



City of Rochester, New Hampshire

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

Variance Application

TO: BOARD OF ADJUSTMENT
CITY OF ROCHESTER

DO NOT WRITE IN THIS SPACE

CASE NO.

2-19-11

DATE FILED

4/25/19

ZONING BOARD CLERK

Applicant: Krzysztof Kozlowski

E-mail: kriskozlowski@hotmail.com

Phone: 603-781-1124

Applicant Address: 9 Academy Street, Rochester, NH 03867

Property Owner: Renata & Krzysztof Kozlowski

Property Owner Address: 9 Academy Street, Rochester, NH 03867

Variance Address: 7 Academy Street, Rochester, NH 03867

Map Lot and Block No: 125-199

Description of Property: Single Family House

Proposed use or existing use affected: Duplex, 1 bedroom main floor, 2 bedroom 2nd floor

The undersigned hereby requests a variance to the terms of Article 42, Section 19-A and asks that said terms be waived to permit

Legal duplex on a lot 6098 sq. ft. where 9000 sq. ft. is required.

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: 

Date: APRIL 24, 2019

Variance Criteria

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

#7 Academy is one of two single family houses on a street where, of a total 19 houses, 17 were converted from single family to multi-family units. Only 2 out of 17 multifamily units meet lot size requirements.

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

No outside appearance nor size or the structure to be changed. The duplex will fit in with other multifamily units on the street.

3) Granting the variance would do substantial justice because:

The city property tax burden will be more justified. Currently #7 Academy is taxed at \$3,688 per residential unit. The average tax charge on Academy Street is \$1,753 per residential unit.

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

17 of 19 total houses on Academy Street are multifamily properties.

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:

#7 Academy was not occupied for a period of over 30 years. During this span of 30 years, 90% of the houses on Academy Street were transformed from single family houses to multifamily residences. This was done before the lot size requirements were introduced. The value of 7 Academy as a single family house, surrounded by multifamily residences, is diminished.

And:

ii. The proposed use is a reasonable one because:

#7 Academy will be the same type of rental property as are 90% of houses of Academy Street. There will be no change to the size of the house nor outside appearance.

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.

Maintaining a single family house on a street where 90% of houses are multifamily residences is a hardship because of the ratio of tax burden to rental income. Selling such a property is a challenge and is apparent because it was offered for sale as a single family house for a period of 23 years.

THE LAND IS NOT USED TO FULL EXTENT

**Request of waiver of requirement to have a Certified Plot Plan for
Case # 2018 - ____**

I request a waiver of the requirement to have a certified plot plan for the following reasons:

- There are no objections from any abutter, and:
- Based on the information provided, the distance into the setback will not create any problems to the abutting property No addition proposed.
because: _____

- The property is described in its deed as being bounded, on the side for which relief is requested, by a natural feature like a: (stone wall/ row of large trees/roadway, etc.

No setback required.

- The request for relief from the setback required is modest enough that the probability of a surveying error large enough to make a material difference is remote. Yes No
- Information provided is based upon other surveyed parcels in the immediate vicinity and is consistent with the tax map information, so the probability of a surveying error large enough to make a material difference is remote. Yes No
- The request for relief from the setback required is in a direction where any impact on the abutter is small or nonexistent and, should a large surveying error be found in the future, there is adequate land area to correct the problem through a lot-line adjustment. Yes No
- Any other applicable information: _____

