



City of Rochester, New Hampshire

Department of Building, Zoning and Licensing Services
33 Wakefield Street * Rochester, NH 03867
(603) 332-3508

Special Exception Application

TO: BOARD OF ADJUSTMENT
CITY OF ROCHESTER

DO NOT WRITE IN THIS SPACE

CASE NO. Z-19-17

DATE FILED 5/22/19

Paula J. Gentry
ZONING BOARD CLERK

Applicant: Christopher and Renee McMaster of HotMess Poutine LLC

E-mail: hotmesspoutine1@gmail.com Phone: 1-603-973-7001

Applicant Address: 5 Hussey Street Rochester NH 03867

Property Owner: Christopher and Renee McMaster

Property Owner Address: 5 Hussey Street Rochester NH 03867

Variance Address: _____

Map Lot and Block No: Map # 116 Lot # 37

Description of Property (give length of lot lines): See Attached

Proposed use or existing use affected: Parking Step Van (Food Truck) on my Property

The undersigned hereby requests a special exception as provided in Article 42, Section 42.26 of the

Zoning Ordinance Commercial Vehicles

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.

Signed: Christopher McMaster Renee McMaster

Date: 22 MAY 19

42.22 Special Exception Sheet

(a) General Provisions

(1) Certain uses, structures, or conditions are designed as Special Exceptions (E) in this ordinance. Upon application, the Board of Adjustment may, subject to the appropriate conditions and safeguards, grant a permit for these special exceptions and no others.

(2) Special Exceptions, for which conformance to additional standards is required, may be permitted in their respective districts, subject to the satisfaction of the requirements and standards set forth in this section 42.22, in addition to all other requirements of this ordinance. All such uses are hereby declared to possess such special characteristics that each shall be considered as an individual case.

(3) The Board of Adjustment may require that a site plan for development for a proposed special exception be submitted showing the location of all buildings, parking areas, traffic access, open spaces, landscaping, and any other pertinent information that may be necessary to determine if the proposed special exception is in harmony with the intent of this ordinance.

(b) Considerations Governing Granting Special Exceptions: In acting upon an application for a special exception, the Board of Adjustment shall take into consideration whether:

(1) The specific site is an appropriate location for the proposed use or structure. Yes No
Reasoning: See Attached

(2) The proposal is detrimental, injurious, obnoxious, or offensive to the neighborhood. Yes No
Reasoning: See Attached

(3) There will be undue nuisance or serious hazard to pedestrian or vehicular traffic, including the location and design of access ways and off street parking. Yes No Reasoning: See Attached

(4) Adequate and appropriate facilities and utilities will be provided to ensure the proper operation of the proposed use or structure. Yes No Reasoning: See Attached

(5) The proposed use or structure is consistent with the spirit of the ordinance and the intent of the Master Plan. Yes No Reasoning: See Attached

Please check section 42.22 of the Zoning Ordinance for any additional specific conditions that apply to your Special Exception request.

**CITY OF ROCHESTER
NARRATIVE IN SUPPORT OF
SPECIAL EXCEPTION REQUEST**

Christopher and Renee McMaster (Owner/Applicant)
5 Hussey Street
Rochester, NH 03867
Tax Map 116, Lot 37

INTRODUCTION

Christopher and Renee McMaster (the "Applicant") are the owners of property located at 5 Hussey Street, as shown on Tax Map 116 as Lot 37 (the "Property"). The Property is located in the Residential 1 Zoning District (the "R-1 Zoning District").

The Property is unique. The Property is one of the largest properties in the surrounding R-1 District measuring at 0.69+/- Acres, and in the immediate area the Property is the largest lot. The Applicant intends to operate a food truck business known as Hot!Mess Poutine LLC. The business will not be operated on the Property, rather the Applicant intends to park the food truck on the Property when it is not in active use.

The City of Rochester Zoning Ordinance (the "Ordinance"), Article 42, Section 42.26(c) states the following with respect to Commercial Vehicles:

- c. **Commercial Vehicles.** Parking commercial vehicles outdoors overnight within residential districts is permitted as follows:
1. No more than one commercial vehicle – a passenger automobile, pick up truck or van – is allowed.
 2. Other types of vehicles – such as "truck tractors", box trucks or vehicles with more than 2 axles – are permitted on private property only by special exception subject to the property owner being able to provide visual buffering, exhaust odor control, and sound mitigation.
 3. No commercial vehicle other than a passenger automobile, pick up truck or van may be parked overnight on a public road in a residential district (except when accommodating a residential relocation or by short term permit/approval from the Police Department).

