

Mid 7-2-2010

APPLICATION FOR A VARIANCE

BOARD OF ADJUSTMENT
PO Box 268, Jackson, N.H. 03846

01/2010

Do not write in space below:

Case No. _____ Date Filed _____
ZBA Signature _____ Public Hearing _____
Decision _____

Applicant Signature [Signature] Date 6-27-10

TAX LOT NUMBER: MAP V-9, LOT 18

Name of applicant BRIAN & CHRISTINE BENOIT

Address 44 AURUM LAKE, C. CONANT, NH 03813

Owner SAME
(if same as applicant write, same)

Location of property 17 TETLOW HILL ROAD
(street, number, sub-division)

Acres 1.0 or Sq. Ft. _____

NOTE: This application is not acceptable unless all required statements have been made. Additional information may be supplied on separate pages if the space provided is inadequate.

A variance is requested from section 2.2.3 of the zoning ordinance to permit:
THE ADDITION OF PITCHED ROOFS AND UP TO 24" OVERHANGS
ON THE PORTION OF THE EXISTING STRUCTURE (THE GARAGE) THAT
IS WITHIN CURRENT SETBACKS

Facts supporting this request:

I. Granting the variance would not be contrary to the public interest:
BECAUSE IT WILL NOT AFFECT ANY OTHER PARTY ADVERSELY.
THE PROPOSED CHANGE CORRECTS AN EXISTING DEFECT.

2. The spirit of the ordinance is observed because:
IT IS IN COMPLIANCE WITH SECTION 2.2.3 i OF THE
ZONING ORDINANCE.

3. Granting the variance would do **substantial justice** because:

THE CURRENT FLAT ROOF IS NOT ADEQUATE FOR THE WEATHER CONDITIONS COMMON TO THIS AREA, I.E., SNOW LOAD.

4. For the following reasons, the values of the surrounding properties will not be diminished:

TO THE CONTRARY, IMPROVEMENTS TO THIS PROPERTY, WHICH IS CURRENTLY IN POOR CONDITION, WILL SERVE TO IMPROVE THE VALUE OF NEIGHBORING PROPERTIES.

5. Owing to the special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in **unnecessary hardship** because:

a. no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because:

THE PROPOSED CHANGES DO NOT AFFECT THE GENERAL PUBLIC IN ANY WAY AND DO NOT CHANGE THE USE OF THE STRUCTURE.

b. The proposed use is a reasonable one because:

FLAT ROOFS IN NORTHERN NEW ENGLAND CREATE UNDESIRABLE LOADS ON THE STRUCTURE AND ARE A DANGER TO PERSONNEL TRYING SNOW REMOVAL. FURTHER, THE CURRENT ROOF SYSTEM LEAKS.

The following additional information must be completed regarding the property in question:

Is any Use or Structure currently Non-Conforming? YES NO

If yes, explain in detail:

THE GARAGE IS PARTLY WITHIN CURRENT (25') SETBACKS.

Does the property in question including all existing or proposed building, signs, driveways, and septic systems meet Jackson Zoning Ordinance requirements and applicable state regulations? YES NO

If no, explain in detail:

SEE ABOVE.

ADDITIONAL INFORMATION: Summarize below any information from preliminary discussions with any state agency personnel in regard to the case. In addition, attach copies of any correspondence from state agencies, or Jackson officials and boards pertaining to the property.

None.

Attach all pertinent document and correspondence.

IMPORTANT NOTICE : Board of Adjustment By-Laws state that information from the applicant and/or his representatives must be provided to the Board no less than 7 calendar days prior to the date of the public hearing.

CONDITIONS AS PART OF AN APPROVAL: The Board of Adjustment is authorized to place conditions on a variance and failure to comply with those conditions may be a violation. If conditions are included as part of an approval, they must be recorded with or on the plat.

APPLICATION FOR EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS
BOARD OF ADJUSTMENT
PO Box 268, Jackson, N.H. 03846

Revised July 19, 2006

Do not write in space below:

Case No. _____ Date Filed _____
ZBA Signature _____ Public Hearing _____
Decision _____

Applicant Signature [Signature] Date 6/27/10

TAX LOT NUMBER: MAP V-9, LOT 18

Name of applicant BRIAN & CHRISTINE BENOIT

Address 44 AUTUMN LANE, C. COMBAT, NH 03813

Owner SAME
If same as applicant, write same)

Location of property 17 THORN HILL RD.
(street, number, sub-division)

Acres 1.0 or Sq. Ft. _____

An Equitable Waiver of Dimensional Requirements is requested from section RSA 674.33A of the Zoning Ordinance to permit RENOVATIONS, IMPROVEMENTS AND ADDITIONS, PER THE ATTACHED PLANS, ON AN EXISTING LOT RECEIVED WITH NO ROAD FRONTAGE.

