

**Town of Winchester  
Zoning Board of Adjustment (ZBA)  
Application for:**

Special Exception    Variance    Rehearing  
Equitable Waiver of Dimensional Requirements  
Appeal from an Administrative Decision or Building/Fire Code

**Instructions to the Applicant**

Please read carefully before completing the application. The board strongly recommends you become familiar with the Town of Winchester Zoning Ordinance and New Hampshire Land Use Statutes chapters RSA 672-678 available on line or in the Land Use office. All requests shall be submitted on the board's applications and shall only be accepted in person in the Land Use Office during regular business days and hours.

Five requests that may be presented to the Zoning Board of Adjustment:

**Special Exception-**The ZBA, in appropriate cases and subject to appropriate conditions and safeguards, grants special exceptions to the terms of the ordinance. All special exceptions shall be consistent with the purpose and intent of the zoning ordinance and shall be in accordance with rules specified in the ordinance. Refer to Article XVI of the Winchester Zoning Ordinance.

**Variance-** Under special circumstances, approval may be granted to use your property in a way that is not permitted by the zoning ordinance. To qualify for a variance, your proposal must meet ALL FIVE criteria listed in RSA 674:33 (I) (b).

**Equitable waiver of dimensional requirements-** When a lot or other division of land, or structure there upon, is discovered to be in violation of a physical layout or dimensional requirement imposed by a zoning ordinance enacted pursuant to RSA 674:16, the Zoning Board of Adjustment may, upon application by and with the burden of proof on the property owner, grant an equitable waiver from the requirement, if and only if the board makes all of the following findings: (see RSA: 674:33-a.)

**Appeal from an Administrative Decision-** If you have been denied a building permit or are affected by some other decision of a Town official regarding the administration of the Winchester Zoning Ordinance, or the interpretation of the state building code or state fire code, and you believe that the decision was made in error under the provisions of the ordinance or code you may appeal the decision to the ZBA. (Refer to 674:33 or RSA 674:34)

**Rehearing-** Per RSA 677:2, within 30 days after any order or decision of the ZBA, or any decision of the local legislative body or a board of appeals in regard to its zoning, the selectmen, any party to the action or proceedings, or any person directly affected thereby may apply for a rehearing in respect to any matter determined in the action or proceeding, or covered or included in the order, specifying in the motion for rehearing the ground therefore; and the board of adjustment, board of appeals, or the local legislative body, may grant such rehearing if in its opinion good reason therefor is stated in the motion.

**General Information**

Application for: VARIANCE

Date: 01/12/2024

Map# 15 Lot# 21

Name & address of applicant: LAWRENCE LAND SURVEYING, LLC  
579 KEENE ROAD WINCHESTER, NH 03470  
Email: lawrencesepticdesign@yahoo.com Phone: 603-239-4387

Name & address of owner: JOHN & PENNY STEPHENS  
85 OLD SWANZEY ROAD WINCHESTER, NH 03470  
Email: \_\_\_\_\_ Phone: \_\_\_\_\_

Location of property: 85 OLD SWANZEY RD Zoning District: AGR/APO

Description of property (include a plot plan, frontage, side & rear lines, water, structures, etc.) LOT CONSISTS OF 5.28 ACRES WITH AN EXISTING HOUSE ON THE SOUTH SIDE.

Proposed use/existing use: SUBDIVIDE THE NORTH PORTION FOR A SECOND BUILDING LOT.

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 APO, section 5, subparagraph a, of the Winchester zoning ordinance.

[Signature] 1-18-24  
Signature of applicant and date

[Signature] 1-16-24  
Signature of owner and date

Facts supporting the variance request:

[Signature] 1-16-24  
Signature of owner and date

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

SEVERAL ABUTTING LOTS ARE LESS THAN 3 ACRES.

2. The spirit of the ordinance is observed because:

THE PROPOSED LOTS ARE GREATER IN AREA THAN REQUIRED IN THE AGRICULTURAL DISTRICT. THESE LOTS ARE A SIGNIFICANT DISTANCE FROM THE NEAREST TOWN WELL.

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

SEVERAL ABUTTING LOTS ARE LESS THAN 3 ACRES.

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

SEVERAL ABUTTING LOTS ARE LESS THAN 3 ACRES.

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:

THESE LOTS ARE LOCATED A SIGNIFICANT DISTANCE FROM THE NEAREST TOWN WELL.

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

SEVERAL ABUTTING LOTS ARE LESS THAN 3 ACRES.

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.

