

**TOWN OF SUNAPEE - ZONING BOARD OF ADJUSTMENT
A PUBLIC MEETING WILL BE HELD THURSDAY,
DECEMBER 4, 2025, AT 6:30 PM,
AT THE SUNAPEE TOWN MEETING ROOM ON THE FOLLOWING
CASE(S):**

NEW CASES

Case # VA 25-08 Parcel ID: 0128-0023-0000 <i>Schwarzkopf Revoc Trust Philip & Patricia Schwarzkopf 41 Garnet Street Residential</i>	Requesting a Variance from Article III, Section 3.40(j) to allow for the construction of a retaining wall exceeding 42” in height within the 10-foot side setback.
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OTHER BUSINESS:

Review Meeting Minutes

***NOTE: Any and all submissions must be provided 5 days prior to the meeting.**

***NOTE:** In the event the meeting is canceled, the agenda will be continued to the next scheduled Zoning Board meeting.



Record No: VA-25-8

Variance Application

Status: Active

Submitted On: 11/13/2025

Primary Location

41 GARNET ST
, NH 03782

Owner

SCHWARZKOPF REVOCABLE TRUST PHILIP J. &
PATRICIA A. SCHWARZKOPF-TR
PO BOX 224 SUNAPEE, NH 03782

Applicants Information:

Landowner(s) Name(s):*

Philip & Patricia Schwarzkopf

Parcel ID:*

SUN-0128-0023-0000

Project Location (Street & #):*

41 Garnet St

Mailing Address:*

PO Box 224, Sunapee NH 03782

Phone Number:*

3024380607

Zoning District*

Residential (RS)

Unsure what zone your property is in? Click [HERE](#) to search for your property card.

Is there an Authorized Agent for this project?*

No

General Requirements

Have you prepared an abutters list?*

Yes

Number of Abutters*

7

Be sure to include yourself and any professionals associated with the project (engineers, architects, etc.) in your total number of abutters

General summary of the proposed project as an introduction and overview for the public hearing.

- Where is the property located?
- Describe the property.
- Give area, frontage, side and rear lines, slopes, natural features, etc.
- What do you propose to do?
- Why does your proposal require a Variance from the Zoning Board of Adjustment?

General Description* 

Replacement of a two tier retention wall with a single retention wall that will exceed the 48" height limitation for walls within the 10" property setback. See attachment with General Description.

Specific Reason the Variance is Necessary


Please refer to the Zoning Article and Section that the variance is being requested from. [Click Here to Review the Sunapee Zoning Ordinance](#)

Zoning Ordinance ARTICLE *

3.4

Zoning Ordinance SECTION*

J

To allow the following:* 

A single 84" stone retaining wall on a portion of the south property boundary

Facts in support of granting the Variance

A variance is a permission granted to use a specific piece of property in a more flexible manner than allowed by the ordinance. The Zoning Board of Adjustment (ZBA) must determine that the variance request satisfies the following 5 criteria.

Please note that all criteria must be satisfied in order for a variance to be granted. Click here for reference material


Granting the variance would not be contrary to the public interest because:* ?

The requested variance is needed to avoid installation of a new utility pole at the end of the driveway intersecting Garnet Street. If the pole is placed at the side of Garnet Street, our view of oncoming traffic will be obstructed, requiring us to blindly back partially into the street in order to see traffic. By removing the lower tier of the current retaining wall, the necessary utility pole can be installed further off-street thereby easing the restricted driveway entrance and eliminating the street entry safety issue. Doing such, also eliminates the utility pole being an additional eyesore for public pedestrian and vehicular traffic, and avoids negatively impacting the sole lake view of our neighbor. All of these items are in the public interest.

In addition, it eliminates a safety hazard in entering and exiting the garage due to the narrow driveway area.

If the variance were granted, the spirit of the ordinance would be observed because:* ?

the ordinance is in place to prevent people from building structures on top of each other. In this case, a two-tiered retaining wall that is not considered a structure is being replaced by an alternate, single-tier retaining wall which, per code, is technically considered a structure. The single-tier wall remains a retaining wall with its top below ground level of the slope and, as such, is not visible from the neighbor's property.

