

ZONING BOARD OF ADJUSTMENT (ZBA)

February 2, 2026 Member Packet

Re: Selectboard Appeal – Sign Permit Denial and Property Redesignation

Purpose of Meeting

The Zoning Board of Adjustment is meeting to hear an appeal of the Selectboard’s denial of:

- A request to redesignate certain properties from Residential to Commercial and
- A sign permit application

The appeal has been filed in accordance with applicable provisions of New Hampshire law and the Town’s Zoning Ordinance.

Packet Contents

This packet has been compiled to assist the ZBA and the public in reviewing the appeal. The materials included are as follows:

- What to do for an appeal (P. 2-4)
- Meeting Agenda (P. 5)
- Administrative Summary the procedural history and actions taken to date (P. 6-7)
- Request for Property Redesignation (Residential to Commercial) (P. 8-9)
- Sign Permit Application (P. 10-12)
- Selectboard Notice of Decision (P. 13-14)
- Request for Appeal (P. 15)
- Map identifying the subject properties (P. 16-17)
- Additional correspondence (P.18+)

New Hampshire RSAs (State Laws) give the Zoning Board the authority to hear appeals under RSA [676:5](#). It’s the Zoning Board’s role to review whether a decision was made correctly and in accordance with the applicable RSAs.

As Zoning Board members, it is your duty to review all the information on record of the appeal with an unbiased view. Any decisions made must be based on evidence presented at the public hearing or in the official record.

You may not discuss any application or appeal in front of you with anyone, unless it’s during the public hearing. Doing so may lead to you being disqualified as a voting member for that application or appeal.

What to do for an Appeal

Overview of the ZBA Appeal Process

An administrative appeal asks the ZBA to review a decision made by a local official or board (such as the Selectboard, Building Inspector, or Code Enforcement Officer).

In an administrative appeal, the appellant must demonstrate that the decision was unlawful, unreasonable, or based on an error of law or fact. Specifically, the ZBA must determine whether the decision:

- Followed the correct legal procedure
 - Correctly applied the zoning ordinance and state law
 - Was reasonable and supported by the record
-

Questions for you to research and be prepared to discuss during the public hearing.

1. Does the Selectboard have the authority to change the Zoning of a property?
 - a. *Zoning Redesignation:* Review NH RSA [674:16](#). This is the State law that gives municipalities authority to create a Zoning Ordinance and adopt and amend zoning districts and maps.
 - b. *Sign:* Review Hart's Location [Zoning Ordinance](#).
 2. What standards, codes, rules, regulations, or laws were used to make the decision?
 - a. *Sign:* Section II (General Provisions) #3 of the Land Use Ordinances (AKA Zoning Ordinance) is the section that regulates signs.
 3. Were those standards applied correctly?
-

AT THE MEETING

Points to confirm first before the ZBA discusses the specific appeals

1. Was the appeal filed within 30 days of the decision?
 2. Does the appellant have standing to appeal the decision? (They must be a directly affected party, such as the applicant, an abutter, a property owner, another person whose rights are affected, or the Selectboard.)
-

Evidence and Testimony

The ZBA must base its decision only on evidence presented at the public hearing and the official record.

This meeting will review each appeal separately. First the ZBA will review the zoning redesignation denial, come to a decision and then take up the sign permit application denial.

What questions are recommended to ask?

1. Asked to Applicant:
 - a. What specific error do you believe was made in the Selectboard's decision?
 - b. Do you believe an ordinance or state law was misapplied?
 - c. Was any information overlooked or misinterpreted?

2. Asked to Selectboard representative:
 - a. What authority do you have to make the decision?
 - b. Are there any specific materials or facts overlooked?
 - c. Can you explain the reason behind the decision?
-

Members must never:

- Have private conversations about the case outside of a posted meeting or
 - Consider information received outside the hearing, unless from Town staff
-

Deliberations

Deliberations are a conversation only amongst the Board members. There is no dialogue between the Board and anyone present, except your staff personnel or legal counsel. After the public hearing is closed, the ZBA deliberates in public.

- Board members should:
 - Discuss the facts presented
 - Apply the zoning ordinance and state law
 - ALWAYS Avoid personal opinions or policy preferences

Deliberations should clearly connect the facts to the applicable legal standards.

