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Stephen O. Wallace
(1955-1968)

January 23, 2018

HAND DELIVERED

Rochester Zoning Board of Adjustment
c/o Department of Building, Zoning and Licensing Services
33 Wakefield Street
Rochester, NH 03867

RE: *Appeal of Administrative Decision Application*
Applicant: 36A Industrial Way, LLC
Property: 36 Industrial Way, Rochester, NH, Map 230, Lot 20, Block 0

Dear Board Members:

Please accept this letter as a follow-up to my December 27, 2017 letter to you, which accompanied the original filing of this Administrative Decision Appeal with your Board, on behalf of, the Owner of property situate at 36 Industrial Way, Rochester, New Hampshire, Tax Map: 230 Lot: 20 Block: 0. Please consider the enclosed materials as an amendment to that filing, which is amendment is made based upon the request of the Director of the Department of Building, Zoning and Licensing Services to utilize his letter of January 9, 2017 as the "Decision Appealed From." for the purposes of this appeal (despite the fact that the original appeal materials were filed in the office of the Department of Building, Zoning and Licensing Services on December 27, 2017 as noted above. Consequently, without prejudice to any rights preserved by my original filing, I am filing with this letter an amended set of appeal documents which have been amended to accommodate the Director's request. You will find a copy of Director Grants January administrative decision annexed to the amended "Narrative Summary of Applicant 36A Industrial Way LLC's Basis for Appeal", as Appendix 1, and designated the "Decision Appealed From."

By way of background to this appeal, it is important to note that, on September 12, 2001, the Rochester Zoning Board of Adjustment granted a "special exception" to Enterasys Networks, Inc. (previously Cabletron Systems, Inc.) with respect to the building situate at 36A Industrial Way, Rochester, New Hampshire (the "Building"), which building is the subject of this appeal. That "special exception" allowed for "Office" use to be made throughout the entirety of the Building. Such "Office" use has been subsequently, been consistently interpreted by Rochester officials having responsibility for interpreting and applying the scope of the "special exception" for "Office" use within the Building, so to allow for a wide range of office and office related uses, including, but certainly not limited to, "... medical and health care practitioners such as medical office, chiropractic officer (*sic*), massage therapist, physical therapist, etc.". Consequently, medical "Office" uses and related medical uses have been made in the Building during most of the sixteen (16) intervening years since the "Office" use "special exception was granted with respect to the Building in 2001.

On October 20, 2017, the current Owner of the Building, acting through its contractor, submitted a Major Building Permit Application (TB-17-902) (the "Building Permit") to fit-up an approximately 8,200 square foot area, on the first floor of the Building, for use by a proposed tenant (Health Care Resource Centers), to occupy the space in question for the purpose of medical office and related space so as to enable the provision of treatment, counseling and related services for patients with drug, opioid and alcohol dependency issues.

After a lengthy period of time waiting for the issuance of its requested Building Permit, which included various discussions with City representatives indicating that the issuance of the permit would occur soon, as a matter of routine, on January 9, 2018 the Rochester Director of Buildings, Zoning and Licensing Services, acting as a City official designated with enforcement authority for such matters under the 2014 Rochester Zoning Ordinance, issued an administrative decision which indicated, that before the pending building permit could be obtained, a conditional use application must be submitted to, and approved by, the Rochester Planning Board, in accordance with the requirements of Section 42.21 of the 2014 Rochester Zoning Ordinance. This decision was made despite the specific language of Section 42.30(d)(3) of the 2014 Rochester Zoning Ordinance which specifically provides with respect to "special exception" uses which pre-dated the April 22, 2014 Rochester Zoning Ordinance that: **"any existing use which is not a permitted use but which was allowed as a special exception or a conditional use in a district shall continue to be allowed as long as it shall comply with all of its original requirements and approval"** which the "special exception" for "Office" uses in the Building situate at 36A Industrial Way does, and has continuously done since 2001. Consequently, for such reason, and other reasons set forth at length in the appeal materials, the Owner submits that the December 6, 2017 and January 9, 2018 administrative rulings noted above are in error and illegally limit the Owner's vested rights to utilize the entirety of the Building, for the broad scope of "office" uses it has been allowed to be made in such Building over the past sixteen (16) years. Therefore, such administrative decisions with regard to the pending Building Permit request of the Owner must be set aside by this Board, and the Building Permit must be ordered to be issued.

I have previously provided you with: (a) our office check in the amount of \$175.00 to cover the Appeal fee, plus the additional amount necessary to notify abutters and the Owner, as well as my Office, in connection with the hearing in regard to the Appeal; and (b) a letter signed on behalf of the Owner, authorizing the undersigned, or a member of the firm with which he is associated, to file this Appeal on behalf of the Owner. I also, on December 27, 2017, provided you with (c) one (1) original, one (1) PDF copy, and ten (10) paper copies of the Appeal materials.

Given my receipt of the January 9, 2018 administrative ruling of the Rochester Director of Buildings, Zoning and Licensing Services, I am also providing you with a one (1) original, one (1) PDF copy, and ten (10) paper copies of the slightly amended Appeal materials, which have been up-dated to reflect the January 9, 2018 ruling of Director Gray. It is my understanding that you will make such additional copies from the accompany original and PDF copy of the revised Appeal Materials.

My client and I look forward to being notified of the date of the hearing on which this appeal will be considered by the Board.

Rochester Zoning Board of Adjustment
January 22, 2018
Page Three

Should you have any questions or if I may be of any assistance, please do not hesitate to contact me.

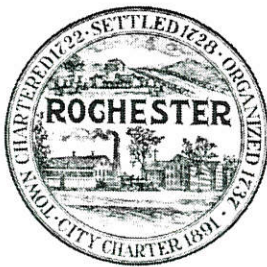
Sincerely yours,


Danford J. Wensley

DJW/pjv

CC:

Thomas Riley: c/o 36A Industrial Way, LLC, 25 Constitution Drive Bedford. NH



City of Rochester, New Hampshire

Department of Building, Zoning and Licensing Services

33 Wakefield Street * Rochester, NH 03867

Phone: (603) 332-3508 * Fax: (603) 330-0023

Website: www.rochesternh.net

Appeal of Administrative Decision Application

TO: BOARD OF ADJUSTMENT
CITY OF ROCHESTER

DO NOT WRITE IN THIS SPACE

CASE NO. _____

DATE FILED _____

ZONING BOARD CLERK

Applicant: 36A Industrial Way, LLC

E-mail: c/o Thomas A. Riley tomriley52@gmail.com Phone: (603) 396-3705 - cell phone

Applicant Address: 25 Constitution Drive, Bedford, NH 03110

Property Owner: Same as Applicant

Property Owner Address: Same as Applicant

Appeal Address: 36 Industrial Way, Rochester, NH 03867

Map Lot and Block No: Map 230 Lot 20 Block 0

Description of Property (give length of lot lines): F: 520' +/- R 650' +/- Sides 650' +/-

Office and related space for medical and health care practitioners involved in the medical treatment and
Proposed use or existing use affected: related counseling and therapeutic services for patients
suffering from/afflicted with alcohol, drug and/or opioid dependency.

The undersigned alleges that an error has been made in the decision, determination, or requirement of:

James Grant, require that Applicant/tenant
Dir. Building, Zoning and on 1/9/18 to obtain Conditional Use Permit
Licensing Services 21 and for proposed uses
Name of enforcement officer date decision

in relation to Article 42 Section 30(d)(3) of the 2014 RZO and hereby
ordinance

appeals said decision.

Signed: Danford J. Wensley

Date: 1/23/18 (8/27/17)

Danford J. Wensley, Attorney for Applicant, 36A Industrial Way, LLC
Wensley & Jones, P.L.L.C.
40 Wakefield Street
Rochester, NH 03867
(603) 332-1234
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NARRATIVE SUMMARY OF APPLICANT
36A INDUSTRIAL WAY, LLC'S
BASIS FOR APPEAL

I. FACTUAL BACKGROUND AND LEGAL SETTING:

1. 36A Industrial Way, LLC is the Owner (the Owner") of a building, formerly owned by Cabletron Systems, Inc. and others, and situated at 36 Industrial Way, Rochester, New Hampshire (the "Building"), such Building currently, and long prior to 2001, consisting of a two (2) stories with approximately 31,500 square feet each, and located on a lot with an area in excess of 9.5 acres (the "Lot"). See Exhibit C annexed hereto.