****Check with Building Zoning & Licensing Services to see if it is necessary to fill out this form****

EXHIBIT 'A' FOR VARIANCE APPLICATION TO THE TERMS OF ARTICLE 42, SECTION 19-A FOR 7 ACADEMY STREET

ADDRESS	TAX ASSESSED VALUE (\$)	ANNUAL TAX 2018 (\$)	NUMBER OF UNITS	TAX PORTION PER UNIT (\$ PER UNIT)	LOT SIZE SQ.FT	LOT AREA PORTION (SQ.FT PER UNIT)
10 ACADEMY STREET	238500	6559	4	1640	4792	1198
12 ACADEMY STREET	112800	3102	2	1551	1770	885
14 ACADEMY STREET	210700	5794	2	2897	12197	6099
15 ACADEMY STREET	166300	4573	2	2287	5227	2614
16 ACADEMY STREET	241000	6628	4	1657	12632	3158
17 ACADEMY STREET	158500	4359	2	2179	10454	5227
18 ACADEMY STREET	261300	7186	4	1796	11761	2940
19/21 ACADEMY STREET	146900	4040	4	1010	5663	1416
22/24 ACADEMY STREET	208700	5739	5	1148	11761	2352
23/25 ACADEMY STREET	162500	4469	4	1117	6098	1525
26 ACADEMY STREET	136800	3762	2	1881	7841	3921
28 ACADEMY STREET	273400	7519	8	940	12197	1525
29/31 ACADEMY STREET	176800	4862	2	2431	4792	2396
35 ACADEMY STREET	172700	4749	3	1583	3485	1162
30/32 ACADEMY STREET	208500	5734	3	1911	6534	2178
34 ACADEMY STREET	193600	5324	4	1331	7841	1960
6/8 ACADEMY STREET	178200	4901	2	2450	4792	2396
7 ACADEMY STREET	134100	3688	1	3688	6098	6098

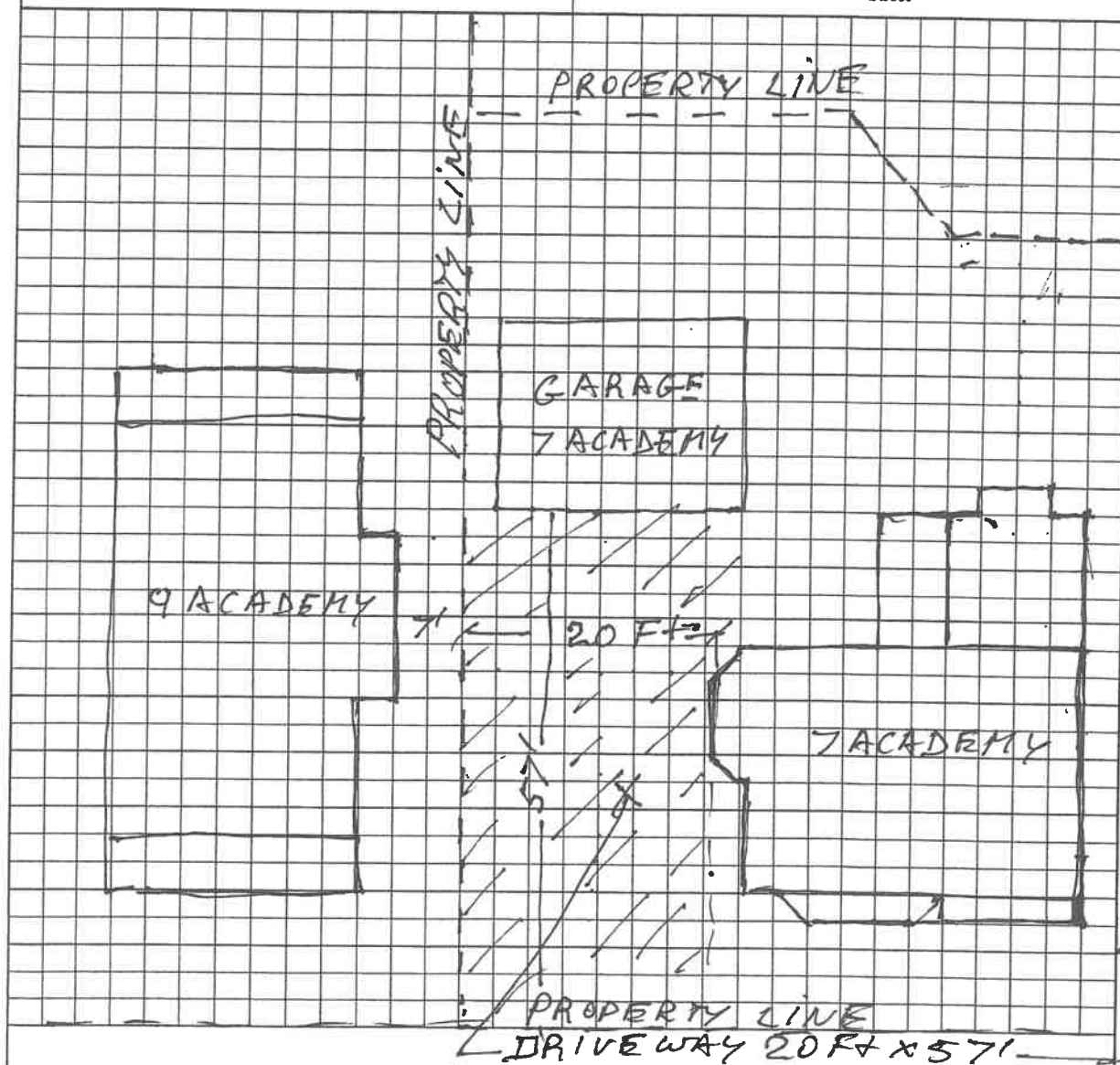
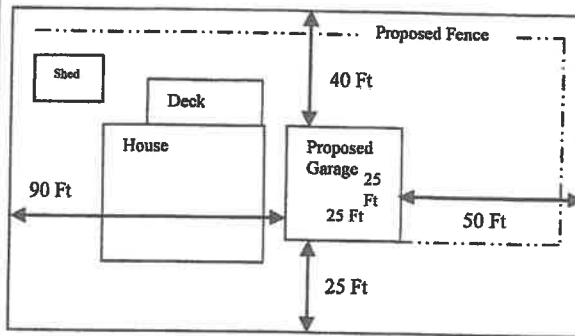
NOTE: ONLY 14 AND 17 ACADEMY STREET MEET LOT SIZE REQUIREMENT FOR MULTI FAMILY HOUSING

