



TOWN OF WARNER PLANNING BOARD

P.O. Box 265
Warner, New Hampshire 03278-0059
Telephone: (603) 456-2298, ext. 7
Fax: (603) 456-2297

RECEIVED
4/08/25
CQ
WARNER LAND USE

APPLICATION FOR SUBDIVISION

Please note that this application is subject to NH RSA 91-A which affords the public access to this information.

MAJOR SUBDIVISION (4+ LOTS) _____ MINOR SUBDIVISION (2-3 LOTS) ☒ CONDO SUBDIVISION _____

ACTION NEEDED FROM THE ZONING BOARD OF ADJUSTMENT? YES _____ NO ☒

WRITTEN WAIVER REQUEST TO SPECIFIC PROVISIONS INCLUDED? YES _____ NO ☒

TODAY'S DATE: 4/08/2025

NAME OF APPLICANT Peter E. & Denise R. Smith *inmate

ADDRESS 89 Mink Hill Lane, Warner, NH 03278

PHONE # 1 _____ PHONE # 2 _____ E-MAIL _____

OWNER(S) OF PROPERTY Peter & Denise Smith

ADDRESS 89 Mink Hill Lane, Warner, NH 03278

PHONE # 1 _____ PHONE # 2 _____ E-MAIL _____

AGENT NAME Patrick T. Dombroski

ADDRESS 19 Myrtle Street, Claremont, NH 03743

PHONE # 1 (603) 542-2518 PHONE # 2 _____ E-MAIL Dombroski@comcast.net

LICENSED LAND SURVEYOR: Patrick T. Dombroski

LICENSED PROFESSIONAL ENGINEER: _____

CERTIFIED SOIL SCIENTIST: _____

CERTIFIED WETLAND SCIENTIST: _____

OTHER PROFESSIONAL(S): _____

STREET ADDRESS & DESCRIPTION OF PROPERTY 89 Mink Hill Lane

MAP # 9 LOT # 11 ZONING DISTRICT OC-1 NUMBER OF LOTS/UNITS: 2

FRONTAGE ON WHAT STREET(S): Mink Hill Lane

DEVELOPMENT AREAS: 1 Acre acres/sq.ft. BUILDING/ADDITION: 5,000 sq. ft.

DEED REFERENCE: Book 1923 Page 72 Please include a copy of the Deed.

PROPOSED USE: Residential

DETAILS OF REQUEST: *Indicate number of separate pages attached, if necessary.*

Proposing a two lot subdivision of Map 9 Lot 11: Lot 11-1 final area = 6.06 Acres and remaining area of Lot 11 = 26.14 Acres.

Authorization/Certification from Property Owner(s)

I (We) hereby designate Patrick T. Dombroski to serve as my agent and to appear and present said application before the Warner Planning Board.

By submitting this application I (We) hereby authorize and understand that agents of the Town may visit the site without further notice. I (We) further understand the Planning Board may at some point during the review process schedule a Site Visit, which will be duly posted.

I (We) understand that the Planning Board will review the plan and/or may send the plan out for review. The applicant shall pay for such a review. A Public Hearing shall not be held until the Planning Board determines if the application is complete.

To the best of my knowledge, the information provided herein is accurate and is in accordance with the Town of Warner Zoning Ordinance and other land use regulations of the Town including but not limited to the Subdivision Regulations, Site Plan Regulations and other applicable state and federal regulations which may apply.

All sections of this application must be completed, including Owners Authorization/Certification, Abutters List, and Appendix A Checklist.

Signature of Property Owner(s): Peter Smith Date: 4/7/2025
(Need signatures of all owner's listed on deed)

Print Names Peter E. Smith

Signature of Applicant(s) if different from Owner:

Denise Smith Date: 4/7/2025

Print Names Denise R. Smith

For Planning Board Use Only

Date Received at Town Office: _____

Received By: _____

Fees Submitted: Amount: _____ Cash: _____ Check # _____ Other: _____

Abutter's List Received: Yes _____ No _____

Date of Review: _____ Date of Hearing: _____ Date Approved: _____



TOWN OF WARNER
Land Use Office
P.O. Box 265
Warner, New Hampshire 03278-0059
Telephone: (603) 456-2298, ext. 7
Fax: (603) 456-2297
E-Mail: landuse@warner.nh.us

Planning Board - Application Fees

Name of Applicant Peter E. & Denise R. Smith Project Location: 89 Mink Hill Lane

Received By _____ Date Fee Received _____

Type of Application	Fee Schedule	Fee Calculation
<u> </u> Conceptual Consultation (submit application with no plans to copy)		\$ No Fee
<input checked="" type="checkbox"/> <u>Subdivision</u>	\$250 Base Fee (Final Application or Design Dev.) \$50 per lot # of lots <u>2</u> x \$50 = \$15 per notification # notices <u>7</u> x \$15 = \$25 minimum compliance inspect, additional per Board Legal Notice in Publication - due prior to Hearing Escrow for 3 rd party review or inspection – per Board MCRD** recording fee – separate check charged below LCHIP*** – separate \$25 check – charged below	\$ <u>250.00</u> \$ <u>100.00</u> \$ <u>105.00</u> \$ <u>25.00</u> \$ <u>invoiced</u> \$ <u>TBD by Board</u> \$ <u>separate**</u> \$ <u>separate***</u> Subtotal \$ <u>480.00</u> * (Check made out to "Town of Warner")
<u> </u> Site Plan Review	\$400 Base Fee (Final Application or Design Development) \$15 per notification # notices _____ x \$15 = \$25 minimum compliance inspect, additional per Board Legal Notice in Publication - due prior to Hearing Escrow for 3 rd party review or inspection – per Board MCRD** recording decision – check per rate below	\$ _____ \$ _____ \$ _____ \$ <u>invoiced</u> \$ <u>TBD by Board</u> \$ <u>separate**</u> Subtotal \$ _____ * (Check made out to "Town of Warner")
<u> </u> Home Occupation	\$25 Base Fee (plus \$100 if a Hearing is required) If a Hearing is required add \$15 per notification If a Hearing add \$25 for compliance inspection Legal Notice in Publication due prior to Hearing	\$ _____ \$ _____ \$ _____ \$ <u>invoiced</u> Subtotal \$ _____ * (Check made out to "Town of Warner")

___ Lot Line Adjustment	\$150 Base Fee (plus \$100 if abutters request a Hearing)	\$ _____
	\$15 per notification – if requested by abutter(s)	\$ _____
	\$25 minimum compliance inspection	\$ _____
	Legal Notice Publication -due prior to Hearing	\$ <u>invoiced</u>
	MCRD** recording fee – separate check per rate below	\$ <u>separate**</u>
	LCHIP*** – separate \$25 check	\$ <u>separate***</u>
Subtotal		\$ _____ *
(Check made out to "Town of Warner")		

___ Voluntary Merger	\$60 Base Fee	\$ _____
	MCRD** recording fee – separate check per rate below	\$ <u>separate**</u>
Subtotal		\$ _____ *
(Check made out to "Town of Warner")		

* = Subtotals above due with application. Please make check payable to "TOWN OF WARNER" for the above amount.