## **ABUTTERS LIST**

### **SUBJECT LOT**

MAP 15 LOT 21

JOHN T. & PENNY S. STEPHENS  
85 OLD SWANZEY ROAD  
WINCHESTER, NH 03470

### **ABUTTERS**

MAP 15 LOT 18 & 20

SOUTH BRANCH GROUP  
42 ROUTE 12A  
SURRY, NH 03431

MAP 15 LOT 19 & 19-1

RICHARD & HEIDI PRENTICE  
PO BOX 388  
WEST SWANZEY, NH 03469

MAP 15 LOT 22

PETER & TINA CONNOR  
65 OLD SWANZEY ROAD  
WINCHESTER, NH 03470

MAP 15 LOT 23

LAWRENCE REALTY, LLC  
PO BOX 113  
KEENE, NH 03431

MAP 15 LOT 50

MITCHELL MATERIALS, LLC  
112 AMHERST ROAD  
SUNDERLAND, MA 01375

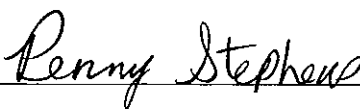
**LAWRENCE LAND SURVEYING, LLC**  
**BOUNDARY SURVEYS - SUBDIVISIONS - LOT LINE ADJUSTMENTS**  
**TOPOGRAPHIC SURVEYS - SITE PLANS - SEPTIC DESIGN - FEMA SURVEYS**

To Whom it may concern,

We, John & Penny Stephens, as joint owners of Winchester Tax Map 15 Lot 21 85 Old Swanzey Road in Winchester, do hereby grant Charles W. Lawrence of Lawrence Land Surveying, LLC with a place of business located at 579 Keene Road in Winchester NH 03470 the authorization to represent us on our behalf for the Winchester Zoning Board variance application & Winchester Planning Board subdivision application of Map 15 Lot 21.

  
\_\_\_\_\_  
John Stephens

1-16-24  
Date

  
\_\_\_\_\_  
Penny Stephens

1-16-24  
Date

12744

CORRECTIVE DEED

GRANTOR(S):

LEONARD E. FRAZIER, SR. and  
GERTRUDE E. FRAZIER, Husband and Wife  
TOWN OF SWANZEY  
COUNTY OF CHESHIRE  
STATE OF NEW HAMPSHIRE

FOR CONSIDERATION PAID GRANT TO

GRANTEE(S):

JOHN T. STEPHENS and  
PENNY S. STEPHENS, Husband and Wife, as Joint Tenants  
With Rights of Survivorship  
20 MICHIGAN STREET  
TOWN OF WINCHESTER  
COUNTY OF CHESHIRE  
STATE OF NEW HAMPSHIRE

WITH WARRANTY COVENANTS THE FOLLOWING:

A certain tract of land situated in the town of  
Winchester, County of Cheshire, and State of New Hampshire,  
being on the east side of Chesterfield Road, bounded and de-  
scribed as follows:

Beginning on the east side of said road to a corner of the  
H. P. Read Farm, now or formerly, and running on said road to a  
corner of land now or formerly of J. P. C. Field;

thence easterly on said Field's land to the Ashuelot  
River;

thence on line of said river to said H. P. Read land;

thence westerly on said Read land to the place of begin-  
ning.

Hereby excepting and reserving the cemetery on said land  
with the privileges belonging thereto.

Excepting a 3.4 acre parcel conveyed to Homer E. W. Miller  
by deed dated April 2, 1955 and recorded in the Cheshire Regis-  
try at Volume 608, Page 379.

Excepting and reserving approximately 24 acres of land  
conveyed to New Hampshire Land Development Corporation dated 7  
November 1970 and recorded in Volume 818, Page 309 of the  
Cheshire Registry.

Being part of the premises conveyed to Leonard E. Frazier and Gertrude E. Frazier by deed of Stanley J. Gomarlo dated 1 July 1960 and recorded in Volume 679, Page 127 of the Cheshire Registry.

This is not homestead property.

The undersigned spouse(s) of the Grantor(s) release(s) to the Grantee(s) all rights of homestead and other interest therein.

In witness whereof, we have hereunto set our hands this ~~11<sup>th</sup>~~ day of ~~September~~ <sup>October</sup>, 1986.

[Signature]  
Witness

Leonard E. Frazier Sr.  
LEONARD E. FRAZIER, SR.

[Signature]  
Witness

Gertrude E. Frazier  
GERTRUDE E. FRAZIER

COUNTY OF CHESHIRE  
STATE OF NEW HAMPSHIRE

The foregoing instrument was acknowledged before me this ~~11<sup>th</sup>~~ day of ~~September~~ <sup>October</sup>, 1986 by LEONARD E. FRAZIER, SR. and GERTRUDE E. FRAZIER.

[Signature]  
Justice of the Peace  
Notary Public  
BARBARA J. HATSTAT, Notary Public  
My Commission Expires May 2, 1989

**RECEIVED**  
3-09 P.M.  
OCT 14 1986  
CHESHIRE COUNTY  
REGISTRY OF DEEDS