

TOWN OF MILFORD

Office of Community Development
Planning • Zoning • Building Safety • Code Enforcement • Health
Economic Development • Active Projects



Administrative Review

Date: August 12, 2026
To: Town of Milford Zoning Board of Adjustment
From: Terrence S. Dolan, Town Planner *TS*
Subject: Case#2026-08-Variance Requests to allow for a Two- Family Structure in the Residential "R" Zoning District, with less than the required 300 linear feet of road frontage & less than the required four (4) acres of lot size, located at 359 Federal Hill Road, Map 56 Lot 58-3

BACKGROUND & PROPOSAL

The applicant, John Philbrick, has requested a "*Variance*" under **Case #2026-08-VAR:** Requiring a public hearing to approve a series of two (2) required Variance Requests related to a needed reduction of the required minimum road right of way lot frontage, & a reduction of required lot acreage to allow for a future Two-Family Unit in the Residence "R" Zoning District; located @ 359 Federal Hill Road, Map 56 Lot 58-3.

The applicant is required to seek approval of two Variances; to then subsequently seek a required *Special Exception (Case #2026-07* with Hearing to follow, providing the necessary Variances are both granted by the ZBA) to create a Two-Family Unit on his respective lot.

The single lot structure on the 3.31-acre lot has an existing rental apartment on the second level of the long existing barn building.

- A. Pursuant to **Section 5.04.4 (Lot Sizes and Frontages) of the Milford Zoning Ordinance**, the first Variance request is to seek a reduction of the required minimum lot road frontage ("right of way" length), currently required to be a minimum of 300 linear feet on a Class V Road for a Two-Family residence in the Residence "R" Zoning District; wherein, the existing & approved lot (historically formed via an approved Lot Split by the Milford Planning Board on June 19, 2007 Mtg.) with only contains 200 linear feet of road frontage.

B. Similarly, also pursuant to **Section 5.04.4 (Lot Sizes and Frontages)** of the Milford Zoning Ordinance, the second Variance Request is to allow for the (existing & approved) lot size is deficient at only 3.31 acres to allow for the Two-Family Unit.

In order to allow for the Two-Family Unit in the "R" Zoning District, the lot size is stated in the Ordinance to require a minimum of four (4) acres for a Two-Family Unit.

Both requests are considered *Variances* to the minimum standards expressed in **Section 5.04.4 (Lot Sizes & Frontages)** of the Milford Zoning Ordinance, for Residence "R" lots.

ADDITIONAL INFORMATION

Pursuant to Milford Zoning Ordinance, under Article IV, Section 4.01 (Definitions-2013), a second residential unit is allowed via the approval of a "***Special Exception***" for a defined "***Two-Family Structure***", (in a singular building) within the "R" Zoning District, under Section 5.04.2.A.1.

The overall lot is 3.307 acres in size, with the respective two-level barn structure being the only significant building structure on the lot; located at 359 Federal Hill Road. No other building structures presently exist on the lot.

A shared common driveway from the applicant-owned southerly *adjacent* lot is utilized (under recorded May 13, 2008 legal easement) to access the more northerly "barn" lot.

There are no current plans (as offered by the applicant) for any intentions to convert these existing, or proposed rental units into Condominiums.

LOT HISTORY

(NOTE: The below information is also provided in the Staff Memorandum for the subsequent ***Special Exception*** Application for July 16, 2026 **Continued Case #2026-07**):

Staff was able to research & locate historical Milford Planning Board files from their **August 20, 2002 & June 19, 2007 Mtgs.**, when the Planning Board approved the lot split that created ***Map 56 Lot 58-3*** from M56 L58-4 (which had been previously split off from the "parent" lot Map 56 Lot 58); then, at that time, all lots being under the ownership of James D. & Elaine R. Clark.

After the latter June 19, 2007 Pl. Bd. Approval, Map 56 Lot 58 was then formally approved (as recorded on 02/12/2008, Book 7981 Pages 1280-2015, Hillsborough County Registry of Deeds, see attached copy) to provide both a *Septic System Easement* to serve the existing barn structure on the adjacent northerly Map 56 Lot 58-3 (i.e. 359 Federal Hill Road); as well as provide for a "*Common Driveway Easement*" leading in from Federal Hill Road, across the more southern lot (M56 L58, at 365 Federal Hill Road) to the northerly adjoining lot at 359 Federal Hill Road (see attached highlighted Sub Division Plan Sheet, approved by the Planning Board on Aug. 20, 2002).

Current owners, John & Catherine Philbrick purchased a majority of the James & Elaine Clark land holdings (located along the western side of Federal Hill Road), circa 2022.

Note: All *legal abutting lots to 359 Federal Hill Road (along the west side of Federal Hill Road)* are currently owned by the applicant, (please see attached color exhibit).