Escrow amount shall be determined by the Board. Minimum amount shall be \$500; \$1,000 if new road.
Re-notifications: Additional \$100 fee (or per Board), plus publication notice cost, plus \$15 per notification.

TWO Separate Checks (Upon completion / approval):		
___	\$26.00 per plan mylar and \$12.49 per document page – recording fee check payable to "Merrimack County Registry of Deeds"	\$ _____ **
___	\$25.00 per plan set for LCHIP fee (RSA 478:17-g) – check payable to "Merrimack County Registry of Deeds"	\$ _____ ***

** = \$26 per plan mylar & \$12.49 per doc. page -Check payable to "Merrimack County Registry of Deeds"

*** = \$25 per plan set for LCHIP Fee (RSA 478:17-g) - Check payable to "Merrimack County Registry of Deeds"

Abutter(s) List

Please list the names and addresses of all owners of property that abut the subject property, defined as follows:

"Abutter" as defined in RSA 672:3: also includes any person whose property has a boundary which is within two hundred (200) feet of any boundary of the land under consideration, or has frontage on a pond on which the land under consideration also has frontage. *[Amended March 2020]*

The abutters list must be obtained from the Town of Warner's Assessors records within 5 days of submission of this application

In addition to abutters, please include the names and addresses of the applicant, owner(s) of the subject property, and, as applicable, the owners' agent, engineer, land surveyor, architect, soil scientist, wetland scientist, and holders of conservation, preservation, or agricultural preservation restrictions.

I certify that this abutters list was obtained from the Town of Warner's Assessors records on:

April 7, 2025 (date)

Signature Peter Smith

Print Name Peter E. Smith

Map: 9 Lot: 7

Name: Scott A. & Melissa L. Day

Address: 66 Mink Hill Lane, Warner, NH 03278

Map: 9 Lot: 7-1

Name: Adam & Jody A. Debrigard

Address: 18 Youngs Road, Gloucester, MA 01930

Map: 9 Lot: 8

Name: Peter Sabin

Address: 78 Mink Hill Lane, Warner, NH 03278

Town of Warner Planning Board Abutter(s) List (continued)

Map: 9 Lot: 9 & 12

Name: Town Of Warner

Address: PO Box 265, Warner, NH 03278

Map: 9 Lot: 10

Name: Gregory S. & Elizabeth M. Heath

Address: 97 Mink Hill Lane, Warner, NH 03278

Map: 9 Lot: 11

Name: Peter E. & Denise R. Smith

Address: 89 Mink Hill Lane, Warner, NH 03278

Map: _____ Lot: _____

Name: Patrick T. Dombroski

Address: 19 Myrtle Street, Claremont, NH 03743

Map: _____ Lot: _____

Name: _____

Address: _____

Map: _____ Lot: _____

Name: _____

Address: _____

Warner, NH Subdivision Regulations

Appendix A



Subdivisions, Boundary or Lot Line Adjustments and Annexations Checklist

Amended January 24, 2011

Subdivisions, Boundary or Lot Line Adjustments and Annexations Checklist

Town of Warner, NH

The following checklist shall be completed by the applicant, signed, and submitted along with the application package. For full descriptions of the checklist items, see the referenced sections of the Warner Subdivision Regulations.

The checklist refers only to the required submittals necessary to begin Planning Board review of a project. The Warner Subdivision Regulations should be consulted for design standards and other requirements. Applicants should familiarize themselves with the Warner Subdivision Regulations as well as any other pertinent Ordinances and Regulations prior to filing an application. Applicants may schedule a preliminary conceptual consultation with the Board to discuss any proposal on an informal basis.

APPLICABLE (Y/N)	INCLUDED (Y/N)	<u>General Information Required for all Subdivisions, Boundary or Lot Line Adjustments and Annexations (Section V.A)</u>
<u>Y</u>	<u>Y</u>	(V.A.1) Subdivision name; Names and addresses of the applicant and owner; Written certification from owner.
<u>Y</u>	<u>Y</u>	(V.A.2) Three (3) paper copies on 22x34 with appropriate references and eleven (11) copies of 11x17. NOTE: See complete description for final plat information needed.
<u>Y</u>	<u>Y</u>	(V.A.3) Graphic or bar scale shown on plat; Scale not less than 1" = 100'.
<u>Y</u>	<u>Y</u>	(V.A.4) Location of existing and proposed lot lines; Bearings to the nearest thirty seconds; Dimensions to the nearest hundredth of a foot; Error of closure not more than 1:10,000; Area of existing and proposed lots in square feet and in acres; Type and location of existing and proposed monuments or boundary markers; Tie to State Grid Coordinate System shown on plat if within 1000 feet.
<u>Y</u>	<u>Y</u>	(V.A.5) Current owners and all abutters keyed to plan; Correct names and mailing addresses of owner and abutters on separate paper.
<u>Y</u>	<u>Y</u>	(V.A.6) Name, address, signature, license number, and seal of the NH registered land surveyor and/or engineer who prepared the Final Plat.
<u>Y</u>	<u>Y</u>	(V.A.7) Date of survey, dates of any revisions, north arrow (true north and magnetic north); Location (locus) map at 1" = 1000'.