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:



PARKING SPACE FOR 4 VEHICLES
20 FT wide x 57 FT LONG.

Signature

[Signature]

Date

04/24/2019

Card 1 of 1

Location 7 ACADEMY ST	Property Account Number 31410	Parcel ID 0125-0199-0000 Old Parcel ID --
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Current Property Mailing Address

Owner KOZLOWSKI KRZYSZTOF &
KOZLOWSKI RENATA W
Address 9 ACADEMY ST

City ROCHESTER
State NH
Zip 03867-3015
Zoning R2

Current Property Sales Information

Sale Date 2/5/2016
Sale Price 50,000

Legal Reference 4357-463
Grantor(Seller) PALMIERI DAVID W & HARRINGTON M

Current Property Assessment

Year Year 2018

Land Area 0.140 acres

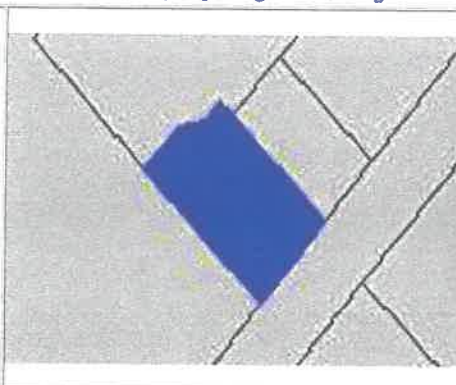
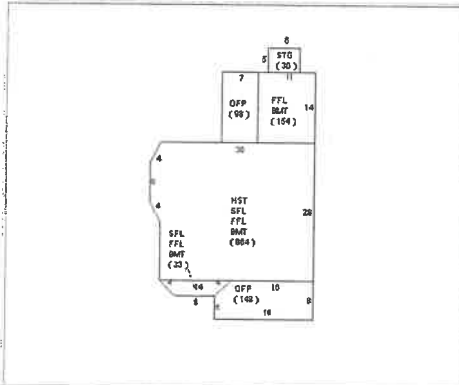
Card 1 Value
Building Value 95,800
Yard Items Value 6,900
Land Value 31,400
Total Value 134,100

Narrative Description

This property contains 0.140 acres of land mainly classified as SINGLE FAM with a(n) OLD STYLE style building, built about 1917, having CLAPBOARD exterior and ASBESTOS roof cover, with 1 unit(s), 8 total room(s), 3 total bedroom(s), 1 total bath(s), 0 total half bath(s), 0 total 3/4 bath(s).