Decision and Vote

After deliberations the Chair will call for a vote to either:

- Uphold the decision
- Reverse the decision
- Or modify the decision (The ZBA may modify a decision only where modification is authorized by law and supported by the record; the ZBA may not exercise powers reserved to the legislative body) – Very rarely used

The decision must:

- Be based on the law and evidence
- Include clear findings and reasons
- Be voted on by the Board

Example motion language: “I make the motion to (*uphold, reverse or modify*) the Selectboard’s decision to deny the zoning redesignation of Map 4 Lots 79, 82 and 85 based on the following reasons:”

The ZBA must list the reason/s as to why they have come to that conclusion.

Written Notice of Decision

- A written Notice of Decision must be issued within 5 business days per [RSA 676:3, I](#)
- The Notice must explain:

- The decision
- The reasons for the decision
- Appeal rights

The appeal period to Superior Court begins when the Notice of Decision is issued.

Zoning Board Agenda

Monday February 2, 2026

5:00PM

979 US Route 302 Hart's Location, NH

Town Office

- **Call to Order** – Chair says they call to order the Zoning Board meeting of _____, 20__ at x:xx am/pm
- **Roll Call** – Identify all attending Zoning Board Members
- **Agenda Review** – The order in which the agenda is presented may be subject to change
- **Previous Meeting Minutes**
 - o _____, 2023
- **Continued Business** – This agenda item provides an opportunity for the Board to take up any unfinished business from the previous meeting.
- **New Business** – Business to be taken up at this meeting.
 - o Nomination of Chair, Vice Chair, and Secretary
 - o Appeal of the Selectboard's denial of a request to redesignate the following properties from Residential to Commercial, owned by Diana Dwyer-Bergeron (a/k/a Hope Mountain Realty): Map 04 Lot 079, Map 04 Lot 082, and Map 04 Lot 085.
 - o Appeal of Selectboard denial of the following: Gary Bergeron and Diana Dwyer-Bergeron (AKA Hope Mountain Realty) sign permit application for property located at 756 US Rt 302
 - o ZBA 101 Training: Administrative Appeals, Variances, Special Exceptions, Equitable waivers and rehearings and appeal timelines
- **Board and Administrative Communications** – This is the time for the Board or staff to ask any questions or share information not regarding any specific application.
- **Public Participation** – Public Participation shall pertain to topics within the purview of the Zoning Board
- **Adjournment** – Chair calls for a motion to adjourn



ADMINISTRATIVE SUMMARY FOR APPEAL OF SELECTBOARD DECISION Sign & Zoning Redesignation of Map 4 Lots 79, 82 & 89

After reviewing all materials, the following are notes, a summary, comments and/or questions that the Zoning Board may take into consideration when reviewing the application.

1. Gary Bergeron emailed Selectboard member Mark Dindorf stating that beginning in 2001, the Notchland Inn used property identified as Map 04 Lot 079 for commercial purposes without zoning approval, and that such use continued for more than a half dozen years and that it should currently be classified as Commercial/Industrial and not residential.
2. Gary Bergeron further explained that the Zoning Ordinance allows for non-conforming uses in existence as of March 2003 may expand onto existing lots that directly abut the lot which the non-conforming use exists on, and therefore further requested that Map 04 Lots 082 and 085 should also reflect commercial zoning status, claiming the commercial use met that criteria.
3. Gary Bergeron submitted a sign permit application on behalf of Hope Mountain Realty Trust for Map 04 Lot 082.
4. Mark Dindorf responded in a personal (non-official) capacity, noting that the Zoning Ordinance provides that a nonconforming commercial use abandoned for more than six (6) years reverts to residential use.
5. The Selectboard denied the sign permit application.
6. The Selectboard informed Gary of the denials, the reason/s for denial and the appeal process. (See Selectboard Notice of Decision)

The Selectboard denied Gary's request, citing:

Zoning Redesignation Denial:

- The selectmen do not have the authority to amend the zoning ordinance or the zones.

Sign Permit Application Denial:

- The sign permit application does not trigger review because signs are only allowed on commercial properties or for home businesses. (Article II #3 of the zoning ordinance)

- That only abutting properties of legal pre-existing nonconforming uses are allowed to expand if in existence prior to March 2003.
 - The property 04-082 does not directly abut the Notchland Inn or any other grandfathered property and is not in common ownership with the Notchland Inn.
 - The property is not a commercial or lawful pre-existing nonconforming commercial use or a lawful extension of such commercial use.
7. The Selectboard requested Gary to submit substantial evidence of ongoing commercial hospitality enterprise use of the subject properties and if submitted the Selectboard would review its prior decision upon receipt.
 8. The Selectboard also noted that since 2009 it is believed that the primary use of the subject property has been long term residential rentals, but that it does not constitute a commercial hospitality enterprise.
 9. Gary submitted an appeal of the Selectboard's decision.