APPLICABLE (Y/N)	INCLUDED (Y/N)	
<u>Y</u>	<u>Y</u>	(V.A.8) Tax map and parcel number. The numbering is to be approved by the Accessing office BEFORE the plans are brought to the Planning Board.
<u>Y</u>	<u>Y</u>	(V.A.9) Zoning District(s) and District lines; Building setback lines.
<u>Y</u>	<u>Y</u>	(V.A.10) Title and deed references.
<u>Y</u>	<u>Y</u>	(V.A.11) Legal description of existing and proposed easements, deed restrictions, and other encumbrances, covenants, reservations or restrictions and appropriate notations on plat.
<u>Y</u>	<u>Y</u>	(V.A.12) Listing of all variances and special exceptions granted by the ZBA for the parcel involved and dates granted.
<u>Y</u>	<u>Y</u>	(V.A.13) Names of all adjoining street(s).
<u>Y</u>	<u>Y</u>	(V.A.14) Approximate contours at 10' intervals; Significant natural features, including perennial streams, wetlands, etc.
<u>Y</u>	<u>Y</u>	(V.A.15) Location of existing and proposed buildings, drives, wells, septic systems, and all other manmade features.
		<u>Additional Information Required for Lot Line Adjustments and Annexations (Section V.B)</u>
—	—	(V.B.1.a.) Detailed survey map showing original boundaries of the adjacent parcels and the new property line or lines created as a result of the annexation or lot line adjustment.
—	—	(V.B.1.b) Tape and compass survey with a minimum accuracy of 1:500 of the entire parcel of land and a metes and bounds survey only for the land being transferred may be required.
—	—	(V.B.2) Abutters may be heard and may request a public hearing.
—	—	(V.B.3) In the case of annexation, a deed restriction in the body of the deed or other instrument of transfer and on the plat.

APPLICABLE (Y/N)	INCLUDED (Y/N)	
___	___	(V.B.4) Statement placed on plat stating: "This plan shows a conveyance of land for the purpose of lot line adjustment/annexation as defined in the Warner subdivision regulations. This approval does not constitute a subdivision."
		<u>Additional Information Required for all Minor/Major Subdivisions (Section V.C)</u>
<u>Y</u>	<u>Y</u>	(V.C.1) Soil types and boundaries shown by dotted lines based on Merrimack County Soil Survey; Location of all test pits and test borings and a legend which explains map symbols, describes NHDES soils groups, and describes the properties of the soils regarding their suitability for septic systems, foundations, basements, building and road construction.
<u>N</u>	<u>N</u>	(V.C.2) Local, County, or State approvals for individual water service and sewage disposal systems; Percolation test results. A statement from WWWD attesting to the availability of such service shall be submitted.
<u>Y</u>	<u>Y</u>	(V.C.3) Location of water courses, wetlands, floodplains, ponds, rock ledges, tree lines, hydric soils as determined by NHDES regulations, other natural features; Compliance with Town of Warner Flood Plain Development Ordinance.
<u>Y</u>	<u>Y</u>	(V.C.4) Contours at 2' or 5' intervals, depending on grade, shown with dashed lines; Spot elevations at low points, high points, and other areas.
<u>Y</u>	<u>Y</u>	(V.C.5) Location of all monuments; Placement of stakes and ribbons marking corners of all proposed lots or sites of a Major Subdivision.
<u>Y</u>	<u>Y</u>	(V.C.6) Report from the NH Natural Heritage Inventory identifying rare plant and animal species and exemplary natural communities in or near the proposed subdivision; Environmental Impact Assessment, i
<u>Y</u>	<u>Y</u>	f such species or communities are identified.
<u>Y</u>	<u>Y</u>	(V.C.7) Location within or bounding the parcel of all culturally, historically or unique features.

APPLICABLE (Y/N)	INCLUDED (Y/N)	
		<u>Additional Information Required for all Major Subdivisions (Section V.D)</u>
___	___	(V.D.1) Location and width of existing and proposed streets and roads, with grades, cross-sections at 50 foot intervals plotted at 1"=10' horizontal and vertical scale, and road profiles plotted with the same horizontal scale as the plans and a horizontal to vertical scale ratio of 5 to 1 respectively for proposed streets.
___	___	(V.D.2) Location, size and invert elevation of sanitary and stormwater sewers; Location and size of water mains; Location of gas mains, fire hydrants, electric and telephone poles and street lights. All drainage ways and drainage structures; Distance to, and size of nearest water and sewer mains.
___	___	(V.D.3) Sketch plan of contiguous holdings showing future layout, street and drainage systems.
___	___	(V.D.4) Centerline and centerline stationing of all streets; Stationing shall show all points of curvature and all points of tangency.
___	___	(V.D.5) Documentation showing feasibility of future extension of temporary turnaround into adjoining properties.
___	___	(V.D.6) Plan for restoring temporary turnaround where extension of street is shown.
___	___	(V.D.7) Statement that proposed street centerlines and lot locations have been adequately flagged on the ground to allow onsite evaluation of the proposed subdivision by the Board and its agents.
___	___	(V.D.8) Data listing. Area of land; number of lots; length of streets in feet; acres of open space; list of abutters with addresses.
___	___	(V.D.9) Erosion plan.
___	___	(V.D.10) Land disturbance.

APPLICABLE (Y/N)	INCLUDED (Y/N)	
___	___	(V.D.11) Drainage Plan.
___	___	(V.D.12) Phasing plan.
___	___	(V.D.13) Other information required by the Board.
___	___	(V.D.14) Certifications affixed to Plan with signatures and seals.
___	___	<u>Special Requirements (Section V.E)</u>
___	___	(V.E.1) Traffic Impact Assessment.
___	___	(V.E.2) Fiscal Impact Analysis.
___	___	(V.E.3) School Impact Analysis.
___	___	(V.E.4) Community Services Impact Assessment.
___	___	(V.E.5) Other considerations, special investigations.

New Hampshire Natural Heritage Bureau
NHB DataCheck Results Letter

To: Thomas Dombroski
19 Myrtle Street
Claremont, NH 03743

From: NH Natural Heritage Bureau

Date: 3/28/2025 (This letter is valid through 3/28/2026)

Re: Review by NH Natural Heritage Bureau of request dated 3/28/2025

Permit Type: Warner Planning Board

NHB ID: NHB25-0924

Applicant: Thomas Dombroski

Location: Warner
Tax Map: 9, Tax Lot: 11
Address: 89 Mink Hill Lane

Proj. Description: 2 Lot Minor Subdivision with both lots having area greater than 5 acres.