Legal Description

Click Property Images to Enlarge



7 Academy Street – Variance Application narrative.

I have been living at 9 Academy Street since moving to Rochester, NH in May 2002.

The situation on Academy Street has deteriorated drastically during the last 3 years in the following ways:

- A greater number of homeless people have been sleeping around and on my property.
- Syringe and litter volume have increased on my property especially on the library parking side (leased to the city) and at the empty house at 7 Academy.
- The empty property at 7 Academy was vandalized and broken into several times. In one instance, I called the Police after watching a drug addict break and enter into 7 Academy.

As the situation continued to deteriorate, I decided to offer to purchase 7 Academy in order to protect my property and personal safety. The owners of 7 Academy resided in Massachusetts and would visit the property only occasionally.

7 Academy was not occupied for over 25 years and required a substantial investment to make it livable. The downstairs area required significantly more renovations than the upstairs area.

I managed to renovate and rent the upper level to a tenant with the hope that an occupied house would keep away transient people. To my surprise, my effort and investment did not work as planned. The following occurred within weeks of the tenant moving in:

- A large picture window on the first floor was smashed with a rock (\$300 damage),
- A drug addict broke into the garage, left syringes and damaged the windows,
- Several times homeless people were found sleeping on the back porch of the first floor.

I took additional steps and installed passive means of deterrence, specifically a fence around the back yard and security cameras.

Based on my experience living on Academy Street for almost 20 years, it is clear that active means are the best way to deter property crime and drug use in the area. The best active means are vigilant residents (to call police promptly when necessary) and full occupancy of all properties on the street (cars in the driveways at night). Granting a variance for 7 Academy to be a legal duplex would provide both these active means.

For the reasons detailed above, I am requesting a variance for 7 Academy to allow a duplex on a lot of 6,098 sq. ft. where 9,000 sq. ft. is required.

The variance will not be contrary to the public interest, because I am trying to improve the quality of living in the neighborhood by updating a dilapidated house, procuring qualified tenants and promoting public safety.



The spirit of ordinance is observed, because the proposed use is in line with the existing use of properties on the street: 17 houses out of 19 houses on the street are multifamily buildings. Only 2 out of those 17 multifamily buildings meet the lot size criteria requirement.

No public rights will be injured, because there will be no change to size or appearance of the property. The existing driveway is 20 ft wide by 57 ft long and will accommodate 4 vehicles (2 per unit).

The substantial justice is done, because most other multifamily properties on Academy Street do not meet the lot size requirements. 7 Academy is peculiar in that the ordinance unfairly restricts its use compared with the other properties. The hardship was not self-created but imposed through administrative changes to ordinance after many of the properties on Academy Street were converted to multifamily residences in the past.

The value of the surrounding properties are not diminished, because as a duplex, 7 Academy will match most of the other multi-family buildings on the street. Complete renovation and full occupancy of 7 Academy should positively affect adjacent property values.

Literal enforcement of the ordinance would result in unnecessary hardship, because there would be no reasonable use of the property without a variance. 7 Academy is a 2,526 sq. ft. single family residence in a neighborhood where 90% of houses are multifamily buildings with rental units averaging 750-1,200 sq. ft. per unit. Procuring a buyer or tenant for such a large residence has not been possible for the reasons described in the narrative above. Additionally, the average tax rate is \$1,753 per family unit residence on Academy Street and the tax rate is \$3,688 per family unit for 7 Academy. Therefore, strict application of the ordinance creates an unreasonable hardship in terms of both use and tax burden for 7 Academy.

There is no fair and substantial relationship between the general public purposes of the ordinance provisions and specific application of that provision to the property; because the ordinance was introduced after 90% of the houses on the street were converted from single family houses to multifamily houses. Additionally, increasing residence and population density in the downtown district is in the best interest of the general public in Rochester. Increased density contributes to increased commerce, higher property values and a larger tax base. Nearby communities, such as Dover, have granted variances in order to increase downtown densities.

