

APPLICATION FOR A VARIANCE

Do not write in this space.

Case No. \_\_\_\_\_

Date Filed \_\_\_\_\_

\_\_\_\_\_

(signed - ZBA)

To: Zoning Board of Adjustment,

Town of Jackson

Name of Applicant CHRISTOPHER & LAURIE McALPHER

Address PO BOX 74, 74 WHITNEY HILL LOOP, JACKSON, NH 03846

Owner SAME  
(if same as applicant, write "same")

Location of Property 74 WHITNEY HILL LOOP JACKSON TM V05-5  
(street, number, sub-division and lot number)

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

Application for a Variance

A variance is requested from article \_\_\_\_\_ section 4.3.1.2 of the zoning ordinance to permit A 2 CAR GARAGE WITHIN 25' SETBACK OF 84 WHITNEY HILL LOOP TM V05-6 OWNED BY JACKSON HEIGHTS L+E REALTY TRUST - ERY + LAURA MAGASZNIK

Facts in support of granting the variance:

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

SEE ATTACHED

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

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

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5. Unnecessary Hardship

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

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- and -

ii. The proposed use is a reasonable one because:

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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 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.

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Applicant



(Signature)

Date

5/28/2024

# Addendum to Variance Application of McAleers

## **Contrary To Public Interest**

The building permit is for a two car garage at the top of the existing driveway connected to the home at the current entrance. It will blend in by design and exterior siding. It would be noticeable only by driving by the driveway except for one or two adjacent properties if few or no leaves were on the trees. It should have no negative visible or any other effect contrary to public interest.

## **Spirit of the Ordinance**

The current structure, as can be seen in the plot survey and proposed design concept, is already within the abutter's 25 foot set back on the north side of the property. Unfortunately, the developers of this property surely did not anticipate future zoning changes which put the property within this setback. Had they it would have been wise on this 1.2 acre lot to position the home at a point both east and south on the lot that would conform to current ordinances. But now, for various reasons, the garage placement is limited to the west side of the structure at the top of the current driveway with limited flexibility to accommodate a minimum sized two car garage. Note the design does utilize the abutter's setback but less than the existing structure does and within the current foot print of the existing driveway which also is within the setback. This should be within the spirit of the ordinance which also honors properties grandfathered as zoning rules change.

A garage on the north side of the structure would be almost entirely within the abutters setback. To the east would require a new driveway across what would be considered wetlands and move the entrance way to a bedroom. To the south would be over the area that is now the septic system and leach field.

## **Granting Justice**

I am not sure the developers of our and surrounding properties in this neighborhood ever envisioned these homes as other than second homes. With that in mind garages were an added expense to build and made the properties more expensive and therefore not necessary. But living in New Hampshire in the winter and aging way to quickly a garage in these circumstances become less a luxury and more of a must have. Poetic justice.

### **Surrounding Property Values**

A garage would certainly enhance my property value but would likely not reflect what I put into it for a number of years. On the other hand it would likely enhance property value in the neighborhood right away. Abutters adding value through structure enhancements tend to make the neighborhood more attractive which in time raises all property values in the area. A new garage on our property will have, I suggest, no negative effect on properties or property values in the neighborhood.

### **Unnecessary Hardship**

a.

i.

Although I have road frontage the proposed location is the only one on the property that utilizes the existing driveway as well as the only spot that a garage can be built connecting to the house. By connecting to the home we are maximizing the footprint on our property and minimizing the use of the setback. I have also spoken to my abutter about my plans and they are willing to approve.

ii.

The request to allow us the ability to garage our cars in Jackson especially considering the winters seems justifiable. Currently, to allow plowing, it can be a considerable effort and scramble to clear our cars of snow and

shovel enough to get them onto the road so the plow truck can then clear the way.



