

For Office Use Only
Case # Date Submitted: Hearing Date: # of Notices:

Plaistow Zoning Board of Adjustment 145 Main Street - Plaistow, NH 03865 Telephone - 603-382-5200 X202

APPLICATION FOR APPEAL

Note: all matters that come before the ZBA are referred to as "appeals." This form is required to be filled out for all applications including: Appeal of Administrative Decision; Special Exception; Variance and Equitable Waiver.

Name of Applicant:	
Address: 43 Force ST PLAISTON NH 03865  (Street & Apt. #) (Town) (State) (Zip)	
Telephone: ( ) 387-5065 Contact Name: CHANIE ZICU+ (	AGBU
Owner of Property: Shire AS APPLICANT	
Location of Property: OFF OF FORREST ST.	
Zone: LDR Map # 48 Lot # 40	
Applicant Signature: 5	
• The Article and Section Numbers <b>must</b> be completed. If you are unsure of these numbers pased the guidance of the Building Inspector's Office.	olease
APPEAL FROM AN ADMINISTRATIVE DECISION: relating to the interpretation and enforcement the provisions of the zoning ordinance.	nent of
Decision of the enforcement officer to be reviewed:	
APPLICATION FOR A SPECIAL EXCEPTION:	
Article: Section:	
To permit:	

APPL	ICATION FOR VARIANCE:
• Art	icle: V Section: 770-32F, C.(1)(b)
A varia	ance of the Zoning Ordinance to permit: Lonstnuction & SINGLE
For	MILY RESIDENCE ON A LOT W/ NO FRONTAGE
	supporting this request (all must be completed):
2.	The Spirit and Intent of the Ordinance is preserved because:
3.	There is Substantial Justice in Granting the variance because: (NOTE: Any loss to the individual that is not outweighed by a gain to the general public is an injustice)
4.	The Values of the Surrounding Properties will not be Diminished because:
5.	Literal enforcement of the provisions of the ordinance would result in an Unnecessary Hardship because:

FEEL FREE TO USE ADDITIONAL PAPER AS NEEDED TO PROVIDE COMPLETE ANSWERS

## S.E.C. & ASSOCIATES, INC. Surveying & Engineering Consultants

May 27, 2020

Town of Plaistow Zoning Board of Adjustment 145 Main St. Plaistow, NH 03865

Re: Variance Request/Zoning Board of Adjustment Application Ethan Conley Tax Map 48 Lot 40 (& Tax Map 48 Lot 39) Off of 43 Forrest Street Plaistow, NH

### Overview

Dear Members of the Board,

This is a request for a variance for Ethan Conley for his land locked property located behind his existing house lot located at 43 Forrest Street. The house lot property is identified as Tax Map 48 Lot 39 and the abutting land locked parcel is identified as Tax Map 48 Lot 40. The following is a brief history of the properties and an overview of our proposal.

Ethan's house lot is a 4.76 acre lot with 55' of frontage on Forrest Street. Situated at the rear of the lot, approximately 550' back, is Ethan home, garage and several outbuildings. The dwelling is supported by its own individual septic system and water supply. Access to the dwelling is from a private driveway from Forrest Street. This parcel is a long standing existing lot of record. (see RCRD plans D-22797 & D-39730) The land locked parcel abuts the house lot at the rear and is 12.27 acres in size. This parcel is residual land left over from the subdivision that created the Tracy Lane development in 1995. (see RCRD plan D-25619) The lot abuts the recently subdivided Hoyt Farm Estates development on the east, the Brighton Drive, Inc property (currently being subdivided) on the south and land of Jeff Delucia (at the end of Woodland Drive) on the west. The subject lot is located entirely within the LDR zone, is partially within a flood hazard area and is not within aguifer protection or shoreland protection zones. The lot is undeveloped and is a mix of fields and woodland. The soils onsite range from excessively well drained to very poorly drained soils. The wetlands are predominately located on the west side of the property with the majority of the upland area abutting the house lot and the Hoyt Farm Estates subdivision on the east side. In all, the lot has approximately 7 acres of contiguous buildable upland soils.