1. Does the request involve a dimensional requirement, not a use restriction? YES NO

2. Explain how the violation has existed for 10 years or more with no enforcement action, including written notice, being commenced by the town WE HAVE RECENTLY PURCHASED THE PROPERTY AND HAVE FOUND NO SUCH DOCUMENTATION IN THE TOWN FILE ON THE PROPERTY.

- or

Explain how the nonconformity was discovered after the structure was substantially completed or after a vacant lot in violation had been transferred to a bona fide purchaser and how the violation was not an outcome of ignorance of the law or bad faith but resulted from a legitimate mistake _____

3. Explain how the nonconformity does not constitute a nuisance nor diminish the value or interfere with future uses of other property in the area:

THIS IS AN EXISTING LOT OF RECORD, A SINGLE FAMILY HOME, AND NO CHANGE OF USE IS PROPOSED. WE WILL ALSO INSTALL A NFPA-130 SPRINKLER SYSTEM IN THE BUILDING.

4. Explain how the cost of correction far outweighs any public benefit to be gained:

THERE IS NO ROADWAY ADJACENT THIS PROPERTY. ACCESS IS VIA A DEEDED R.O.W. THE LOT IS UNUSEABLE WITHOUT A MANTEL

Is any Use or Structure on the subject property (other than that referenced above) currently Non-Conforming? YES NO

If yes, explain in detail:

A PORTION OF THE GARAGE IS WITHIN CURRENT SETBACKS (25').

Does the subject property including all existing or proposed buildings, signs, driveways, and septic systems meet Jackson Zoning Ordinance requirements and applicable state regulations? YES NO

If no, explain in detail:

SEE ABOVE

ADDITIONAL INFORMATION: Summarize below any information from preliminary discussions with state agency personnel in regard to the case.. In addition, attach copies of any correspondence from state agencies, or Jackson officials and boards pertaining to the property.. NONE

Jackson Zoning Ordinance Section 15.2.4 states - Waivers shall be granted only from physical layout, mathematical or dimensional requirements. An equitable waiver shall not be construed as a Non-Conforming Use, and shall not exempt future use, construction, reconstruction, or additions on the property from full compliance with the Zoning Ordinance. This Section shall not be construed to impose upon municipal officials any duty to guarantee the correctness of plans reviewed by them.

Attach all pertinent documents and correspondence.

NOTE: This application is not acceptable unless all required statements have been made.

Use additional attachments or separate sheet to provide answers to questions not already covered, if the space provided is inadequate.

IMPORTANT NOTICE: Board of Adjustment By-Laws state that information from the applicant and/or his representatives must be provided to the Board no less than 7 calendar days prior to the date of the public hearing.

If you have questions about this application, please review the application instructions and checklist and the ZBA information found on www.jacksonvillage.net under Boards and Commissions. In addition, you may contact the Chairman of the Board of Adjustment, PO Box 268, Jackson, NH 03846

SPECIAL WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS: That Cornerstone M. I. II, LLC, a New Jersey Limited Liability Company, of C/O Franklin Credit Management Corporation, 101 Hudson Street, Jersey City NJ 07302, for consideration paid grant(s) to Brian W. Benoit and Christine A. Benoit, Husband and Wife, of 44 Autumn Lane, Center Conway NH 03813, as joint tenants with rights of survivorship, with SPECAIL WARRANTY COVENANTS:

A certain piece or parcel of land, with the buildings thereon situated in Jackson Carroll County, and State of New Hampshire on the northerly side of Thorn Hill Road, so-called, and bounded and described as follows:

Beginning at an iron pipe set in the ground, at the southeasterly corner of land now or formerly of Darville or Darvilles, and thence from said point of beginning running South 34 degrees 15 minutes West 176 feet, more or less, to a drill hole in the northeasterly corner of a boulder, which said boulder is about six fee in diameter, thence South 61 degrees 15 minutes East, 101 feet, more or less, to a drill hole on the northerly side of a boulder, which said boulder is about ten feet in diameter; thence South 81 degrees 5 minutes East, 162 feet, more or less, to a drill hole on the top of a boulder, said boulder being about four feet in diameter; thence on said course South 81 degrees 5 minutes East, to a brook and land now or formerly of March or Marches; thence Westerly by said brook and land of said March to said Darville land; thence Southerly on the easterly line of said Darville land to the point of beginning.

Together with a right of way to all members of the public to pass and repass from said Thorn Hill road to the premises hereby conveyed and vice versa. See Deed at Book 2241, Page 622 for a more particular description.