Granting the variance would do substantial justice because:* 

by installing the utility pole several feet off-street, the obstructed view caused by the pole will be mitigated. The only way to install the pole further off-street is to remove the lower stone wall. In addition, the removal of the lower stone wall will allow safer and less constrained access to/from the driveway and garage. In this case, granting the variance avoids negatively impacting the general public, as well as addressing the safety issues to the public and owner. Substantial justice is done by granting this variance.


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

by removing the lower tier wall and installing the pole further off-street, the neighbor's lake view would be less obstructed, and therefore it would preserve the value of their property. It also will make the utility pole and accompanying wires less visible to Garnet Street pedestrian and vehicular traffic. If the variance is not granted, the neighbor's view will be impacted and the value of their property potentially diminished. The existence of a single retention wall vs a two-tier wall in the specific location will not impact surrounding property values.

Unnecessary Hardship

Please answer either A or B, not both.

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:** 

The application of the variance to this property is required and unique due to several combined factors. First, a significant ground slope requiring a retaining wall which exists directly along a property line. Second, obstructed views from the driveway due to the curve in the road at that location and the ground slope. Thirdly, the slope requiring a retaining wall exists in very tight proximity to the built environment (Driveway/House). We found no other properties in our area with this combination of characteristics.

ii. The proposed use is a reasonable one because: ?

it avoids negatively impacting the neighbors current view and allows for safer and less constrained navigation of the driveway, garage, and road entry/exit while still allowing for erosion control of the impacted hill.

OR

B. Explain how, if the criteria in subparagraph (a) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it. ?

Without approval of this variance, relocation of the utility pole installation site will not be possible (All other options have been examined and dismissed), resulting in safety issues when entering and exiting Garnet St from the property, safety and increased hazards when entering and exiting the property's garage, additional obstruction & eye-sore for pedestrian and vehicle traffic along Garnet St, and obstruction of views to the lake from the neighbor's property.


NOTE: For person(s) with physical disabilities, please see RSA 674:33 regarding alternative hardship criteria for a Variance.

Signature & Authorization

I understand that the public hearing will be held at the scheduled date and time unless a request is made by me for a new hearing. Any rehearing will require a new public notice and notification to abutters, the cost of which will be borne by the applicant. Further, I hereby give permission to the ZBA members and zoning officials to visit the subject property prior to the public hearing. To the best of my knowledge, the above is true and correct.

Please Sign*

Date*

 Philip J Schwarzkopf
Nov 13, 2025

11/13/2025

41 Garnet St Variance Request - Schwarzkopf

General Description:

The property for which this variance is being requested is 41 Garnet St. It is an undersized lot (.18 acres), and as such has a side setback of 10 ft. The entrance to the driveway is on Garnet Street and runs west along the south property boundary. It is narrow as it enters the garage. Because of the small lot size, this area is extremely tight for navigation of a car. There is only 11ft of clearance between the left garage door entry and the lower tier of the retention wall.

We are requesting a variance to allow replacement of a two-tier retention wall that lines the property line side of our driveway, with a single level retention wall. The variance is required as this area requiring the retention wall is within the 10ft side setback of the property, and by eliminating the lower tier, the retention wall will exceed a height of 42", which technically qualifies it as a structure, thus requiring a variance per town ordinance.

In addition, we have recently been informed that electrical service to the house cannot be connected in the same way as it existed with the previous house, due to building & electrical code. As such, the electrical hook-up will require installation of a new utility pole. Due to the area's significant space restrictions, and to avoid creating a safety issue when entering and exiting the driveway from and to Garnet St, the only available location of the new telephone pole is within the current footprint of the tiered wall.

Without approval of the variance which will allow removal of the lower wall and leave in place a single 84" wall required for earth retention, the following issues are created:

- The utility pole creates a safety issue as will be an obstruction and hazard at the driveway entrance when entering the driveway from Garnet St, and in backing out onto Garnet St from the driveway.
- The utility pole & attached wires near the road will be more visible and unsightly to both pedestrian and vehicular traffic along Garnet St.
- The utility pole & attached wires if placed near the road, present a significant, negative impact on our neighbor's sole view of Lake Sunapee.
- The lower tier wall creates a safety issue when backing out of and entering the garage as it further constrains an already limited space area.
- Absence of a retention wall in this area will create an erosion issue impacting both the neighbors and our property due to the very steep slope in this area.