2. The Building is currently located in Rochester's GI (General Industrial) Zoning District under the provisions of the existing 2014 Rochester Zoning Ordinance (the "2014 Rochester Zoning Ordinance") adopted on April 22, 2014.

3. Prior to April 22, 2014, the Building was located in the I-2 Zoning District of the City of Rochester under the Rochester Zoning Ordinance which was in effect 2001 (the "2001 Rochester Zoning Ordinance"), a classification that been in effect from 1980s until the adoption of Rochester's 2014 Zoning Ordinance, on April 22, 2014.

4. Under cover letter dated August 24, 2001, from Norway Plains Associates, Inc. to the Rochester Zoning Board of Adjustment, and pursuant to an "APPLICATION FOR SPECIAL EXCEPTION", filed on behalf of Cabletron Systems, Inc., a request for a special exception was made to this Board, so as to permit the use of two (2) 63,500 square foot buildings (which had until that time supported office use as an "accessory use" related to the permitted primary manufacturing usage, and one (1) of such buildings being the Building which is the focus of this Appeal), so that "(b)y this application, use of these two buildings would be allowed as a primary use." (Emphasis supplied) See Exhibit A annexed hereto, and specifically Norway Plains Associates, Inc.'s letter dated August 24, 2001.

5. On September 12, 2001, when the Building was owned by Enterasys Networks, Inc., this Board, the Rochester Zoning Board of Adjustment (sometimes hereinafter referred to as the "Board"), granted to the then owner of the Building, a "special exception" under the provisions of "... Section 42.14, Permitted Uses, Table-1 Section b-6 (*sic*)" of the City's then applicable 2001 Rochester Zoning Ordinance, which "special exception" request was granted "... to permit an office use as a primary function ..." of the Building. See Exhibit A annexed hereto, specifically the Rochester ZBA's "NOTICE OF DECISION" of September 12, 2001.

6. At the time of the ZBA's grant of the abovementioned "special exception" for "Office" use as a primary function within the Building, in 2001, the definition of the word "Office" in Section 42.6(43) of the 2001 Rochester Zoning Ordinance (and, in fact, the only definition of "Office" in such ordinance) was: **"A room or group of rooms used for conducting the affairs of a business, profession, service, industry or government"**. (Emphasis supplied).

7. Over the sixteen (16) plus years that have elapsed since this Board's grant of the abovementioned 2001 "special exception" for "Office" use as a primary use throughout the entire Building, a series of subsequent interpretations, decisions, and rulings have been made by various Rochester Building, Zoning and Planning officials, charged with responsibility for implementing both the interpretation of the word "Office" as contained in 2001 Rochester Zoning Ordinance, as well as the impact of such definition on the nature and extent of the "Office" uses, which were included within, and were, therefore, permissible and allowable "office" uses under, the aforesaid "special exception" granted

by this Board with respect to the Building in September 2001. See Exhibit A annexed hereto.

8. In each instance of an interpretation and/or application of the area in which the 2001 "special exception" "Office" uses allowable in the Building could be made, by any Rochester administrative official(s) having responsibility for interpreting and/or applying the 2001 "special exception" permitting "Office" uses within the Building, the interpretation of the area in which such "Office" uses could, and the scope of the nature of such uses that were permissible within the Building, were consistent and very broad in scope. See Exhibit A annexed hereto.

9. These subsequent interpretations, decisions and rulings all viewed the 2001 "Office" uses permitted by the Rochester Zoning Board of Adjustment's September 12, 2001 "special exception" (whether specifically or by implication) were broad and all-encompassing with respect areas within Building which were available for office uses, and provided the right to make such "Office" uses under the "special exception" attached to (i.e, "ran with") the Building itself (even in the case of a change of ownership). See Exhibit A annexed hereto, and specifically Kenn Ortmann's Administration Decision of November 17, 2004 included therein.

10. Also, such interpretations and decisions recognized that, in light of the broad definition "Office" contained in Section 42.6(43) of the 2001 Rochester Zoning Ordinance, such "Office" uses clearly encompassed office uses by professionals, such as medical related office uses of a nature consistent with those proposed uses to be made in the portion of the Building to be leased, occupied and utilized by the Owner's prospective tenant, Health Care Resources, Inc. (the "Tenant"), for which the Building Permit that would enable the **fit-up of approximately 8,000 plus square feet of medical office and related space so as to enable the provision, treatment, counseling and related services for patients with drug, opioid and alcohol dependency issues, on a purely out-patient basis**, in the space that would be occupied under the improperly withheld and erroneously denied building permit, that forms the basis for this Appeal. See Exhibit A annexed hereto, particularly Michael Behrendt's interpretation dated June 10, 2010, of the wide range of the types of "Office" uses permissible under the Rochester Zoning Board of Adjustment's September 12, 2001 "special exception" granted with respect to the entire Building known as 36 Industrial Way Building, which interpretation specifically included within such "special exception" "Offices" uses for, and related to, " **... medical and health care practitioners such as a medical office, chiropractic officer (sic), massage therapist, physical therapist, etc.**" (Emphasis supplied).

11. Kenn Ortmann's November 17, 2004 ruling, as Director of Planning and Development, among other things, provided that the "Office" use granted with respect to the Building applied to "... a site and not to a specific owner or specific time frame unless that is specified in the approval", which it was not, when the "special exception" was originally approved and issued on September 12, 2001. See Exhibit A annexed hereto.

12. Additionally, with respect to the "Administrative Decision" made by Kenneth Ortmann, Director of Planning and Development for the City of Rochester, on November 17, 2004, pursuant to the provisions of RSA 676:5, such Administrative Decision specifically affirmed and made it clear that the "Office" use granted by "special exception" on September 12, 2001 was still in existence in 2004, and applied to the Building "... in its entirety." See Exhibit A annexed hereto.

13. Director Ortmann's November 17, 2004 ruling also provided that the "Office" use granted with respect to the Building applied to "... a site and not to a specific owner or specific time frame unless that is specified in the approval", which it was not, when the "special exception" was originally approved and issued on September 12, 2001, or since that date. See Exhibit A annexed hereto.

14. With respect to this Appoeal, perhaps the most important aspect of Kenn Ortmann's November 17, 2004 "Administrative Decision" with respect to the Building (at a time when individual spaces within the Building were being sold as condominium units to be occupied for "Office" related uses), related to the question as if, given the September 2001 grant of the "special exception" permitting "Office" uses as a primary use to be made throughout the entire Building, "... whether or not the owner of each condominium unit must file an application for a Special Exception." Director Ortmann's November 17, 2004 Administrative Decision definitively ruled that the owner of each condominium owner did not have to file for a separate Special Exception because "... Special Exceptions and Variances are granted to a site and not to a specific owner ...". Therefore, he held that broad range of "Office" uses permitted by the 2001 "special exception" with respect to the Building applied to the entire Building without the need for the building owner or the occupier of specific space within the Building (whether by lease or condominium ownership) to obtain a separate special exception, conditional use, or other authorization in order to occupy specific space within the building as "Office" space. See Appendix 1 annexed hereto.

15. The aspect of Kenn Ortmann's November 17, 2004 "Administrative Decision" with respect to the building completely undermines the legal basis of the January 9, 2018 Administrative Decision of James Grant, Director of the Rochester Department of Building, Zoning and Licensing Services (i.e. that leaseholders within and/or the Owner of the Building, must obtain a conditional use permit required by the provision of Section 41.21 of the 2014 Rochester Zoning Ordinance, before obtaining a Building Permit, if so required, particularly given (or, one could say because of) the specific, clear and unambiguous language of Section 42.30(d)(3) of the 2014 Rochester Zoning Ordinance, which simply provides that: "Any existing use which is not a permitted use but which was allowed as a special exception or a conditional use in a district shall continue to be allowed as long as it shall comply with all of its original requirements and approval". This being the case the December 6, 2017 Administrative from which this Appeal is taken, does not support the provisions of the 2014 Rochester Zoning Ordinance, it clearly violates the specific mandate of Section 42.30(d)(3) of the 2014 Rochester Zoning Ordinance, and, thus must be overturned by this Board, and Building Permit (TB-17-902 at 36 INDUSTRIAL WAY) must be authorized and ordered to be issued by this Board. (Emphasis supplied).