The unnecessary hardship is created by the ordinance requirements for minimum size lot and does not allow to use the land to the full extend.

A handwritten signature in black ink, appearing to be 'JHB', is located in the bottom right corner of the page.

HOMLESS PERSON AT 7 ACADEMY
BACK PORCH



SYRINGE ON 9/7 ACADEMY LINE





FENCED BACK YARD @ 7 AC ADEMY



BARRICADED ACCESS TO 7 ACADEMY
BACK PORCH



DRIVEWAY @ 7 ACADEMY ACCOMMODATES 4 VEHICLES

TABLE 19-A DIMENSIONAL STANDARDS - RESIDENTIAL DISTRICTS 8/7/2014

RESIDENTIAL DISTRICTS													
	LOTS			SETBACKS				OTHER				STANDARDS, NOTES, AND REFERENCES	
	Minimum Lot Area (Square feet)	Minimum Frontage (Feet)	Minimum Lot Area/Dwelling Unit (Sq Ft)	Minimum Front (Feet)	Minimum Side (Feet)	Minimum Rear (Feet)	Maximum building footprint (%)	Maximum Lot Coverage	Maximum number of stories	Minimum Building Height (Feet)	Maximum Building Height (Feet)		
RESIDENTIAL-1 (R-1)													
Single family	10,000	100	-	10		10	20	30	35			35	See Section 42.19 - Dimensional Standards
All other uses	10,000	100	-	10		10	20	30	35			35	
RESIDENTIAL-2 (R-2)													
Single family	6,000	60	-	10		8	20	30	35			35	See Section 42.19 - Dimensional Standards
Two family	9,000	80	-	10		8	20	30	45			35	See Section 42.19 - Dimensional Standards
Three & four family	12,000 & 15,000	80	-	15		10	25	30	60			35	See Section 42.19 - Dimensional Standards
Multifamily	30,000	100	5000 or 7500	15		10	25	30	60			35	See Section 42.19 - Dimensional Standards
All other uses	9,000	80	-	10		8	20	30	35			35	
NEIGHBORHOOD MIXED USE (NIMU)													
All uses	6,000	60	- ²	-	25	5 ¹	20		90	3	20	20	See Section 42.19 - Dimensional Standards
AGRICULTURAL													
Single Family, Conventional Subdivision, municipal water & sewer	20,000	150	-	20		10	20	30	35			35	See Section 42.19 - Dimensional Standards
Single Family, Conventional Subdivision, municipal water OR sewer	30,000	150	-	20		10	20	30	35			35	See Section 42.19 - Dimensional Standards
Single Family, Conventional Subdivision, neither municipal water nor sewer	45,000	150	-	20		10	20	30	35			35	See Section 42.19 - Dimensional Standards
Two Family	150% of single	150	-	20		10	20	30	40			-	See Section 42.19 - Dimensional Standards
Single Family Dwelling - Conservation Subdivision	6,000	60	-	20		10	20		35			35	See Section 42.33 - Conservation Subdivision
All other uses	45,000	150	5000 or 7500	20		10	20		40			35	