590 Maple St.
Newport, NH 03773
Tel: 617.650.3400

November 22, 2025

Dear Sunapee Zoning Board,

After examining the property located at 41 Garnet St. Sunapee NH, the replacement of a two-tier retaining wall, with a single tier retaining wall equal to the height of the current two-tier wall will not diminish the property value either at 41 Garnet St., or the abutting property located at 37 Garnet St.

The positioning of a new utility pole at the end of the driveway by the roadside, rather than further up the driveway will negatively impact the property value of the abutting property located at 37 Garnet St. due to the pole obstructing their sole view of Lake Sunapee.

Sincerely,

A handwritten signature in blue ink that reads "Andy".

Andy

Andy Ivey, Realtor
Broker/Owner
Ivey Real Estate

NH & MA Brokerage
Sales and Investments

James Young
37 Garnet Street
Post Office Box 498
Sunapee, New Hampshire 03782

November 24, 2025

Town of Sunapee
Zoning Board of Adjustment
Sunapee, New Hampshire 03782

Re: Case VA-25-08
Parcel ID: 0128-0023-0000

Dear Sirs/Ms:

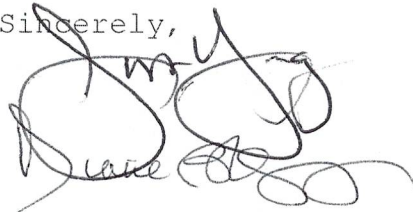
As the direct abutter to the residential property on 41 Garnet Street, owned by the Schwarzkopf Revocable Trust, please consider approving the Schwarzkopf's

"Requesting a Variance from Article III, Section 3.40(j) to allow for the construction of a retaining wall exceeding 42" in height within the 10-foot side setback."

The purpose of the Variance is to place a utility pole back from the street on their property.

It is our feeling that this will allow for a better view of the street for safer entrance/exit from both of our properties and for pedestrians. In addition, it will avoid creating a significant obstruction to the sole view of Lake Sunapee from our property.

Sincerely,

Handwritten signatures of James and Diane Young in black ink. The signature for James is on top and Diane's is below it, both overlapping.

James & Diane Young



[EXTERNAL]Schwarzkopf Variance Application

From Cynthia Maclean <cynthia.maclean@yahoo.com>

Date Wed 12/3/2025 12:31 PM

To Allyson Traeger <allyson@sunapeenh.gov>

Cc Andy Browne <abrowney@gmail.com>; Phil Schwarzkopf <pjschwarzkopf@verizon.net>; Patty Schwarzkopf <paschwarzkopf@verizon.net>

You don't often get email from cynthia.maclean@yahoo.com. [Learn why this is important](#)

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Ms. Traeger,

My name is Cynthia Maclean and I live at 44 Garnet Street with my husband, Andy Browne.

Last week we picked up a registered letter from the town notifying us of the Schwarzkopfs' application for a variance in relation to changes to their retaining wall and the placement of a utility pole across the street from us.

We have discussed the application with the Schwarzkopfs and have no objections to it whatsoever. We'd also prefer that the utility pole not be so close to the street.

I am happy to speak with you (603 843-7816) if you have any further questions.