16. It is also important to note that copies of Director Ortmann's November 17, 2004 administrative decision were simultaneously provided to Karen Pollard, the then Economic Development Manager for the City of Rochester, Larry Hammer, the then Code Enforcement Officer for the City of Rochester, and Michael Behrendt, the then the Chief Planner for the City of Rochester, and that none of those officials appealed the "Administrative Decision" made by Mr. Ortmann under the provisions of RSA 676:5, I, as they, and other Rochester officials were entitled to do, and that such decision and interpretation has been followed and complied with since that date - until the respective December 6, 2017 and January 9, 2018 issuance of the identical rulings by the Rochester City Attorney (see Section 42.3 (a)(11)) to the effect that the Owner's Tenant's proposed medical professional use required that a Conditional Use permit be obtained from the Rochester Planning before a building permit could be obtained by the Owner, or its proposed Tenant. (Such identical rulings being hereinafter referred to, both individually and collectively, as the "Administrative Decision"). It is the Administrative Decision, or either of them, which give rise to this Appeal to this Board. See Appendix 1 annexed hereto.

17. By another subsequent interpretation of the meaning of the term "Office" as used in the September 12, 2001 "special exception" granted with regard to the Building, Michael Behrendt, Chief Planner for the City of Rochester, under date of June 4, 2010, interpreted the 2001 "special exception" at issue to include a wide range of activities failing within the definition of "office" use which were allowed in the Building, including, specifically noting that such use(s) included **"... medical and health care practitioners such as a medical office, chiropractic officer (sic), massage therapist, physical therapist, etc."** (Emphasis supplied). See Exhibit A annexed hereto.

18. For years during and after the issuance of the administrative decisions and interpretations referenced in the aforementioned paragraphs relative to the nature and scope of the "Office" uses allowed under the 2001 "special exception" relative to the Building, medical and medical related "Office" uses of various types, varying size, and at various for various durations, were made by occupants of the Building, which medical and medical related uses. at their high point took up approximately one quarter of the tenantable space within the Building. In fact, during since September 12, 2001, the area of the Building devoted to medical and medical related use "Office" uses has varied, with the maximum level of tenantable space of the Building being occupied by such types of uses, at any one time, being approximately 25% of the available tenantable space.

19. Under date of October 20, 2017, the Owner's builder, Indian Fall's Construction, LLC, on behalf of the Building Owner, filed a "Major Building Permit Application" (Permit/Application: TB-17-902) (the "Building Permit"), with the Rochester Department of Building, Zoning and Licensing Services, to permit the undertaking of a project involving the fit-up of approximately 8,200 sq. ft. of office space within the Building (i.e. "New walls, new lights, new drop ceiling, paint, carpet." See Exhibit B, Major Building Permit Application at p. 1 of 4 annexed hereto.

20. Pursuant to the Building Permit application the "use and Occupancy" of the space to be "fit-up" for use by the Owner's Tenant was "Office" and the "Occupant Load" was to be 30 medically related professionals and support personnel employees and patients. See Exhibit B, Major Building Permit Application at pg. 1 of 4.

21. The Tenant intended to occupy the space to be fit-up pursuant to the Building Permit is a nationally known medical service related provider with offices throughout New England, Health Care Resource Centers, the medical professional activities of which include offices and related space for medical, and health care practitioners involved in the medical treatment, and related counseling and therapeutic services, for patients suffering from/afflicted with alcohol, drug and/or opioid dependency, on a purely out-patient basis.

22. In and around the summer and fall of 2017, Karen Pollard, in her capacity as Economic Development Director for the City of Rochester, worked with the Owner and its prospective Tenant to help facilitate the locating of the Tenant's business (i.e. treatment, counseling and related services for patients with drug, opioid and alcohol dependency issues, on a purely out-patient basis) in the Owner's Building. During this process she, and in some instances the Owner, dealt with Rochester administrative officials, such as the Director of Planning and Development and the Director of Building, Zoning and Licensing Services, to determine whether they were aware of and/or foresaw, any impediments, from a permitting standpoint, to the issuance of a building permit for the fit-up of the space in the Building that the Owner and Tenant intended the Tenant's business to occupy.

23. On a number of occasions with respect to Ms. Pollard's discussions with other administrative officials of the City holding permitting related positions, potentially, and/or necessarily implicated in regard to the project and the fit-up work necessary for the prospective Tenant's business to be located in the Building, she reported to the Owner and the Tenant that the issuance of a building permit for the project would be a routine matter.

24. Based on these assurances from Ms. Pollard to the Owner and the prospective tenant, which, unfortunately, have turned out to be inaccurate, such Parties entered into a Lease for Suites 6 and 7 located on the first floor of the Building in September of 2017, which Lease had an occupancy date for the prospective Tenant of January 1, 2018, a date which has already, by virtue of the December 6, 2017

administrative decision giving rise to this appeal, been rendered impossible to meet.

25. On November 27, 2017, the Rochester Director of Building, Zoning and Licensing Services, James Grant, verbally informed the Owner's contractor, by telephone, that the use contemplated by the Owner for the Building and reflected in the Owner's pending Major Building Permit Application: TB-17-902 at 36 INDUSTRIAL WAY for Alterations-Non Residential (the "pending Building Permit Application") (see Exhibit B annexed hereto), filed with the Building, Zoning and Licensing Services Department under date of October 20, 2017, by the Owner's builder, would require that the Owner obtain a Conditional Use permit for the proposed use, from the Rochester Planning Board because the provisions of Section 42.21 of the 2014 Rochester's Zoning Ordinance (despite the clear and unambiguous provisions of Section 42.30 (d)(3) of the 2014 Rochester Zoning Ordinance to the contrary).

26. On January 9, 2018 the Rochester Director of Building, Zoning and Licensing Services, James Grant, and the Rochester Director of Planning and Development, James Campbell (see Section 42.3 (a) (11)), notified the Owner's Attorney, by e-mailed letter, that before the Owner's pending Building Permit Application could be granted/issued, a Conditional Use permit would first need to be obtained from the Rochester Planning Board under the provisions of Section 42.21 of the 2014 Rochester's Zoning Ordinance. See Appendix 1 annexed hereto (copy of December 6, 2017 and January 9, 2018 Administrative Decision).

27. The City's position, as set forth respectively in Director Gray's January 9, 2018 letter, was to the effect that, before the pending Building Permit Application could be granted/issued, a Conditional Use permit would first need to be obtained from the Rochester Planning Board under the provisions of Section 42.21 of the 2014 Rochester's Zoning Ordinance, specifically ignores, and clearly violates, the forthright and unambiguous language of Section 42.30(d)(3) of the 2014 Rochester Zoning Ordinance, which simply provides that: "Any existing use which is not a permitted use but which was allowed as a special exception or a conditional use in a district shall continue to be allowed as long as it shall comply with all of its original requirements and approval" (which the Building does, because the Building's lot is in excess of five (5) acres in area), and the 2001 "special exception" "Office" use granted with respect to the entire Building was very broad as to the types of "Office" uses that could be made in the Building, so as to include " ... medical and health care practitioners such as a medical office, chiropractic office, massage therapist, physical therapist, etc." See Exhibit A annexed hereto.

28. Since the ordinance language of Section 42.30(d)(3) of the 2014 Rochester Zoning Ordinance clearly, precisely and unambiguously describes the existing circumstances with regard to the Building and its 2001 "special exception" "Office" use granted on September 12, 2001, the existing broad range of "Office" uses, including especially medical related office uses, that had been permitted throughout the entire Building since September 12, 2001 and up until the enactment of the 2014 Rochester Zoning Ordinance, "... shall continue to be allowed as long as it shall comply with all of its original requirements and approval", which the Building does. See Section 42.30(d)(3) of the 2014 Rochester Zoning Ordinance. Consequently, the January 9, 2018 administrative decision giving rise to this Appeal, is clearly contrary to the specific mandate of Section 42.30(d)(3) of the 2014 Rochester Zoning Ordinance, and such administrative decision is therefore illegal and must be set aside, and the Owner's pending Building Permit's issuance must be authorized and ordered by this Board.

29. There are numerous other grounds statutory, constitutional and Appeal judicial policies set forth in the concluding paragraphs below, which render the January 9, 2018 administrative decision giving rise to this Appeal, illegal, unconstitutional and/or invalid and, thus, require that January 9,

2018 administrative decision be set aside and require that the Owner's pending Building Permit's issuance must be authorized and ordered by this Board.

