



City of Rochester, New Hampshire

Zoning Board of Adjustment

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: Steven Foss

E-mail: _____ Phone: _____

Applicant Address: 159 Chestnut Hill Road

Property Owner: Steven Foss

Property Owner Address: 159 Chestnut Hill Road

Appeal Address: 159 Chestnut Hill Road

Map Lot and Block No: Parcel ID 0216-0072-0000

Description of Property (give length of lot lines): Residential Agriculture Zone A, 3.710 Acres

Proposed use or existing use affected: Roadside Farm Stand - see definition in 275-2.2

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

Robert Lynch, Code Compliance Officer on 11/24/2020 to _____
Name of enforcement officer date decision

in relation to Article 24 Section 24.1-D of the Zoning Ordinance and hereby
ordinance
appeals said decision.

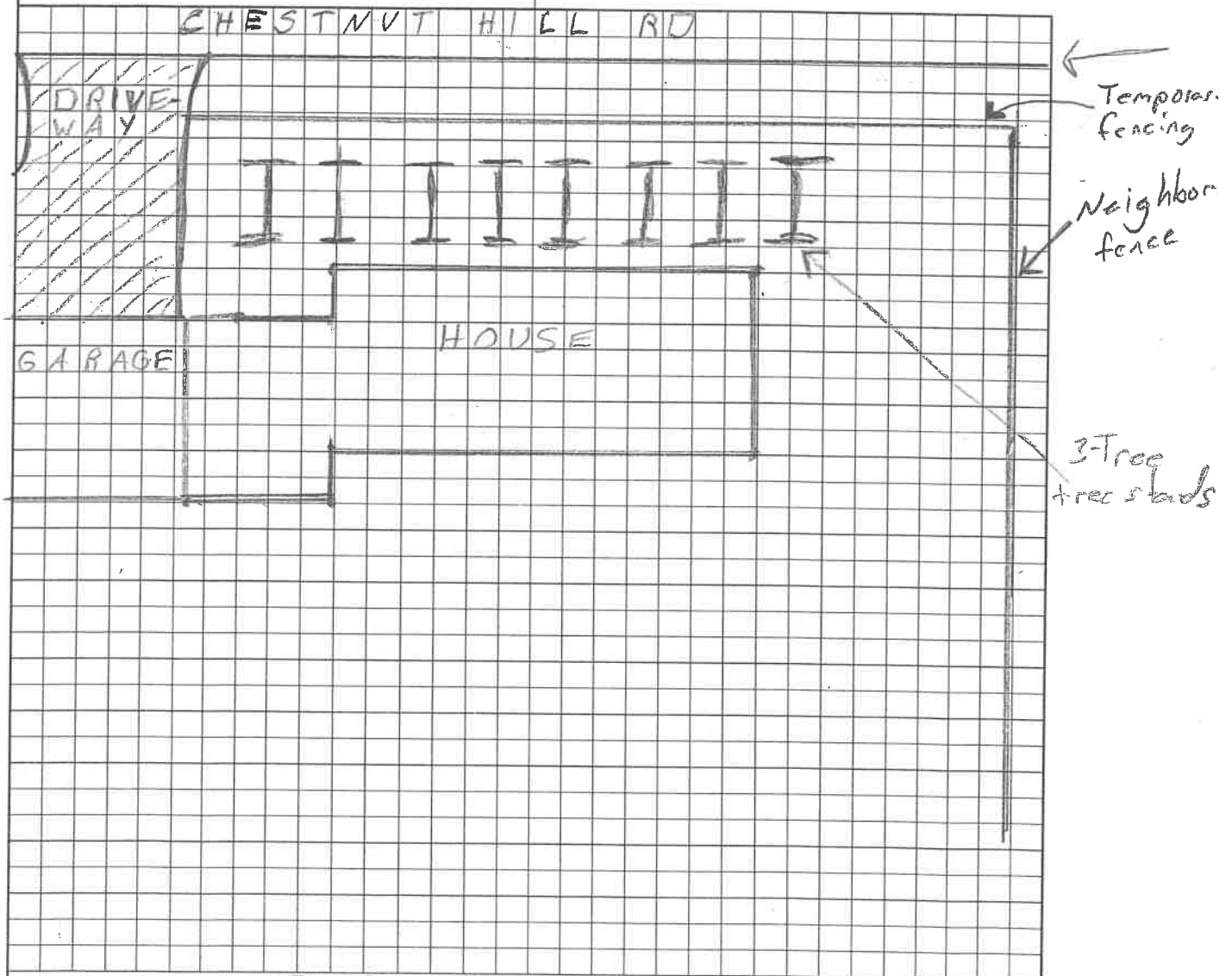
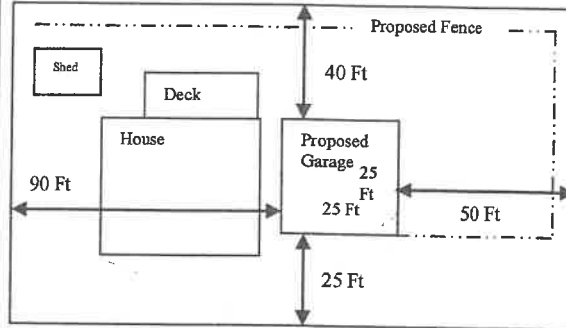
Signed: _____ Date: _____

Sketch Plan

Instructions:

- 1) Show the Property lines and road(s).
- 2) Show the proposed Structure and all existing structures.
- 3) Show the Measurements from the proposed structure to all lot lines, measure straight through existing structures if needed.
- 4) Include the dimensions of the proposed structure.
- 5) If installing a fence – show the location.