The overall *John K & Catherine A. Philbrick, Co-Trustees'* land holdings include the two above-referenced lots; plus other adjacent and contiguous lots (along either the west side of Federal Hill Rd., or along Foster Road), that are not subject to any current any Zoning Application at this time.

Both lots (359 & 365 Federal Hill Road) lie within the Residence "R" Zoning District, subject to Section 5.04 of the Milford Zoning Ordinance.

EXISTING CONDITIONS:

1. The Lot @ 359 Federal Hill Road is +/-3.307 acres in size, mostly in open upland pasture and a margin of forested land along the far back western portion of the lot; with only the long established detached two-story barn with one rental apartment on the second level.
2. The existing lot ("359") is serviced by a potable water well and adjacent lot septic system (under legally recorded "*Septic System Easement*") on the lot located at 365 Federal Hill Road (same ownership).
3. Driveway access to 359 Federal Hill Road is solely provided along a legally recorded "*Common Driveway Easement*", primarily located on the adjoining lot at 365 Federal Hill Road (see images).
4. The Lot is zoned Residence "R", pursuant to Section 5.04 of the Milford Zoning Ordinance.



ZBA Application - Variance
MILFORD ZONING BOARD OF ADJUSTMENT

TOWN OF MILFORD
RECEIVED

Date Received: _____
Case Number: JUL 23 2026
Application #: _____
Date Completed: PB ZBA _____ Office _____
Hearing Date: _____
Decision Date: _____
Decision: _____

PROPERTY INFORMATION

Street Address: 359 FEDERAL HILL RD.

Tax Map / Parcel #: 56-58-3

A Variance is a use which is not permitted by the Zoning Ordinance. Approval from the Zoning Board of Adjustment is required to allow any use or deviation from the Zoning Ordinance. Please work with the Zoning Administrator to make sure your application is complete and you know what will be required of you at the hearing.

What section of the Zoning Ordinance are you asking to be varied?

Article 5 Section 4.4-B

Describe the variance you are requesting under the above section of the Ordinance.

TOWN OF MILFORD
RECEIVED

JUL 23 2026

PB _____ ZBA _____ Office _____

General Criteria Section 10.01

Explain how the proposal meets the following conditions per New Hampshire RSA 674:33.1

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

SIMILAR TO EXISTING (ORIGINAL) PROPERTY
(365 FEDERAL HILL RD.)

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

NO INCREASE USAGE COMPARED TO ORIGINAL
PROPERTY.

3. Granting the Variance would do substantial justice because:

RESTORES PROPERTY BACK TO ORIGINAL
INTENT.

4. Granting the Variance would not diminish the value of surrounding properties because:

NO CHANGE TO ORIGINAL STRUCTURE

5. Unnecessary Hardship:

This section is the central portion of your argument and is the critical factor that the Zoning Board of Adjustment will need to determine what is unique to your property and not generally applicable to other properties in the area or in town.



ZBA Application Variance
MILFORD ZONING BOARD OF ADJUSTMENT

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 :

CURRENTLY THE TAX BILL IS A LIABILITY. IF GRANTED, REVENUE FROM RENTAL WOULD OFFSET THE LIABILITY.

AND

ii. The proposed use is a reasonable one because:

THE ORIGINAL LAYOUT ON THE PROPERTY HAD 15 BEDROOMS. THE PROPOSED HAS 4 SO THERE SHOULD BE NO INCREASE IN TRAFFIC FROM ORIGINAL

(B) Explain how, if the criteria in paragraph (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:

(C) Notwithstanding paragraph (B) above, a Variance may be granted without finding a hardship arising from the terms of the Zoning Ordinance when reasonable accommodations are necessary to allow a person or persons with a recognized physical disability to reside in or regularly use the premises, provided that:

1. The Variance requested under this paragraph shall be in harmony with the general purpose and intent of the Zoning Ordinance because:

In addition, Variances may have extra criteria that must be met. This includes, but is not limited to:

6.03.5 Floodplain Management: The criteria for evaluation is listed in 6.03.5:B General Conditions and the applicable conditions are listed in 6.03.5:C. If your project is covered by this regulation, include your answers to the required criteria as specified in the referenced Section of the Milford Zoning Ordinance as an attachment under Section 3 C. of this application.

ATTACHMENTS – additional information may be needed to help the Zoning Board of Adjustment fully understand your petition.

- A. A plan of the property and all buildings, drawn to scale, is required.
- B. A Building Permit Application as needed (to be determined by the building official.)
- C. Additional explanations, justification, abutters' statements, letters, etc.



ZBA Application – Variance

MILFORD ZONING BOARD OF ADJUSTMENT

Please read the following information that is designed to help you understand the unique nature of a Variance petition.