The food truck, as shown on Exhibit A enclosed herewith, is in the shape of a box; however, it is not classified as a box truck. These types of vehicles are classified as "step-vans." Other commonly known step-vans are your typical UPS and FedEx trucks that are on the road at all times. The Applicant believes that given the classification of the food truck as a step-van that it falls under Article 42.26.c.1 of the Ordinance, as reproduced above; thus, the Applicant believes it should be allowed to store the food truck, by right, on the Property within the R-1 Zoning District. However, the City has taken the position that the food truck is classified as a box truck,

thus subjecting the food truck and the Applicant to Article 42.26.c.2 of the Ordinance by requiring relief by way of a special exception. The Applicant reserves the right to challenge the City's classification of the food truck as a box truck versus a step-van, if necessary, but has chosen to move forward with this special exception request to the Zoning Board of Adjustment.

The following Special Exception pursuant to Article 42.26.c.2, by way of Article 42.22, is to store and park their food truck overnight on property located in the R-1 Zoning District.

SPECIAL EXCEPTION REQUEST

The Applicant seeks a Special Exception pursuant to Article 42.26.c.2 of the Ordinance to allow its food truck, classified as a box truck, to be parked overnight in a residential district. In order to obtain this requested relief, the Applicant must satisfy the criteria for a Special Exception pursuant to Article 42.22 of the Ordinance.

SPECIAL EXCEPTION CRITERIA

1. **Location.** The specific site is an appropriate location for the propose use or structure.

This proposed use (the parking of the Applicant's food truck/step-van) will occur next to the existing garage on the Property. To the right of the garage, there is a pre-existing parking spot, or parking pad, which is where the food truck will be located. This is an appropriate location because it is generally out of the way of the normal operation of the Property, that being a single-family home. Furthermore, it is an appropriate location because it set back from the street, there is a large pine tree that is next to/in front of the parking spot, and there are additional trees and shrubbery in back of and next to the parking spot, thus enabling the food truck to be tucked in and away from general view. Enclosed herewith are Exhibits B, C and D showing the proposed location.

2. **Neighborhood.** The proposal is detrimental, injurious, obnoxious, or offensive to the neighborhood.

The proposed use will not be detrimental, injurious, obnoxious, or offensive to the neighborhood. The Applicant incorporates its response to No. 1 above. The food truck will be tucked away within the Property next to an existing garage, on an existing parking spot/pad, with trees and shrubbery around it. No operation of the food truck (cooking and selling) will occur on the Property. The food truck will only be *parked* in this location when it is not in operation. Furthermore, please see enclosed as Exhibit E a list of signatures from surrounding property owners on Hussey Street, Ray Drive, and Dewey Street indicating these property owners have no objection to the parking of the Applicant's food truck at the Property.

3. Traffic. There will be undue nuisance or serious hazard to pedestrian traffic, including the location and design of access ways and off street parking.

There will not be any undue nuisance or serious hazard to any vehicular or pedestrian traffic. The Applicant's proposed use will not in any way change the amount and frequency of any traffic generated to and from the Property. When the food truck is being parked at the Property, there will be no activity associated with it that would increase traffic and, therefore, would not be a nuisance or serious hazard. When the Applicant is operating the food truck, off site, then it would be similar to the Applicant having left the Property in its personal vehicle to go run errands....meaning, the amount and frequency of traffic will remain the same at all times. Additionally, there are no limitations, restrictions, obstacles, or complications associated with ingress and egress to and from the Property. The Applicant has plenty of site line to pull in and out of its driveway safely with respect to other vehicular and pedestrian traffic, and this portion of Hussey Street includes a "L" shaped curve, thus rendering general traffic to be relatively slow.

4. Public Facilities. Adequate and appropriate facilities and utilities will be provided to ensure the proper operation of the proposed use or structure.

The proposed use does not require any additional facilities or utilities to ensure the proper operation (parking overnight) of the food truck. The food truck will only be parked at the Property and will not be operated on site. The only utility required for the food truck is an extension cord from a pre-existing electrical outlet.

5. Master Plan. The proposed use or structure is consistent with the spirit of the Ordinance and the intent of the Master Plan.