30. RSA 674:19 provides that: "A zoning ordinance adopted under RSA 674:16 (such as the 2014 Rochester Zoning Ordinance is) "... shall not apply to existing structures or to the existing use of any building. It shall apply to any alteration of a building for a use or purpose or in a manner which is substantially different from the use to which it was put before the alteration." Similar to the effect of the language contained in Section 42.30(d)(3) of the 2014 Rochester Zoning Ordinance, this statute allows the Building which is the subject of this Appeal to continue the "Office" uses being made in that building since 2001, unless it is being changed to allow "... a purpose or in a manner which is substantially different from the use to which it was put before the alteration", which is not the circumstance in this case. Consequently, the provisions of RSA 674:19 also enable the Building to continue to be for the broad range of "Office" uses that were allowed in the Building by the 2001 "special exception" granted with respect to the Building by this Board. (Emphasis supplied).

31. Given this Board's grant of the 2001 "special exception" "Office" use with respect to the Building as a primary use of the Building, and given the subsequent administrative interpretation and applications of the 2001 "special exception" for "Office" use throughout the Building, as well as other relevant interpretations, decision and rulings which were consistently made and uniformly applied relative to the Building's "special exception" by various Rochester officials charged with responsibility for implementing and applying the 2001 "special exception", so that such "special exception" has customarily and routinely been applied to the entire Building, and allows a wide range of office related uses, including medical and medically related office uses (consistent with interpretations and rulings such as Michael Behrendt's June 4, 2010 administrative interpretation describing the types of permitted "Office" uses that can be made in the Building) such that from September 12, 2001 to the present date, the judicial doctrine of "administrative gloss" when applied to the right of "Office" use (as defined in Section 42.6(43) of the 2001 Rochester Zoning Ordinance) granted by this Board's September 12, 2001 "special exception," prohibits the administrative change and/or abandonment of the broad interpretation of the types of office uses that can be made in the Building as established by such interpretations dating back to 2001, in the absence of legislative action legal changing the meaning established by the prior administrative policy, so as to deprive the Owner of the benefit of the policy to which the "administrative gloss" appertains. Petition of Kalar, 162 N.H. 314, 321-322. Since, in this case, the only legislative action (i.e. the enactment of Section 42.30(d)(3) of the 2014 Rochester Zoning Ordinance, specifically allows the continuation of the 2001 "Office" space "special exception" granted with respect to the building in 2001) permits the continuation of the permitted "Office" use "special exception allowed in Michael Behrendt's June 4, 2010 administrative interpretation permitting a board array of office uses (including specifically "... medical and health care practitioners such as a medical office, chiropractic officer (*sic*), massage therapist, physical therapist, etc.)", the January 9, 2018 administrative decision changing the scope and nature of the permitted medical "Office" uses within the entire Building cannot legally be made administratively. Thus, the January 9, 2018 administrative decision herein appealed from must be overturned and the Building Permit must be issued. See Exhibit A annexed hereto. (Emphasis supplied).

32. The Owner of the Building acquired the Building, in an improved condition, utilizing an acquisition process that was completed in 2012, and involved significant acquisition sums. Subsequently, the Owner has invested substantial sums to improve the upgrade the Building. All such acquisition and improvement expenditures having been made at a time when the 2001 "special exception" with respect to the Building had already been granted and was in effect, and was being relied upon by the Owner, and at a point at which the "administrative gloss" with regard to the nature and scope of the "Office" uses permitted with respect to the entire Building had already been established. See Paragraphs 5 through 17 above. Thus, the Owner has a vested right to continue the 2001 "special exception" "Office" use of the Building as it January 9, 2018 existed prior to the enactment of the 2014 Rochester Zoning Ordinance on April 22, 2014. Therefore, the Administrative Decision herein appealed from must be set aside, and the Building Permit must be issued.

33. The U.S. Constitution, Amendments 5 and 14, and the N.H. Constitution, Part I, articles 2 and 12, along with the provisions of RSA 674:19, prohibit the City of Rochester from “taking” privately owned property without the payment of the Owner of “just compensation” for the value of the property interest taken. See Burrows v. Keene, 121 N.H. 590, 598 (1981).

34. To the extent that the administrative decision of December 6, 2017 limits and/or eliminates the broad scope of “Office” uses that can be made within the Building without first requiring the Owner, and/or prospective Tenant, to first obtain a Conditional Use permit from the Rochester Planning Board, pursuant to Section 42.21 of the 2014 Rochester Zoning Ordinance, an illegal (see also RSA 674:19) and unconstitutional “taking” of the owner’s property rights has been effectuated by the City, without the payment of required “just compensation” to the Owner. Therefore, the administrative decision of December 6, 2017 must be set aside, and the Building Permit must be granted and issued.

APPENDIX 1

36A Industrial Way, LLC Administrative Appeal
to
Rochester Zoning Board of Appeals

DECISION APPEALED FROM



City of Rochester, New Hampshire
Department of Building, Zoning & Licensing Services
31 Wakefield Street * Rochester, NH 03867
(603) 332-3508 * Fax (603) 330-0023

January 9, 2018

Danford Wendley, Esq.
Wensley & Jones, P.L.L.C
40 Wakefield Street
Rochester, NH 03867

RE: 36A Industrial Way, LLC

Dear Attorney Wensley,

Your client, 36A Industrial Way, LLC, has informed the City's Planning Department that it intends to open a Methadone Clinic at 36 Industrial Way (the "Property"). A Methadone Clinic is an "Office, Medical" per Rochester Zoning Ordinance 42.2.a.184. The property is located in the General Industrial (GI) Zone. The Office, Medical use is only allowed in the GI Zone by conditional use. Therefore, in order for your client to open a Methadone Clinic on the Property, it must submit a conditional use application in accordance with Ordinance 42.21.

Any reference to Ordinance 42.30.d.3 is a misplaced as a Methadone Clinic was not an existing use at the Property at the time of the amendment of the Zoning Ordinance on April 22, 2014. Therefore, your client must act according to the restraints of the current Zoning Ordinance.

Regards,

James Grant
Director of Building, Zoning & Licensing
City of Rochester
33 Wakefield St
Rochester, NH 03867

JG/jml

EXHIBIT A

36A Industrial Way, LLC Administrative Appeal
to
Rochester Zoning Board of Appeals

**MISCELLANEOUS ADMINISTRATIVE DECISIONS,
INTERPRETATIONS, RULINGS, ETC.**

NORWAY PLAINS ASSOCIATES, INC.
SURVEYORS - ENGINEERS - TRANSPORTATION PLANNERS

E-MAIL: npai@nh.ultranet.com
WEB: <http://www.nh.ultranet.com/~npai>

2 Continental Boulevard (03867) P. O. Box 249
Rochester, New Hampshire 03866-0249
Telephone (603) 335-3948
NH (800) 479-3948
Fax (603) 332-0098

August 24, 2001

Zoning Board of Adjustment
Planning, Development & Zoning
31 Wakefield Street
Rochester, NH 03867

Re: Request for Special Exception - Cabletron/Enterasys - Industrial Way

Dear Board Members:

On behalf of Enterasys Networks, Inc. (formerly Cabletron Systems, Inc.), we hereby submit application for a Special Exception under the terms of Article 42.14, Table 1 to allow an office in the Industrial 2 zone. The subject property is located on the southwesterly side of Industrial Way in the Ten Rod Road Industrial Park and is shown on Tax Map 230 as Lot 20. Recently, the Planning Board granted subdivision approval to allow the company to create separate lots for each building on Lot 20 (final certification pending).

Historically, the building closest to Industrial Way served as Cabletron's corporate headquarters. The rear building housed a warehouse and office space. The office space was allowed as an accessory use to the manufacturing facility that Cabletron had on Lot 21. By this application, office use of these two buildings would be allowed as a primary use.


Each of these two-story buildings contain about 63,000 square feet of floor area (31,500 s.f. per floor). Each proposed lot will contain over 5 acres, which is the minimum lot size required as a specific condition for an office in the Industrial 2 zone.