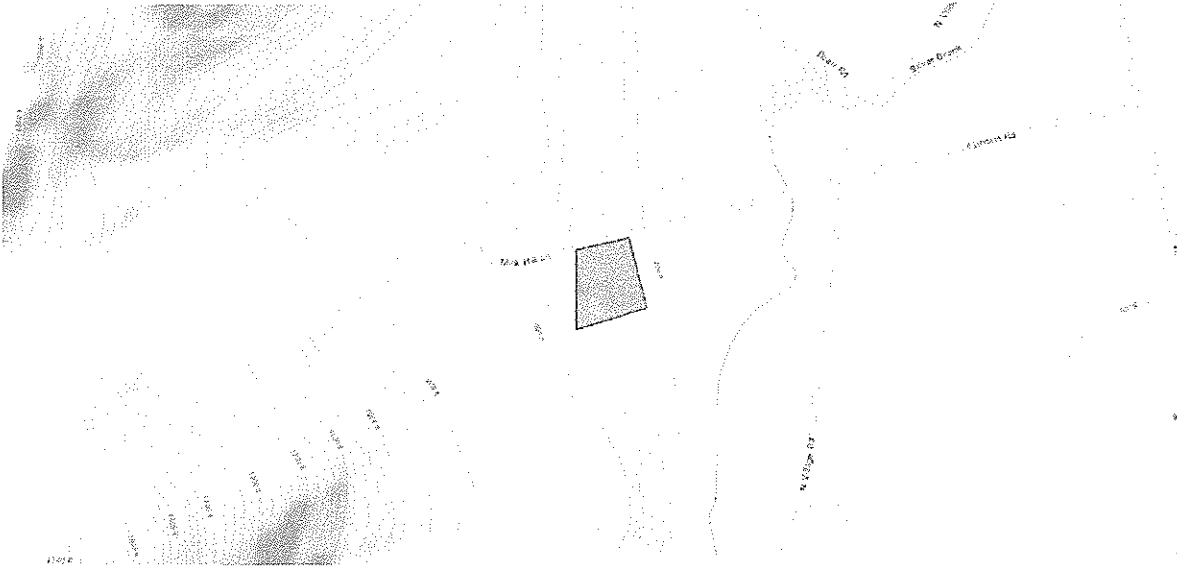
The NH Natural Heritage database has been checked for records of rare species and exemplary natural communities near the area mapped below. The species considered include those listed as Threatened or Endangered by either the state of New Hampshire or the federal government. We currently have no recorded occurrences for sensitive species near this project area.

A negative result (no record in our database) does not mean that a sensitive species is not present. Our data can only tell you of known occurrences, based on information gathered by qualified biologists and reported to our office. However, many areas have never been surveyed, or have only been surveyed for certain species. An on-site survey would provide better information on what species and communities are indeed present.

Based on the information submitted, no further consultation with the NH Fish and Game Department pursuant to Fis 1004 is required.

New Hampshire Natural Heritage Bureau
NHB DataCheck Results Letter

MAP OF PROJECT BOUNDARIES FOR: NHB25-0924



199563

93 JUL -9 PM 2:35 BK1923 PG0072

T- 564.00

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, that we, **Marion Rau Johnson**, of 298 Boston Road, Route #67, Palmer, Massachusetts 01069 and **Susan Johnson Rau**, of RR 3, Box 397, Messina, New York 13662, for consideration paid, grant to **Peter E. Smith** and **Denise R. Smith**, as joint tenants with rights of survivorship, both of East Sutton Road, Warner, New Hampshire 03278, with **WARRANTY** covenants,

Three certain parcels of land, with the improvements thereon, in the Town of **WARNER**, County of **MERRIMACK** and State of New Hampshire, bounded and described as follows:

Beginning at a point on the southerly line of the North Village Road, so-called;

Thence southerly by land now or formerly of Walter M. Flanders and land now or formerly of A.J. Hook, to the Old Colby Pasture bound;

Thence westerly on land of Flanders Brothers, now or formerly, to a corner bound on the stone wall near a large oil nut tree;

Thence southerly on said Flanders Brothers land to a corner bound;

Thence westerly on said Flanders land to a corner bound;

Thence southerly to a corner bound, said course being on said Flanders land;

Thence westerly to a stone bound in the wall;

Thence northerly on said Flanders land to a turn in the stone wall;

Thence westerly on said Flanders Brothers land to land now or formerly of William E. Chandler;

Thence northerly on said Chandler land to land formerly of William J. Cheney;

Thence easterly on said Cheney land to the said North Village Road;

Thence northerly and easterly, on the easterly and southerly side of said road to the point of beginning.

Containing 30 acres of land, be the same more or less, reserving a right-of-way to the Flanders Brothers to their land also a right-of-way to Fred H. Savory to his pasture.

Also another tract of land situated in said **WARNER**, in the so-called North Village District bounded and described as follows, viz:

Beginning at the southeasterly bound of land now or formerly of Mary R. Henley next beyond the site of an old barn;

Thence southwesterly in a straight line on land of Frank G. and Edward H. Flanders, now or formerly, to the southeasterly corner of the wall on said Flanders land, said wall being the southern boundary of the lot formerly called the South Field included in this conveyance;

BK1923 PG0074

Commonwealth of Massachusetts
STATE OF NEW HAMPSHIRE
~~MERRIMACK SS.~~ *Hampden County ss.*

The foregoing instrument was acknowledged before me July 1, 1993, by Marion
Rau Johnson ~~and Susan Johnson Rau~~

Marion F. Rau
Notary Public/Justice of the Peace

7862

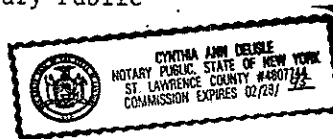
My Commission expires 12/31/95

STATE OF NEW YORK
COUNTY OF ST. LAWRENCE



The foregoing instrument was acknowledged before me June 25, 1993
by Susan Johnson Rau.

