



# TOWN OF NOTTINGHAM

139 Stage Road, P.O. Box 114, Nottingham, NH 03290

[www.nottingham-nh.gov](http://www.nottingham-nh.gov)

Planning & Zoning [plan.zone@nottingham-nh.gov](mailto:plan.zone@nottingham-nh.gov)

Tel (603) 734-4881 Fax (603) 679-1013

## APPLICATION FOR A VARIANCE

To: Zoning Board of Adjustment  
Town of Nottingham

### FOR OFFICE USE ONLY

Case No. \_\_\_\_\_  
Date Filed \_\_\_\_\_  
Meeting Date \_\_\_\_\_  
Fee Amount \_\_\_\_\_  
Date Paid \_\_\_\_\_  
Outcome \_\_\_\_\_

Name of Applicant Kung Food, LLC

Mailing Address PO Box 72, Chester, NH 03036

Home Phone \_\_\_\_\_ Work Phone 781-858-0081 Cell \_\_\_\_\_

Name of Owner(s) Same  
(if same as applicant, write "same")

Owner's Address Same  
(if same as applicant, write "same")

### PROPERTY INFORMATION

Location of property 2 Merry Hill Road Tax Map 4 Lot 2-1

Lot Dimensions: Front 287.47' (Route 4)  
319.32' (Merry Hill) Rear No rear lot lines Side 319.49' Side 261.64'

Lot Area: Acres 1.99 Square Feet 87,094

Present Use of Property Vacant with 2-story barn, 3-story house, and shed on site

Proposed Use of Property Wedding venue, restoration of existing buildings, associated parking

**NOTE: This application is not acceptable unless all statements following have been completed. Additional information may be supplied on a separate sheet if needed.**

### VARIANCE REQUEST

A variance is requested from Article II Section (E)(2)(a)(1) of the zoning ordinance to permit:

an encroachment of a proposed building addition into the 100' building setback

SUPPORTING INFORMATION

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

SEE ATTACHED

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

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3. Granting the variance would do substantial justice because:

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4. If the variance is granted, the values of the surrounding properties would not be diminished because:

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5. Unnecessary Hardship

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:

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-AND-

ii. The proposed use is a reasonable one because:

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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.

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I hereby certify that I am the owner in fee or the authorized agent of the owner in fee of the property upon which this variance is sought and that all information provided by me is true under penalty of law.

D. L. J.  
Signature of Owner or Authorized Agent

8/26/22  
Date

Please Print Name DOUG MALGUIRE  
THE DUBAY GROUP, INC

Town of Nottingham  
P.O. Box 114  
139 Stage Road  
Nottingham NH 03290



Office 603-734-4881  
Fax 603-679-1013  
[plan.zone@nottingham-nh.gov](mailto:plan.zone@nottingham-nh.gov)  
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## OWNER'S AUTHORIZATION FOR REPRESENTATION

I, the undersigned owner of the property at 2 Merry Hill Road,  
hereby verify that I have authorized Doug MacGuire (The Dubay Group, Inc.) to  
represent me/us and apply for the required approval(s) from the Planning Board in the Town of  
Nottingham, New Hampshire for the following:

- |  |   |
|--|---|
| <input type="checkbox"/> Subdivision/Lot Line Adjustment | <input type="checkbox"/> Site Plan Review |
| <input type="checkbox"/> Backlot Subdivision             | <input type="checkbox"/> Design Review    |
| <input type="checkbox"/> Other <u>Variance</u>           |   |

FOR: Encroachment of a building addition into the building setback

NAME OF OWNER (Typed or printed) Kung Food, LLC

Address of Owner PO Box 72, Chester, NH 03036

Signature of Owner *Paul Spuca*

Date 8/26/22

NAME OF OWNER (Typed or printed) \_\_\_\_\_

Address of Owner \_\_\_\_\_

Signature of Owner \_\_\_\_\_

Date \_\_\_\_\_

NAME OF OWNER (Typed or printed) \_\_\_\_\_

Address of Owner \_\_\_\_\_

Signature of Owner \_\_\_\_\_

Date \_\_\_\_\_

NAME OF OWNER (Typed or printed) \_\_\_\_\_

Address of Owner \_\_\_\_\_

Signature of Owner \_\_\_\_\_

Date \_\_\_\_\_

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## AUTHORIZATION TO ENTER UPON SUBJECT PROPERTY

The property owner(s), by the filing of this application, hereby give permission for the members of the Nottingham Planning Board and such agents or employees of the Town as the Nottingham Planning Board may authorize, to enter upon the property which is the subject of this application at any reasonable time for the purpose of such examinations, surveys, tests and/or inspections as may be appropriate to enable this application to be processed.