This site is an appropriate location for office use, particularly given the similar prior use of the buildings. The use is obviously not offensive to the neighborhood nor will there be any undue nuisance or hazard to pedestrian or vehicular traffic. As evidenced by the prior use of the property, adequate facilities and utilities exist to insure the proper operation of the proposed use. The use of these buildings as office space is certainly consistent with the spirit of the Zoning Ordinance and the intent of the Master Plan.

Thank you for your consideration.

Sincerely,

NORWAY PLAINS ASSOCIATES, INC.


Arthur H. Nickless, Jr., PLS



PLANNING DEVELOPMENT AND ZONING DEPARTMENT
City Hall - Second Floor
31 Wakefield Street
ROCHESTER, NEW HAMPSHIRE 03867-1917
(603) 335-1338

City Planning
Community Development
Economic Development
Zoning Department

APPLICATION FOR SPECIAL EXCEPTION

TO: BOARD OF ADJUSTMENT
CITY OF ROCHESTER

Phone No. 332-9400

DO NOT WRITE IN THIS SPACE
CASE NO. 2001-32

DATE FILED 8/24/01
Maureen J. Dush
ZONING BOARD CLERK

Name of Applicant: Cabletron Systems, Inc.

Address: P.O. Box 5010; Rochester, NH 03866-5010

Owner of Property Concerned: Same
(If same as applicant, write "same")

Address: Same
(if same as applicant, write "same")

Location of Property: 36 Industrial Way

Map No. 230 Lot No. 20 Zone I-2

The undersigned hereby requests a special exception as provided in
Article: 42 Section: 14, Table 1 of the Zoning Ordinance

Description of Property 34.89 acres (see attached plan)
(give length of the lot lines) Frontage Sides Rear

Proposed use or existing use affected Office + Sign Location

Signed

[Signature]
(Applicant)



Economic Development
Community Development
Planning & Zoning

PLANNING AND DEVELOPMENT DEPARTMENT

City Hall - Second Floor

31 Wakefield Street

ROCHESTER, NEW HAMPSHIRE 03867-1917

(603) 335-1338 • Fax (603) 335-7585

E-Mail: director@econ.ci.rochester.nh.us

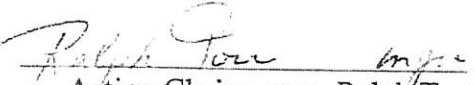
Web Page: <http://www.econ.ci.rochester.nh.us/>

NOTICE OF DECISION

Case No 2001-32

At a Zoning Board of Adjustment meeting held on September 12, 2001 Cabletron Systems Inc request for a special exception under section 42.14 table-1, subsection b-6 of the City's Zoning Ordinance to permit an office use as a primary function, and 42.8 f-10 the area and location of the sign was Approved, by the affirmative vote of at least three (3) members of the Zoning Board of Adjustment.

Property Location: 36 Industrial Way and 28 Industrial Way, Map 230, Lot 20 and 20-1, zone Industrial 2.


Acting Chairperson, Ralph Torr
Rochester Board of Adjustment

Note: Any person affected has a right to appeal this decision. If you wish to appeal, you must act within thirty (30) days of the date of this notice. The necessary first step, before any appeal may be taken to the Courts, is to apply to the Board of Adjustment for a rehearing. The motion for rehearing must set forth all the grounds on which you will base your appeal. See New Hampshire Statutes, RSA Chapter 677, for details.

cc: Code Enforcement Office
Arthur Nickless, Norway Plains
file



Economic Development
Community Development
Planning & Zoning
Conservation Commission

PLANNING AND DEVELOPMENT DEPARTMENT

City Hall - Second Floor
31 Wakefield Street
Rochester, New Hampshire 03867-1917
(603) 335-1338 • Fax (603) 335-7585
E-Mail: kenn.ortmann@rochesternh.net
Web Page: <http://www.rochesternh.net/>

November 17, 2004

John T. McLaughlin, Esq.
Berluti & McLaughlin LLC
44 School Street, 9th Floor
Boston, MA 02108

By Fax to: (617) 557-2939
By E-Mail to: fcieri@microsnortheast.com
suttonmgt@worldnet.att.net
bond.splits@verizon.net

RE: 36 Industrial Way

Dear Attorney McLaughlin,

Karen Pollard, our Economic Development Manager forwarded me a question regarding approved uses at 36 Industrial Way, the former Cabletron HQ & call center. The building is in an I-2 zone, which allows "Office" by Special Exception only. Cabletron did, in 2001, apply for and receive a Special Exception for their building. A specific question is whether or not the owner of each condominium unit must file an application for a Special Exception.

It is my opinion that Special Exceptions and Variances are granted to a site and not to a specific owner or for a specific timeframe unless that is specified in the approval. In this case, in addition to the standard Special Exception thresholds, in the I-2 zone the lot simply needs to be at least 5 acres in size.

In this case, the 2001 approval was very generic and, I believe, is still applicable and applicable to the building in its entirety.

Finally, please note that, because my decision involves the "interpretation or application of the terms" of the Zoning Ordinance, it is an "Administrative Decision" and RSA 676:5 provides a process for any person "aggrieved" by this decision to appeal it to the Zoning Board of Appeals.

If you have any questions regarding this matter, please feel free to call me at 335-1338.

Sincerely yours

Kenneth N. Ortmann
Director

Cc: Karen Pollard, Economic Development Manager
Larry Hamer, Code Enforcement Officer
Michael Behrendt, Chief Planner

FILE ✓

221-1

From: Kenn Ortmann
To: Karen Pollard
Date: 11/3/04 10:07AM
Subject: Re: Cabletron Building special exception

Karen,

I agree with Larry's position that Special Exceptions and Variances are granted to a site and not to a specific owner or for a specific timeframe unless that is specified in the approval. In this case, in addition to the standard Special Exception thresholds, in the I-2 zone the lot simply needs to be at least 5 acres in size.

In this case, the 2001 approval was very generic and, I believe, is still applicable.

Kenn

Karen Pollard wrote:

> Kenn,
>
> I hope you are feeling well and have a quick recovery.
>
> A question came up while you were out regarding approved uses at 36 Industrial Way, the former Cabletron HQ & call center. The building is in an I-2 zone, which allows Office by special Exception only. Cabletron did in 2001 apply for and receive a special exception. Larry, Cecile, Brenda and I met and discussed the dilemma. Larry's research found that a special exception does follow with the property unless the ZBA limits then approval or conditions. I am hoping that you agree with his evaluation, and would be willing to write a letter to that effect for the new property owner. He has a number of interested tenants and needs to resolve this issue ASAP.
>
> Please talk to me about this as soon as you get back.
>
> Thanks,
>
> Karen
>
> Peter wrote:
>
>> Dear Karen
>>
>> This is a copy of an email sent by our attorney.
>>
>> We would like to have a dialogue with the building inspector so we can have the entire building approved for office.
>>
>> This comes as a surprise since the building has never been used for anything other than offices.
>>
>> As you know, we have been tenantless for 21 months; however since we have been marketing the building as office condo, we have received great interest, and some tentative sales and rentals.
>>
>> We have found that Rochester in general, and the building inspector in particular have been very accommodating and understanding: so we would like to work on this issue immediately so there are no lost sales/rentals.
>>
>> We need your help! Please contact:
>>

>> Peter Coco 978-531-3227 or
>> Frank Cieri 781-935-1456

>>

>>

>>

>> COPY OF EMAIL

>>

>> Gentlemen,

>> We are getting close to finalizing the condo documents. We are still waiting
>> for the site plan. I spoke with the attorney for the Board of Realtors
>> last week and the only change he asked for had already been made since I
>> forwarded the first draft. I have become aware of a potentially very
>> significant issue. The zoning code for the City of Rochester does not
>> permit general office use as a matter of right in the zoning district where
>> the building is located. Office use is allowed but only after a special
>> permit is granted. A special permit can only be granted by the zoning
>> board after an application is filed by a unit owner. This could mean that
>> every unit owner would have to get a special permit. We may have to try
>> and get the zoning board to grant a variance from the requirement for the
>> building as a whole. This is probably something we should discuss in a
>> conference call and possibly with the building inspector.

>> John T. McLaughlin, Esq.

