



# City of Rochester, New Hampshire

## Zoning Board of Adjustment

### Variance Application

TO: BOARD OF ADJUSTMENT  
CITY OF ROCHESTER

DO NOT WRITE IN THIS SPACE

CASE NO. 2-22-09

DATE FILED 3/1/22

091  
ZONING BOARD CLERK

Applicant: Jason + Kristie Downer, Patriot's Way, LLC.

E-mail: kdowner@metrocast.net Phone: 603-335-0617

Applicant Address: 388 Old Dover Rd, Rochester, NH

Property Owner: Jason + Kristie Downer

Property Owner Address: 388 Old Dover Rd, Rochester, NH

Variance Address: 28 Patriot's Way, Rochester, NH 03839

Map Lot and Block No: Map ~~783~~ 138

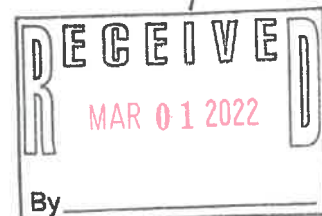
Description of Property: Brick structure, multi-level mill style bldg on 1 acre

Proposed use or existing use affected: 8 residential apartment units

The undersigned hereby requests a variance to the terms of the Rochester Zoning Ordinance, Ch. 275, Section 20.2.k(3)  
and asks that said terms be waived to permit the use of the bldg to solely be multifamily dwellings without any commercial space as a primary use

The undersigned alleges that the following circumstances exist which prevent the proper enjoyment of his land under the strict terms of the Zoning Ordinance and thus constitute grounds for a variance. **I understand that while presenting my case the testimony should be confined to the 5 criteria and how they pertain to my case.**

Signed: Jim Downer, Kristie Downer Date: 2/8/22





# City of Rochester, New Hampshire

## Zoning Board of Adjustment

### Variance Criteria

1) Granting the variance would not be contrary to the public interest because:

We are hoping to change the existing use of the bldg as a commercial property to solely residential in an attempt to renovate and improve the overall look of the bldg and lot to better fit the surrounding residential neighborhood.

2) If the variance were granted, the spirit of the ordinance would be observed because:

Our bldg being in the HC zone already allows residential units as a secondary use. We feel a mixed commercial/residential bldg would not be as aesthetically pleasing to the neighborhood and the commercial aspect would potentially add undue traffic to an otherwise quiet residential dead end street.

3) Granting the variance would do substantial justice because:

As the bldg sits now, it is rundown and overgrown. If we are granted the variance as solely a residential bldg, it would give us the potential financial return which would then enable us to extensively renovate and update the bldg and lot. This will ultimately add to the value and appeal of the area.

4) If the variance were granted, the values of the surrounding properties would not be diminished because:

Our intent is to make improvements not only to the look of the bldg but also the parking lot and overall landscaping of the property. If it were deemed to stay commercial - form dictates function and only minimal/necessary work will be completed to get a suitable tenant.

5.) Unnecessary Hardship:

a. Owning to special **conditions of the property that distinguish it from other properties in the area**, denial of the variance would result in an 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:

As we are the only lot that is zoned HC on the street, it does not best serve this property. Although we have frontage on Rt 125, access to it would be dangerously close to the current Oak St intersection and we would also have the difficulty of crossing a major drainage easement that services the surrounding abutting. With any commercial business, all traffic associated with it must use this residential street.

And:

ii. The proposed use is a reasonable one because:

It is the least impactful in keeping with the rest of the street which are all residential dwellings. By allowing us to remove the commercial aspect, we will lessen the impact on the neighborhood that running one or more businesses from the property would have.

b. Explain how, if the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to the special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in the strict conformance with the ordinance, and a variance is therefore necessary to enable reasonable use of it.

We are not sure how this applies to our circumstance. Please advise if we need to respond to this question.