# TOWN OF JACKSON

## OFFICE OF THE SELECTMEN

May 6, 2024

Chris & Laurie McAleer  
PO Box 74  
74 Whitney Hill Loop  
Jackson, N.H. 03846

RE: Building Permit Denial Map V05, Lot 5

Dear Chris,

I recently received and reviewed your building permit application to construct a proposed 2-Car garage located at 74 Whitney Hill Loop, Jackson, N.H. Please see attached proposed site plan. I am denying your building permit according to the zoning rules in the Town of Jackson Zoning Ordinance, Section 4.3.1.2 Setbacks:

**4.3.1.2 Setbacks (amended 3/8/2005, 3/10/2015, 3/8/2016)**

***No building, structure, porch, or portion thereof shall be located on a lot nearer any lot line, year-round stream or body of water than the minimum setback set forth below:***

- 1) From the center line of the traveled way of any public or Private Road: Fifty (50) feet.***
- 2) From any abutter property line, or sideline of any public or private road that does not provide access to the lot: Twenty Five (25) feet.***
- 3) From the near bank of any year-round stream or body of water: Fifty (50) feet.***

Please review the Zoning Ordinance at:

<https://www.jackson-nh.org/board-adjustment/pages/zoning-ordinance>

In issuing the denial of a building permit, you can apply to, and seek relief through an application to, the Zoning Board of Adjustment. If you decide to appeal my decision, the application to the Zoning Board of Adjustment must be submitted within thirty days of this notice of denial.

Please contact Frank Benesh, Chair of the Zoning Board of Adjustment, at 603-383-8229. He would be the person to obtain an application to that Board.

Thank you,

Kevin Bennett  
Jackson Building Inspector



W# V5 L# 5  
 ARC      
 XINDEX      
 OTHER ✓ Com. P.  
 LOC Whitney Hills

18/2

RECEIVED  
 CARROLL COUNTY REGISTRY  
 017335  
 1999 NOV 12 PM 2:14  
*Lillian O. Brooks*  
 REGISTER OF DEEDS

STATE OF NEW HAMPSHIRE  
 DEPARTMENT OF REVENUE ADMINISTRATION  
 REAL ESTATE TRANSFER TAX  
 \*\*\*\*1 THOUSAND 7 HUNDRED AND 55 DOLLARS  
 11/12/1999 401109 \$ \*\*\*\*1755.00  
 VOID IF ALTERED

\$ 1755

117,000

SPACE ABOVE THIS LINE FOR RECORDING INFORMATION

WARRANTY DEED

KNOW ALL PERSONS BY THESE PRESENTS, That We, **CHARLES NATHANSON**  
 and **ADELAIDE M. NATHANSON**, husband and wife, of 153 Pine Glen Drive, East Greenwich,  
 Kent County, Rhode Island (02818), for consideration paid, grant to **CHRISTOPHER R.**  
**McALEER** and **LAURIE A. McALEER**, husband and wife, of 40 East Street, Ipswich, Essex  
 County, Massachusetts (01930), as **JOINT TENANTS** with rights of survivorship, with  
**WARRANTY** covenants:

A certain tract or parcel of land with the buildings thereon situate in Jackson, in the County of  
 Carroll, and State of New Hampshire, and shown as Lot #5 on a plan dated December 14, 1972,  
 entitled "H.H. Whitney, Jackson Heights, Black Mountain, Jackson, N.H., surveyed by Roger S.  
 Burnell, Conway, N.H.", said Lot #5 bounded and described as follows:

Beginning at an iron pipe at the East side of Whitney Hill Road (West Section), said iron pipe being  
 at the Southwest corner of land now or formerly of Ery Magasanic (Lot #6) and at the Northwest  
 corner of Lot #5 herein conveyed; bearing South 20° 45' East, by said Whitney Hill Road (West  
 Section), 146.6 feet to an iron pipe; thence South 13° 30' East, still by said Whitney Hill Road (West  
 Section), 103.4 feet to an iron pipe at the Northwest corner of land now formerly of Richard G. and  
 JoAnn H. Mills (Lot #4-A); thence North 83° 30' East, by said Lot #4-A, 91.5 feet to an iron pipe  
 at the Northwest corner of land now or formerly of Bernard A.G. Taradash and Geraldine Taradash  
 (Lot #4-B); thence same course, by said Lot #4-B, 91.5 feet to an iron pipe at the West side of said  
 Whitney Hill Road (East Section); thence North 17° West, by said Whitney Hill Road (East Section)  
 291 feet to an iron pipe at the Southeast corner of said Lot #6; thence South 71° West, by said Lot  
 #6, 185.1 feet to the bound begun at. Containing 1.1 acres.