The Applicant's proposed used is consistent with the spirit of the Ordinance and intent of the Master Plan. The Ordinance already permits, by right, certain commercial vehicles to be parked on properties located in residential districts. It is entirely possible that some of those by-right commercial vehicles could be larger, noisier, and more obnoxious that could be operated on a daily basis and coming and going several times a day (such as, but not necessarily limited to, a large extended cab, dual wheeled, diesel pick-up truck) as compared to the Applicant's food truck.

Certain other commercial vehicles may be parked on residential properties by special exception, rather than by the greater need to obtain variance relief, such as the Applicant's food truck. This is a general showing that the Applicant's proposed use is not necessarily varying from the Ordinance (variance) but rather a conditioned permitted use (special exception).

Furthermore, the Ordinance permits home occupations to take place within the R-1 Zoning District and the Applicant's food truck will become her occupation; unlike home

occupations, however, the food truck will only be parked at the Property and not operated, thus significantly reducing the intensity of use as compared with a home occupation.

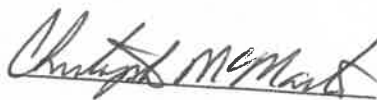
CONCLUSION

In conclusion, the Applicant has demonstrated that it has met the full criteria for granting the Special Exception relief requested. Accordingly, the Applicant respectfully requests that the Board of Adjustment approve the application.

