



# TOWN OF WINCHESTER

INCORPORATED JULY 2<sup>ND</sup> 1753



1 Richmond Road • Winchester, New Hampshire 03470

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## **Notice**

### **Request of a Variance Application Review and Public Hearing 11-5-20**

To: All abutters and others to be notified  
From: Zoning Board of Adjustment

Under the authority of New Hampshire Law (RSA 674:33), the Zoning Board of Adjustment will hold a public hearing regarding a request for a variance. Before an application can be considered all abutters shall be notified by certified mail.

The Winchester Zoning Board of Adjustment will be meeting on 11-5-20 at 7pm on the Main Floor of the Town Hall, 1 Richmond Road for the following: The board will review for acceptance an application for a variance request of Article XXII, Table of Usage, Earth Excavation in the residential district. The application is submitted by Berkshire Construction Co. for property located on Keene Road, map 31, lot 5-1. If the application is found complete the board will move into a public hearing on the matter.

If a decision is not reached the hearing will continue at the following meeting without further notice. The application is available for review in the Land Use Office during regular business hours and on the town website, winchester-nh.gov.

Respectfully,  
Margaret Sharra, Land Use Administrator

Application for: Variance

Date: 8/21/2020

Map# 31 Lot# 5-1

Name & address of applicant: Berkshire Construction Co., LLC, Linwood R. Patnode, Jr., 42 Route 12A, Surry, NH 03431

Email: erika@surconstructionwest.com Phone: 603-357-7950

Name & address of owner: Same

Email: \_\_\_\_\_ Phone: \_\_\_\_\_

Location of property: Route 10, Winchester, NH Zoning District: Commercial / Residential

Description of property (include a plot plan, frontage, side & rear lines, water, structures, etc.) See attached; It is currently a vacant lot.

Proposed use/existing use: Proposed Use - Sand Pit and Corn Field; Existing Use - The property has sat vacant for approximately 15 years.

Fill out the attached abutters list and submit the non refundable fee of \$150 with the completed application and other necessary forms at least 21 days prior to the review by the ZBA. The ZBA generally meets on the second Thursday of each month if there is business. A complete application will be reviewed for acceptance before a public hearing is held within 30 days. You or your representative must be present at the hearing. All owners NOT representing themselves must submit a letter of representation for the applicant with the application.

Please complete and submit the following appropriate page(s) for the request of a variance, a special exception, an equitable waiver of dimensional requirements, an appeal from an administrative decision or a rehearing. Attach all other supporting documentation to the application.

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After the public hearing, the board will typically render a decision within 30 days. You will be sent notice of this decision. If you believe the board's decision is wrong, you have the right to appeal. The Selectboard or any party with standing has similar rights of appeal. With an appeal, you must first ask the board for a rehearing. All requests shall be submitted on the appropriate ZBA forms and include the required fee. The motion must be made within 30 days of the decision and must set forth the grounds on which the claimed the decision is unlawful or unreasonable. The board may grant a rehearing if it is determined there were errors of law or new information is stated in the motion. Notice to the public and abutters are required for a rehearing. Refer to RSA 677:2 and RSA 676:7 for details.

**Variance:**

The undersigned hereby requests a variance to the terms of Article XXII, section Table of Usage subparagraph \_\_\_\_\_, of the Winchester zoning ordinance.

[Signature] 10/7/2020  
Signature of applicant and date

[Signature] 10/7/2020  
Signature of owner and date

Facts supporting the variance request:

1. Granting of the variance **will not be** contrary to the public interest because:

See attached for #1

2. The **spirit of the ordinance is observed** because:

The change of the property useage will be temporary. We would like to operate under an agricultural zoning which in effect is an extension of the property abutting us to the rear.

3. By granting the variance substantial justice would be done because:

I am under extreme limitations as to what an be done at this location and in our opinion this is the best use of this property with the least impact to the Town.