Cynthia Ann DeBiele
Notary Public



MERRIMACK COUNTY RECORDS

Kathi L. Quay, Register



TOWN OF WARNER

P.O. Box 265, 5 East Main Street
Warner, New Hampshire 03278-0059
Land Use Office: (603)456-2298 ex. 7
Email: landuse@warnernh.gov

Zoning Board of Adjustment Minutes of December 13, 2023

I. The Chair opened the ZBA meeting at 7:00 PM.

A. ROLL CALL

Board Member	Present	Absent
Sam Carr (Alternate)	✓	
Jan Gugliotti	✓	
Beverley Howe	✓	
Barbara Marty (Chair)	✓	
Lucinda McQueen	✓	
Derek Narducci (Vice Chair)	✓	
Harry Seidel (Alternate)	✓	

Also present: Janice Loz, Land Use Administrator

II. NEW BUSINESS

A. Hearing for a Variance Application to the terms of Article VIII.C.1.a

Case: 2023-06

Applicant: Peter Smith

Agent: Peter Smith

Address: 89 Mink Hill Lane

Map/Lot: Map 09, Lot 11

District: OC-1

Details of Request: In preparation to subdivide Map 09, Lot 11 into two lots. One parcel will have 285+/- feet of frontage on Mink Hill Lane. Seeking a Variance for relief from the 300-foot frontage requirement in the OC-1, a discrepancy of 15+/- feet.

The Chair introduced the application and asked whether any board members had a conflict of interest with the case and if the case had regional impact implications. There were no concerns from the board.

The board checked the application for completeness. The Chair stated this application did not come with a referral from the Planning Board. The Planning Board hearing discussed road frontage and a Class VI road on the property. Janice said the Land Use office was asked to look into whether the Class VI road frontage could be used along with the Mink Lane frontage to meet the frontage requirements for the district. Janice did

APPROVED MINUTES of 12/13/2023

research and asked the lawyer and involved Allan Brown, a past Town Road Agent and current Select Board member. Allan conveyed to Peter Smith that Class VI frontage cannot be used when considering the frontage requirements and could not be combined with frontage on Mink Hill Lane. The lawyer's communication was in the board's packet and was considered as a referral statement to the board accompanying the Variance application.

The Chair asked about the Town not being noticed as an abutter. Janice said the applicant did not pay a postage fee for the notice, it was hand delivered to the Select Board's office. Janice confirmed that all fees have been paid.

Jan Gugliotti made a motion to accept the application for Case 2023-06 as being complete. Lucinda McQueen seconded the motion. Discussion: None. Voice Vote Tally: 5 – 0 in favor of accepting the application as complete.

The Chair asked the applicant to go through the application.

Peter read through the five criteria.

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

Peter's response: The variance just allows the subdivision off Mink Hill Lane. It does not change any features that already exist. This is a simple subdivision with three boundaries unchanged and just a simple new line at the 300-foot mark drawn to be back at the existing lines. It still leaves 26+/- acres of the parcel with its own access.

The Chair clarified the public interest portion of this criteria deals with the essential character of the locale and whether or not this variance would cause any kind of public health or safety concern.

Peter responded, "absolutely not."

The Chair said that the property already has a couple of variances for use. Peter affirmed they were being actively being used. The Chair said one of the variance's is for events. She asked about the noise and the congestion of events and parking. Peter said no one parks on the street, they park at the house and barn. The Chair asked about the frequency of the events. Peter said last year they had four or five events. The Chair asked if he still had the tent business. Peter said, "no."

Beverley had a question about the proximity of the property. Peter and the Chair referenced the map in the packet indicating where the property was located.

By granting the variance, the spirit of the ordinance is observed because:

Peter's response: Other than the road frontage shortage the subdivision will follow all other aspects of the ordinance. All normal surveying practices will be enforced. The surveyor is already working on the road and traverse dimensions.

Jan G. asked is this going to be a house lot and will the house be visible from the road. Peter said it will be a house lot (the new lot) but, he doesn't know what he is going to do with it, he may hang on to it for a while. Jan G. had a question about density. If a house was built there, would it be in compliance. The Chair said the lot he is purposing to

APPROVED MINUTES of 12/13/2023

subdivide would meet all the frontage and area requirements. The Chair said the new lot is proposed to meet the 300-foot frontage and the 5-acre zone requirements.

Peter said he wants to subdivide into two lots. The new lot will still be over 5 acres. Peter said he would make the existing lot a little narrower in terms of frontage and the (new lot) to have 310-feet of frontage. Peter offered an amended map to the board. Peter distributed copies to the board. The Chair gave a copy to Janice to be made part of the record. He said at the 310-foot mark there is a pin set in the stone wall. He said it makes more sense to him to have the 310-foot frontage at the pin (for the new lot), rather than put another monument 10-feet away.

The Chair said that would make the other lot less conforming. The Chair confirmed with Peter that he was going to have the property surveyed. Peter affirmed.

Harry confirmed that the new request was for (the new lot) 310-feet of frontage, where the existing pin is. Peter affirmed and said the (existing lot) will have frontage of 275-feet instead of the requested 285-feet of frontage.

The Chair said whether the (new lot) was 300 or 310-feet of frontage would it really matter to you because you are going to have the property surveyed. Peter said, no, but since there is already a pin there it would be good.

Harry confirmed that the pin was a good mark. Derek said the 310-foot frontage is at an obvious stop. Harry confirmed that Peter would rather be at the obvious mark. Peter affirmed.

Harry said he was at the Planning Board consultation that Peter attended. There was a lot of discussion about whether or not the Class VI road was legitimate frontage. Peter said that question has been resolved. Harry said so you are not claiming that as frontage, all the frontage will be on Mink Hill Lane. Peter affirmed. Harry said the 300-feet of frontage will give you two compliant lots in terms of frontage. Peter said with the variance. The Chair said he would have a 300-foot compliant lot and a 285-foot frontage lot which is short 15 feet. In the OC-1 district the requirement is 300-feet of frontage. Harry said the purposed 275-feet of frontage would be even less compliant. Peter affirmed.

Harry said the other change is the property would be more rectangular than a trapezoid shape (new lot). Peter said the surveyor picked that point because there is a natural break in a wall.