#### Variance Narrative:

We are asking for a variance for our building on 28 Patriots Way. It is the last lot on that street and is the only property that falls within the highway commercial zone. All of the neighboring properties on our street fall within the R1 residential zone. As stated in the Rochester Zoning Ordinance for commercial districts, residential units would be allowed, but only as a secondary use provided that they do not exceed 80% of the building's square footage. We are seeking this variance to allow us to waive the 20% commercial space requirement and have our building be designated solely as residential. This would allow us to have eight residential units with no commercial space. Our building is an old brick mill style structure that has been utilized for commercial use for approximately the last 125 years. It has fallen into a gradual state of decline and disrepair over the last 30 years and has unfortunately now become more of an eyesore to the neighborhood. It is our hope that with the potential income from the eight residential units, we would be able to invest a significant amount of money to completely renovate and update the entire building and surrounding lot. Without this residential designation, we feel that there are multiple factors that would prevent enough financial return to warrant such an extensive renovation. These factors include the building's location at the end of a dead end street, the post-Covid loss of demand for small commercial spaces, and that the number of potential tenants would be limited. We are not asking to be granted a designation that is not permitted within our zoning, rather, we are asking to forgo the prerequisite of commercial space. Although our building far predates all other residential homes on the street, we feel it would be a better fit for the neighborhood both aesthetically and functionally to repurpose it as a residential building in order to match the surrounding area. Finally, from a traffic standpoint, it would be less impactful and obnoxious to the existing neighborhood for there to be solely residential units, as opposed to one or more commercial businesses running in addition to residential units. Thank you for your time and consideration with our project.

**§ 275-20.2 Conditions for particular uses.**

For each individual use listed below, all of the specific conditions attached to that use must be met along with any other requirements of this chapter.

Multifamily dwellings/development. The following requirements shall apply to multifamily dwellings/developments of three or more dwelling units:

[Amended 5-7-2019]

**(1)**

Buffers from roads. Except for parcels within the Downtown Commercial (DC) Zone District, a fifty-foot buffer shall be established from all neighboring roads, including roads from which access is taken. The Planning Board shall determine treatment of the buffer area, whether it is to be left undisturbed, to have supplemental plantings installed, to be designated part of the overall open space plan for the development, and/or to be part of an individual lot but protected from construction. No roofed structures may be erected in the buffer area. This buffer shall not be required for parcels in the DC Zone District.

**(2)**

Access. Any new multifamily development must take access from an existing collector or arterial road rather than an existing local road. The Planning Board may waive this requirement by conditional use upon a finding that it is preferable to take access from a local rather than a collector road and that taking access from the local road will have no significant adverse impact upon residents or property owners located on the local road.

**(3)**

Commercial districts. Within any commercial districts, multifamily is allowed only as a secondary use.

**(a)**

It must be situated on the second floor or on higher floors of a commercial building or in a separate building behind the commercial building; and

**(b)**

At no time may the area of the multifamily dwellings exceed 80% of the square footage of the on-site commercial space.





# 28 Patriots Way

Rochester, NH

1 inch = 80 Feet



March 7, 2022

[www.cai-tech.com](http://www.cai-tech.com)



Data shown on this map is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this map.

CURRENT OWNER PATRIOTS WAY LLC  388 OLD DOVER RD  ROCHESTER NH 03878	UTILITIES		TOPO		ZONING		CURRENT ASSESSMENT LUC Co Prior Assessed Current Assesse 400 109,000 109,000 400 135,000 135,000 400 2,200 2,200
	0 CITY WATER C		0 LEVEL		H HIGHWAY C		
	0 CITY SEWER		NEIGHBORHOOD		NHBD NAME		
	0 GAS		3007		COMMERCIAL RT 125		
	UTL/ST/ TRAF		EXEMPTIONS				
0 CITY WTR PBO		Year Code		Description			
0 PAVED							
0 LIGHT							
LEGAL DESCRIPTION							

RECORD OF OWNERSHIP		BK-VOL/PAGE	SALE DATE	SALE PRICE	SALE CODE
PATRIOTS WAY LLC CHENARD ROLAND J CHENARD ROLAND J	4951	21	09-01-2021	0	40
	1308	191	05-01-1987	0	99
	984	829	07-01-1976	0	99