>> Berluti & McLaughlin LLC

>> 44 School Street, 9th Floor

>> Boston, MA 02108

>> Tel. (617) 557-3030

>> Fax (617) 557-2939

CC: Bob Steele; Brenda Theroux; Cecile Cormier; Larry Hamer

From: Bobbie Goodrich [mailto:goodyear@worldpath.net]

Sent: Thursday, June 03, 2010 5:55 PM

To: Michael Behrendt

Subject: RE: 36 Industrial Way question

Michael,

I had an inquiry and the buyer was looking to possible rent the space to a massage therapist and a karate school. Presently in the building now are E-coast sales, Strafford County Board of Realtors, Willem Verweij Physical Therapy, US Postal Workers, to name some I can think of. There has been a Title Company and the NH Equestrian Academy in the building in the past.

I would like to know the allowed uses for the building in general. Physical Therapy is not office, but they're in there. For any potential buyers what are the restrictions?

Thank you.

Bobbie

6/4/2010

Michael Behrendt

From: Michael Behrendt
Sent: Friday, June 04, 2010 4:51 PM
To: Bobbie Goodrich
Cc: Tom Abbott; Kenn Ortmann
Subject: RE: 36 Industrial Way question
Attachments: S60BW-110060415250.pdf

Hi Bobbie,

36 Industrial Way, also known as lot 230-20, is zoned Industrial 2. Fortunately, a special exception was granted for this lot in 2001 to allow Offices in the building and Kenn Ortmann made a determination that this allows offices anywhere in the building with no time limitation (see attached). We interpret the special exception for Office use fairly broadly, as "office use" might be customarily construed. Therefore, the following activities are allowed in the building:

- general offices for business or nonprofit organizations.
- offices such as a real estate or insurance agency or title company
- medical and health care practitioners such as a medical office, chiropractic officer, massage therapist, physical therapist, etc.
- legal, accounting and other professional offices
- industrial uses (allowed by right in the I2 zone)
- warehouse/storage
- there are several other uses allowed by special exceptions, but which would be unlikely candidates for the building (such as hotel and gravel processing)

Note that activities which would customarily be classified in another manner, not as an office, would NOT be permitted (without a variance or zoning amendment). These would include:

- retail stores
- schools, academies (I don't know what kind of permitting was or was not involved with the equestrian academy)
- service establishments (such as a hair salon)

Thus, the massage therapist would be allowed but the karat school would not without some type of relief. I know that there might not seem to be much logic in this distinction but that is how the zoning ordinance is set up presently. We are doing a comprehensive rezoning this year and hopefully there will be some helpful changes made.

If you have any proposal which is not clear feel free to contact me for clarification. I hope that this is helpful.

Michael Behrendt, AICP
 Chief Planner
 City of Rochester
 31 Wakefield Street
 Rochester, NH 03867
 (603) 335-1338
www.rochesternh.net

6/4/2010

EXHIBIT B

36A Industrial Way, LLC Administrative Appeal
to
Rochester Zoning Board of Appeals

MAJOR BUILDING PERMIT APPLICATION
(TB-17-902) FOR 36 INDUSTRIAL WAY



Major Building Permit Application

City of Rochester, New Hampshire

Department of Building, Zoning, and Licensing Services

31 Wakefield St. Rochester, NH

Telephone: 603-332-3508

Issue Date:	_____
Permit #:	_____
Map#	_____
Lot#	_____
Block#	_____
Zoning	_____

Location of Construction (Address): 36 Industrial Way

Property Owner: 36 Industrial Way, LLC Phone #: 603-471-9099

Mailing Address: 25 Constitution Drive City: Bedford

State: NH Zip Code: 03110 E-mail: Markleblanc57@yahoo.com

Contractor: Indian Falls Construction, LLC Phone #: 603-494-6921

Mailing Address: 364 Bedford Road City: New Boston

State: NH Zip Code: 03070 E-mail: Markleblanc57@yahoo.com

Proposed Construction is for:	New Single-Family	Replacement/ New Mobile Home	Commercial Alteration
(Please Circle all that apply)	New Two-Family	New Commercial Structure	Repair/Replace non-residential
	New Multi-Family	Commercial Addition	Other: _____
Property Located in:	Historic District (Yes/No) No	Approved Site Plan (Yes/No) No	
(Respond to all)	Major or Minor Subdivision (Yes/No) No	Shoreland Protection Zone (Yes/No) No	
	Flood Hazard Area- per the Flood Insurance Rate Map (Yes/No) No		
	Is proposed work located within 50 feet of a jurisdictional Wetland Area (Yes/No) No if so please document.		
Land Information:	City Water Yes (No)	City Sewer Yes (No)	Corner Lot (Yes No)
Primary use of Property is:	Residential	Commercial	Mixed Use (Both Res & Com)
Construction Type:	IA IIA IIIA IV VB IB IIB IIIB VA	Occupancy:	Use and Occupancy: <u>Office</u> Occupant Load: <u>30</u>

Description of work to be performed: New 8200 sq.ft. office space in existing building
New walls, new lights, new drop ceiling, paint, carpet

Page 2 - Section A

EXISTING (or PREVIOUS) CONDITIONS

Existing Use: (land only ☐ - if so skip to "B")

Residential ☐ Commercial ☒ Mixed Use (both) ☐

Existing Structures: (Existing Conditions)

Existing # of Buildings on site: 1

Total Sq Ft of existing building(s): 60,000

Garage Parking: _____ Exterior Parking: ☒

Electrical Service: 200

Type of Heat: FHA Fuel Type: Natural gas

of Fireplaces: _____ # of Kitchens: _____

Foundation Type: _____ Building Height: 28'

of Full Baths: _____ # of Partial Baths: _____

For Residential Units: (Existing Conditions)

of Units: _____

of Bathrooms: _____

of Bedrooms: _____

For Commercial Units: (Existing Conditions)

of Units: 1

Office Area (sq ft): 8,200

Office Area (sq ft): _____

Page 2 - Section B

PROPOSED CONDITIONS

Proposed Use:

Residential ☐ Commercial ☒ Mixed Use (both) ☐

Setbacks:

Front Setback: _____ Left Setbacks: _____

Rear Setback _____ Right Setbacks: _____

Proposed Structures: (Total of existing + proposed)

Proposed # of Buildings on site: _____

Total Sq Ft of proposed building(s): _____

Garage Parking: _____ Exterior Parking: _____

Electrical Service: _____

Type of Heat: _____ Fuel Type: _____

of Fireplaces: _____ # of Kitchens: _____

Foundation Type: _____ Building Height: _____

of Full Baths: _____ # of Partial Baths: _____

For Residential Units: (Total of existing + proposed)

Proposed # of units: _____

Proposed # of Bathrooms: _____

Proposed # of Bedrooms: _____

For Commercial Units: (Total of existing + proposed)

Proposed # of units: 1

Proposed Office Area: 8,200

Proposed Other Area: _____

ATTACHMENTS AND SUBMITTALS REQUIRED AT THE TIME OF APPLICATION			
For Residential 1 and 2 Family		For Commercial or Multi-unit Residential	
Site Plan	<input type="checkbox"/>	Site Plan – Approved Site Plans Must be Certified Prior to Issuance of Building Permits.	<input type="checkbox"/>
Driveway Permit [Contact DPW (603) 332-4096]	<input type="checkbox"/>	Driveway Permit [If Required] [Contact DPW (603) 332-4096]	<input type="checkbox"/>
N.H. Approved Septic Design [If Required]	<input type="checkbox"/>	N.H. Approved Septic Design	<input type="checkbox"/>
Approved Storm Water Management Plan [Contact DPW (603) 332-4096]	<input type="checkbox"/>	Approved Storm Water Management Plan [Contact DPW (603) 332-4096]	<input type="checkbox"/>
One full set of building plans and PDF's	<input type="checkbox"/>	Two full sets of plans and PDF's [Stamped When Required by RSA 310 -A]	<input checked="" type="checkbox"/>
P.U. C. Prescriptive Compliance Application, Res Check Compliance Application, or	<input type="checkbox"/>	Letter of Energy Compliance From Design Prof. [May Use Residential Compliance Options to a Maximum building size of 4000 Square Feet]	<input type="checkbox"/>
Have you filled out page two Section A and B completely?	<input type="checkbox"/>	Have you filled out page two Section A and B completely?	<input checked="" type="checkbox"/>
Footing Certification – This is Due Prior to Foundation Inspection or Issuance of Building Permit.	<input type="checkbox"/>	Footing Certification – This Is Due Prior to Foundation Inspection or Issuance of Building Permit.	<input type="checkbox"/>
All Precedent Conditions of the Notice of Decision that was Approved by the Planning Board are met.	<input type="checkbox"/>	Statement of Special Inspection [IBC Section 1705] [If Applicable]	<input type="checkbox"/>
Fire Department – Fire Protection Plans and Review Fee Submitted In Addition to Building Permit/Fee [If Applicable]	<input type="checkbox"/>	Fire Department – Fire Protection Plans and Review Fee Submitted In Addition to Building Permit/Fee.	<input type="checkbox"/>

Please be advised, the order of inspections, for the BUILDING INSPECTOR ONLY, are as follows:

1. Reinforcing steel prior to placement of concrete
2. Foundation/ Pier Depth
3. Rough Framing (After sub's have passed)
4. Insulation
5. Drywall Installation (Prior to mud & tape)
6. Penetration Firestop
7. Final Inspection

Note: Not all inspections may apply to every situation and additional inspections may be required may be required as needed. Electrical, plumbing, and mechanical work all require additional inspections. Check with Fir Department for their required inspections.