**MEANING AND INTENDING** to describe and convey the same premises conveyed by Warranty  
 Deed of Marina E. Winquist to Charles Nathanson and Adelaide M. Nathanson dated June 25, 1983  
 recorded at Carroll County Registry of Deeds in Book 896, Page 430.

The premises described above is not the homestead of the within Grantors.

**COHEN, SHERWOOD, MULLIN & GUIDA**  
 100 CUMMINGS CENTER  
 SUITE 347C  
 BEVERLY, MA 01915

COOPER, DEANS & CARGILL, P.A. - ATTORNEYS AT LAW  
 92 PINE STREET - P.O. BOX 450 - NORTH CONWAY, NEW HAMPSHIRE 03860-0450

99-180

BK 1837 Pg: 198

A.

Warranty Deed

Page 3 of 3

STATE OF RHODE ISLAND  
COUNTY OF Kent SS.

Personally appeared the above named, CHARLES NATHANSON and ADELAIDE M. NATHANSON, and acknowledged the foregoing instrument as their voluntary act and deed, before me this 7<sup>th</sup> day of November, 1999.

Karen Hagan  
Notary Public/Justice of the Peace  
My Comm. Expires: June 30, 2001

BK 1897 Pg. 200

F:\client\lyne\deeds\nathanson to mca\ccr

Christopher & Laurie McAleer  
74 Whitney Hill Loop  
Jackson, NH 3846

Jackson Heights L&E Realty Trust  
39 Eliot Hill  
Natick, MA 1780

James & Meghan Kotarski  
17 Old Stow Road  
Hudson, MA 1749

Kathleen Drew  
73 Burditt Ave  
Hingham, MA 2043

Lyla Trust  
81 Washington St  
Portsmouth, NH 3801

Rullo Family Trust  
21 Stuart St  
Rochester, NH 2721

Brian Cournoyer  
100 Scrabble Rd  
Brentwood, NH 3833

Christopher & Laurie McAleer  
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Jackson, NH 3846

Jackson Heights L&E Realty Trust  
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Natick, MA 1780