BUILDING NOTES	
SURFACE TECHNOLOGY INC	
Appraised Building Value (Card)	
Appraised Extra Feature Value (Bldg)	
Appraised Outbuilding Value (Bldg)	
Appraised Land Value (Bldg)	
Total Appraised Parcel Value	
Valuation Method	

BUILDING PERMIT RECORD									
Issue Date	Permit Id	Description	Price	Insp Date	% C	Stat	Notes		
09-19-2014	8860	PLUMBING	550	03-06-2015	100	C	BACKFLOW PREVENTER;		
11-12-2002	1303	HEATING SYS	1,450	03-20-2003	100	C			
09-01-1997	843		2,000		0	C	BOOTH;		
10-01-1996	917		4,600		0	C	ADDITION;		

LAND LINE VALUATION SECTION																				
B	LUC	Description	LandU	Land Type	Loc Adj	UnitPric	Size Adj	Cond	Nbhd	Nb Adj	Inf1	Inf1 Adj	Inf2	Inf2 Adj	Inf3	Inf3 Adj	Adj UnitPrice	Appraised Value	Assessed Value	Notes
1	4000	MANUFACT	1.000	PRIMARY	P	1.000	135,00	1.000000	1.00	3007	1.000						135,000	135,000		




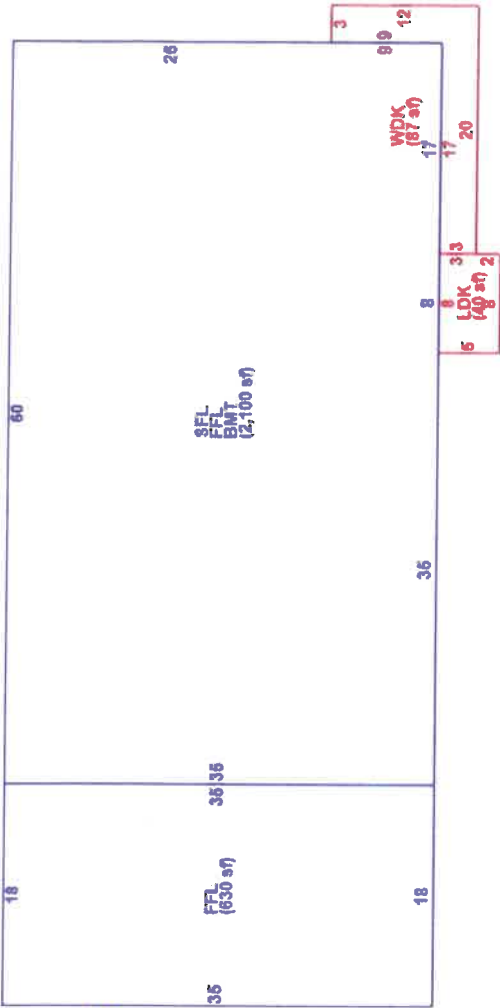
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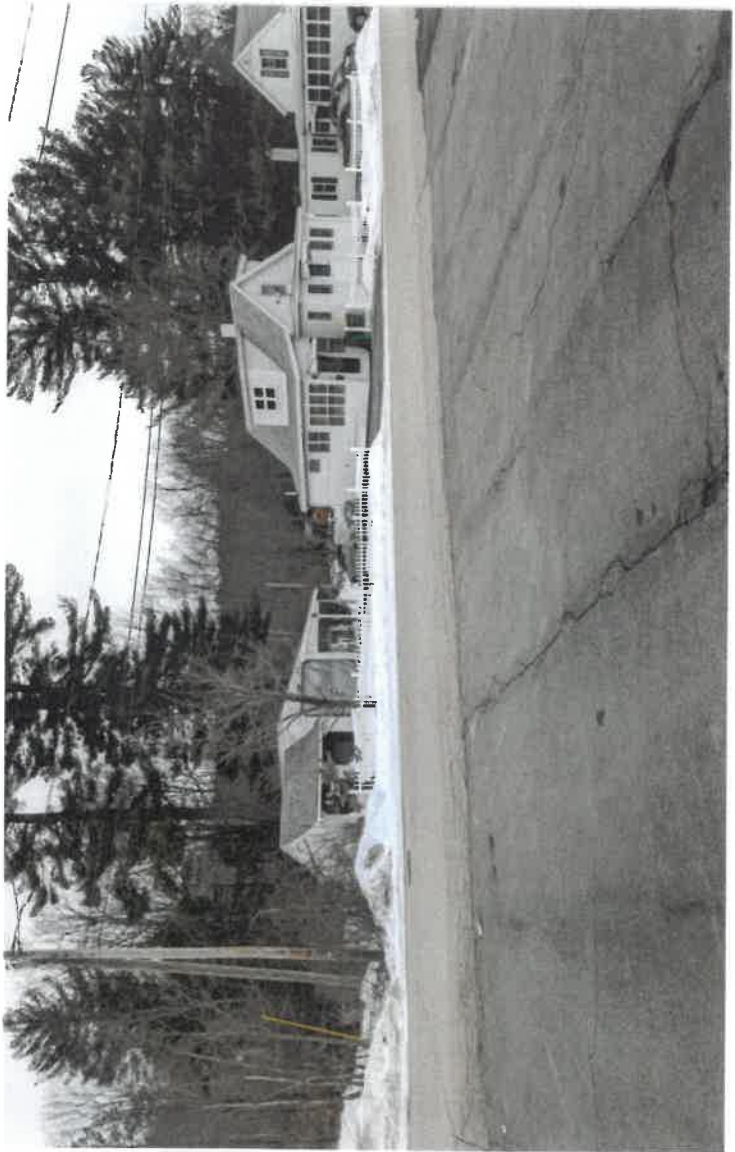
CONSTRUCTION DETAIL			CONSTRUCTION DETAIL (CONTINUED)									
Element	Cd	Description	Element	Cd	Description							
Model	96	Industrial	Half Bath Ratin	A	SAME							
Style	N12	INDUST-SM	Extra Fixture(s)	0								
Grade	C	Average	Extra Fix Rating									
Stories	2											
Units	0		MIXED USE									
Residential Unit	0		Code	Description	Percentage							
Comm Units	1.00		4000	MANUFACTURE	100							
Wall Height	10.00				0							