Town of Milford Zoning Ordinance can be found at:

[http://planning.milfordnh.info/DOCUMENTS/ZONING%20ORDINANCE%20MASTER%20\(2011\).pdf](http://planning.milfordnh.info/DOCUMENTS/ZONING%20ORDINANCE%20MASTER%20(2011).pdf)

NH RSAs, Chapters 672-677 can be found at:

<http://www.gencourt.state.nh.us/ras/html/NHTOC/NHTOC-LXIV.htm>

VARIANCE: A variance is an authorization, which may be granted under special circumstances, to use your property in a way that is not permitted under the strict terms of the zoning ordinance.

If you are applying for a variance, you must first have some form of determination that your proposed use is not permitted without a variance. Most often, this determination is a denial of a building permit. A copy of the determination must be attached to your application.

For a variance to be legally granted, you must show that your proposed use meets all five (5) of the following conditions:

- a. Granting the Variance would not be contrary to the public interest.

A variance would be considered contrary to the public interest if it unduly and to a marked degree violated the basic zoning objectives of the Zoning Ordinance. Will the variance alter the essential character of the neighborhood or threaten the health, safety, or general welfare of the public?

- b. Granting the Variance would observe the spirit of the ordinance.

This requires that the effect of the variance be evaluated in light of the goals of the zoning ordinance.

- c. Substantial justice would be done by granting the Variance.

Substantial justice is done when any loss to the individual is not outweighed by a gain to the general public.

- d. Granting the Variance would not diminish the value of surrounding property.

The applicant, to convince the Zoning Board must explain that granting the variance will not decrease the value of surrounding property.

- e. Denial of the Variance would result in an unnecessary hardship.

The first requirement is that there are special conditions or characteristics applying to the property (such as, but not limited to, exceptional narrowness, shallowness, or shape of the property, or exceptional topographical conditions), that distinguish it from other properties in the area. Because of these special conditions, 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. And finally, the proposed use must be a reasonable one. You must explain what makes the property unique and why a "hardship" would be created if the terms of the ordinance were strictly applied.

In lieu of a claim of unnecessary hardship, the Variance may be granted when reasonable accommodations are necessary to allow a person or persons with a recognized physical disability to reside in or regularly use the premises, provided that any Variance sought shall be in harmony with the general purpose and intent of the zoning ordinance and the Variance shall survive only so long as the particular person or persons have a continuing need to use the premises. To meet this criterion, explain the accommodations that are necessary and identify the person or persons and provide evidence of their disability.



ZBA Application – General Information

MILFORD ZONING BOARD OF ADJUSTMENT

Preparing an Abutters List

1. Here are some guidelines to help you prepare an abutters list.
 - a. Find the lot(s) you are interested in and their abutting lots from the tax maps in the Community Development or Assessors Offices.
 - b. Go to the Milford Assessors Office to check whether the town has a record of any of the abutting lots having been sold more recently than the records available online through the Milford GIS or Vision software.
 - c. Check whether there is any conservation, preservation, or agricultural preservation parcels that are adjacent to your lot. Make sure you get the correct mailing address for the entity that holds the title to this type of lot. It may be a home owners association, a conservation group or the Town of Milford.
2. For the purpose of notification by the Town of Milford Zoning Board of Adjustment, any property being,
 - a. Under a condominium or other collective ownership, the term “abutter” means the officers of the collective or association, as defined in RSA 356-B:3XXIII
 - b. Under a manufactured housing park form of ownership defined in RSA 205-A:1; the term “abutter” includes the manufactured housing park owner and tenants who own manufactured housing which adjoins or is directly across the street, stream, or active railroad from the land under consideration by the Zoning Board of Adjustment.
 - c. An active railroad property, the owner of which shall be notified.

In cases where the applicant is different from the owner of the land under consideration by the Zoning Board of Adjustment, the term “abutter” shall include the owner AND the applicant.

For the purpose of receiving testimony only, and not for the purpose of notification, the term “abutter” shall include any person who is able to demonstrate that their land will be directly affected by the proposal under consideration by the Zoning Board of Adjustment.

Addition information

1. The Town of Milford only has lot and owner information for properties located within the Town of Milford. If the lot under consideration abuts an adjoining town you will need to go to that municipality for abutter information.

Burden of Proof

The applicant shall have the burden of proving any historical facts relevant to a case before the Zoning Board. Such relevant facts include, but are not limited to, the date on which a lot, structure, or use came into existence, violation history, open permits or applications.

The existence of a structure or use on a particular date may be established by testimony or by documentary evidence.

Supporting Documents

The following information may be required to deem your application “complete.”

1. Floor Plans
2. Plot Plans
3. Conservation Commission Report
4. Septic system analysis
5. Any additional information that supports your application as determined by the Community Development Office



ZBA Application

MILFORD ZONING BOARD OF ADJUSTMENT

GENERAL PROPERTY INFORMATION FOR ALL APPLICATIONS

PROPERTY INFORMATION

Street Address: 359 FEDERAL HILL RD.