Nov 6, 2025

Hi Mark,

I'm asking for your help in resolving the cloud over our property at 756 US Rt 302. When I built it in 2001 the Notchland Inn took over the property as an extension of the "Notchland Inn". From my recent findings I found that they operated their Inn business at 756 for the first couple of years illegally, without zoning approvals.

However in 2004, at the town meeting, the town legalized all existing non-conforming uses including Notchland's use of our property at 756. For some unknown reason the town's records, zoning ordinance, and CAI Property Card/Assessment Card were not upgraded to reflect the legal change in use of Parcel Number: 04-079-000 (756 US Rt 302) from 1- RES to COM/IN.

As a co-author and penman of our 2004 and current Zoning Ordinances and being a participant of the Notchland Organization you know first hand that the records should have been upgraded in 2004, however they never were.

We have three requests that we would like you to resolve at or by the next selectmen's meeting:

1. Please correct the Card/Assessment Card and town records to change Parcel Number: 04-079-000 (756 US Rt 302) from 1- RES to COM/IND.
2. We are in Compliance with:
Amendment adopted at Town Meeting, March 9, 2004: "... prosper and grow within the framework and character as they presently exist..." is clarified to mean that non-conforming uses in existence as of March 11th, 2003 may expand onto existing lots that directly abut the lots upon which the non-conforming use exists, if the lot up on which the nonconforming use exists and the abutting lot(s) are owned in common as of March 11, 2003 and continue without interruption in common ownership.

Please be advised that time is of the essence and that we are expanding to the two lots next to Lot 04-079-000 being Lot 04-082-00 and Lot 04-085-000 that directly that directly abut and are in common ownership.

Please update the Card/Assessment Card at Parcel Number, town records, and zoning ordinances to show that Lot 04-082-00 and Lot 04-085-000 are

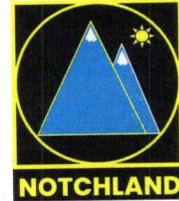
Commercial (the same as the Notchland Inn) with the COM/IND designation.

3. Please issue the sign permit as defined in the attached sign permit application, sign drawing, and site plan.

Respectfully,

Gary
Authorized Agent/Property Manager

PS, I'll be sending additional documentation regarding the above referenced matters.



November 10, 2025,

TO: Town of Harts Location, NH RE: Building Permits/Inspections/Meetings
979 US Rt 302 New Hampshire Right to Know
PO Box 540 RSA 91- A
Harts Location, NH 03812 Transparency & Accountability

Town of Harts Location
Mark
Select Board
979 US Rt 302
PO Box 540
Harts Location, NH 03812

LETTER OF TRANSMITTAL
RE Sign Application - 756 US Rt 302 Harts Location, NH 03812 Parcel # 04-082-000

Attached please find:

1. Sign application Dated 11/10/2025
2. Sign rendering
3. Plot plan Dated 11/6/2025

Respectfully,

Gary Bergeron
Property Manager
Authorized Agent

TOWN OF HART'S LOCATION,
NH BUILDING PERMIT

Complete and submit this application in duplicate. When approved, one copy of the signed permit will be returned to the owner. No building, alterations, remodeling or installation of a septic system is allowed without an approved building permit. The application is to be sent to the Board of Selectmen, PO Box 540, Hart's Location, NH 03812

1. Owners name and address: Hope Mountain Realty Trust 103A Nartoff Rd Hollis, NH
2. Contractor's name and address: Gary Bergeron 732 US Rt 302 Harts Location
3. Exact property location and description (ie; map and lot #, street number, etc.): 756 US Rt 302 Hart's Location
Parcel Number: 04-082-000
4. Lot size (in acres) 1.1
5. Previous Owner's Name: Carpenter
6. Completed value of improvements (estimated): \$500
7. Is the building to be constructed in delineated flood prone or hazard area? (Per Ordinance XV): NA
8. Septic Design approval #: Approval Date: NA
9. Description of building (include size, type of construction, purpose of building, ie: , residence, camp, garage, storage shed, remodeling, addition, new or replacement septic system; etc.)