I/We hereby waive and release any claim or right I/we may now or hereafter possess against any of the above individuals as a result of any examinations, surveys, tests and/or inspections conducted on my/our property in connection with this application. This authorization expires in one year from date of signature

Property Owner(s) Paul Gama 8/26/22 \_\_\_\_\_  
Signature Date Signature Date

Property Owner(s) \_\_\_\_\_  
Signature Date Signature Date

Property Owner(s) \_\_\_\_\_  
Signature Date Signature Date

Property Owner(s) \_\_\_\_\_  
Signature Date Signature Date

The Nottingham Zoning Board strongly recommends that, before making any appeal, you become familiar with the zoning ordinance, and also with the New Hampshire Statutes TITLE LXIV, RSA Chapters 672- 677, covering planning and zoning.

### **New Hampshire Law**

New Hampshire law no longer distinguishes between a "use" or "area" variance. New Hampshire law requires the existence of unnecessary hardship for the granting of any variance, whether that is for a use not allowed in a particular zone or a deviation from a dimensional requirement.

### **APPLICATION PROCEDURE FOR ZONING BOARD OF ADJUSTMENT HEARING**

Clarification of the Zoning Ordinance and assistance in completing the application process can be obtained from the Secretary of the Zoning Board. Legal assistance should be obtained from the Applicant's personal attorney.

Correctness of information submitted is the responsibility of the Applicant.

The following must be filed with the application:

- ✓ Application fee, public notice fee, and abutter notification fee.
- ✓ An abutters list and three (3) sets of abutter mailing labels. Abutter mailing labels must include the names and legal addresses of applicant, property owner, all property owners abutting the subject parcel, including those directly across the street or stream, and anyone whose professional seal appears on the plan. Tax Map No. and Lot No. must also appear on the list for the abutting properties. **Important:** Applicant shall certify that the abutters are as indicated in the Town of Nottingham's Selectmen's Office not more than 5 days prior to day of filing the application with the Zoning Board. (SEE FORM A).
- ✓ Six (6) sets of 11"X17" plans drawn to scale which show lot location, lot size, setbacks, locations and dimensions of all structures and open spaces on the lot in question and on the adjacent lots, and ownership of adjoining lots of land. Plans do not have to be professionally drawn.
- ✓ A written description of work proposed and any dimensions pertinent to construction.
- ✓ A signed Authorization To Enter Upon Said Property form. (SEE FORM B)
- ✓ If the applicant is not the owner, a notarized Owner's Authorization for Representation form must be submitted. (SEE FORM C).

No application shall be accepted for processing until **all** of the required information is received.

### **HEARING NOTIFICATION & PROCESS**

Your hearing will be held within 30 days after submission of a complete application. You will be notified by certified mail as to time, place, and date of the public hearing. At the time of the hearing, you must present your case to the Board or must authorize a representative to appear for you. (FORM C).

### **RULES OF PROCEDURE FOR CONDUCT OF MEETINGS**

Each applicant is entitled to a hearing by a five-member Board. If, for any reason, five members are not available, the applicant(s) may elect to postpone the hearing and decision until the next meeting of the Board at which five members are present. For the benefit of those in attendance at public hearings, the Chairman will briefly explain the procedure before the hearings begin and introduce the members of the Board. The public hearing will begin with the applicant(s) and/or his/her representative presenting the petition. Then those wishing to speak in favor of the petition may do so, followed by those wishing to speak in opposition to the petition. After this, the applicant(s) and those in favor may speak in rebuttal, followed by the rebuttal of those in opposition. The debate may be closed when the Chairman deems it appropriate. All comments must be addressed to the Chair. Anyone rising to address the Chair should identify him/herself, giving his/her name and address. No one will be allowed to speak twice until all who wish to speak have been heard. Reasons will be given for all decisions of the Board and references made to the appropriate sections of the Zoning Ordinance. In the event the Board wishes to postpone making a decision, the applicant(s) will be so advised. All decisions will be announced by the Chair at the time they are made, and formal written notification will be mailed to the applicant(s) within 5 business days after the decision is rendered. In the event no one is available to present a petition to the Board at the public hearing, the petition will be automatically dismissed on the grounds that no public hearing has been held. A petition may be withdrawn by the applicant(s) by notifying the Clerk of the Board of this intention. All public hearings and Board deliberations are transcribed.