Certification of Accuracy: As the owner/owners agent of record, I certify that all information contained within this application is true and accurate to the best of my knowledge and belief.

Certification of Compliance: I hereby certify that I am familiar with all pertinent codes relating to the above specified work, and that all work shall be performed in compliance with these codes, also that I am familiar with the City Rochester Ordinance , Chapter 42 and all use and dimensional regulations.

Inspections: This signed application constitutes consent on the applicant's part to allow for inspections at the property by the department of Building, Zoning, and Licensing Services, Assessing Office and any other required City Staff. Any work that is covered prior to the inspection may be required to be removed for inspection.

Certificate of Occupancy (C/O): A C/O must be issued PRIOR to any occupancy of residential and/or commercial structures. A Certificate of Occupancy shall be clearly displayed in all structures of non-residential uses. For Commercial Projects: As-Built Drawings must be submitted prior to issuance of C/O.

Permits are non- transferable. If this is an "After the Fact" permit, it will be subject to a fee two times the normal permit fee.

Applicants are advised that the making of a false statement on this form is a criminal offense.

40.16 Permits. (a) (4) Fees for building permits shall be waived for honorably discharged veteran of an active duty, National Guard or reserve member of the United States Armed Forces, who plans to construct or have constructed for himself a home or appurtenance to a home already owned by him for exclusive occupancy by himself and his immediate family. IF THIS APPLIES, PLEASE CHECK THE BOX. (VERIFICATION MAY BE REQUIRED) ☐

Cost of Construction: \$250,000 Permit Fee: \$2,260

Permit fee is based on \$9.00 per \$1,000.00 of Construction Cost (Rounded Up Nearest \$1,000.00) plus a \$10.00 application fee. Minimum Permit Fee is \$20.00

Mark LeBlanc
Applicant Signature

10/20/17
Date

OFFICE USE ONLY – DO NOT WRITE IN THIS SPACE

Paid: ☐ Cash \$ _____ ☐ Check # _____

THIS PERMIT IS: ☐ ISSUED with the following conditions: ☐ DENIED for the following reason(s):

Approved By: _____ Date: _____

Department of Building, Zoning, and Licensing Services

RILEY ENTERPRISES

36 INDUSTRIAL WAY, ROCHESTER, NH

TENANT

HEALTH CARE
RESOURCES INC.

36 INDUSTRIAL WAY
FLOOR 1, SUITES #6-7
ROCHESTER, NH

STIBLER ASSOCIATES, LLC
space planning & interior design

STIBLER ASSOCIATES, LLC

SPACE PLANNING & INTERIOR DESIGN

3 EXECUTIVE PARK DRIVE
SUITE 106
BEDFORD, NH 03110
T 603.623.8952

Amanda Riccardi
amanda@stibler.com

Lauren McGuire
lauren@stibler.com

GENERAL CONTRACTOR

INDIAN FALLS

364 BEDFORD RD
NEW BOSTON, NH

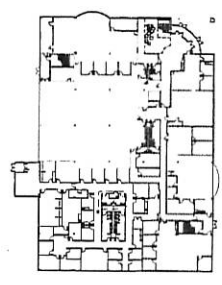
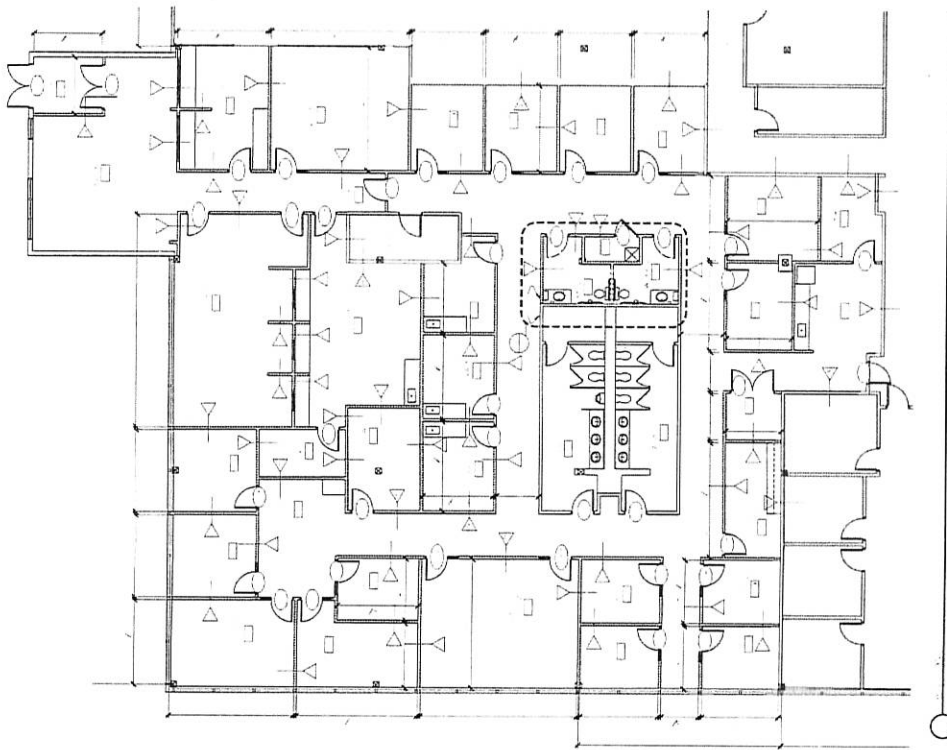
CONTACTS:

MARK LEBLANC - 603.494.6921

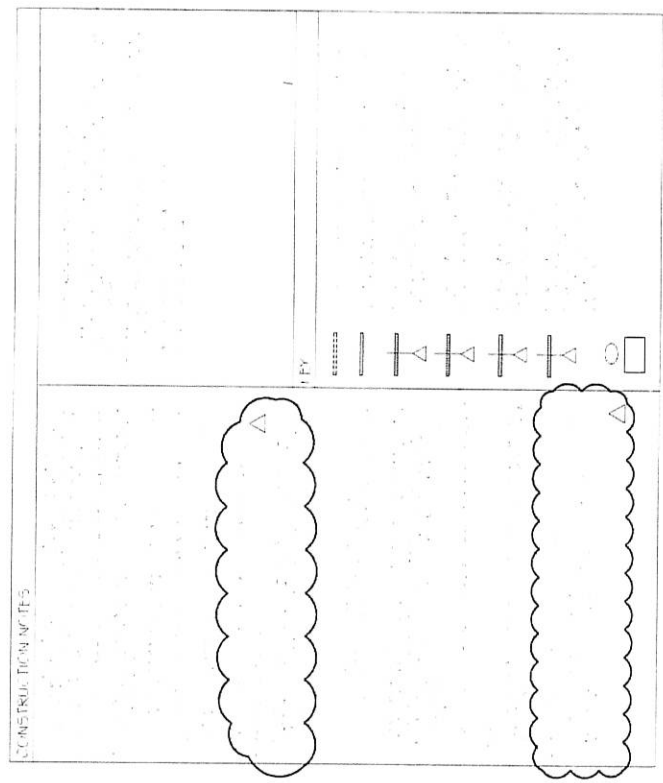
DRAWING LIST

DATE SET

SCOPE OF WORK



CONSTRUCTION NOTES

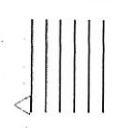


- 1. FLOOR FINISH
- 2. CEILING FINISH
- 3. WALL FINISH
- 4. DOOR FINISH
- 5. WINDOW FINISH
- 6. ROOF FINISH
- 7. EXTERIOR FINISH
- 8. INTERIOR FINISH
- 9. MECHANICAL FINISH
- 10. ELECTRICAL FINISH
- 11. PLUMBING FINISH
- 12. HVAC FINISH
- 13. FIRE PROTECTION FINISH
- 14. SOUND ATTENUATION FINISH
- 15. LIGHTING FINISH
- 16. FURNITURE FINISH
- 17. FIXTURES FINISH
- 18. EQUIPMENT FINISH
- 19. OTHER FINISH