30 sq ft Commercial solar lighted sign - two sided totals 60 square feet - 2 - 50 watt lights - please see attached drawing # 25-1106 and site plan
10. Does building comply with local and state regulations? (Zoning Ordinance, Floodplain District Conservation Ordinance, etc.) :
11. Does the location of the building or addition meet required setbacks from adjacent property lines, road frontage and bodies of water?

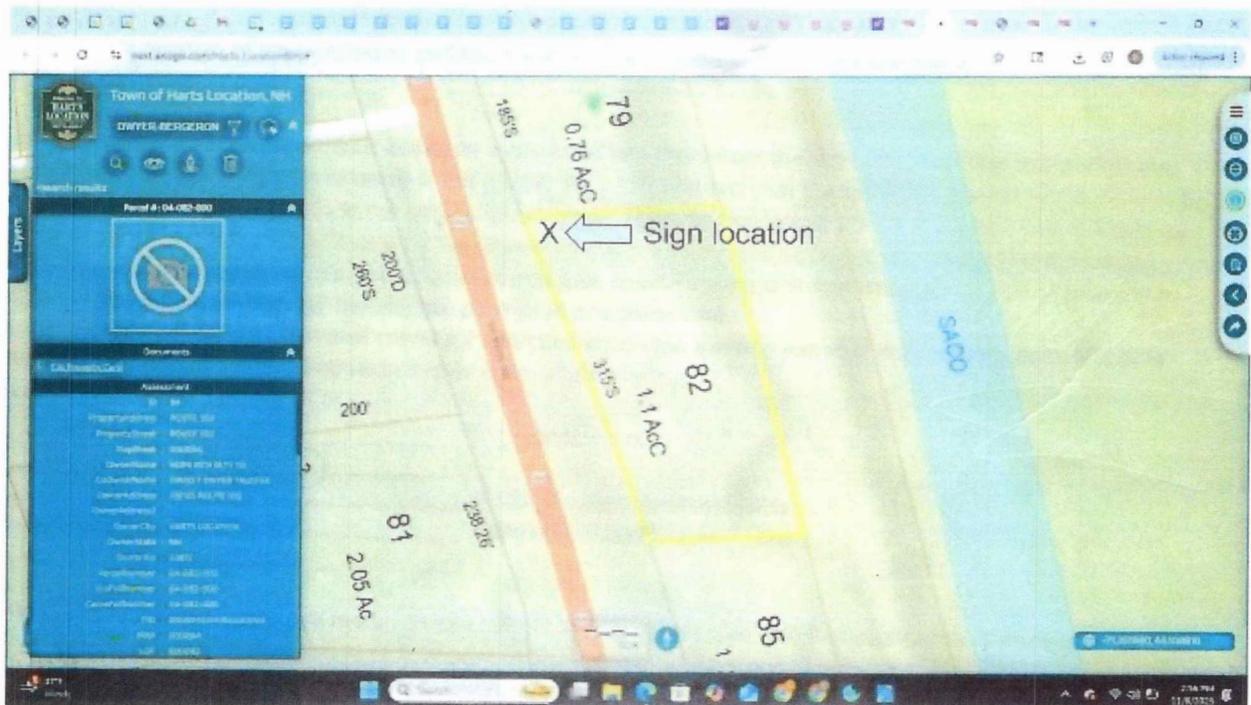
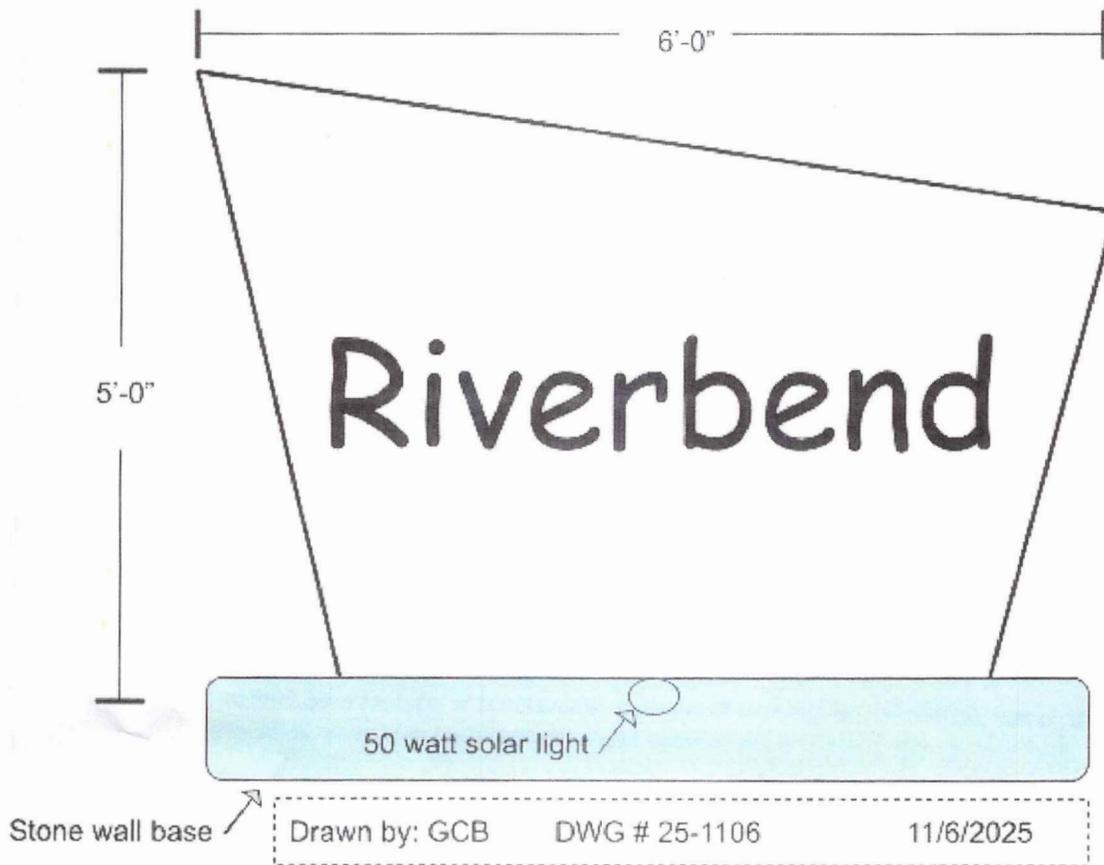
Building Permits shall be considered active for a period of two years from the date of issue. After this period, any incomplete projects will require renewal of the permit. An additional two year permit will be issued by the Selectmen provided no substantial changes in the original plans occur. Projects incomplete after four yaeears from the original date of issue will be subject toa review by Selectmen where any Municipal Ordinances or State RSAs affecting building construction enacted after the original permit date can be imposed at that time. No parcels of property in Hart's Location shall have more than (2) two permits at any given time.