Tax Map / Parcel #: 66-58-3 Lot Size: 3.685 ACRES

PROPERTY CURRENTLY USED AS

BARN / STORAGE

TOWN OF MILFORD
RECEIVED

JUL 23 2026

PB ZBA Office

If the application involves multiple lots with different owners, attach additional copies of this page.

PROPERTY OWNER

Name: JOHN PHILBRICK

Address: 114 FOSTER RD.

City/State/Zip: MILFORD, NH 03055

Phone: (603) 366-8279

Email: JK PHILBRICK@COMCAST.NET

The applicant is the person who is making this proposal on behalf of themselves, the owner or a third party. This is usually the same as the property owner, but might be a tenant, someone who plans to purchase the property, an engineer or lawyer, etc. If the applicant is the same as the owner, just check "Same as owner" and leave the rest of this section blank.

APPLICANT/REPRESENTATIVE

☒ SAME AS OWNER

Name:

Address:

City/State/Zip:

Email:

Phone: ()

Cell: ()

The undersigned property owner(s) hereby authorize(s) the filing of this application and agree to comply with all code requirements applicable to this application.

Property Owner's signature

Date:

Date Received:

TOWN OF MILFORD
Case Number: RECEIVED

Application Number:

Hearing Date: JUL 23 2026

Decision Date:

PB ZBA Office

Decision:

Zoning District (check one):

- ☐ Residence A
☐ Residence B ☐ Residence R
☐ Commercial
☐ Limited Commercial
☐ Industrial
☐ Integrated Commercial-Industrial
☐ Integrated Commercial-Industrial-2

Overlay District (check any that apply):

- ☐ West Elm Street Overlay
☐ Nashua/Elm Street Overlay
☐ Commerce & Community Overlay
☐ Open Space & Conservation
☐ Wetlands Conservation
☐ Groundwater Protection
☐ Floodplain Management