The proposal for the property is simply this, to consider obtaining the necessary approvals/permits to construct one-single family residential dwelling on the lot. One of the necessary approvals is obtaining a variance to allow construction on a lot with no

P.O. Box 1337 \* 185 Plaistow Rd., Unit 2 Plaistow, NH 03865 Tel:(603) 382-5065 \* Email: sec@secsurveying.com

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frontage. In consideration of this proposal, and through research we have found that the parcel as originally purchased by William Bartlett in 1997 from the Tracy Lane developer, Ernest Brown and subsequently sold to Michael and Tiffany Cook and eventually to Ethan, has remained a standalone lot. This lot from its creation in 1995 has been assigned its own tax map and parcel number and is taxed as such. What convolutes the matter is that there is a note on the recorded Tracy Lane subdivision plan that stipulates that this lot was to be combined with Ethan's house lot. This has not happened and as a result moving forward with the approval process adds an additional step for consideration. In discussing the issue with the Planning Board director, John Cashell, it has been determined that any action taken by the Board of Adjustment and Planning Board will be to remove the stipulation. Meaning, that with the Board of Adjustment the requested variance should be considering the lot as it exists, as a freestanding lot with no frontage and what it could have been, as a single lot attached to the house lot and being subdivided with no frontage. Should this Board grant the variance, an application will be submitted to the Planning Board to obtain approval for the lot as well. In anticipation of the potential to build on the lot, Ethan has considered access. One consideration was to connect from the end of his house lot driveway. Unfortunately the slope from the end of that driveway to the subject parcel averages 20% or greater it cannot be considered a viable option. Instead Ethan has worked with his westerly neighbor, Jeff Delucia. Jeff's property is located at the end of Woodland Drive from which it has access. Jeff has agreed to provide Ethan an access through his own driveway to the subject parcel. A driveway easement plan has been prepared and recorded at the Registry of Deeds for securing the right. (see RCRD plan D-42105) It should be noted that in order to access from this direction a wetlands permit will be required. In preliminary meetings and consultation with the Conservation Commission and the Wetlands Bureau this proposal is feasible.

In all, the land supports the proposed use and all other applicable siting, lot loading and setback requirements can be met. The variance request is as follows;

Request for Variance Article V, Section 220-32F, C. (1) (b) "LDR"-Low Density Residential

**220-32F**, C. (1) (b) - Minimum frontage shall be 200'

### **Variance Request To Permit:**

To allow for the construction of one single family residential dwelling on a lot with no frontage (whether the lot is considered freestanding or sub dividable). Said lot shall be accessed through an abutting driveway easement from Woodland Drive.

1. The proposed variance will not be contrary to the public interest because: By granting the variance it will allow the Mr. Conley the full productive use of property as he intended it by acquisition as a separate freestanding parcel of land. Access to the lot will be provided by a shared driveway from Woodland Drive. All proposed construction of the home, septic system, well and driveway will be to current

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standards in regards to design and permitting. The proposal is for one single family dwelling on a lot that exceeds all other applicable sizing and siting requirement within an area surrounded by single family dwellings. All considered, there will be no negative effect to the general health, welfare and safety of the general public.

### 2. The spirit and intent of the ordinance is preserved because:

The intent of the ordinance as it relates to the frontage requirement is to ensure adequate separation of driveways and to establish density in keeping with the spirit of the overlying zone. This zone, LDR requires the largest land area, 2.53 acres to qualify for a building lot. This lot as it stands, is 12.27 acres and contains approximately 7 acres of contiguous upland buildable area. Even if Ethan was to parcel off a small area of the lot to add to his house lot, approximately 0.85 acres, the lot would still be far greater in size than the zoning ordinance requires. In regards to the driveway, Ethan through the cooperation of his neighbor has secured an access that would not endanger or disrupt traffic flow, nor does it substantially add any traffic volume. In this particular case, the spirit and intent can be met provided that the variance is granted.

# 3. There is substantial justice in granting the variance because: (Note: Any loss to the individual that is not outweighed by a gain to the general public is an injustice)

This property is only limited by the lack of frontage. All other applicable lot sizing and siting requirements can easily be met. This property is similar to other properties where there is no frontage and access is through other parcels. (Reference Tax Map 8 Lot 21 in which the land locked property has driveway access through the Town of Plaistow's property at the end of Meadowview Drive) The owner is only asking for the construction of one single family residential dwelling on this generously sized property. Denial of the variance would require finding a means of creating a Town accepted roadway to serve the site. This alternate proposal, is even feasible would result in considerably more site impact, cost subsequent maintenance for the Town as well as a more intensive development to offset the costs. There is substantial justice in granting the variances which would allow for a reasonable use of the property in keeping with surrounding uses.