Dated: May 22 2019

Respectfully Submitted,

Christopher McMaster



Renee McMaster



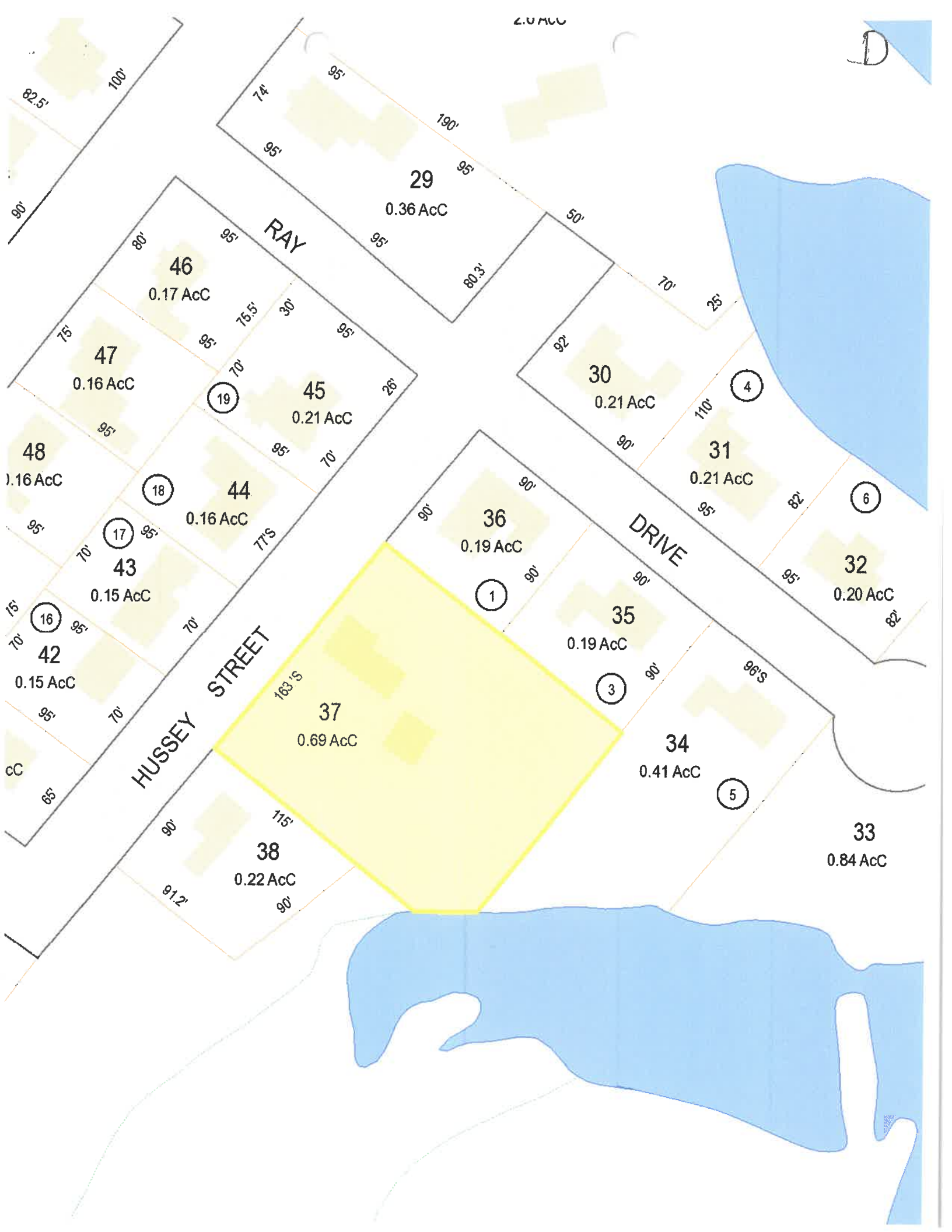
A



B







05-10-2019

To whom it may concern

My name is Renee McMaster and I live on 5 Hussey street Rochester. My husband Christopher and I are going to have a food truck name: Hot!Mess Poutine. I am writing this letter to ask my neighbors if they have any objections to have our food truck parked on our property. As the City of Rochester is asking us to file for a special exception.

By signing this petition you have no objection to us parking our food truck at our residence.

LINWOOD GAGNON
5 RAY DR.

SYLVIA GAGNON
5 RAY DR.

SANDRA GRIFFIN
6 RAY DR.

JESSICA ZILCH

2 Ray Drive
10 HUSSEY

2 Hussey St.

1 Hussey St

W Schley St

3 Dewey St

4 Hussey St

2 Schley St.

1 Schley St.

[Signature]

[Signature]

[Signature]

[Signature]

Christie Rochel

Gerald F. Hay to

Christie M. Jahn

[Signature]

Brenda Kuhn

Pam MacDonald

[Signature]

Joanne Rivers

Diana J. Hoyt

3 Ray Dr Robb + Bonnie Duf

6 Hussey Street

Section 26(c)(2) of the Rochester Zoning Ordinance

2. Other types of vehicles – such as "truck tractors", box trucks or vehicles with more than 2 axles - are permitted on private property only by special exception subject to the property owner being able to provide adequate visual buffering, exhaust odor control, and sound mitigation.