Exterior Wall 1	07	BRICK	COST / MARKET VALUATION									
Exterior Wall 2	0											
2nd Ext Wall %	0											
Roof Structure	01	GABLE										
Roof Cover	10	ROLLED ASPH										
Interior Wall 1	06	AVERAGE										
Interior Wall 2	08	AVERAGE										
Interior Floor 1	12	CONCRETE										
Interior Floor 2	57.00											
% Heated	02	GAS										
Heat Fuel	07	SPACE HTRS										
Heat Type	0.00											
2nd % Heated	1.00											
# Heat Systems	0.00											
AC Percent	0											
Bedrooms	0											
Full Bath(s)	A											
Bath Rating	0											
3/4 Bath(s)	2											
Half Bath(s)	A											
Half Bath Ratin	0											
Extra Fixture(s)												
OB - OUTBUILDING & YARD ITEMS(L) / XF - BUILDING EXTRA FEATURES(B)												
Code	Description	L/B	Qty	Dim 1	Dim 2	Grade	Condition	Yr Blt	% Gd	Unit Price	Grade Adj.	Appr. Value
PA	PAVING ASPH	L	1	25	75	C	FR	1979	45	2.57	1.00	2,200
LB	DOCK LEVEL	B	1	1	1	C	AV	1906	50	3125.00	1.00	1,600
OD	DOOR WD/MT	B	1	8	8	C	AV	1906	50	7.18	1.00	200
BUILDING SUB-AREA SUMMARY SECTION												
Code	Description	Living Area	Floor Area	Yr Blt	% Gd	Unit Cost	Undeprrec Value					
BMT	BASEMENT	0	2,100	1979	45	9.86	20,696					
FFL	1ST FLOOR	2,730	2,730	1906	50	39.42	107,618					
LDK	LOADING DK	0	40			31.60	1,264					
SFL	2ND FLOOR	2,100	2,100	1906	50	39.42	82,783					
WDK	WOOD DECK	0	87			22.80	1,984					
TH Gross Liv / Lease Area							214,345					