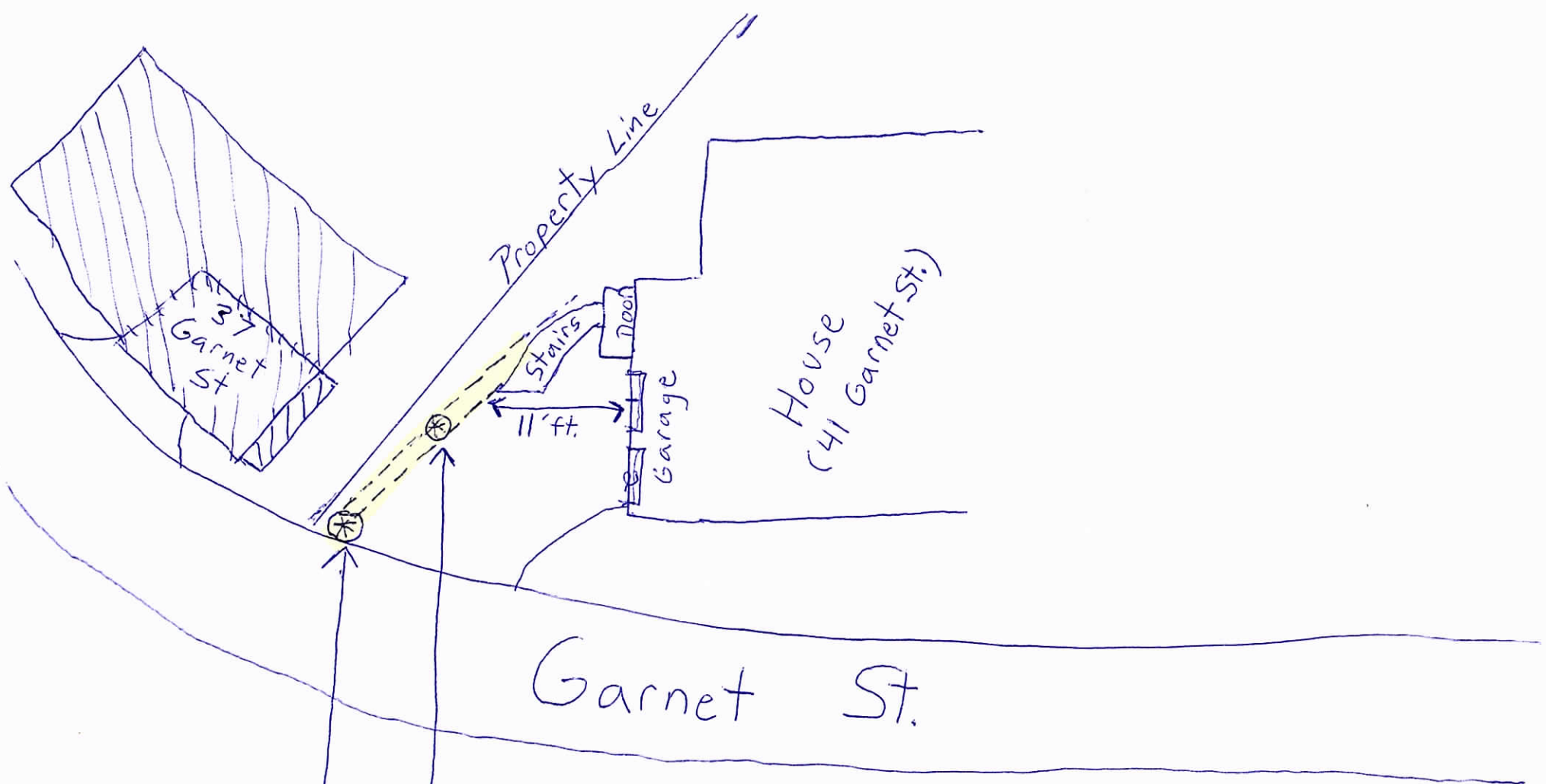
Kind regards,
Cynthia Maclean



flagro
INDUSTRIES LIMITED

DIESEL FUEL ON





Default position of new utility pole

Desired position of new utility pole

Property Line

37 Garnet St

Stairs

11' ft.

Door

Garage

House (41 Garnet St.)

Garnet St.

LEGEND

- MAJOR CONTOUR
- MINOR CONTOUR
- PROPOSED MAJOR CONTOUR
- PROPOSED MINOR CONTOUR
- PROPOSED ROOF LINE
- PROPOSED LIMIT OF DISTURBANCE
- TRAIL
- ABUTMENT
- EDGE OF LAWN
- PROPERTY LINE
- 10' SETBACK
- LAKE SETBACK
- PROPOSED EROSION CONTROL
- CONIFEROUS TREE
- DECIDUOUS TREE
- UTILITY POLE
- HYDRANT
- EXISTING BUILDING
- EXISTING CONCRETE
- EXISTING PAVEMENT
- PROPOSED BUILDING
- PROPOSED CONCRETE
- PROPOSED PAVEMENT
- PROPOSED GRAVEL
- PROPOSED DRAIN MANHOLE
- PROPOSED CATCH BASIN
- PROPOSED DRAIN PIPE
- PROPOSED PERFORATED UNDERDRAIN