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## ABUTTER(S) LIST

**\*\*PLEASE PRINT THREE (3) ADDRESS LABELS PER ABUTTER- INCLUDING THE APPLICANT, OWNER AND PROFESSIONAL(S)\*\***

SEE ATTACHED

**1. APPLICANT INFORMATION:**

Printed Name: \_\_\_\_\_ Contact Telephone: \_\_\_\_\_  
Address: \_\_\_\_\_

**2. OWNER INFORMATION:**

Printed Name: \_\_\_\_\_  
Address: \_\_\_\_\_

**3. PROFESSIONAL(S) INFORMATION:**

Printed Name: \_\_\_\_\_  
Address: \_\_\_\_\_

Abutter(s) Information				
<b>4.</b>	Map:	Lot:	Name:	Address:
<b>5.</b>	Map:	Lot:	Name:	Address:
<b>6.</b>	Map:	Lot:	Name:	Address:
<b>7.</b>	Map:	Lot:	Name:	Address:
<b>8.</b>	Map:	Lot:	Name:	Address:
<b>9.</b>	Map:	Lot:	Name:	Address:
<b>10.</b>	Map:	Lot:	Name:	Address:
<b>11.</b>	Map:	Lot:	Name:	Address:
<b>12.</b>	Map:	Lot:	Name:	Address:
<b>13.</b>	Map:	Lot:	Name:	Address:

I, Kung Food, LLC, the undersigned, certify that to the best of my knowledge, the above is an accurate and complete abutter(s) list and that the information was obtained from the Nottingham Assessing Office no more than five (5) days prior to the date of this application..

\_\_\_\_\_  
Applicant's Signature *Paul Z...*

\_\_\_\_\_  
Date *8/26/22*

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## ZONING BOARD OF ADJUSTMENTS FEE SCHEDULE

### Fee's collected at time of application:

	TOTAL CHARGE	DATE PAID
APPLICATION FEE \$100.00	\$100 _____	_____
ABUTTER NOTIFICATION <u>10</u> X \$10.00/PER ABUTTER	\$100 _____	_____
PUBLIC NOTICE FEE \$75.00	\$75 _____	_____
TOTAL	\$275 _____	_____



(OWNER/APPLICANT) KUNG FOOD LLC  
4-2-1 PO BOX 72  
CHESTER, NH 03036

(CIVIL ENGINEER) DOUG MACGUIRE, PE  
THE DUBAY GROUP, INC.  
136 HARVEY RD BLDG B101  
LONDONDERRY, NH 03053

(LANDSCAPE ARCHITECT) RANDY KNOWLES, LLA  
THE DUBAY GROUP, INC.  
136 HARVEY RD BLDG B101  
LONDONDERRY, NH 03053

(SURVEYOR) JOEL CONNOLLY, LLS  
THE DUBAY GROUP, INC.  
136 HARVEY RD BLDG B101  
LONDONDERRY, NH 03053

4-2-0 CAF REALTY  
PO BOX 874  
DURHAM, NH 03824

4-15-1 BENJAMIN AND ALLISON JEAN  
112 OLD TURNPIKE ROAD  
NOTTINGHAM, NH 03290

4-16-1-1 MATTHEW P AND NICOLETTE SUSKEVICH  
33 REVOLUTIONARY LANE  
NOTTINGHAM, NH 03290

4-4-7 BOSEN & MAGDALENE E LOCKE IRREV TRUST  
MOLLY FERRARA TRUSTEE  
1 MERRY HILL ROAD  
NOTTINGHAM, NH 03290

4-4-0 MADELINE STANLEY  
3 MERRY HILL ROAD  
NOTTINGHAM, NH 03290

4-3-0 CATHERINE M HOWARD  
4 MERRY HILL ROAD  
NOTTINGHAM, NH 03290



**The Dubai Group, Inc.**

136 Harvey Road Bldg B101

Londonderry, NH 03053

603-458-6462 thedubaygroup.com

## MEMORANDUM

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To: Nottingham Zoning Board

Date: September 1, 2022

From: The Dubai Group, Inc  
Doug MacGuire, PE

Re: Variance Criteria  
The Barn at Merry Hill

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The applicant is respectfully requesting the Zoning Board of Adjustment consider a variance from **Article II Section (E)(2)(a)(1)** to permit an expansion of a nonconforming use.