The Selectmen may grant additional permits if upon inspection the existing permit is substantially complete or is otherwise canceled or voided and recorded as such. Approved by:

Selectmen
of
Hart's Location Approval Date:
Building Permit Number:



If a plan of the building has been made, please submit a copy of that plan with this application. If there is no formal plan, please enclose plot plan and sketch or print of proposed building showing setbacks. If building is a neresidence or an addition or remodel of an existing residence, you must also submit the New Hampshire Residential Energy Code Application along with this building permit application.



Town of Hart's Location

New Hampshire

Board of Selectmen
Mark Dindorf, Chair
John Gallagher
Dave Walker

Town Clerk/ Tax Collector
Katie Landry

Monday, November 24, 2025

Mr. Gary Bergeron
Hope Mountain Realty Trust
103A Nartoff Rd
Hollis, NH

RE: Request for Amendment to Land Use Ordinance:

We are in receipt of your correspondence dated November 6, 2025.

- 11/6 Request to Amend Zoning Ordinance – The selectmen do not have the authority to unilaterally amend the zoning ordinance, or the zones provided thereby.
- You have the right to submit a petitioned warrant article pursuant to RSA 675:4 for such an amendment, which would be submitted to the Planning Board and ultimately the voters.

RE: Sign Permit Application

We are in receipt of your Sign Permit Application dated November 8, 2025, presented to the Board of Selectmen for consideration at the regularly scheduled meeting on November 10, 2025.