Meaning and intending to describe and convey the same premises conveyed to Cornerstone M.I.II, LLC by virtue of a deed from Cornerstone M.I.II, LLC c/o Franklin Credit Management dated 03/16/2010 recorded in Book 2853, Page 71, with the Carroll County Registry of Deeds.

This is not Homestead property of the Grantors

Executed this 2 day of June, 2010.

Peter Paras, Jr.

Cornerstone M. I. II, LLC,
BY: Peter Paras, Jr.
Its: President

State of Ohio

Franklin County, ss.

On June 2, 2010, before me, the undersigned notary public, personally appeared the undersigned officer Peter Paras, Jr., who acknowledged himself/herself to be the President of Cornerstone M. I. II, LLC and in acting in said capacity and being duly authorized to do so executed the foregoing deed on behalf of Cornerstone M. I. II, LLC, as his/her voluntary act and deed for the purposes herein contained.

Deborah S. Leppert

Notary Public:

My Commission:



Deborah S. Leppert
Notary Public-State of Ohio
My Commission Expires
April 11, 2012

To:
Jackson ZBA

From:
Brian & Christine Benoit
44 Autumn Lane
Center Conway, NH 03813

Following please find a list of abutters to our property located at 17 Thorn Hill Road, Jackson, NH (Map V-9, Lot 18).

Map-V-9, Lot 14
Pete Stuben, LLC
PO Box 9
North Conway, NH 03860

Map V-9, Lot 15
Anne M. Frost
4 Woodland Road
Boxford, MA 01921

Map V-9, Lot 19
S-Kimos Ski Club
Denis Vailancourt
PO Box 481
Jackson, NH 03846

Map V-9, Lot 20
Charles R. Meserve-Trustee
C.R. Merserve Real Estate Trust
162 Capisic Street
Portland, ME 04102

June 21, 2010

Brian and Christine Benoit
44 Autumn Lane
Center Conway, NH 03813

Dear Christine and Brian:

During the Selectman's Board Meeting on June 17, 2010, your building permit application to add new pitched roofs and a second floor addition to the existing non-conforming structure was denied. The Town Building Inspector, Andrew Chalmers, recommended that the application be denied for reasons noted in his letter of June 3, 2010, which was previously sent to you. We are aware that Andy's first objection that you were not owner of record has been satisfied – congratulations. You still own a non-conforming lot and the project increases the non-conformance of the building. Also your lot does not have road frontage(see Jackson Town Ordinance 4.3.2.4).

In order to proceed with your plans, you will need to obtain a variance from Jackson's Zoning Board. The present chairman is Frank Benesh (tel: 383-8229) or email: Frank_Benesh@alum.mit.edu

Thank you for your cooperation.

Sincerely,

Linda M. Dresch
Town of Jackson

To: The Jackson Board of Selectmen

From: Andy Chalmers

Re: Map V 09 Lot 18

Subj: Building Permit Application

Thursday, June 03, 2010

refuse to hear

Dear Selectmen,

The applicant has applied for a building permit to add new pitched roofs and a 2nd floor addition to the existing non-conforming structure.

I would not recommend granting this application.

- 1.) The applicant is not, currently, the owner of the property
- 2.) This is a non-conforming lot in the Village District:
4.3.2.4 Each lot shall have a Frontage no less than 150 feet on a public or Private Road right-of-way.

Currently, this lot is served by a 14' wide right-of-way. State Statute RSA 674:41 prohibits the issuance of a building permit or the construction of a building on a lot that does not have 'street access'... paragraph III disallows the use of a private easement or right-of-way as the sole access to the lot.

- 3.) The proposed sloped roof would increase the building volume and eave overhangs (2') would further encroach into the set-backs.

It appears that portions of the unpermitted additions to the existing structure encroach into the front and side set-backs from the neighboring property. I would suggest that the owner/ applicant be encouraged to apply to the ZBA for an equitable waiver to mitigate these issues.

Sincerely,

Andrew C Chalmers

Andrew C Chalmers
Building Inspector

V9/lot 18
Cornerstone H.I. II, LLC

**RESIDENTIAL BUILDING PERMIT APPLICATION
TOWN OF JACKSON**

PO Box 268
Jackson, New Hampshire 03846
Phone: 603-383-4223 Fax: 603-383-6980

Permit Number Issued _____

Date of Application 6-1-10

Map & Lot Number V-9, LOT 18

Street Name and Number 17 THORN HILL

Village District X or Rural Residential District _____ (Check one)

Property Owner Information:

Name BRIAN BENNET Telephone #'s 356-9173 (356-9173)

Mailing Address 44 AUTUMN LAKE, CENTER CONDUIT, NH 03843

Email Address CLIMBING ROSE @ ROADRUNNER.COM

Contractor Information:

Name SELF Telephone #'s _____

Mailing Address _____

Email Address _____

Reason for Permit:

Structure: New _____ Addition X Alterations X Wind Generation Facility _____

Specify changes: - ADD NEW PITCHED ROOFS OVER OLD FLAT ONES.