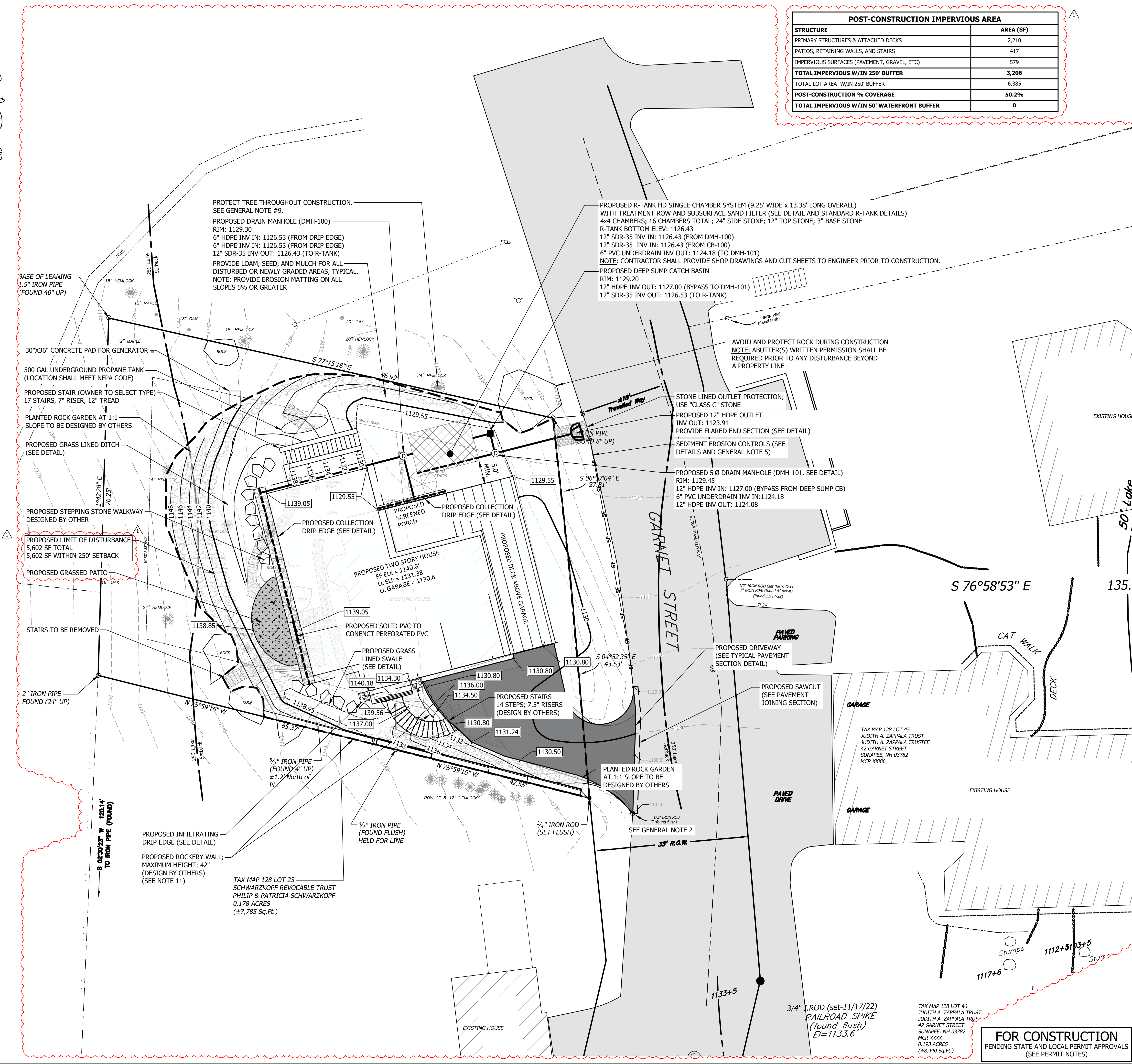
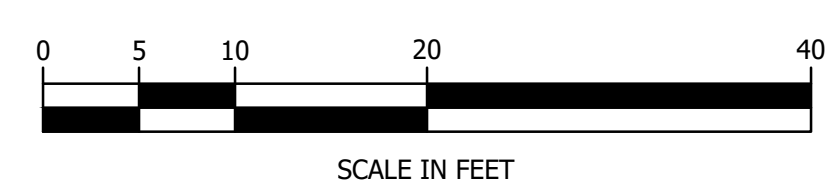
GENERAL NOTES