*1. The proposed use would not diminish surrounding property values because:*

The proposed expansion is to an existing historic barn which is proposed to be fully renovated inside and out. The barn is to be used as a venue which is a permitted use within the zoning district. The enhancing of a permitted use will have no impact to surrounding property values.

*2. Granting the variance would not be contrary to the public interest for the following reasons:*

The requested expansion is directed towards the conforming portion of the lot and allows for the updating of a historic barn for productive commercial use, which is in the public's interest.

*3. Literal enforcement of the provisions of the Zoning Ordinance would result in an unnecessary hardship to the owner because:*

*a. Owing to special conditions of the property that distinguish it from other properties in the area:*

*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 intent of the Ordinance is to provide a structure setback within the commercial zone. The proposal is expanding an existing building on the most conforming side of the structure and is required to bring the kitchen portion of the proposed venue space up to current codes. This expansion would have no noticeable impact on the property or its surroundings.

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

The existing building is being fully renovated and improved and the minor proposed expansion is only slightly out of the required building setbacks.



4. *Granting this variance would do substantial justice because:*

The proposed owners need the additional building area to accommodate a modern kitchen area within a renovated historic building and the relief requested would allow for the project to move forward as approved by the Nottingham Planning Board.

5. *Granting this variance is consistent with the spirit of the Zoning Ordinance because:*

The spirit of the Ordinance is maintained because the minor requested building expansion is on the most conforming side of the existing historic barn and will have no noticeable impact on the surrounding properties.