### 4. The values of surrounding properties will not be diminished because:

Granting the variance would allow for plans to be submitted for consideration of one single family residential dwelling as allowed and supported in this zone. The proposed driveway to service the dwelling will be designed to meet the specifications for emergency access and will consider all environmental impacts as well. The proposed dwelling, septic system and well will meet all siting and design requirements. Part of the approval process will require review by various State and Local agencies ensuring all considerations for safety, service, environmental and site impact will be addressed. With this modest request for an additional dwelling within a residential neighborhood it can be assured that there will be no diminution of surrounding property values.

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5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because:

Denial would result in unnecessary hardship if literal enforcement of the provision of the ordinance was applied. Meaning, requiring 200' of frontage where none exists for a lot that has a potential access that does not adversely affect the neighboring properties nor does it diminish the spirit and intent of the ordinance creates an unnecessary hardship. Although the objectives and purpose of the ordinance can be demonstrated the general requirements with respect to frontage requirements cannot, particularly when given the history of the lot as a separate tax lot and assessed as such. It is the intention of the owner to only construct one dwelling on this lot. Granting of the variance would only allow for the full productive use of the site as the surrounding property owners enjoy.

Sincerely,

Charlie Zilch Project Manager May 27, 2020

Town of Plaistow Zoning Board of Adjustment 145 Main St. Plaistow, NH 03865

Re: Variance Request/Zoning Board of Adjustment Application Ethan Conley Tax Map 48 Lot 40 (& Tax Map 48 Lot 39) Off of 43 Forrest Street

Plaistow, NH

Please accept this letter as formal authorization to allow S.E.C. and Associates, Inc., and its agents, to represent me on all zoning matters pertaining to the above referenced Zoning Board of Adjustment variance application.

Sincerely,

Ethan Conley

Book: 5939 Page: 1220

E # 18033315 08/17/2018 02:25:44 PM Book 5939 Page 1220 Page 1 of 2 Register of Deeds, Rockingham County

Record and Return to: CMR Closing Services, LLC 600 W. Cummings Pk, Suite 2500 Woburn, MA 01801

LCHIP ROA420459 25.00 TRANSFER TAX RO081906 8,249.00 RECORDING 14.00

2.00

**SURCHARGE** 

Transfer Taxes: \$8,249.00

### WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS that we, MICHAEL P. COOK and TIFFANY COOK, husband and wife, of Plaistow, New Hampshire

For consideration paid, grant to **ETHAN CONLEY,** of 97A Druid Hill Rd., Methuen, Massachusetts 01844

### with WARRANTY COVENANTS

A certain tract or parcel of land in Plaistow, County of Rockingham, State of New Hampshire, being shown as Remaining Land to be consolidated with Tax Lots 63-1-26 on plan entitled "Tax Map 63, Block 1 Lot 25 and 28 Consolidation and Subdivision Plan as drawn for Ernest Brown on East Pine Street in Plaistow, N.H., Scale: 1"=80', James M. Lavelle Associates Land Surveyors, dated November 14, 1995" and recorded in the Rockingham County Registry of Deeds as Plan D-25619, being more particularly described as follows:

Beginning at a point on the most northeasterly corner of the conveyed premises; thence turning and running S 15 degrees 36' 44" E a distance of 108.63 feet; thence S 16 degrees 41' 32" E a distance of 365.00 feet; thence S 16 degrees 06' 20" E a distance of 226.60 feet; thence S 17 degrees 31' 44" E a distance of 271.41 feet; thence S 17 degrees 02' 51" E a distance of 183.85 feet; thence S 14 degrees 19' 49" E a distance of 1.53 feet, last six courses running by and along a stone wall; thence turning and running S 73 degrees 16' 24" W a distance of 204.41 feet by and along a stone wall; thence S 72 degrees 54' 32" W a distance of 372.05 feet to a point; thence turning and running N 22 degrees 14' 16" W a distance of 446.69 feet to a point; thence N 22 degrees 26 02" W a distance of 172.62 feet to a point; thence N 21 degrees 01' 24" W a distance of 62.94 feet by and along a stone wall to a point; thence turning and running N 66 degrees 29' 50" E a distance of 122.00 feet to a point; thence N 44 degrees 43' 51" E a distance of 322.88 feet to a point; thence N 21 degrees 48' 00" E a distance of 154.93 feet to a point; thence N 39 degrees 33' 02" W a distance of 211.13 feet to a point; thence turning and running N 74 degrees 23' 16" E a distance of 222.00 feet to the point of beginning.