1. ALL WORK SHALL BE CONSTRUCTED IN ACCORDANCE WITH THESE PLANS.
2. NO EXISTING MONUMENTS, BOUNDS, OR BENCHMARKS SHALL BE DISTURBED WITHOUT FIRST MAKING PROVISIONS FOR RELOCATION.
3. ALL WORK SHALL BE PERFORMED WITHIN THE PROPERTY OF, AND EASEMENTS SECURED BY, THE OWNER.
4. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE DATA COLLECTION AND PREPARATION OF RECORD DRAWINGS.
5. THE CONTRACTOR IS SOLELY RESPONSIBLE FOR CONTROLLING EROSION IN ALL AREAS DISTURBED BY HIS ACTIONS. COSTS FOR REQUIRED EROSION CONTROL, REGARDLESS OF WHETHER OR NOT SUCH MEASURES ARE SHOWN ON THE ENGINEERING DRAWINGS, SHALL BE BORNE BY HIM.

CONTRACTOR MAY USE ONE OR MORE OF PERVIOUS BERM, SEDIMENT SILT FENCE, OR FILTREXX SILTSOXX® (SEE DETAILS). **DOUBLE EROSION CONTROLS REQUIRED WITHIN 50' OF ANY WETLANDS OR SURFACE WATERS.**
6. UTILITY LOCATIONS ARE BASED ON THE BEST AVAILABLE INFORMATION. THE CONTRACTOR IS RESPONSIBLE FOR LOCATION AND PROTECTION OF EXISTING UTILITIES AND SHALL REPAIR ANY DAMAGE AS QUICKLY AS POSSIBLE AT HIS OWN EXPENSE. ALL UTILITIES ENCOUNTERED SHALL BE LOCATED BY DEPTH AND TIES AND SHOWN BY THE CONTRACTOR ON HIS "AS BUILT" DRAWINGS. HAND EXCAVATION SHALL BE DONE WHEREVER UNDERGROUND UTILITIES ARE SHOWN OR ANTICIPATED. THE CONTRACTOR SHALL CONTACT DIG SAFE AND THE APPROPRIATE AUTHORITIES PRIOR TO ANY CONSTRUCTION IN ORDER TO VERIFY EXISTING CONDITIONS AND UTILITY LOCATIONS.
7. BASE MAP INFORMATION INCLUDING BOUNDARY AND TOPOGRAPHY ON THESE PLANS IS FROM PLANS PREPARED BY PENNYROYAL HILL LAND SURVEYING & FORESTRY, TITLED "TAX MAP 128 LOT 23 - 41 GARNET STREET PLAN OF STANDARD PROPERTY SURVEY AND SHORELAND SITE PLAN", AND DATED APRIL 16TH, 2024.
8. NO WETLANDS PRESENT ON THE SUBJECT PARCEL.
9. PRIOR TO CONSTRUCTION, CONTRACTOR SHALL CONSULT CERTIFIED ARBORIST TO VERIFY EXTENT OF ROOT STRUCTURE. CONSULT ENGINEER IMMEDIATELY WITH ANY CONFLICTS PRIOR TO CONSTRUCTION.
10. BASED ON THIS PLAN, THE HORIZONTAL DATUM IS NH STATE PLANE AND ALL ELEVATIONS ARE REFERENCED APPROXIMATELY TO THE USGS DATUM.
11. OWNER SHALL OBTAIN PERMISSION FROM THE OWNER OF THE ABUTTING LAND TO THE SOUTH PRIOR TO COMMENCING CONSTRUCTION OF THE ROCKERY WALL. TEMPORARY DISTURBANCE OFF THE SUBJECT PROPERTY WILL BE REQUIRED TO CONSTRUCT THE WALL.

SHORELAND AND PERMIT SPECIFIC NOTES

1. THE SUBJECT LOT IS LOCATED ENTIRELY BEYOND THE 150' WOODLAND BUFFER. NO TREE REMOVAL IS PROPOSED WITHIN THE 150' SETBACK.