- ADD (2) STOPS AT "WELL" AREA, SEE ATTACHED PLANS

Intended Use: RESIDENTIAL LIVING ROOM

Dimensions of New Structure or Addition:

15x70 APPROX.

Is this property or part of this property in Current Use? Yes _____ No X

Explain _____

See RSA Chapter 79-A Current Use Taxation. "Current use" is an assessment of land value for taxation purposes meant to encourage the preservation of open space. Land presently within "current use" cannot be part of the buildable area of the lot unless removed from current use.

Structure Setback Requirements: 50 feet' from the edge of any road right-of-way (typically the edge of the road right of way and the front property line are one in the same), 25 feet from any abutter property line and 50' from the near bank of any year-round stream or body of water which is a property boundary. Setback requirements may also be affected by Section 5, River Conservation District, of the Zoning Ordinance. The village district has additional requirements that apply along route 16A and for frontage on a road right of way. Please refer to the Zoning Ordinance

Specify the setback distances: Facing the road SEE SITE PLAN Back of property Same

Side of property _____ Other Side of

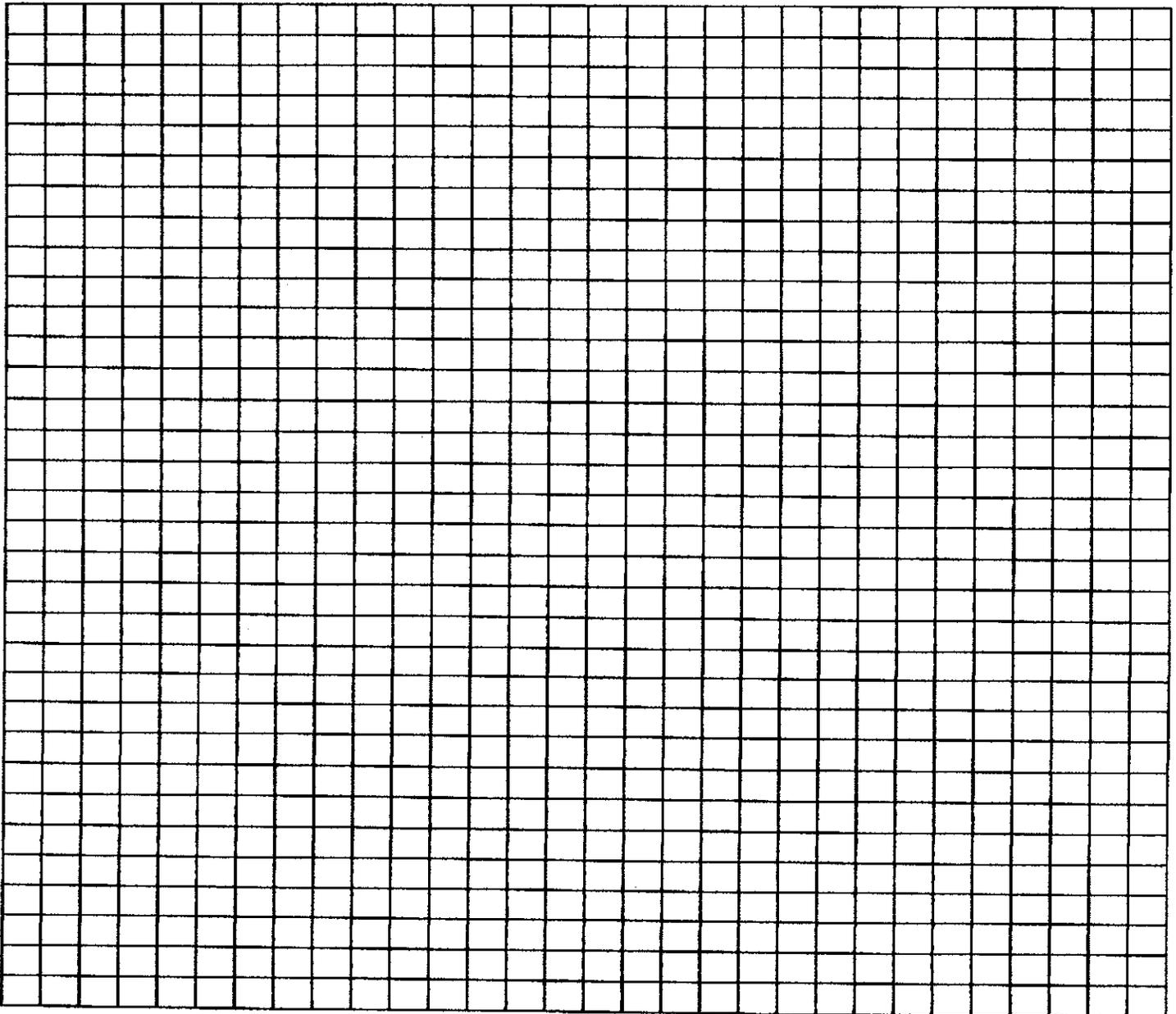
Property _____

Length of frontage on the street SEE ATTACHED SITE PLAN

SITE PLAN DETAIL

In the space below draw the exact shape of your lot and mark the boundary distances: Show all present and proposed structures in their correct location on the lot.

1 SQUARE EQUALS TEN FEET



Septic System:

Note: New septic loads may not be added to any existing structure without an approved town and state septic system design.

Non-Conforming Lot Size: See Zoning Ordinance Section 6 for Minimum Lot Size requirements.

Septic Approval # EXISTING

Additional Items of Note:

Water Testing & Wells: The state of New Hampshire encourages all owners to have new and existing wells tested.

Water: Dug Well _____ Drilled Well Community Well _____ Town
Water _____

Water course if applicable:

Is this property located within the Jackson Water Precinct boundary? NO

Is the property in compliance with the Jackson Water Precinct requirements? UNK.

Please call Jackson Water Precinct 383-6539 for more information.

Well Radius:

For any lot, the entire well radius to the extent possible shall be located on this lot. If the well radius cannot be located entirely on the lot, it shall be located to the extent possible within the well radius of any abutting lot or within land which is non-buildable under state and local regulation. The purpose of this requirement is to protect water quality on all lots. An applicant shall be expected to release the town in connection with protective well radii in the same manner as the State of New Hampshire under RSA 485-A:30-b. This release shall be recorded at Carroll County Registry of Deeds.