7 Academy St

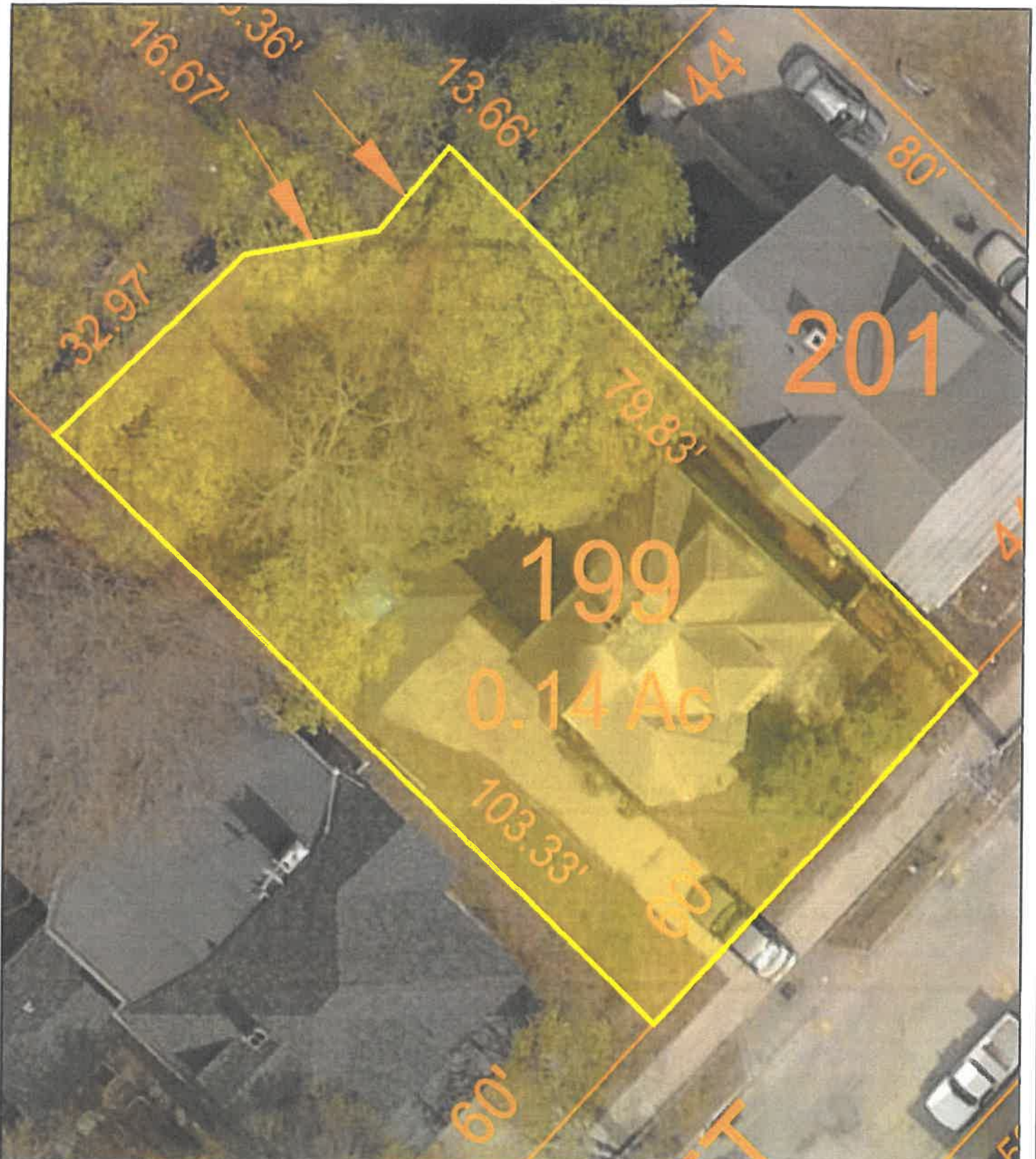
Rochester, NH

1 inch = 16 Feet



May 14, 2019

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TOTAL ASSESSED: 160,800
14346!

RESIDENTIAL
CARD

LOT3
LOT2
SUB

MAP
LOT

PROPERTY LOCATION

No	Alt No	Direction/Street/City
7	ACADEMY ST, ROCHESTER	

OWNERSHIP

Owner #	Owner Name
Owner 1:	KOZLOWSKI KRZYSZTOF &
Owner 2:	KOZLOWSKI RENATA W
Street 1:	9 ACADEMY ST
Street 2:	
Town/City:	ROCHESTER
St/Prov:	NH
Postal:	03867-3015
Unit #:	
Own Occ:	N
Type:	

PREVIOUS OWNER

Owner 1:	PALMIERI DAVID W & -
Owner 2:	HARRINGTON MARYANN -
Street 1:	128 PLEASANT ST UNIT 401
Street 2:	
Town/City:	ARLINGTON
St/Prov:	MA
Postal:	02476

NARRATIVE DESCRIPTION

This Parcel contains .14 AC of land mainly classified as SINGLE FAM with a(n) OLD STYLE Building Built about 1913, Having Primarily CLAPBOARD Exterior and ASBESTOS Roof Cover, with 1 Units, 2 Baths, 0 HalfBaths, 0 3/4 Baths, 8 Rooms Total, and 3 Bdrms.