APPLICATION FEES

Application/Notice Fee: 75.00 \$175.00

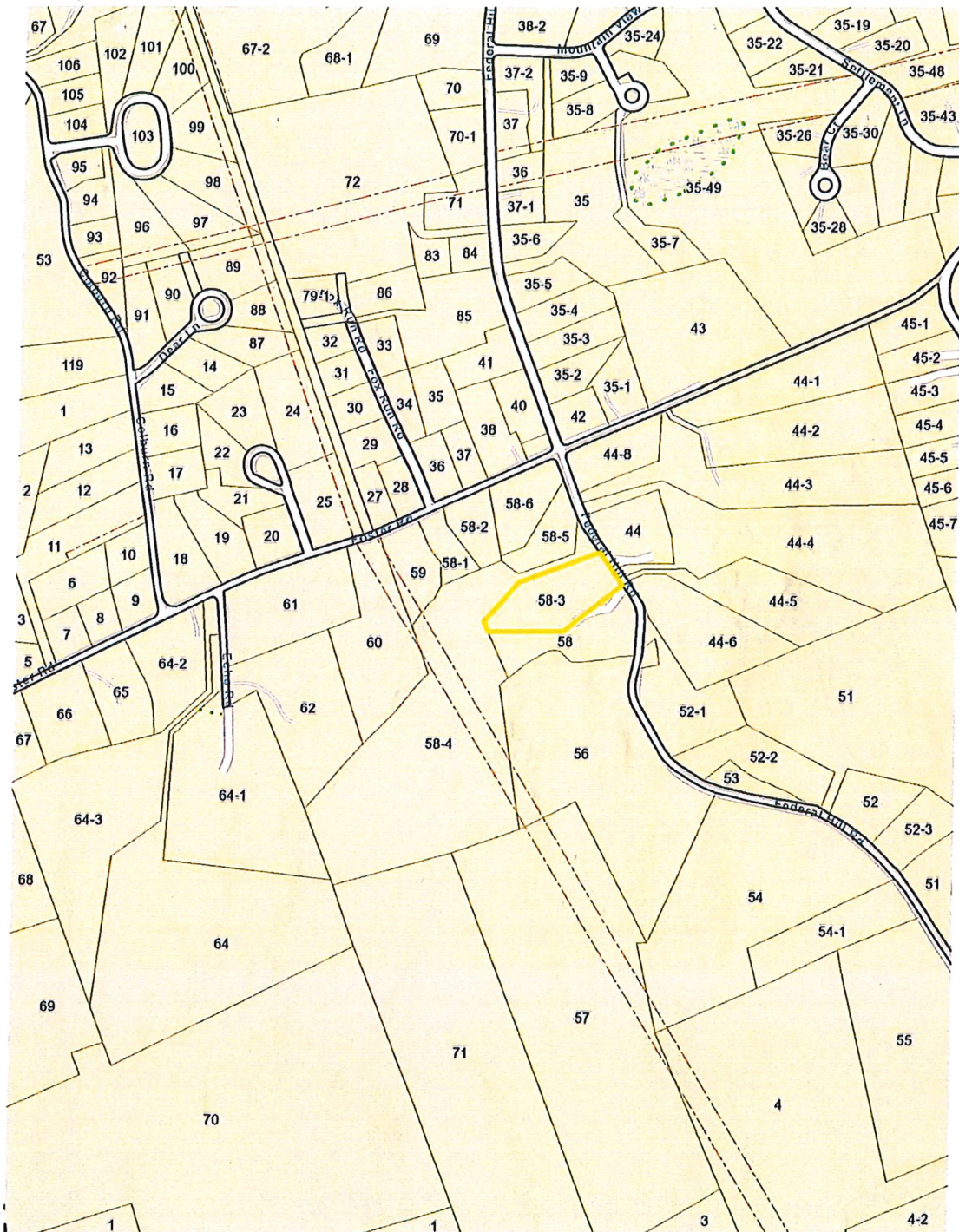
Abutters Fee: 2.00 x 6 342.24
35.00

Amount received: 1128 110.00

Date Received:

Check _____ Cash _____

THE FEES ASSOCIATED WITH THIS APPLICATION
DO NOT APPLY TO ANY OTHER FEES REQUIRED
FOR APPROVAL OF THIS PROJECT. PLANNING,
IMPACT, BUILDING AND OTHER FEES MAY APPLY.





July 6, 2026

Town of Milford, NH

1 inch = 139 Feet



CAI Technologies
Precision Mapping. Distinguished Solutions.

www.cai-tech.com



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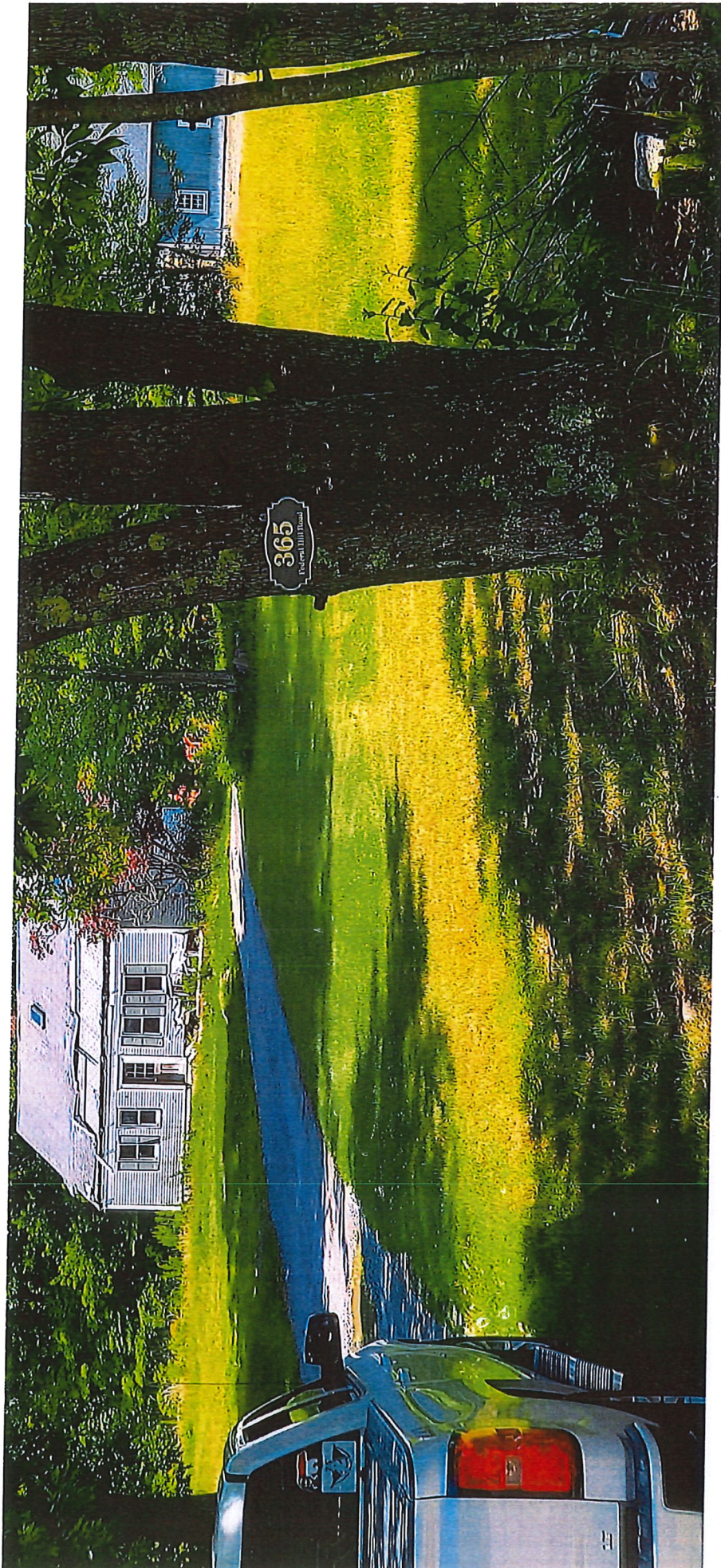
359 Federal Hill Rd (M56L58-3)
* M56L58 is located @ 365 Fed. Hill Rd.