Streams & Rivers: Please refer to the Jackson Zoning Ordinance

Plumber: SELF
License Number: _____

Electrician: SELF. SELF
License Number: _____

RESIDENTIAL BUILDING PERMIT FEES:

A Building Permit APPLICATION Must Be Submitted For ALL PROJECTS

Although a building permit is not required for Alterations within the footprint of an existing building or structure if the Alterations have an estimated value of less than \$10,000, a Building Permit Application must be submitted.

Note: When a permit is not required (circumstances outlined above) the Town of Jackson will not require or provide inspections of the work. Inspections may be required under the State of New Hampshire Building Code, RSA 155-A. It is the obligation of the contractor and / or owner to request inspections. Inspections will be performed by the state.

Alterations to an Existing Building or Structure Extending Outside the Existing Footprint :

A permit is required for alterations that extend outside the footprint of an existing building or structure (i.e. Including but not limited to decks and attached sheds) valued at less than \$10,000. The permit fee is \$25. In the event a building permit is not issued, the fee will not be refunded.

Note: Alteration is specifically defined at Section 3.4 of the Jackson Zoning Ordinance. The definition reads: "Alteration" means any structural change to a building and change of present design or use where compatible and consistent with existing uses.

Permit Fees are required for all projects except Alterations under the circumstances described above or when the project is exempt from permit under NH State Building Code:

- 1 check for a non-refundable \$75 base fee to process the application.
- 1 check for 0.0025 per dollar value for the estimated value of the work.

Permit Application Non-Refundable Processing Fee \$75
 Permit Fee - estimated value of work \$ _____ x 0.0025 = _____

*OK #2498
6/1/10
Brenda Benoit*

Note: Project value is subject to review by the Town of Jackson based on the area of the project and estimated costs per square foot, giving consideration to the work to take place.

IN THE EVENT THAT A BUILDING PERMIT IS NOT ISSUED, \$75 IS NON-REFUNDABLE.

Permitted work must be completed within one year from the date of issuance. RSA 676:15 provides penalties for noncompliance of \$100 per day for exceeding one year requirement. Application for a renewal permit may be submitted. Permit renewal fees are \$25 for Projects with a permitted estimated value less than \$2,500 and \$75 for projects with a permitted value of \$2,500 & above.

Note: RSA 676:17 provides that any individual failing to secure an approved building permit shall be subject to a civil penalty of \$275 to \$550 per day and may be guilty of a misdemeanor or a felony.