4. The **value of surrounding properties are not diminished** because:

We will actually improve the appearance of the property. This property has sat vacant, non-maintained, and open to vandals and trespassers for almost 20 years.

5. **Literal enforcement of the provisions of the ordinance** would result in unnecessary hardship; owing to special conditions of the property that distinguish it from other properties in the area, because:

a) 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:

The property's extreme limitations places me in a situation where I won't be able to recover my investment. I bought an engineered project that in fact could not be constructed due to the zoning requirements.

and b) the proposed use is a reasonable one because:

It enhances the appearance of the property and is consistent with the property zoned agricultural which abutts us to the rear.

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

The variance is necessary because excavation permits are not issued in the Central Business and Residential Zonings.

The best use of this property is to regrade it to a level that matches the cornfield it abutts.

Facts supporting the variance request:

1. Granting of the variance **will not be** contrary to the public interest because:

All excavation activity will be accomplished during working hours of 7:00 AM and 5:00 PM Monday through Friday. The occasional Saturday half day operation is possible.

We will install a construction entrance and appropriate silt fence along with maintaining grading to effectively control any erosion or tracking issues.

The operation will not be an active pit. It will be servicing only the needs of S.U.R. Construction West, Inc. Many days, weeks, and possibly months there will be very little activity.

Dust control will be an ongoing concern and effort.

We will excavate from the back of the property, approximately 600 feet away from and approximately 20 feet lower than Route 10. By beginning in this location, any wind-blown dust action will occur in a low elevation and not where it affects local residences or traffic. It will also muffle machine noise.

When the excavation is complete, the area will be a gentle seeded slope down to a field. We do not expect to remove more than 5,000 CY of materials from the property in any given year unless a specific project warrant that. If this occurs, the times of operation listed in paragraph one will still prevail.

ABUTTERS LIST

For use with all Land Use Applications

Applicant: Berkshire Construction Co., LLC, Linwood R. Patnode, Jr. ✓

Address: Route 10, Winchester, NH

Map# 31 Lot# 5-1

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MAP#	LOT#	NAME & ADDRESS	Sent/Rec'd
32	13-14	Farnum, Keith B., 27 Tamarack Circle ✓	
32	13-23	No known Owner <i>assumed co-op</i>	
32	13-22	Donald, Eric, 18 Tamarack Circle ✓	
32	13-21	Frazier, Wendy L., 16 Tamarack Circle ✓	
32	13-20	Phelps, Robert F., 14 Tamarack Circle ✓	
32	13-19	Batchelder, Ed, 12 Tamarack Circle ✓	
32	13-18	Card, Sandi, 10 Tamarack Circle ✓	
32	13-17	Leblanc, Leonard J., 8 Tamarack Circle ✓	
32	13-27	Bower, Terese, 5 Spruce Lane ✓	
32	13-0	New Beginnings Cooperative, Tamarack Circle <i>260-30 Keene R</i> ✓	
31	5-2	MacDonald, Richard J., <del>254 Keene Road</del> <i>46 Northfield Rd Hasdale 03434</i> ✓	
31	3	Chiottis Family LLC., <del>234 Keene Road</del> ✓	
31	4	Delano, Phyllis J., 230 Keene Road ✓	
8	116	Kelly, Scoville Farm, LLC., Keene Road <i>May Kelly Trst c/o Nancy Harm</i> ✓	
31	6	Forest Lake Camping Ground, Inc., <del>241 Keene Road</del> <i>331</i> ✓	

*7492 w 2 mi Rd Northville, MI 48167-9125*

Tax map shows Lots 32-13 Sub numbers 26,25, and 1 abutting also, but the actual survey depicts they are not abutting properties.

*Rbt & Christine Ellis  
3 Spruce Lane  
Wm* ✓

*Tracy Tracy  
1 Spruce Lane  
Wm* ✓

*William Barinas  
1 Tamarack Circle  
Wm* ✓