POST-CONSTRUCTION IMPERVIOUS AREA	
STRUCTURE	AREA (SF)
PRIMARY STRUCTURES & ATTACHED DECKS	2,210
PATIOS, RETAINING WALLS, AND STAIRS	417
IMPERVIOUS SURFACES (PAVEMENT, GRAVEL, ETC)	579
TOTAL IMPERVIOUS W/IN 250' BUFFER	3,206
TOTAL LOT AREA W/IN 250' BUFFER	6,385
POST-CONSTRUCTION % COVERAGE	50.2%
TOTAL IMPERVIOUS W/IN 50' WATERFRONT BUFFER	0

NO. DATE REVISION DESCRIPTION

NO.	DATE	REVISION DESCRIPTION
1	10/20/24	ADDITIONAL PROVISIONS PER OWNER REQUEST

ENG DWG

NO.	DATE	REVISION DESCRIPTION

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PHILIP & PATRICIA SCHWARZKOPF
41 GARNET STREET PROPOSED SITE IMPROVEMENTS
SUNAPEE, SULLIVAN COUNTY, NEW HAMPSHIRE

PROPOSED SITE GRADING AND DRAINAGE PLAN

PROJECT #:
240662

DATE:
NOV 2024

ENGINEER BY:
GAD/DM

CHECKED BY:
WTD

DRAWN BY:
GAD

ARCHIVE #:
H-

SHEET C2.1

DATE OF PRINT
JANUARY 29 2025
HORIZONS ENGINEERING

FOR CONSTRUCTION
PENDING STATE AND LOCAL PERMIT APPROVALS
(SEE PERMIT NOTES)



40 feet Abutters List Report

Tri Town, NH
September 06, 2024

Subject Property:

Parcel Number: Sun-0128-0023-0000
CAMA Number: Sun-0128-0023-0000
Property Address: 41 GARNET ST

Mailing Address: SCHWARZKOPF REVOCABLE TRUST
PHILIP J. & PATRICIA A. SCHWAR
PO BOX 224
SUNAPEE, NH 03782

Abutters:

Parcel Number: Sun-0128-0021-0000
CAMA Number: Sun-0128-0021-0000
Property Address: 35 GARNET ST

Mailing Address: THE FOLEY FAMILY REVOC TRUST O
MICHAEL F & JULIE A. FOLEY TRU
PO BOX 621
SUNAPEE, NH 03782

Parcel Number: Sun-0128-0022-0000
CAMA Number: Sun-0128-0022-0000
Property Address: 37 GARNET ST

Mailing Address: YOUNG REVOC 2014 TRUST, JAMES
JAMES F & DIANE B YOUNG, TRUST
PO BOX 498
SUNAPEE, NH 03782

Parcel Number: Sun-0128-0025-0000
CAMA Number: Sun-0128-0025-0000
Property Address: GARNET ST

Mailing Address: THOMAS FAMILY REVOCABLE TRUST
JOHN R & NORMA P THOMAS, TRUST
70 EGINTON ROAD
MANKOTA, MN 56001

Parcel Number: Sun-0128-0041-0000
CAMA Number: Sun-0128-0041-0000
Property Address: GARNET ST

Mailing Address: BRIAN R. HOULE HOULE ASHLEY A.
TRUSTEE
26 ESTATE DRIVE
MANCHESTER, NH 03104

Parcel Number: Sun-0128-0042-0000
CAMA Number: Sun-0128-0042-0000
Property Address: GARNET ST

Mailing Address: SCHWARZKOPF REVOCABLE TRUST
PHILIP J. & PATRICIA A. SCHWAR
PO BOX 224
SUNAPEE, NH 03782

Parcel Number: Sun-0128-0043-0000
CAMA Number: Sun-0128-0043-0000
Property Address: 44 GARNET ST

Mailing Address: BROWNE, ANDREW & MACLEAN, CYNT
PO BOX 496
SUNAPEE, NH 03782

Parcel Number: Sun-0128-0045-0000
CAMA Number: Sun-0128-0045-0000
Property Address: 42 GARNET ST

Mailing Address: ZAPPALA TRUST, JUDITH A JUDITH A
ZAPPALA, TRUSTEE
42 GARNET ST
SUNAPEE, NH 03782

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



www.cai-tech.com

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