Sample Plan:



Signature Steven D. Iron

Date 12-15-20

Narrative to Appeal of Administrative Decision Application

Steven Foss
159 Chestnut Hill Road
Rochester, NH 03867

The Administrative Decision issued by Code Compliance Officer Robert Lynch on November 24, 2020 is in error because:

1. At no time have I operated a Home Occupation as defined in the Code of Ordinances, Section 275-24. Beginning in November 2017 and each year until now and without incident I have operated a seasonal roadside farm stand on my property located at 159 Chestnut Hill Road. I operate the farm stand each year beginning at or around Thanksgiving and ending on or around December 24 for the purpose of selling Christmas trees. "Roadside Farm Stand" is a permitted use within the Agriculture Zone in which my property is located. See Code of Ordinances Section 275, Attachments, Attachment 5, Table 18-E, Agriculture-Animal Care-Land Oriented Uses.

2. "Permitted Use" is defined at Section 275, Article 2, Definitions and Terminology, 2.2:

Any use allowed in a zoning district "**by right**" *in contrast to* a conditional use, a use permitted by special exception, or an accessory use. Nonetheless, there are numerous requirements which may apply and there is a significant review process involved for most permitted uses in accordance with the requirements of this chapter and the Site Plan Regulations and Subdivision Regulations. (Also see "accessory use," "conditional use," and "special exception" in this section and Article 20, Standards for Specific Permitted Uses.)
(emphasis added)

3. "Roadside Farm Stand" is defined at Section 275, Article 2, Definitions and Terminology, 2.2:

A small-scale, informal roadside structure for the seasonal sale of agricultural produce, flowers, **Christmas trees**, and related goods, produced on site or at another location.
(emphasis added)

4. "Permitted Use" is further defined in Section 275, Article 18, Use Regulations as:

A use denoted in the use tables by the letter "P" is permitted in that zoning district "by right." For some particular uses within particular districts there are special criteria/conditions that apply, as articulated in Article 20, Standards for Specific Permitted Uses. **Where these special criteria/conditions apply there is a reference in the right column of the table. Always check these special criteria/conditions to see if they are applicable. (emphasis added)**

5. In Table 18-E, Agriculture-Animal Care-Land Oriented Uses, the "Criteria/Conditions" column referenced in #4 above points to Article 22. In reviewing Article 22, Special Exceptions, for criteria and/or conditions for Roadside Farm Stands I found the following:

275-22.3 Conditions for particular use:

J. Roadside farm stand.

- (1) The roadside structure shall be set back from the front lot line at least 20 feet.
- (2) There shall be adequate off-street parking which shall have safe access to and from the road. A driveway permit shall be required in all cases.

My farm stand consists of supports on which to lean the trees which are located at least 20 feet from the front lot line of my property. I would be happy to apply for the required driveway permit. I could find no reference to such a permit for Roadside farm stand parking in the Code or anywhere else on the City's web site.

I am NOT appealing the portion of the Notice of Violation for Section 275-29.4 at this time as I have removed the signs referencing my Roadside farm stand and will apply for the appropriate permits if I decide to use signage in the future.



City of Rochester, New Hampshire

Department of Building, Zoning & Licensing Services

DATE: November 24,,2020
TO: Steven Foss
159 Chestnut Hill Rd.
Rochester NH 03867

RE: Illegal Home Occupation/ Unpermitted Signs

NOTICE OF VIOLATION

VIOLATION 159 Chestnut Hill Road,
LOCATION: Map# 216 Lot #72 Zone A

COMPLAINT Illegal home occupation, Unpermitted Signs
SPECIFICS:

You are in violation of the following:

MUNICIPAL 275-24.1 D
CODE/
PROPERTY Retail sales. There shall be no retail sales of goods or products on the
MAINTENANCE: premises, except:

(1)

As may be incidental to the primary office or personal services occupation
(such as sales of hair products to a salon customer);

(2)

For goods shipped pursuant to mail/email/telecommunication order;

(3)

To customers who visit by prearranged appointment only; or

(4)

For barn sales as specified under home occupation-3.

275-29.4 Permit Required

All signs, regardless of size, shall require the issuance of a sign permit before
public display unless otherwise specifically exempt by this article.

CORRECTIVE
ACTION
REQUIRED:

1. Cease operation of home occupation (selling Christmas trees) upon receipt of this Notice of Violation, Remove posted signs upon receipt of this Notice of Violation for the home occupation business, and

obtain proper permits

**COMPLY NO
LATER THAN:**

Please correct the violation ,upon receipt of this notice
Call at (603) 332-3508 if you have any questions or concerns about this notice
or if you cannot get the violation corrected by this date. I am happy to work
with you to resolve this matter.

If you do not correct the violation and fail to reach out to our office prior to the date above the City of Rochester has the right to issue fines to the property owner. While we do not try to take this, step and would like to reach a resolution prior to that. The fines that you are subject to for failing to comply or contact us are not to exceed \$275 for the first offense and \$550 for subsequent offenses for each day that such violation is found to continue pursuant to RSA 676:17. We also reserve the right to issue a citation pursuant to RSA 31:39-c and 31:39d which has fines not to exceed \$75 and \$300 for each day that the violation is found to exist. The City of Rochester may also use any legal remedies provided by the State of New Hampshire and the City of Rochester. Appeals shall be made to the Zoning Board of Adjustments (ZBA) in the form of an APPEAL FROM AN ADMINISTRATIVE DECISION within 30 days of the date of this notice.

Thank you for your cooperation and support in keeping our community safe, clean and attractive.

SIGNED


Robert Lynch, Code Compliance Officer

DATE:

11/24/2020