Book: 5939 Page: 1221

Meaning and intending to describe Remaining Land to be consolidated with Tax Lot 63-1-26, containing 12.27 acres more or less as shown on said plan.

**ALSO** 

A certain lot of land with the buildings thereon situate in Plaistow, Rockingham County, State of New Hampshire situate on Forrest Street, so-called, being shown as Tax Map 63, Block 1, Lot 26, on a plan of land entitled "Tax Map 63, Block 1, Lot 26, Boundary Plan of Land as drawn for Austin Realty Trust on Forrest Street in Plaistow, N.H., Scale 1"=40', dated March 17, 1994, James M. Lavelle Associates Reg. Surveyor, which plan is recorded at the Rockingham County Registry of Deeds as Plan Number D-22797, to which reference should be made for a more particular description.

Meaning and intending to convey Tax Map 63, Block 1, Lot 26, containing 217,850 square feet or 5.00 acres, more or less, as shown on said plan.

EXCEPTING and RESERVING that parcel of land shown as "Parcel A" on Plan #39730 containing 0.25 acres, conveyed to James F. Goulet and Lisa J. Hart-Goulet by Deed recorded 11/3/2016 at Book 5769, Page 2269.

Meaning and intending to convey a portion of the same premises as acquired by deed of William B. Bartlett and Rella M. Bartlett, dated October 31, 2013 and recorded with the Rockingham County Registry of Deeds at Book 5491, Page 1965.

The within Grantors hereby release all rights of homestead in the premises and affirm there are no other persons entitled to claim rights of homestead.

Executed under seal this 16 day of August, 2018.

Michael P. Cook Tiffany Oook

STATE OF NEW HAMPSHIRE

County of Rockingham

On this \_\_\_\_\_ day of August, 2018, before me, the undersigned notary public, personally appeared Michael P. Cook and Tiffany Cook, proved to me through satisfactory evidence of identification, which was \_\_\_\_\_ (left) (left), to be the person whose name is signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.

Notary Public Justice of the Peace My commission expires:

JENNIFER J. GOODSELL NOTARY PUBLIC - State of New Hampshire My Commission Expires August 3, 2021

## Table 220-32F "LDR" - Low Density Residential

A. Objectives and characteristics. The Low Density Residential Districts generally contain suitable soils and slopes for residential development, are accessible to other population centers, are feasible to be served with public facilities and utilities in the future, and are generally located farther from the Town center than MDR areas. The purpose of this district is to accommodate population growth at densities attractive to development, leaving natural resources free of scattered development or subdivisions, which would destroy the town's open spaces landscape pursuits, and reducing congestion and burden on Town facilities and roads. It is the purpose of this district to allow for the protection of community resources for future residential and necessary ancillary development.

### B. Uses.

[Amended 3-12-2002 ATM by Art. P-45; 3-13-2007 ATM by Art. P-07-33; 9-18-2007 STM; 3-11-2008 ATM by Art. P-08-38; 3-12-2013 ATM by Art. Z-13-6 and Z-13-7]

### **Permitted Uses**

- 1. Single-family and duplex dwellings
- 2. Multifamily housing in a PRD<sup>22</sup>
- 3. Manufactured housing in a PRD
- 4. Accessory use or structure
- 5. Private/public nonprofit recreation
- 6. Essential services
- 7. Agriculture
- 8. Forestry
- 9. Place of Worship<sup>24</sup>
- 10. Cemetery/burial site and mausoleum<sup>25</sup>
- 10.1. (Reserved)
- 10.2. Accessory Dwelling Unit (ADU) (Owner-occupied only, not allowed in multifamily dwellings<sup>26</sup>

### C. Areas and dimensions.

- (1) Minimum lot size:
  - (a) Area: 110,000 square feet.
  - (b) Frontage: 200 feet.
- (2) Minimum area per family: 110,000 square feet.