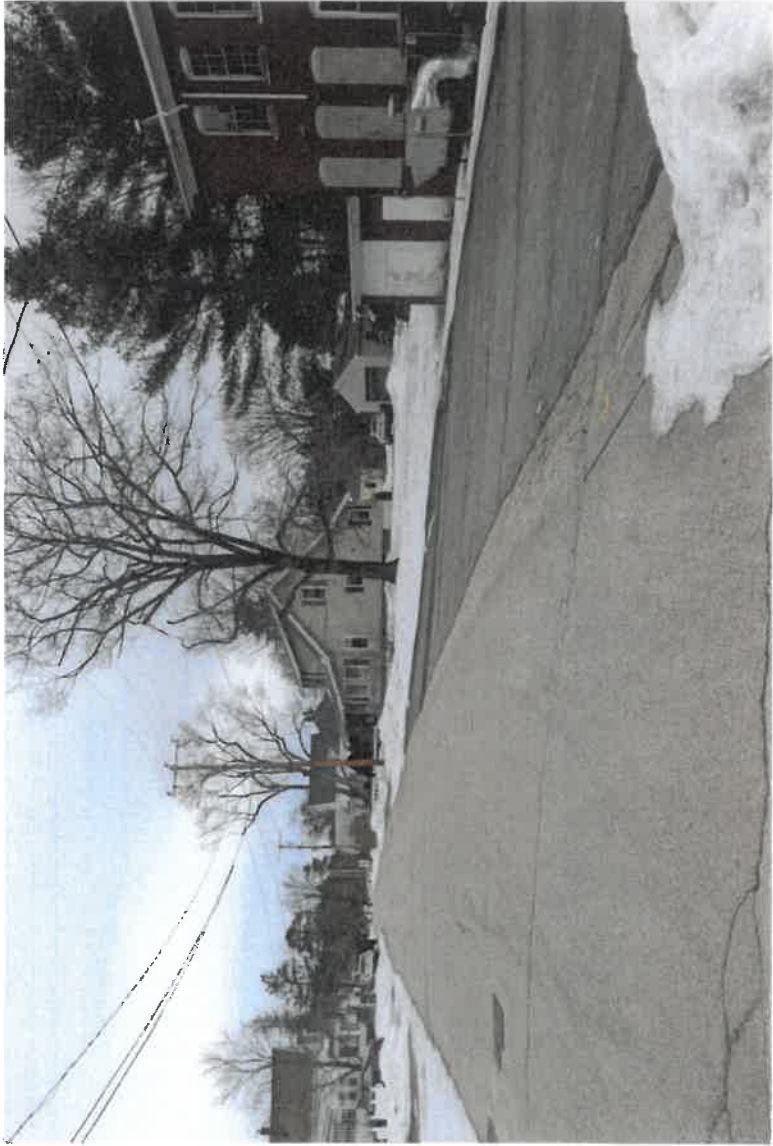












Owner1	Owner2	BillingAddress	City State Zip
ADAMS ROBERT & LISA		P O BOX 7233	ROCHESTER, NH 03866-7233
TURCOTTE VINCENT A		102 GOOSEBERRY CIR	ROCHESTER, NH 03867
LAMPER MAURICE A & ARLENE M		27 PATRIOTS WAY	ROCHESTER, NH 03839-5514
WHITTEN KEVIN E		23 PATRIOTS WAY	ROCHESTER, NH 03839
FIGUEREDO FRANK P &	FIGUEREDO ANTONIO J	P O BOX 7084	ROCHESTER, NH 03839-7084
COLBY FOOTWEAR INC % EASY	STREET SALES	364 ROUTE 108	SOMERSWORTH, NH 03878-1589
CARROLL RICHARD M		22 PATRIOT WAY	ROCHESTER, NH 03839-5515
RG COLBY PROPERTIES LLC		242 CENTRAL AVE	DOVER, NH 03820-4130
PATRIOTS WAY LLC		388 OLD DOVER RD	ROCHESTER, NH 03878
BOSTON & MAINE RAILROAD		IRON HORSE PARK HIGH ST	NORTH BILLERICA, MA 01862