"R" Zoned

Map 56
Lot 58-3

359 Federal Hill Rd
(3.31 acres)







LAMB, HOLLY & RYAN
358 FEDERAL HILL RD
MILFORD, NH 03055

LYTTLE, JANE R
366 FEDERAL HILL RD
MILFORD, NH 03055-3602

MILLS, JESSE H & JESSICA
362 FEDERAL HILL RD
MILFORD, NH 03055-3602

PHILBRICK, JOHN K&CATHERI
PHILBRICK, JOHN K & CATHE
FAMILY TRST OF 2005
114 FOSTER RD
MILFORD, NH 03055-3607

PHILBRICK,JOHN K&CATHERIN
PHILBRICK, JOHN K&CATHERI
114 FOSTER RD
MILFORD, NH 03055-3607

VONDERHEIDE, SUSAN G
VALLIER JR, JOSEPH E
360 FEDERAL HILL RD
MILFORD, NH 03055



Milford, New Hampshire

Google Street View

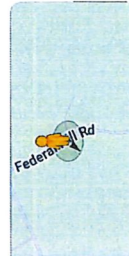
Jul 2025 See more dates

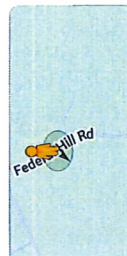
Image capture: Jul 2025 © 2026 Google

359 Federal Hill Rd.



(telephone pole denotes lot corner shared with 365 Fed. Hill Rd. (where remains of the deep-set white farm house can be observed))







Millford, New Hampshire
Google Street View
Jul 2025 [See more dates](#)



18.37 570
 20.37 *Milford Plan Brd*

DECLARATION OF COMMON DRIVEWAY, SEPTIC AND UTILITY EASEMENT
 AND MAINTENANCE COVENANT FOR LOTS AT 365 FEDERAL HILL ROAD
 MILFORD NEW HAMPSHIRE.

This Declaration made this 22nd day of November, 2002 by James D. Clark and Elaine R. Clark of 365 Federal Hill Road, Milford, N.H., (hereinafter "Clark")

WHEREAS, Clark owns certain lots on the westerly side of Federal Hill Road, Milford, N.H. denominated Lot 56-58-3 and Lot 56-58 on a certain plan entitled "Subdivision Plan Tax Map Parcel 56-58 prepared for James D. Clark & Elaine R. Clark, Milford New Hampshire," Scale: 1" = 100', May 20, 2002, prepared by Meridian Land Services, Inc. and recorded in the Hillsborough County Registry of Deeds as Plan # 32141 and which Lots 56-58-3 and 56-58 on said plan shall be subject to this Declaration as stated herein, and hereinafter called "Lots"; and

WHEREAS, Clark wishes to provide for the common use of the existing Driveway, Well, Water Lines and Septic System between the Lots as shown on said Plan,

ARTICLE I
 SUBJECT PROPERTY

The provisions, conditions, covenants, restrictions and easements as set forth herein shall run with, bind and benefit the Lots shown on said Plan, as the case may be.

The common areas to which this Declaration applies appear on the above described Plan as cross-hatched. The Common Driveway created herewith commences at Federal Hill Road and Lot 56-58 and shall service Lot 56-58-3 as shown on said plan; the Well which is presently located on Lot 56-58-3 as shown on said Plan shall service and be used in common with Lot 56-58; the Water Lines which presently run between the Lots as shown on said Plan shall be used in common to service each of the Lots; the Septic System which is substantially located on Lot 56-58-3 and currently services Lot 56-58 shall be used in common to service each of the Lots shown on said Plan.

ARTICLE II
 COMMON DRIVEWAY EASEMENT AND MAINTENANCE

In accordance with the Subdivision Plan, the Lots shall have the benefit of the easement area set forth herein above and on the Plan as such shall be maintained as a common driveway for the benefit of said lot owners, their successors, and assigns. The owner of each lot shall have the perpetual easement over that portion of Lot 56-58- to the extent shown on said Plan and defined herein. Said right include the right to pass and repass over said property for all normal uses which are customary in a residential area, including passing and repassing on foot or by motor vehicle or otherwise as necessary for free and full access to and from Federal Hill Road.