### Allowed by Special Exception

- 11. (Reserved)
- 12. Home occupation<sup>23</sup>
- 13. (Reserved)
- 14. (Reserved)

<sup>&</sup>lt;sup>22</sup> See Article VI – Planned Residential Development (PRD) for further requirements.

<sup>&</sup>lt;sup>23</sup> See Article X – Home Occupation for further requirements.

<sup>&</sup>lt;sup>24</sup> See § 235 – Site Plan Review Requirements for further requirements.

<sup>&</sup>lt;sup>25</sup> See Article XIII - Cemetery/Burial Site and Mausoleum for further requirements.

<sup>&</sup>lt;sup>26</sup> See Article VIII. - Accessory Dwelling Units (ADU) for further requirements.

- (3) Minimum yard dimensions: Refer to Table 220-32I.
- (4) Maximum lot coverage: 20%.
- (5) Maximum height: 45 feet or three stories, whichever is less.
- (6) Corrals for all farm animals must be at least 50 feet from any lot line. [Amended 3-9-2004 ATM by Art. P-35]
- (7) Structures (including, but not limited to, barns, sheds and stables) used to house any farm animals must be at least 100 feet from any lot line.

  [Amended 3-9-2004 ATM by Art. P-35, amended ATM 2015]
- (8) Chicken coops and rabbit hutches, less than 120 sq. ft. footprint, are exempt from the 100-foot setback requirement, but must comply with all building setback requirements of §220-32I. (Added ATM 2015)

# Plaistow, NH Residential Assessment

FORREST ST REAR	MAP/LOT: 48-040-000-000	0 Zoning: LDR	Living Units: 0	Class: 600-CURRENT USE VACANT LAND	9
Current Owner/Address:	LAND DATA:			ASSESSMENT INFORMATION:	
CONLEY, ETHAN	Type RESIDUAL	Size Influence Factors % 12.34 -40	Land Value 65,880		
43 FORREST STREET PLAISTOW, NH 03865		000	000	PRIOR CURRENT Land: \$65,880 \$65,880 Building: \$0 \$0	
			0 0	<b>Total:</b> \$3,150 \$3,190	
Book/Page: 5939 / 1220 Deed Date: 20180817 NHBD ID: 148					
		Total Land Value:	\$65,880		
SALES DATA: Sale Info not verified by assessor's office.	rerified by assessor's office.		A CALL AND THE REAL PROPERTY OF THE PROPERTY O		
Date Type 20180817 LAND + BLDG 20131031 LAND ONLY 0 0 0	Price Valid D: 0 CURRENT USE 0 LANDS RSA 79-A 0 FAMILY/RELATIVE/A 0 FFILIATE AS G 0	Date # Amount 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0	Purpose		
DWELLING DATA:		OUTBUILDING DATA:			
Style: Story Ht.: O Attic: Walls: NoNE Bedrooms: Total Rooms: Half Baths: Add'l Fixtures: Cotal Fixtures: Dassement: Fin Bsmt Area: Bsmt Rec Rm:	Heating System: Heating Type: Fireplace WB: Bsmt Garage: Grnd Floor Area: Oquality Grade: Condition: Marketability: Year Built: Unfinished Area: Unheated Area:	Type	Quantity Year 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0	Descriptor/Area	
NOTES: LAND LOCKED PARCEL	CEL				T