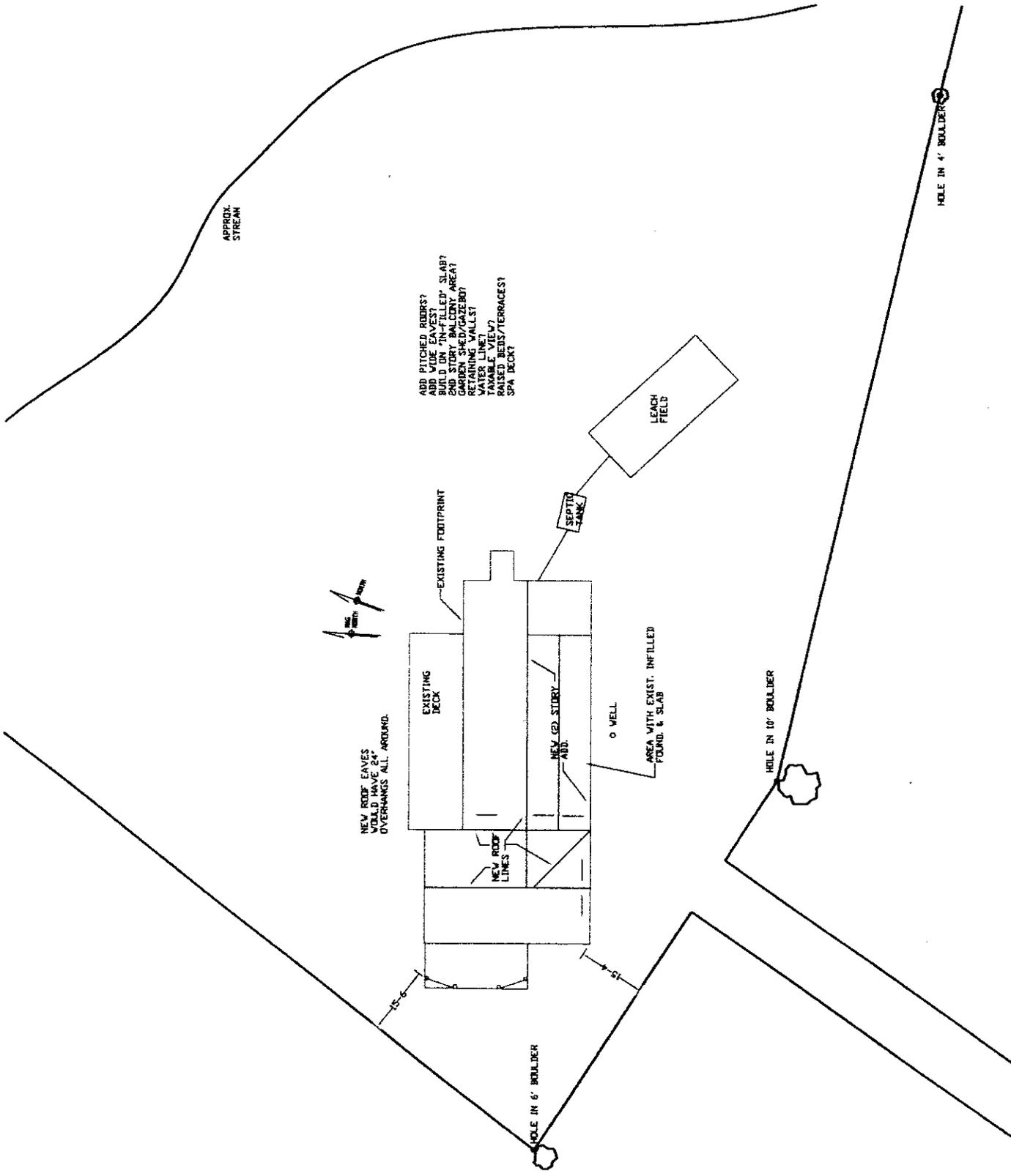
I understand and accept that approval granted by the Town of Jackson, based upon information supplied herein, does not relieve me from having to comply with any Local Ordinances, State or Federal Laws.

I hereby certify that the information herein is true and the above project will be accomplished in accordance with the information submitted. I have read and understand the Town of Jackson Zoning Ordinance as it applies to this project and I understand the Board of Selectmen will act to enforce both the Zoning Ordinance and the State of New Hampshire Building Code.

Owner's Signature:  _____ Date: 6-1-10

Board of Selectmen Approval:

Date of Approval _____



APPROX.
STREAM

- ADD PITCHED ROOFS?
- ADD WIDE LEAVES?
- BUILD ON "IN-FILLED" SLAB?
- 2ND STORY BALCONY AREA?
- GARDEN SHED/GAZEBO?
- RETAINING WALLS?
- TABLE VIEW?
- RAISED BEIS/TERRACES?
- SPA DECK?