*Best thing would be
 to do entirely new document
 w/ all other wording the same
 and then reference new
 and new septic location.*

BK6771PG2013

Upon acceptance of a deed of any lot served by the common driveway, its Grantees do covenant and agree to bear a proportional share of the maintenance and improvement costs of the common driveway, including but not limited to further roadway improvement, grading, paving, installation of water and sewer lines, snow plowing, sealing, and other normal improvements. Each Lot owner shall bear the proportionate share of the cost of such improvements and maintenance based on the number of lots benefiting from said common driveway. This covenant and easement is to benefit and/or burden each said lot owner of the Lots, and shall be binding on Declarant, their heirs and assigns, and any person, natural or otherwise, who shall hereafter take title to this property. This common driveway easement shall run with the land.

It is further acknowledged that there is no obligation on the part of the Town of Milford to maintain the common driveway and Declarant, their Grantees and/or assigns, do agree not to convey the common driveway to the Town of Milford and that the common driveway shall never become a town road.

ARTICLE III COMMON WELL, WATER LINES AND SEPTIC SYSTEM EASEMENT AND MAINTENANCE

In accordance with the Subdivision Plan, the Lots shall have the benefit of the easement area set forth herein above and on the Plan as such shall be maintained as a common Well, Water Lines and Septic System easement for the benefit of said lot owners, their successors, and assigns. The owner of each lot shall have the perpetual easement over that portion of the respective lots to the extent shown on said Plan and defined herein.

ARTICLE IV UTILITY EASEMENT

There is further reserved to Declarant, their successors and assigns the right to grant to public or private utility providers the right to lay, construct and maintain utility conduits of any kind in nature within the common driveway area set forth on the plan and otherwise described above, to provide utility services to any of the Lots.

ARTICLE V AMENDMENTS

This Declaration may be amended from time to time with a written instrument duly executed by all of the then owners which may be affected by an individual provision within this Declaration except that Article II shall not be modified without the express written of the Town of Milford or its Planning Board except that the lot owners may agree to and change the proportion of the maintenance costs attributable to a particular lot without the aforesaid consent of the Town of Milford or its Planning Board.

BK6771PG2014

ARTICLE VI
ENFORCEMENT

Failure by Declarant, its successors and assigns, or any owner of a lot to enforce any of the provisions of this Declaration or any amendment thereto shall, in no event, be deemed a waiver of the right to do so thereafter as to the same breach or as to one occurring prior or subsequent thereto.

ARTICLE VII
DURATION

The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the owners of any land subject to this Declaration, their respective legal representative, heirs, successors, and assigns for a term of thirty (30) years from the date this declaration is recorded after which time, said covenants shall automatically extend for successive periods of ten (10) years, unless an instrument is signed by the owners of the lots, has been recorded, agreeing to change said covenants and restrictions in whole or in part. Provided, however, that no such agreement to change shall be effective unless made and recorded three (3) years in advance of the effective date of such change, and unless written notice of the proposed agreement is sent to every owner at least ninety (90) days in advance of any action taken.

WITNESS, our hands on the date first above written.

James D. Clark
James D. Clark

Elaine R. Clark
Elaine R. Clark

State of New Hampshire
County of Hillsborough, ss.

Personally appeared, on this the 22nd day of November, 2002, James D. Clark and Elaine R. Clark and acknowledged the foregoing before me.

Barbara J. Pendleton
Notary Public
My Commission Expires: October 8, 2007

BARBARA J. PENDLETON, Notary Public
My Commission Expires: October 8, 2007

BK6771PG2015

570
Milford Planning

FEES:	22.42
SURCHARGE:	2 -
CASH:	0

AMENDED

DECLARATION OF COMMON DRIVEWAY, SEPTIC AND UTILITY EASEMENT
AND MAINTENANCE COVENANT FOR LOTS AT 365 FEDERAL HILL ROAD MILFORD
NEW HAMPSHIRE.

This Amended Declaration made this 13th day of February, 2008 by James D. Clark and Elaine R. Clark of 365 Federal Hill Road, Milford, N.H., (hereinafter "Clark")

WHEREAS, Clark owns certain lots on the westerly side of Federal Hill Road, Milford, N.H. denominated Lot 56-58-3 and Lot 56-58 on a certain plan entitled "Lot Line Revision & Subdivision Plan Tax Map Parcel 56-58 prepared for James D. Clark & Elaine R. Clark, Milford New Hampshire," Scale: 1" = 100', May 18, 2007, prepared by Meridian Land Services, Inc. and recorded in the Hillsborough County Registry of Deeds as Plan # 35989 and which Lots 56-58-3 and 56-58 on said plan shall be subject to this Declaration as stated herein, and hereinafter called "Lots"; and

WHEREAS, Clark wishes to provide for the common use of the existing Driveway, Well, Water Lines and Septic System between the Lots as shown on said Plan.

ARTICLE I
SUBJECT PROPERTY

The provisions, conditions, covenants, restrictions and easements as set forth herein shall run with, bind and benefit the Lots shown on said Plan, as the case may be.