# Plaistow, NH Residential Assessment

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43 FORREST ST	MAP/LOT: 48-039-000-000	Zoning: LDR	Living Units: 1	Class: 601-LAND UNDER CHAPTER 61
Current Owner/Address:	LAND DATA:			ASSESSMENT INFORMATION:
CONLEY, ETHAN	Type PRIMARY	Size Influence Factors % 4.76 -10	Land Value	
43 FORREST STREET PLAISTOW, NH 03865				PRIOR CURRENT Land: \$123,840 \$119,780 Building: \$317,700 \$409,300 Total: \$437,240 \$525,320
Book/Page: 5938 / 1220 Deed Date: 20180817 NHBD ID: 148				
		Total Land Value:	\$119,780	
SALES DATA: Sale Info not verified by assessor's office.  Date Type Price Valid 20180817 LAND + BLDG 300000 LANDS RSA 79-A 0 0 FILLATE AS G 0 0 0 0 0 10 0 0 0 0 10 0 0 0 10 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0	erified by assessor's office.  Price Valid Date 549933 CURRENT USE 20190610 30000 LANDS RSA 79-A 0 0 FAMILY/RELATIVE/A 0 0 FILIATE AS G 0 0	# Amount 2019086 90000 0 0	<b>Purpose</b> 6X24 ADD, W, S	
DWELLING DATA:		OUTBUILDING DATA:		
Style: COLONIAL Story Ht.: 2 Attic: PART FINSH Walls: ALUM/VINYL Bedrooms: 3 Total Rooms: 9 Full Baths: 2 Half Baths: 1 Add'l Fixtures: 0 Total Fixtures: 10 Basement: FULL Fin Bsmt Area: Bsmt Rec Rm:	Heating System: HOT WATER Heating Type: OIL BASIC Fireplace WB: 1 Bsmt Garage: 3 Grnd Floor Area: 1064 Quality Grade: 2994 Quality Grade: B- Condition: 0 Marketability: AV Year Built: 1994 Eff Year Built: 0 Unfinished Area: Unheated Area:	Type Qua POLE BARN-WOOD 1 1 SIDE OPEN 1 GARAGE-WD/CB 1 CANOPY 1 FLAT BARN 0 0	Quantity Year 1 1994 1 2001 1 2001 1 2006 0 0 0 0 0 0	15.0 WD 14 15.0 B 15.0 C WD 15.0 C W
- 1	\\\			
NOIES: GAS FIREPLACE H	HOLLOB, IREE HSE=N/V			

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**Surveying & Engineering Consultants** 

### Subdivision / Lot Line Adjustment Tax Lots 48-39 & 48-40

### **Abutters List**

### Owner:

Tax Map 48 Lots 39 & 40

Ethan Conley 43 Forrest Street Plaistow, NH 03865

<b>Abutters:</b>	A	bı	ıtt	er	S	•
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Tax Map 49 Lot 3

M.G. Leblanc Revocable Trust 35 Forrest Street Plaistow, NH 03865

Tax Map 49 Lot 1

Alexander Bisono 39 Forrest Street Plaistow, NH 03865

*Tax Map 49 Lot 28* 

Michael Gosselin 38 Forrest Street Plaistow, NH 03865

Tax Map 48 Lot 1

Douglas Lanceleve Kimberly Lanceleve 40 Forrest Street Plaistow, NH 03865

*Tax Map 48 Lot 38 Tax Map 48 Lot 37* 

James Goulet Lisa Hart-Goulet 47 Forrest Street Plaistow, NH 03865 **Abutters:** – (cont.)

Tax Map 48 Lot 33-4

Scott Maranian Catherine Maranian 12 Hoyt Farm Road Plaistow, NH 03865

Tax Map 48 Lot 33-3

Nicholas Scola Rosanna Scola 10 Hoyt Farm Road Plaistow, NH 03865

Tax Map 48 Lot 33-2

Brian Sheehan Anastasia Sheehan 8 Hoyt Farm Road Plaistow, NH 03865

Tax Map 47 Lot 3

Brighton Drive Inc.
3 McIntosh Lane
Hampstead, NH 03841

*Tax Map 37 Lot 37* 

Jeffrey Delucia Laurie Ann Delucia 9 Woodland Drive Plaistow, NH 03865 <u>Abutters</u>: – (cont.)

*Tax Map 38 Lot 142* 

Anthony Agneta Katie Agneta 3 Tracey Lane Plaistow, NH 03865

*Tax Map 38 Lot 141* 

Philip Lambert Lisa Lambert 5 Tracey Lane Plaistow, NH 03865

*Tax Map 38 Lot 139* 

Eric Bell Barbara Badgley 4 Tracey Lane Plaistow, NH 03865

### **Surveyor:**

S.E.C. and Associates, Inc. P.O. Box 1337 Plaistow, NH 03865

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