OTHER ASSESSMENTS

Code	Description/No	Amount	Com. Int
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PROPERTY FACTORS

Item	Code	Descip	%	Item	Code	Descip
Z	IR2	RESIDENC	100	U	2	CITY SEWER
o				t	1	CITY WATER
n				i	5	GAS
Census:				Exempt		
Flood Haz:						
D	RO	ROCHESTER		Topo	1	LEVEL
s				Street	1	PAVED
t				Traffic	2	LIGHT

LAND SECTION (First 7 lines only)

Use Code	LUC	No of Units	Depth / Price/Units
101	SINGLE FAM	0.14	

IN PROCESS APPRAISAL SUMMARY

Use Code	Building Value	Yard Items	Land Size	Land Value	Total Value
101	122,200	7,200	0.140	31,400	160,800
Total Card	122,200	7,200	0.140	31,400	160,800
Total Parcel	122,200	7,200	0.140	31,400	160,800
Source:	Market Adj Cost	Total Value per SQ unit /Card:	82.55	/Parcel:	82.55

PREVIOUS ASSESSMENT

Tax Yr	Use	Cat	Bldg Value	Yrd Items	Land Size	Land Value	Total Value	Asses'd Value	Notes	Date
2018	101	FV	95,800	6900	.14	31,400	134,100	134,100	Year End Roll	9/19/2018
2017	101	FV	133,900	6900	.14	31,400	172,200	172,200	Year End Roll	9/7/2017
2016	101	FV	88,500	6900	.14	31,400	126,800	126,800	Year End Roll	9/8/2016
2015	101	FV	88,500	6900	.14	31,400	126,800	126,800	Year-end	10/1/2015
2014	101	FV	88,500	6900	.14	31,400	126,800	126,800	Year End Roll	9/29/2014
2013	101	FV	96,400	6900	.14	43,200	146,500	146,500	Year End Roll	9/4/2013
2012	101	FV	96,400	6900	.14	43,200	146,500	146,500	Year End Roll	9/20/2012
2011	101	FV	96,400	6900	.14	43,200	146,500	146,500	Year End Roll	9/27/2011

SALES INFORMATION

Grantor	Legal Ref	Type	Date	Sale Code	Sale Price	V	Tst	Verif	Assoc PCL Value	Notes
PALMIERI DAVID	4357-463	1	2/5/2016	Abutter Sale	50,000	No	4			
IRELAND GEORGE	1717-284	1	12/9/1993		41,500	No	4			
FISHER ALICE	1705-228	2	10/19/1993	OldDeed Date		No	4			GOES WITH BK 1705 PG 226
FISHER ORA M ES	1705-226	3	10/4/1993	Estate Sale	45,000	No	4			
FIRST NH INVEST	1675-285	2	5/14/1993	DNU Trust		No	4			
FISHER JOHN E P	1085-235	2	8/31/1982			No	4			LOT COMBINATION
KIMBALL NATHAN	36-220	1	4/4/1913	OldDeed Date		No	4			

TAX DISTRICT

Grantor	Legal Ref	Type	Date	Sale Code	Sale Price	V	Tst	Verif	Assoc PCL Value	Notes
PALMIERI DAVID	4357-463	1	2/5/2016	Abutter Sale	50,000	No	4			
IRELAND GEORGE	1717-284	1	12/9/1993		41,500	No	4			
FISHER ALICE	1705-228	2	10/19/1993	OldDeed Date		No	4			GOES WITH BK 1705 PG 226
FISHER ORA M ES	1705-226	3	10/4/1993	Estate Sale	45,000	No	4			
FIRST NH INVEST	1675-285	2	5/14/1993	DNU Trust		No	4			
FISHER JOHN E P	1085-235	2	8/31/1982			No	4			LOT COMBINATION
KIMBALL NATHAN	36-220	1	4/4/1913	OldDeed Date		No	4			