- Sign Permit - The sign permit application does trigger a review of whether the properties are “town commercial and/or [pre-existing non-conforming].”
 - a. Signs are only allowed on commercial properties (or home businesses). Art II (3).
 - b. The only commercial / legal pre-existing nonconforming are defined by Article I (2), and limited to certain listed properties, and expansions of uses on those listed properties to “existing lots that directly abut the lots upon which the non-conforming use exists, if the lot up on which the non-conforming use exists and the abutting lot(s) are owned in common as of March 11, 2003 and continue without interruption in common ownership.” Art. I (2).
 - c. 756 US Route 302 (PID 04-082-000) does not directly abut the Notchland Inn (or any other grandfathered property); nor is it in common ownership with the Notchland Inn.
 - d. The Property is not a Commercial or Lawful Pre-Existing Non-conforming commercial use, or a lawful extension of such commercial use.
 - e. The sign permit, based upon the application, and advice of town counsel, must be denied.
- You have the right to appeal to the ZBA within 30 days.

Respectfully Submitted this day, November 24, 2025.

Mark Dindorf, Chair, Board of Selectmen

John Gallagher, Selectman

David Walker, Selectman

Town of Hart's Location

979 US Route 302, PO Box 540

Hart's Location, NH 03812-0540

Town Office: 603 374-6397 (Mondays 2:00-4:30pm)

Website: www.hartslocation.com

Email: smallesttown@gmail.com

Town Clerk email: hartslocationtc@gmail.com

Diana L. Dwyer-Bergeron
Hope Mountain Realty Trust
732 US Rt 302
Hart's Location, NH 03812

December 15, 2025

NOTICE Hand Delivered 7:20 PM

Town of Harts Location
Att: Board of Selectman
P O Box 540
979 US Rt 302
Harts Location, NH 03812

Dear Selectman,

Please be advised that we are appealing both of the attached requests that were denied by the board of selectmen to the ZBA.

Please advise us of the next steps.