5 Hussey

Rochester, NH

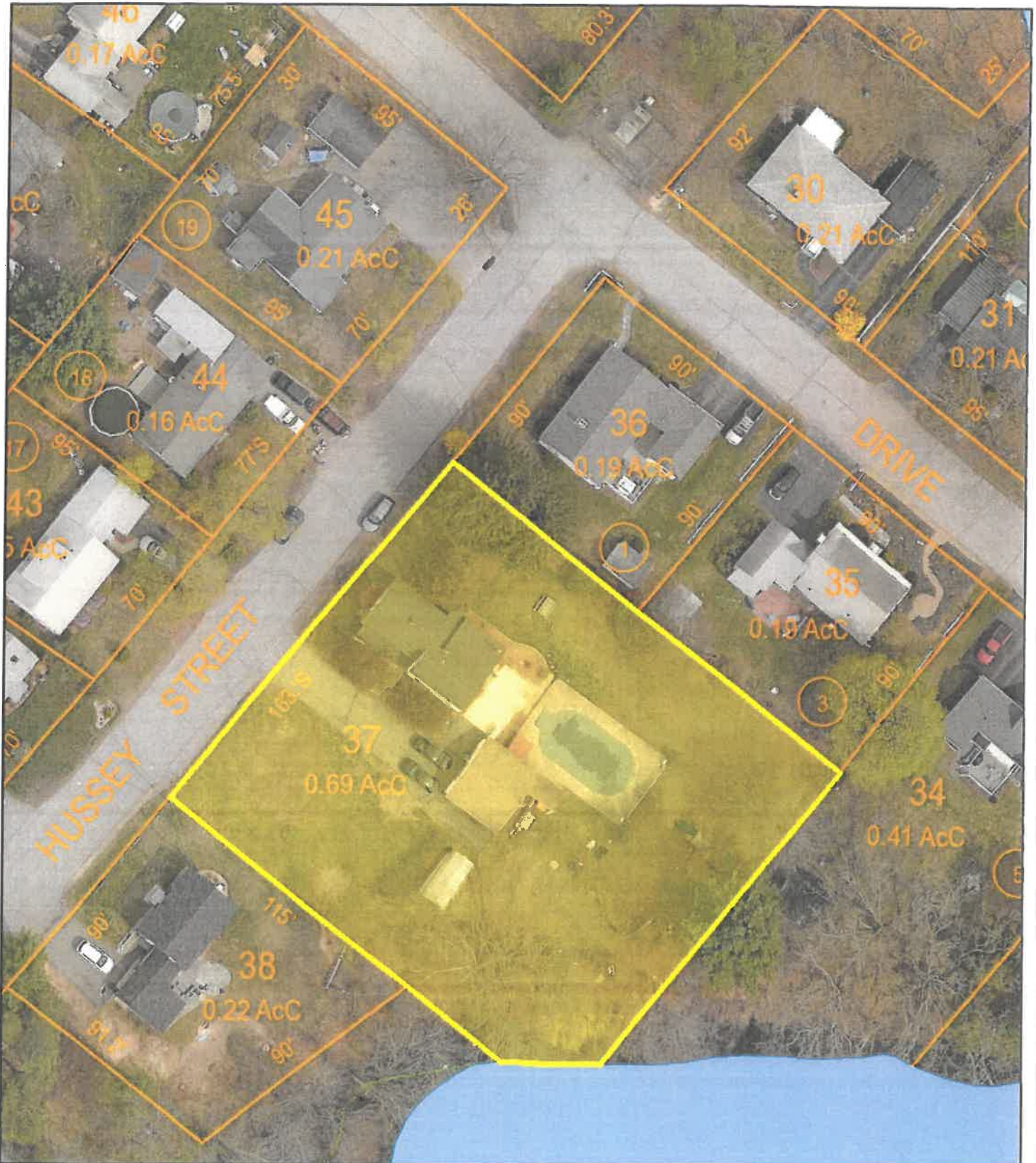
1 inch = 50 Feet



May 22, 2019



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Abutters List Report

Rochester, NH
May 21, 2019

8 x \$4.00 = \$32

Subject Property:

Parcel Number: 0116-0037-0000
CAMA Number: 0116-0037-0000
Property Address: 5 HUSSEY ST

Mailing Address: MCMASTER CHRISTOPHER M SR
5 HUSSEY ST
ROCHESTER, NH 03867-1210

Abutters:

Parcel Number: 0116-0034-0000
CAMA Number: 0116-0034-0000
Property Address: 5 RAY DR

Mailing Address: GAGNON LINWOOD & SYLVIA
5 RAY DR
ROCHESTER, NH 03867-1231

Parcel Number: 0116-0035-0000
CAMA Number: 0116-0035-0000
Property Address: 3 RAY DR

Mailing Address: DIX ROBERT & BONNIE J
3 RAY DRIVE
ROCHESTER, NH 03867-1231

Parcel Number: 0116-0036-0000
CAMA Number: 0116-0036-0000
Property Address: 1 RAY DR

Mailing Address: FRANK JESSICA & ZILCH CURTIS
1 RAY DR
ROCHESTER, NH 03867-1231

Parcel Number: 0116-0037-0000
CAMA Number: 0116-0037-0000
Property Address: 5 HUSSEY ST

Mailing Address: MCMASTER CHRISTOPHER M SR
5 HUSSEY ST
ROCHESTER, NH 03867-1210

Parcel Number: 0116-0038-0000
CAMA Number: 0116-0038-0000
Property Address: 1 HUSSEY ST

Mailing Address: GOWELL PETER W & NANCY
57 NIMBLE HILL RD
NEWINGTON, NH 03801-2727

Parcel Number: 0116-0043-0000
CAMA Number: 0116-0043-0000
Property Address: 4 HUSSEY ST

Mailing Address: SMITH DAVIS SUSAN M & TOUSIGNANT
ROBERT P
4 HUSSEY ST
ROCHESTER, NH 03867-1210

Parcel Number: 0116-0044-0000
CAMA Number: 0116-0044-0000
Property Address: 6 HUSSEY ST

Mailing Address: VAUGHAN JAMES & MELLISA
6 HUSSEY ST
ROCHESTER, NH 03867-1209

Parcel Number: 0121-0330-0000
CAMA Number: 0121-0330-0000
Property Address: 189 NO MAIN ST

Mailing Address: ROMAN CATHOLIC BISHOP % FINANCE
& REAL ESTATE OFFICE
153 ASH ST
MANCHESTER, NH 03104-4396



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5/21/2019

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