Ponemah Pines, LLC

Variance Criteria - (Variance From Section 5.03.4A)

Tax Map Parcel 43-61, Ponemah Hill Road

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residential developments to 5 units per acre. The subject property is surrounded by developments with higher unit counts so this proposal would be in harmony with the neighborhood. When you look at the proposed development and its surroundings you can see that the proximity of the surrounding developments actually burden the subject property. Due to this the best development for this property is a single multi-family residential building and when you contemplate this style development there are certain efficiencies that warrant a minimum number of units as proposed. This development is most consistent with the surroundings and allows for increased separation and buffering to the neighboring developments. When you contemplate these factors we believe this proposal is in spirit with the ordinance. When you consider these factors we do not believe that a fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property. This development will not burden local services and will not be a detriment to the surroundings. This proposal will actually increase the Town tax base, be consistent with its surroundings and will address a housing need for the community. For all of these reasons, we do not believe that a fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property.

2. The proposed use is a reasonable one because:

We believe that the proposed use is a reasonable one for all of the reasons previously stated. The following is an outline of why we believe the proposed use is reasonable:

- Granting this variance would allow for the productive use of the exist property.
- This development will be in harmony with the neighborhood and will not result in negative impacts to the surroundings.
- The development is sensitive to the surroundings and proposes a layout that maximizes separation and buffering to the adjacent properties and associated improvements.
- The design of the site will provide for all necessary services.
- The proposed development will address a local housing need and will increase the tax base for the community.

For all of the reasons we believe that the proposed use is reasonable.

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 subject parcel consists of approximately 1.94 acres and is currently vacant. When you look at the surrounding developments you will notice that they, in some, cases come very close to encroaching on the subject property. In fact you will see that the tree line and backyard areas in some instances does actually encroach on the subject property. When we

Ponemah Pines, LLC

Variance Criteria - (Variance From Section 5.03.4A)

Tax Map Parcel 43-61, Ponemah Hill Road

Page 4 of 3

considered this and the best layout for a development on the subject property we felt that a single multi-family building would be the best options as it would allow us to compress the overall disturbance to the property and maximize the separation to the abutting developments. We believe this is the best and most reasonable way to approach developing the subject property. When you contemplate this style development there are certain efficiencies that warrant a minimum number of units which is what this application proposes. Given this, we believe that the size and geometry of the subject property along with the surrounding improvements that in some cases encroach onto the subject property create existing special conditions that distinguish this property from other properties in the area. We further believe that these conditions require a variance to allow for the best and most reasonable development of the property.

- 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: Not applicable

This information was prepared by:

**Fieldstone Land Consultants, PLLC**



Chad E. Branon, P.E.

Project Manager