The Chair asked if he is concerned about 5-acres of buildable land with wetlands on the property (new lot). Peter said there has 3-/12 acres so there is plenty. The Chair said when you go to the Planning Board you should have the surveyor go in and look at the wetlands, they will determine what is buildable.

Janice asked to confirm for the record that Peter is requesting the conforming lot (new lot) be 310-feet of frontage, or 300-feet of frontage. The non-conforming lot (existing lot) be 275-feet of frontage, or 285-feet of frontage respectively. Peter affirmed.

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Harry said the discussion is whether to grant a variance for either. Peter responded, yes, a variance will be for 15-feet or for 25-feet (for the existing lot), whichever the board decides.

Derek asked whether there was any plan to do any building. Peter said no, he may want a smaller house in the future. Derek asked when the variance expires. The Chair indicated two years, although as long as he subdivides, he is all set (vested).

By granting the variance substantial justice is done because:

Peter's response: The variance asked for, which was recommended by a Planning Board member, an alternative to deciding the right to use the Class VI road applies as his driveway as additional frontage.

The Chair said that basically what this criteria means is the loss to the individual outweighed by the gain to the general public. The Chair said are you saying that there is really no gain to the general public whether or not you subdivide the lot. Peter said, "no."

Granting the variance will not diminish the values of surrounding properties because:

Peter's response: This is just a simple subdivision and only driveway permits will have to be met along with all other requirements if and when that happens. All other subdivisions on the other side of Mink Hill Lane did not diminish any values. If so, they probably would not have been allowed. Peter said on the other side of the road three lots were subdivided years ago, and he doesn't think anything was hurt by it.

The Chair asked whether there was a driveway directly across from the property? Peter said where the driveway would go is between Peter Sabin and Bidet's (verify name?). The Chair and Peter concurred that was the flattest part at the bottom of the hill for a driveway.

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 the property.

Peter's response: The frontage on Mink Hill Lane is 585 +/- feet therefore with 300-feet used up by the new lot. That leaves 285 +/- feet left for the original parcel. The road frontage on the Class VI road leading up to the existing lot apparently does not count, which has ample frontage.

The Chair asked what distinguishes his property from other properties in the area? Peter said you can't see anything it is a piece of property tucked into the Mink Hills. The Chandler Reservation abuts all his property including the lower lot he wants to subdivide. A house on the smaller lot (new lot) would not be seen, either.

The Chair referenced the map of the property in the board's packet. The Chandler Reservation, which is owned by the Town and managed by the Chandler Committee and the forest service abuts Peter's property on three sides. Peter approached the board and pointed out his property and the driveway.

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The Chair asked if Map 9, Lot 12, the jagged, shaped lot next to his property, was it always part of the reservation? Peter said that was originally a brook and part of the watershed, it has artesian wells on it. The Chair confirmed that it is owned by the Town for the reservoir. Peter affirmed.

Harry asked Peter about a zig-zag property adjacent to his property. Is that property what we are discussing as being part of the Chandler Reservation? Peter said, yes.

The Chair asked Peter if he didn't get this variance what would be the hardship for him personally? The hardship would be having to figure out frontage on the Class VI road, he still maintains he could grandfather his house on that Class VI road, then the frontage on Mink Hill Lane would be a moot point. The Chair asked if there was anything else worrying about the road. The Chair suggested a response such as, potentially he wouldn't be able to subdivide. Peter said, yeah you are right, I wouldn't be able to subdivide.

The Chair opened the public hearing.

Janice asked how the property next to the existing lot, lot 10, how do they access their property? Peter said he owns both sides of the Class VI road, Zenith Henley Lane. They (the neighbors) were grandfathered a right of way to their property. They really don't have any frontage except on the right-of-way to get to their property. They have no frontage on Mink Hill Lane. The Chandler Reservation goes all the way down to his property. It was a good idea to let the Town have a right of way through that section.

The Chair said you have two right of ways across your property, correct, according to the deeds. Peter said they probably did not have anything to do with him. The Flanders have a right-of-way to the back side of my property. He said nobody ever uses it. The Chair asked if he owns that track? Peter said, yes.

Janice asked if the neighbor accesses their property from the Class VI road on your property, or Mink Hill Lane. Peter said Mink Hill Lane and they cross over the Chandler Reservation.

Sam asked where does the Chandler Reservation abut his property at the road? Harry pointed out where on a map for Sam. Peter said years ago the Heaths put in for a variance for a right-of-way and he had no problem with it. The Chair said but, it is not on your deed. Peter didn't know why.

Harry said the driveway that goes from the Class VI road, which is really your driveway. Harry asked Peter if that is a right-of-way for the abutter, the Heath's? Peter said he didn't believe so, he thinks the only right of way is a little break in the stone wall. Harry asked if the Heath's continue up Mink Hill Lane to get to their house. Peter said, yes their driveway is 200 feet passed his. Harry confirmed using the map to show Peter the break in the stone wall and asked if the Heath's use that to access their property. Peter said they could but they use Mink Hill Lane. Peter said it is a Class VI road it would have to be a Class V for them to use that.

In closing Peter said he would prefer the 310-foot frontage versus the 300-foot frontage (on the new lot). The Chair closed the public hearing and opened the board deliberations.

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Janice asked to put in the record, that the board had done individual site walks of the property prior to the hearing. The Chair said, yes, the board was afforded the opportunity to do individual site walks.

Deliberations:

The Chair prompted the board to go through the five criteria for a variance.

The granting of the variance will not be contrary to the public interest:

Jan G. said granting the variance will not be contrary to the public interest because this is a simple subdivision with three unchanged boundaries. There would be no visibility of any structure that might be put on the property. She doesn't see that it is a hindrance to wildlife or the environment in general. She does not see it as a detriment to the public interest. She asked if any other members of the board found it to be a detriment. No one responded.

The Chair said a building on the (new) lot will be closer to the road than the current residence on the (existing) lot.

Jan G. said you cannot see the existing structure (from the road). The Chair agreed the lot is completely wooded. The Chair said it would be less of a disturbance to any migrating wildlife because it is in an area where less of the population is concentrated. The Chair said also the entire 1500-acre Chandler Reservation is behind and around three sides of the property. Jan G. said the property abuts a lot of farms that have been put into conservation easements. Jan G. said the total is probably closer to 3,000 acres, the Chair said it would include the Harriman property, as well. Jan G. said it would include her farm and surrounding farms.