Respectfully yours,

Gary C. Beregeron Property Manager/Authorized Agent



Map 04 Lots 79, 82 & 85

Town of Harts Location, NH

1 inch = 136 Feet



www.cai-tech.com

January 27, 2026



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Map 04 Lots 79, 82 & 85

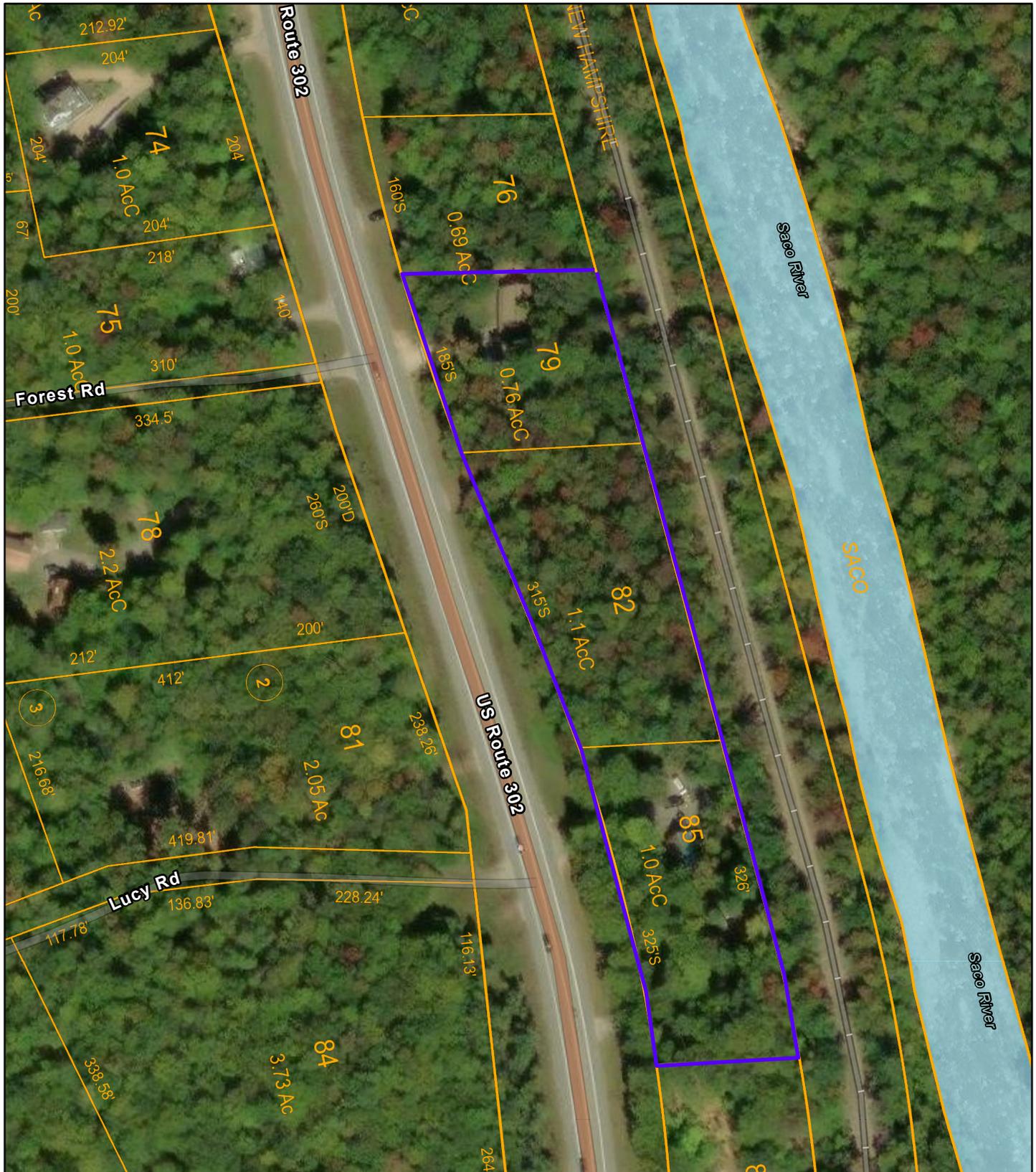
Town of Harts Location, NH

1 inch = 136 Feet



www.cai-tech.com

January 27, 2026



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Town of Harts Location

Dec 15,
2025,
4:20 PM

to me

Dear Gary,

This a courtesy response to your DEMAND REQUEST to the Board of Selectmen dated December 14, 2025. As you are aware, the Board of Selectmen meet twice monthly on the 2nd and 4th Monday of every month at 4:30pm.

Please note that the Board of Selectmen are not authorized to discuss town business or make any decisions related to town business outside of our regularly scheduled meetings.

Regarding the timeline of the 30day appeal window to the ZBA. You have 30 days from your receipt of our correspondence to appeal our decision to the ZBA. Once received by the town, the ZBA will be notified and a public hearing will be scheduled to address your appeal. Please note that the ZBA only meets on an as needed basis, and that public notice is required to conduct a ZBA hearing. As long as your request for an appeal is received within the 30day window, a public hearing will be scheduled in a timely manner that fulfills public notice requirements. I recall placing the letters in your mailbox on the evening of December 2nd, 2025 after the Planning Board Monthly Meeting. I recall that you indicated receipt of the letters on December 4th, 2025. **You may consider the window for an appeal to the ZBA to extend from December 5th, 2025 to January 5th, 2026.**

In response to your request that we reconsider our denial of your sign permit application, please provide substantial evidence of an ongoing commercial hospitality enterprise at your properties

from 2009 until present, including but not limited to, copies of Meals and Rooms Tax Licenses, copies of timely filed monthly Meals & Rooms Tax returns, copies of Food Service licenses and/or Liquor licenses, evidence of Registration of the trade name "Riverbend" from the Secretary of State's office in Concord, NH, evidence of Fire Safety Inspections by the State Fire Marshal's Office, evidence of commercial insurance, evidence of commercial activities on the lot which you requested the sign be placed .

It has been our casual observation that the primary use of your properties since 2009 has been long term residential rentals, which is an allowed residential use but does not constitute a commercial hospitality enterprise.

Sincerely ,

Mark Dindorf

Chair, Board of Selectmen

PS: In regards to the address on the envelope, it was addressed to the owner's name and address as submitted to the Board of Selectmen with your Sign Permit application. It was hand delivered to your mailbox in Hart's Location as a courtesy to avoid a forwarding delay had we responded to your permit application at the address that you had provided. The fact that it was delivered without a stamp harkens back to the thrifty practices of our former Town Clerk, Marion Varney, who was unwilling to unnecessarily spend taxpayer funds when a letter could be hand delivered without a postage stamp. **Because this is of concern for you, all future correspondence will be sent by US Mail.**

Board of Selectmen

Town of Hart's Location, NH

603 374-6397 (town office)

Town Office Hours: Mondays 2:00pm to 4:30pm

Selectmen meet the 2nd and 4th Monday of each month at 4:30pm