The common areas to which this Declaration applies appear on the above described Plan as cross-hatched. The Common Driveway created herewith commences at Federal Hill Road and Lot 56-58 and shall service Lot 56-58-3 as shown on said plan; the Well which is presently located on Lot 56-58-3 as shown on said Plan shall service and be used in common with Lot 56-58; the Water Lines which presently run between the Lots as shown on said Plan shall be used in common to service each of the Lots; the Septic System which is located partially on Lots 56-58

and 56-58-3 and currently services each of the lots shall be used in common to service each of the Lots shown on said Plan.

ARTICLE II COMMON DRIVEWAY EASEMENT AND MAINTENANCE

In accordance with the Lot Line Revision & Subdivision Plan, the Lots shall have the benefit of the easement set forth herein above and on the Plan as such shall be maintained as a common driveway for the benefit of said lot owners, their successors, and assigns. The owner of each lot shall have the perpetual easement over that portion of Lot 56-58 to the extent shown on said Plan and defined herein. Said right include the right to pass and repass over said property for all normal uses which are customary in a residential area, including passing and re-passing on foot or by motor vehicle or otherwise as necessary for free and full access to and from Federal Hill Road.

Upon acceptance of a deed of any lot served by the common driveway, its Grantees do covenant and agree to bear a proportional share of the maintenance and improvement costs of the common driveway, including but not limited to further roadway improvement, grading, paving, installation of water and sewer lines, snow plowing, sealing and other normal improvements. Each Lot owner shall bear the proportionate share of the cost of such improvements and maintenance based on the number of lots benefiting from said common driveway. This covenant and easement is to benefit and/or burden each said lot owner of the Lots, and shall be binding on Declarant, their Heirs and assigns, and any person, natural or otherwise, who shall hereafter take title to this property. This common driveway easement shall run with the land.

It is further acknowledged that there is no obligation on the part of the Town of Milford to maintain the common driveway and Declarant, their Grantees and/or assigns, do agree not to convey the common driveway to the Town of Milford and that the common driveway shall never become a town road.

ARTICLE III COMMON WELL, WATER LINES AND SEPTIC SYSTEM EASEMENT AND MAINTENANCE

In accordance with the Lot Line Revision & Subdivision Plan, the Lots shall have the benefit of the easement area set forth herein above and on the Plan as such shall be maintained as a common Well, Water Lines and Septic System easement for the benefit of said lot owners, their successors, and assigns. The owner of each lot shall have the perpetual easement over that portion of the respective lots to the extent shown on said Plan and defined herein.

ARTICLE IV UTILITY EASEMENT

There is further reserved to Declarant, there successors and assigns the right to grant to public or private utility providers the right to lay, construct and maintain utility conduits of any

kind in nature within the common driveway area set forth on the plan and otherwise described above, to provide utility services to any of the Lots.

ARTICLE V AMENDMENTS

This Declaration may be amended from time to time with a written instrument duly executed by all the then owners which may be affected by an individual provision within this Declaration except that Article II shall not be modified without the express written of the Town of Milford or its Planning Board except that the lot owners may agree to and change the proportion of the maintenance costs attributable to a particular lot without the aforesaid consent to the Town of Milford or its Planning Board.

ARTICLE VI ENFORCEMENT

Failure by Declarant, its successors, or any owner of a lot to enforce any of the provisions of this Declaration or any amendment there to shall, in no event, be deemed a waiver of the right to do so thereafter as the same breach or as to one occurring prior or subsequent thereto.

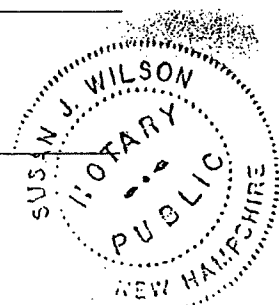
ARTICLE VII DURATION

The covenants and restrictions of the Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the owners of any land subject to the Declaration, their respective legal representative, heirs, successors, and assigns for a term of thirty (30) years from the date this Declaration is recorded after which time, said covenants shall automatically extend for successive periods of ten (10) years, unless and instrument is signed by the owners of the lots, has been recorded, agreeing to change said covenants and restrictions in whole or in part. Provided, however, that no such agreement to change shall be effective unless made and recorded three (3) years in advance of the effective date of such change, or unless written notice of the proposed agreement is sent to every owner at least ninety (90) days in advance of any action taken.

WITNESS, our hands and seal on the date first above written.

James D. Clark
James D. Clark

Elaine R. Clark
Elaine R. Clark



State of New Hampshire
County of Hillsborough, ss.

Personally appeared, on this the 12th day of February, 2008, James D. Clark and Elaine R. Clark and acknowledged the foregoing before me.

S. J. Wilson

Notary Public
My Commission Expires:

SUSAN J. WILSON
Notary Public - New Hampshire
My Commission Expires September 21, 2010