Harry said he agreed with Jan G. that the variance is not going to be contrary to the public interest. The property is almost at the very end of a dead-end road, with very little traffic. The area is very remote. He cannot imagine there are a lot of school buses or public traffic.

Beverley said she agreed.

Derek said he agreed and said if you didn't know, you wouldn't know the property was there.

Granting the variance, the spirit of the ordinance is observed:

The Chair said the property is zoned for agricultural forestry and limited residential. Because it is inaccessible land with steep slopes and poor drainage there is a five-acre minimum and 300 feet of frontage requirement.

Jan G. said other than a 15-foot deficit in road frontage it complies because it is surrounded by the wilderness. There are a lot of streams and wetland areas, but she assumes that would be taken care of if he decides to build on the property. He probably would need DES permission to do that. She thinks it is safeguarded against being an environmental or open land problem.

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The Chair said when they do a survey for the subdivision, they will have to do a wetlands survey, which will all go through the Planning Board.

Sam asked if the variance is granted, and the wetlands survey is done then it would determine the line has to shift if it doesn't change the frontage that is agreed to? He said the buildable acreage is resolved at that point? The Chair said, yes. Sam said so we are concerned with specifically the point that divides the two properties in terms of frontage. The Chair affirmed.

The Chair asked what the board felt about the 300 vs. 310-foot frontage measurement on the (new) lot. She continued to say, if this is granted, she would like to have the least out-of-compliance measurement. If the property is going to be surveyed it doesn't really matter what the board decides because they are going to re-pin the property border.

Jan G. said she supports having the most compliant measurement.

Sam said the difference between 300 and 310-feet is not where the driveway is going to be, it is not beneficial. It seems that going for the least amount of out-of-compliance is the best option.

Derek agreed. The 310-foot measurement on the lot (new) is convenient but, he would like to keep it as close to compliant as possible.

Beverley agreed.

Janice confirmed with the Chair if they were speaking about the 285-foot measurement for the (existing) lot.

Harry said he disagreed. Ten feet was the distance from where Harry was sitting to where the property owner Peter was sitting. They are discussing 300-feet of frontage on lots miles from nowhere. He feels that ten feet isn't going to make any difference in this particular situation.

There was a discussion between board members that one of the lots (new) would be in compliance and the other (existing lot) would not. Beverley said the non-compliant lot (the existing lot) would have a few more feet. Harry said instead of 275-feet it would be 285-feet and it is in the woods.

Jan G. said it might sound like a moot point but because there is no harm in doing it then it is better to get to what the law says as close as possible to being in compliance. She thought it was better to comply when possible, when it is not going to give anyone a hardship or a disadvantage.

Harry asked if by doing this it complies because it does not. Jan G. said she feels the more compliant is a better choice.

Harry said you don't think it matters that there is a historical marker that has been there historically. The board disagreed.

Granting the variance will not diminish the values of surrounding properties:

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Jan G. said there is a pretty good argument that it's not going to diminish the values of surrounding properties. Which is supported by the facts they have heard and there is no disagreement (made by the public or the abutters).

Sam said if there was a potential for anything other than a single-family house on the property then there might be a concern.

The Chair had a question about the (previous) variance (granted) for the event center. The variance goes with the land. The property that is further from the road holds that use variance to have parties in their house and there is plenty of parking. The Chair wondered if Peter moved to the new property and wanted to bring that use with him. Beverley said then he will come back to the board (for a use variance). The Chair said, no he will not have to come back to the board.

Sam asked if the use variance could be applied to the new lot?

Janice said, no, it would apply to the existing lot. She said there is a potential for more traffic on a property with less frontage. The new lot will have a different map and lot number than the existing lot. Also, the use was for the barn and house on the existing lot. Janice and the Chair discussed checking with the lawyer about this issue.

Sam said it would make a difference if it was a five-acre lot with events on it and brooks and wetlands. Jan G. asked if we find out the use does transfer, can the board do anything about that?

Janice said you could make a condition, although, you cannot make a condition on a property (the new lot) that is compliant. She said the board is only giving a frontage variance on the existing property which is the lot with the use variance. The Chair agreed that made sense. The board concurred. Sam said if someone purchases the existing property the new buyer would get the variance.

By granting the variance substantial justice is done.

The Chair said loss to the individual is not outweighed by a gain by the general public. The Chair asked the board what the general public would lose by granting this variance.

Jan G. stated that she thought the variance was recommended by the Planning Board. The Chair said the Planning Board does not make recommendations to grant a variance. They can make a referral for a variance. Derek said the Class VI road cannot count as frontage, which is why this case was referred to the Zoning Board.

The Chair said what Peter would be losing is the ability to subdivide if the variance was not granted. Is his loss outweighed by any gain to the public by denying the subdivision?

Jan G. listed items that would not be harmed by granting the variance such as, visibility, wildlife, conservation and little traffic to a remote area. Jan said she can't imagine anything here that would be a detriment to the public.

The Chair asked Lucinda what she thought. She stated that it all sounds good and that everything that Jan G. has mentioned is appropriate. She felt it wasn't going to hurt anyone, she thinks 15-feet is reasonable.

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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 the property.

The Chair said the property is surrounded on three sides by forests managed by the Chandler Reservation and owned by the Town. She continued to say it meets the definition of an OC-1 property. It is inaccessible with steep slopes and has poor drainage.

Harry said he thinks this situation is unusual because the applicant has chosen to answer part "B" of this criteria. He finds the arguments for that part to be less strong than the arguments for part "A." Because there are special conditions that distinguish it from other properties. Also, the use is a reasonable one. The property owner didn't use those reasons, but, Harry believes they are valid reasons. Harry went on to say, the board is supposed to judge the applicants answers to the criteria and in this case, he hasn't answered the easier ones.

The Chair said in a way he did respond under section "B," but it doesn't specifically apply to either one. It is not so specific that it wouldn't apply to both. The Chair said the questions on the application elude so many people.

Derek said the answer that he gave actually fits better under "A" than "B." The answer did not really explain why the restrictions are reasonable.

Janice said the board can answer part A for themselves and see which they feel would be a better fit.