BUILDING PERMITS

Date	Number	Descip	Amount	C/O	Last Visit	Fed Code	F. Descip	Comment
9/10/2018	P-18-184	PLUMBING	800	CE	4/1/2019			Connection of bath
3/20/2018	M-18-91	MANUAL	500	CE	4/1/2019			gas line to boiler
1/26/2017	E-17-14	ELECTRIC	2,000	CI	2/16/2018			Add service and in
5/24/2016	M-16-157	MANUAL	500	CE	2/27/2017			GAS LINE

ACTIVITY INFORMATION

Date	Result	By	Name
4/3/2019	SENT NOTICE	NM	NANCY
5/3/2017	SENT NOTICE	NM	NANCY
3/1/2016	DEED CHANGE	VK	VERNA
9/19/2012	OWN ADD CHG	VK	VERNA
6/18/2012	OWN ADD CHG	GN	GAYE
12/17/2008	DEED CHANGE	VB	VERNA
8/18/2008	CORRECTION	NM	NANCY
7/24/2008	CORRECTION	NM	NANCY
7/25/2007	EXT ONLY	TG	THERESA

Sign:

Date	Value	Class	%	Spec	J	Fact	Use Value	Notes
	31,400						31,400	

Total ACHA: 0.14000 Total SF/SM: 6098.40 Parcel LUC: 101 SINGLE FAM Prime NB Desc: RESIDENTIAL

Disclaimer: This Information is believed to be correct but is subject to change and is not warranted. Database: AssessPro

Total: 31,400 Spt Credit: Total: 31,400

2019



Rochester



Abutters List Report

Rochester, NH
April 25, 2019

Subject Property:

Parcel Number: 0125-0199-0000
CAMA Number: 0125-0199-0000
Property Address: 7 ACADEMY ST

Mailing Address: KOZLOWSKI KRZYSZTOF & KOZLOWSKI
RENATA W
9 ACADEMY ST
ROCHESTER, NH 03867-3015

Abutters:

Parcel Number: 0125-0182-0000
CAMA Number: 0125-0182-0000
Property Address: 95 SO MAIN ST

Mailing Address: FRISBIE FOUNDATION
11 WHITEHALL RD
ROCHESTER, NH 03867-3297

Parcel Number: 0125-0183-0000
CAMA Number: 0125-0183-0000
Property Address: 6 ACADEMY ST

Mailing Address: BURKHEAD CHARLES W & MARIA E
582 1ST CROWN POINT RD
STRAFFORD, NH 03884-6115

Parcel Number: 0125-0198-0000
CAMA Number: 0125-0198-0000
Property Address: 9 ACADEMY ST

Mailing Address: KOZLOWSKI KRZYSZTOF S & RENATA
9 ACADEMY ST
ROCHESTER, NH 03867-3015

Parcel Number: 0125-0198-0000
CAMA Number: 0125-0198-000A
Property Address: 0 ACADEMY ST

Mailing Address: KOZLOWSKI KRZYSZTOF S & RENATA
% CITY OF ROCHESTER
31 WAKEFIELD ST
ROCHESTER, NH

Parcel Number: 0125-0199-0000
CAMA Number: 0125-0199-0000
Property Address: 7 ACADEMY ST

Mailing Address: KOZLOWSKI KRZYSZTOF &
KOZLOWSKI RENATA W
9 ACADEMY ST
ROCHESTER, NH 03867-3015

Parcel Number: 0125-0201-0000
CAMA Number: 0125-0201-0000
Property Address: 3 ACADEMY ST

Mailing Address: SPINALE CHARLES E & BETTY LOU REV
LIV TRUST % SPINALE C E &)
P O BOX 7005
ROCHESTER, NH 03839-7005

Parcel Number: 0125-0203-0000
CAMA Number: 0125-0203-0000
Property Address: 83 SO MAIN ST

Mailing Address: IRELAND GEORGE E REVOC TRUST %
TRUSTEE
1411 TORREY PINES DR
LADY LAKE, FL 32159-2275



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4/25/2019

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