STUBBINS ASSOCIATES, LLC
 3 Executive Park Drive
 Suite 100
 Bedford, NH 03110
 www.stubbs.com
 603.883.8942

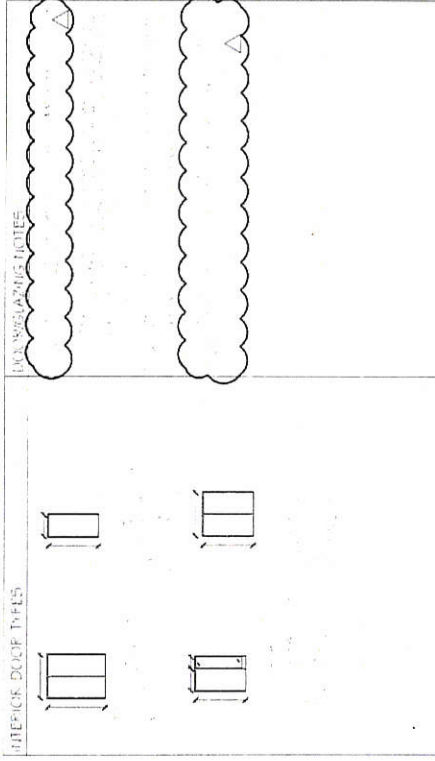
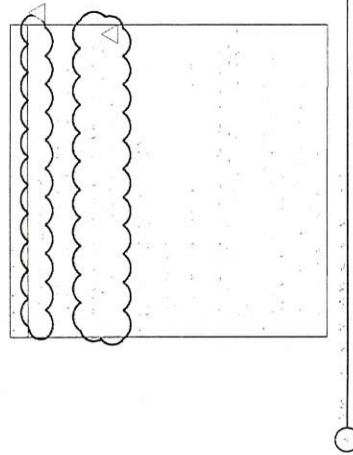
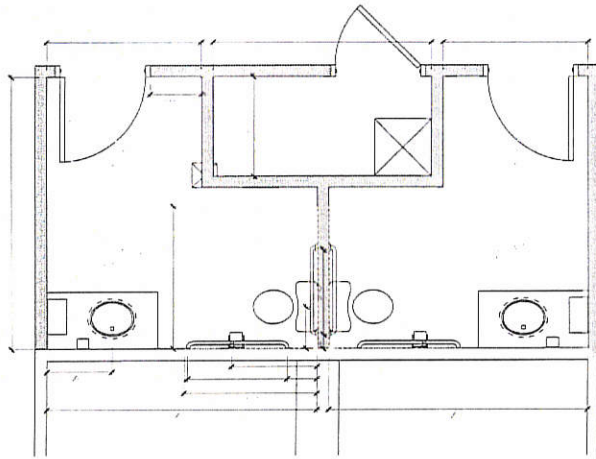
RILEY
 ENTERPRISES

BUILDING
 30 INDUSTRIAL WAY
 RICHMOND, NH



HCR
 SPACE PLAN

ID.2



DOOR SCHEDULE

NO.	TYPE	FINISH	SWING	MARKING	REMARKS
1					
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3					
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STUBER ASSOCIATES LLC
space planning / interior design
3 Executive Park Drive
Suite 100
Bedford, MA 01730
www.stuber.com
603.663.8992

RILEY ENTERPRISES
BUILDING:
36 INDUSTRIAL WAY
ROCHESTER, NH



HCRG
DOOR SCHEDULE
& TYPES

DATE: 11/11/11

ID: 3



STIBLER ASSOCIATES, LLC
space planning | interior design
3 Executive Park Drive
Suite 106
Bedford, NH 03110
www.stibler.com
(603) 633-9952

**RILEY
ENTERPRISES**

**BUILDING:
36 INDUSTRIAL WAY
ROCHESTER, NH**

NOT TO SCALE
ALL DIMENSIONS ARE APPROXIMATE
BASED ON FIELD MEASUREMENTS
AND ARCHITECTURAL RECORDS
CONSTRUCTION OF THIS DRAWING IS FOR
OFFICE USE ONLY

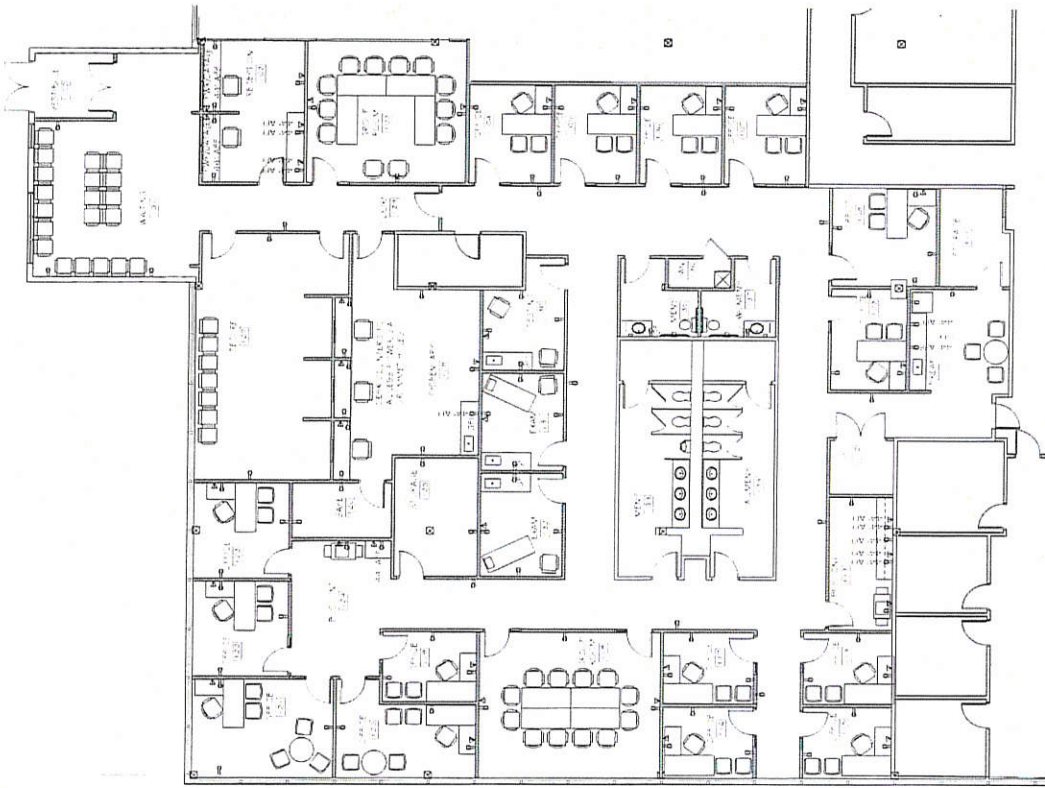
DATE 9/15/2017

REVISIONS

**HQRC
FURNITURE &
POWER PLAN**

SCALE: 1/8" = 1'-0"
DRAWN BY: UNAP

ID.5



FURNITURE & POWER PLAN

ELECTRICAL NOTES

1. ALL NEW ELECTRICAL WORK SHALL BE INSTALLED IN ACCORDANCE WITH THE 2017 NATIONAL ELECTRICAL CODE (NEC) AND THE 2017 NEW HAMPSHIRE ELECTRICAL CODE (NH EC).
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EXHIBIT C

36A Industrial Way, LLC Administrative Appeal
to
Rochester Zoning Board of Appeals

THE LOT – ROCHESTER TAX MAP 230, LOT 20, BLOCK 0
36 INDUSTRIAL WAY