LEACH
FIELD

SEPTIC
TANK



EXISTING FOOTPRINT

EXISTING
DECK

NEW 2ND STORY
ADD.

WELL

AREA WITH EXIST. INFILLED
FOUND. & SLAB

NEW ROOF EAVES
WOULD HAVE 24"
OVERHANGS ALL AROUND.

NEW ROOF
LINES

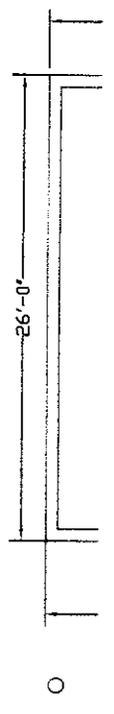
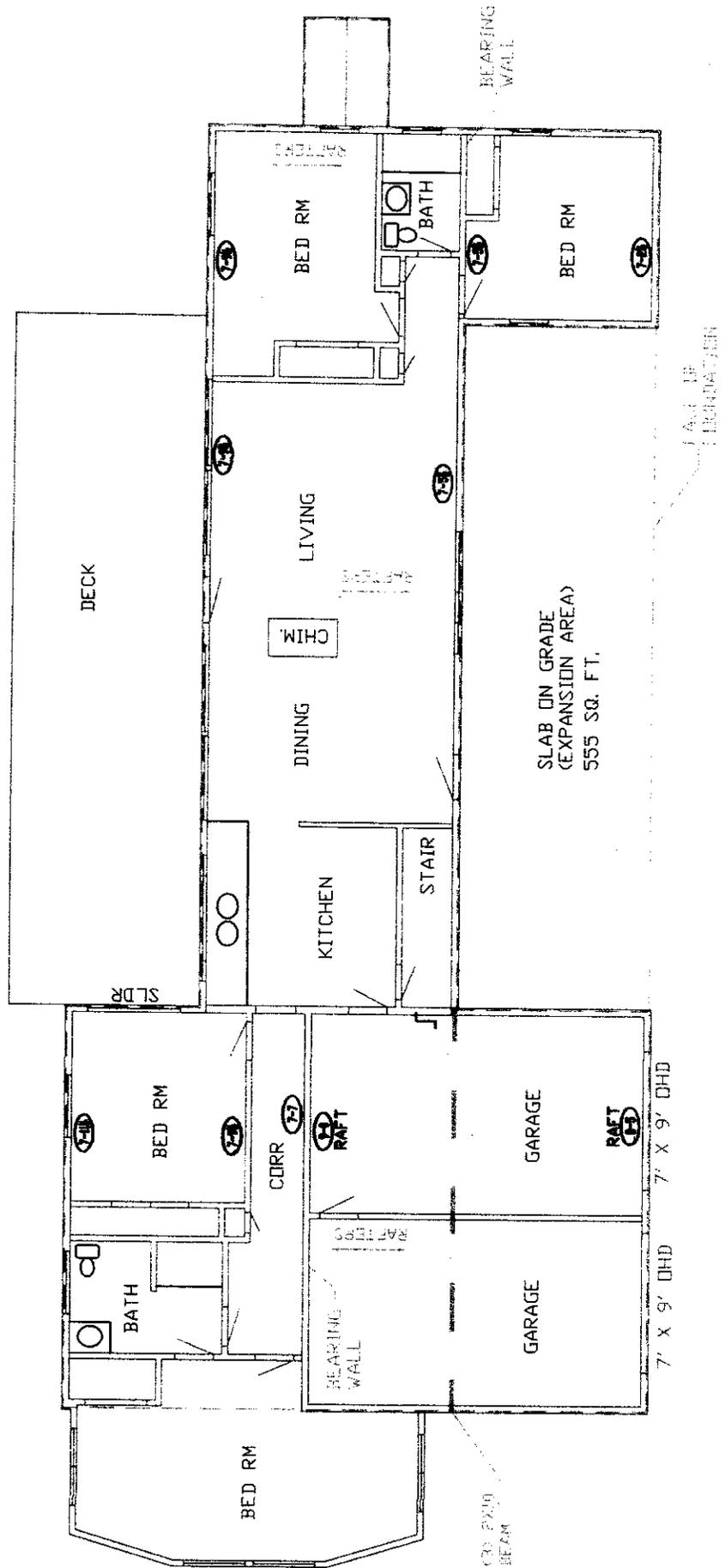
HOLES IN 10' BOULDER