Sam said one of the reasons for the frontage is to reduce density. The Chandler Reservation surrounds three sides of the property, the density is not going to increase by any more than one house. He wondered if it would be better to make the new lot 275-feet and the existing lot 300-feet of frontage. Because of the substantial frontage of the Chandler Reservation down the road. There is nothing to be built on the lower portion but there is already a house on the next lot up (existing lot).

The Chair said if his intention is to sell the new lot and it's going to be easier and cleaner to sell something that is in compliance. Sam said it is not like someone could put something further up the road and change that density.

The Chair clarified that under the special conditions criteria the board found the property is surrounded on three sides by the Chandler Reservation. Harry added that the remoteness of the property is a special condition of the property.

The Chair asked the board if they were ready for a motion.

Beverley Howe made a motion to approve the request for a Variance in preparation to subdivide Map 09, Lot 11, one parcel will have 285 feet of frontage on Mink Hill Lane.

Discussion: Jan G. and the Chair had a conversation clarifying the current variance for the event center will apply to the existing lot, not to the new lot with a new map and lot number. Derek asked if we are granting it for 300' of frontage & 325' at the back of the

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lot? The Chair said the variance is only for the frontage. The back line may change depending on the buildable area. Janice clarified that the board was making a motion to grant a variance for a lot with 285-feet of frontage. Jan G. said and one new lot with 300-feet of frontage. Janice said you don't have to give a variance to create a lot with 300-feet of frontage, because the new lot meets the requirement of the district.

The Chair clarified the motion to be in the case of 2023-06, Map 9, Lot 11 in the OC-1 district that Beverley is moving to grant the motion for a variance for Peter and Denise Smith a variance from Article VIII.C.1.a., for frontage and a discrepancy of 15 feet. Jan Gugliotti seconded the motion. Discussion: Harry as a point of order asked if they are granting a variance for a subdivision of a lot for 585 feet of frontage to create two lots. One lot for 300-feet of frontage and one for 285-feet of frontage. Because you can't grant a variance for a conforming lot. Harry felt the board needs to be talking about granting a variance to subdivide (the property) into two lots. He said they are creating a lot that is non-conforming and a lot that is conforming. Beverley said the detail of the request referenced on the agenda is exactly the motion. She read "one parcel will have 285-feet of frontage on Mink Hill Lane. Seeking a variance from relief from the 300-foot frontage requirement in the OC-1 a discrepancy of 15 feet. The board concurred.

The Chair said they should add findings of fact. She asked if any members wanted to put conditions on the variance. The consensus of the board was they didn't want to set conditions.

Janice asked the Chair if the board wanted to vote on the motion. The Chair said, no, the Findings of Fact should be added to the motion. Janice said in previous meetings the board has voted on the motion. Then the board develops the facts and findings and votes on those. The Chair said they haven't been voting on the facts and findings consistently.

The Chair asked the board if they want to vote on the motion first and then vote on facts and findings. The board affirmed.

Roll Call Vote to approve the variance: Beverley Howe – Yes. Derek Narducci – Yes. Jan Gugliotti – Yes. Lucinda McQueen – Yes. Barbara Marty – Yes. **Vote Tally:** 5 – 0 in favor of approving the variance.

Findings of Facts:

1. The Chair said that the property is surrounded on three sides by the Chandler Reservation at the end of Mink Hill Lane. The town owns the property and is an abutter and no abutters will be inconvenienced by the granting of the variance. Which is what makes the property unique.
2. There is no additional development that can happen around this lot as it is protected on three sides by the Chandler Reservation.
3. Because of the remoteness of the property, it is not going to diminish the surrounding properties because of the spacing between each property.
4. There is no driveway directly across the street from this property and there is no inconvenience to the public.

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Lucinda McQueen made a motion to approve the Findings of Fact. Derek Narducci seconded the motion. Discussion: None. Voice Vote Tally: 5 – 0 in favor of approving the Facts and Findings.

The Chair said anyone who has standing can appeal the decision with the Land Use office within 30 days.

B. Motion for a Rehearing per RSA 677:2

Case: 2023-05

Applicant: James Gaffney and Joe DeFabrizio

Agent: Mike Harris, Attorney at BMC Environmental & Land Law, PLLC.

Decision being Appealed: Variance granted to the terms of Article VII.C.1.a, to Pier D'Aprile, 115 Bible Hill Road, on November 8, 2023.

Property Owner: Pier D'Aprile

Address: 115 Bible Hill Road

Map/Lot: Map 12, Lot 5

District: R-3 and OC-1

The Chair directed the board's attention to the written appeal of the D'Aprile decision by James Gaffney and Joe DeFabrizio represented by Mike Harris of BMC Environmental & Land Law, PLLC. The Chair asked the board to consider whether or not the board has made a mistake or has done something legally wrong in the original decision.

The Chair said her biggest worry about this is that the board does not have a complete record of our deliberations at the November meeting. If the board denies this appeal and it potentially goes to court, there will be no record to give the court. Because there is no recording of the November meeting deliberations.

Beverley pointed out that a decision was made and that stands. The Chair said if we grant the rehearing the decision does not stand. Beverley said that decision was made in good faith with a lot of discussion. Beverley went on to say this is the Zoning Board of appeals and this was an appeal for something not usual and the board granted it. Beverley said she is really upset about this and cannot understand what this appeal is all about tonight. Why do we have a Zoning Board if we can make decisions that are going to be appealed.

The Chair said people have a right to appeal. Beverley said we had a meeting, people were here, we talked, and we made a decision. Beverley said to the Chair that they were on the board when a different owner came before the board previously for the same thing and the board granted it. The Chair said she remembered, and she opposed it then for many of the same reasons she opposed it this time. Beverley said and she did not (oppose it).

The Chair said this is why she wants discussion on this, because as somebody who opposed it, and because we don't have a record of the deliberations, she does not want to be the loudest voice in the room. She encouraged everyone to weigh in on the conversation. If members feel there is not enough in the appeal to grant the appeal and it goes to court, it cannot be backed up by a record. There were only certain voices picked up on the tape.

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Lucinda McQueen made a motion to approve the Findings of Fact. Derek Narducci seconded the motion. Discussion: None. Voice Vote Tally: 5 – 0 in favor of approving the Facts and Findings.

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