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Brentwood, NH 3833

Abutters to Christopher and Laurie McAleer

TM:VO5-5

74 Whitney Hill Loop

Jackson, NH03846

TM:V05-6

Jackson Heights L&E Realty Trust

39 Eliot Hill

Natick, Ma 01780

84 Whitney Hill Loop

Jackson, NH 03846

CCRD: 1660-576

TM:V05-8

James A. and Meghan D. Kotarski

17 Old Stow Rd.

Hudson, MA 01749

118 Whitney Hill Loop

Jackson, NH 03846

CCRD: 3438-367

TM:V05-11

Kathleen M. Drew

73 Burditt Ave

Hingham, MA 02043

CCRD:2856-545

TM:V05-12

Lyla Trust

81 Washington St.

Portsmouth, NH 03801

111 Whitney Hill Loop

Jackson, NH 03846

TM:V05-30

Rullo Family Trust

21 Stuart Rd.

Rochester, MA 02721

61 Whitney Hill Loop

Jackson, NH 03846

CCRD:3262-409

TM:V05-34

Brian Cournoyer

100 Scrabble Rd.

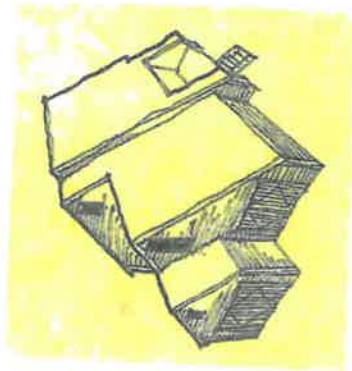
Brentwood, NH 03833

CCRD:3425-10

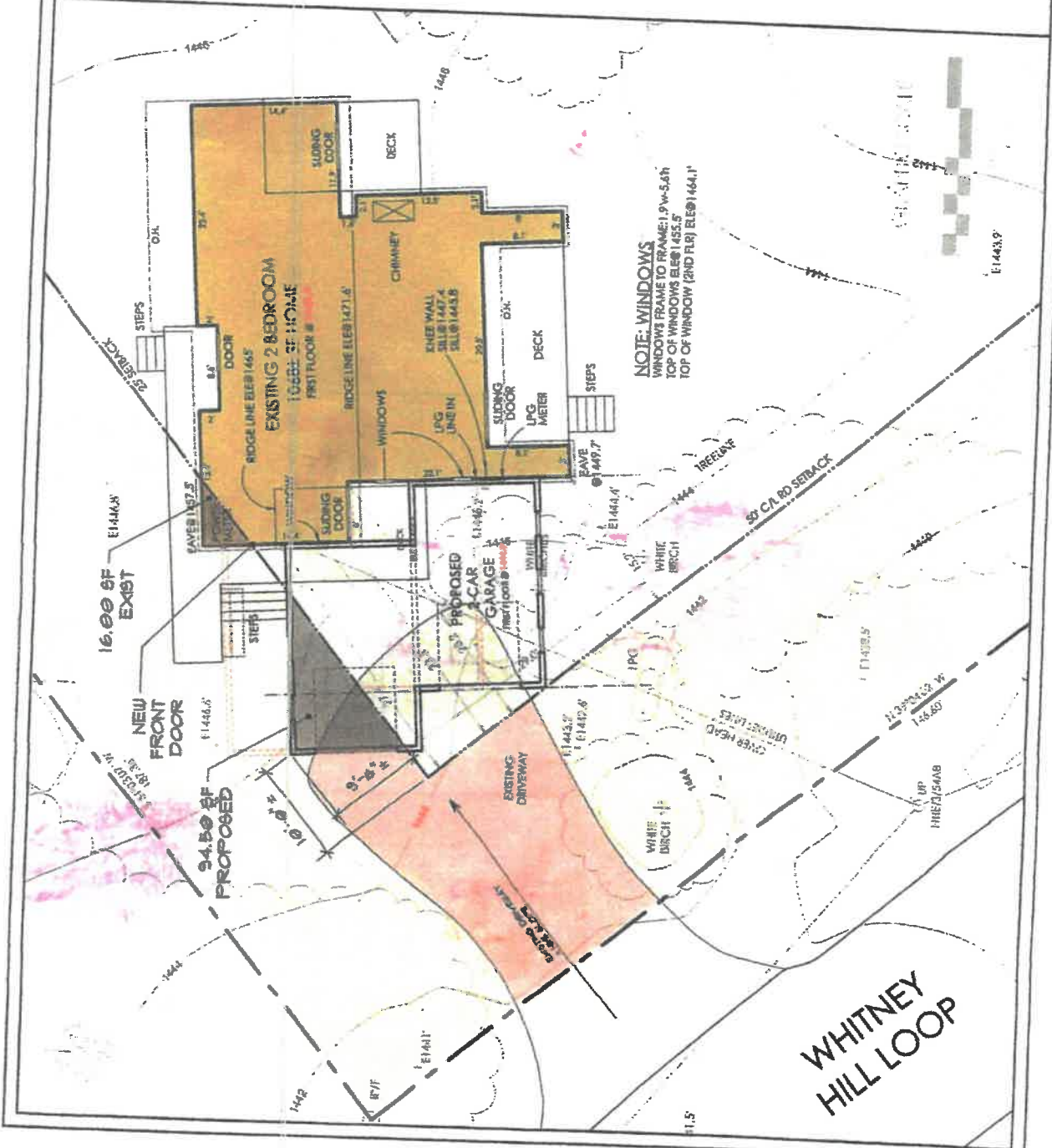
**PROPOSED GARAGE**  
 1-car option is within the buildable lot area;  
 2-car option is into the front yard setback;

Proposed garage floor set at elev 1444.5';  
 Existing home is at elev 1448.5';

1448.5 - 1444.0 = 4.5' elevation change;  
 Proposed connector has 4'-6" elevation change (4.8 rises);  
 Existing driveway has 10% slope (max = 15%)



Based on survey prepared by John Stee, 06/10/20  
 Site Plan, 1/10/23 11:26 AM



WHITNEY HILL LOOP