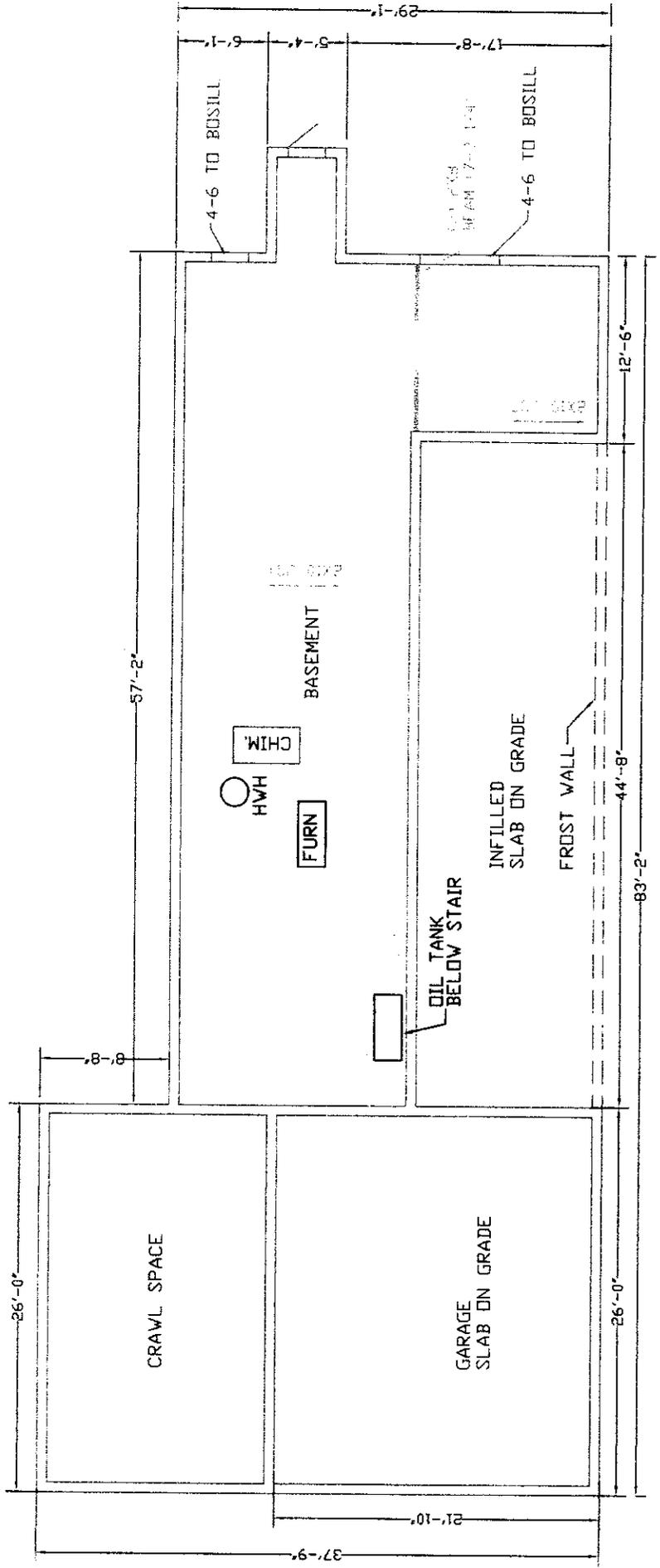
HOLES IN 6' BOULDER

HOLES IN 4' BOULDER

15'-6"

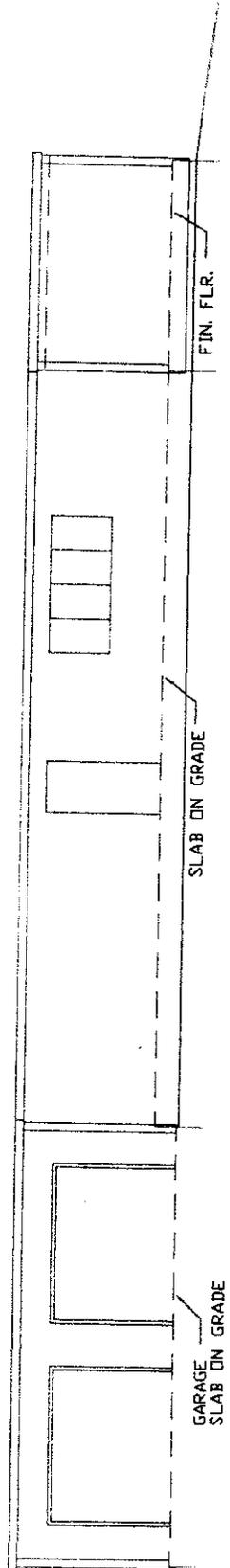
4'-6"





WELL

ERS



FRONT (SOUTH) ELEV.
1/4" = 1'-0"