HOLD TO LIGHT TO VIEW TRUE WATERMARK IN PAPER HEAT SENSITIVE RED LOCK DISAPPEARS WHEN HEATED

2405



**The Dubai Group, Inc.**

136 Harvey Rd. Bldg. B101  
Londonberry, Nh 03053  
(603) 247-8766



**Enterprise  
Bank**  
Enterprise Bank & Trust Company  
LOWELL, MASSACHUSETTS  
53-274/113

PAY TO THE  
ORDER OF

TOWN OF NOTTINGHAM

\$ 275.00

TWO HUNDRED AND SEVENTY FIVE AND 00/100

DOLLARS

MEMO VARIABLE APP #539



AUTHORIZED SIGNATURE

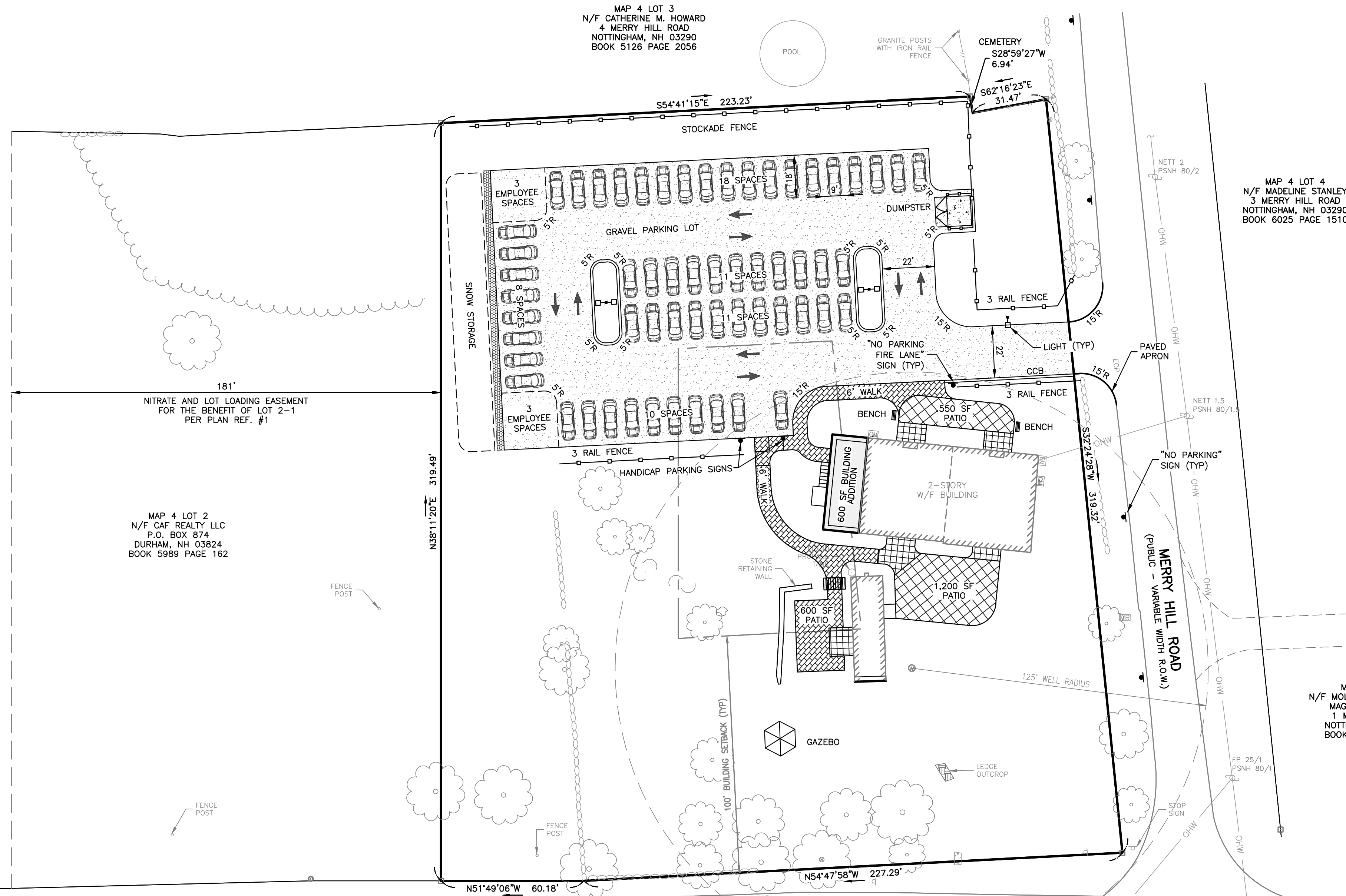
⑈002405⑈ ⑆011302742⑆ 934 150⑈

N:\PROJECTS\539-Merry Hill Rd., Nottingham\DWG\CURRENT\539-SITE.dwg

**GENERAL NOTES:**

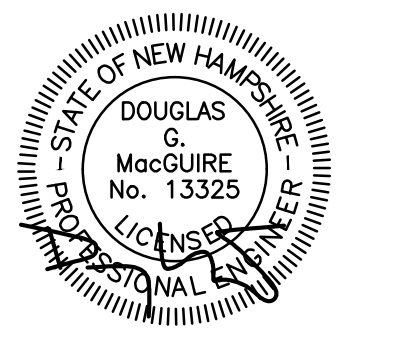
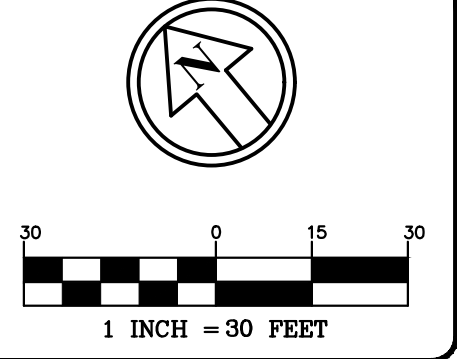
OWNER OF RECORD: MAP 4 LOT 2-1  
87,094 SF (1.99 AC)  
KUNG FOOD, LLC  
PO BOX 72  
CHESTER, NH 03036

- THE SUBJECT PARCEL IS ZONED COMMERCIAL/INDUSTRIAL
- THE PROPOSED DEVELOPMENT WILL BE SERVED BY ON-SITE WATER AND ON-SITE SEPTIC.
- ALL WORK TO BE DONE IN CONFORMANCE WITH THE TOWN OF NOTTINGHAM REGULATIONS. ALL PARKING, STRUCTURES, AND DRAINAGE TO MEET TOWN OF NOTTINGHAM SPECIFICATIONS.
- ZONING REQUIREMENTS:  
MINIMUM LOT FRONTAGE: 200FT  
MINIMUM FRONT YARD: 100FT  
MINIMUM SIDE YARD: 100FT  
MINIMUM REAR YARD: 100FT
- THE TOTAL AREA OF THE PARCEL TO BE DISTURBED BY SITE IMPROVEMENT ACTIVITIES IS LESS THAN 100 KSF, NOT NECESSITATING AN NHDES ALTERATION OF TERRAIN PERMIT.
- SNOW AND ICE CONTROL SHALL BE PERFORMED BY A "GREEN SNO-PRO" CERTIFIED CONTRACTOR FOLLOWING BEST MANAGEMENT PRACTICES FOR THE APPLICATION OF DE-ICING MATERIALS. IN THE EVENT ACCUMULATIONS OF WINTER SNOW VOLUMES EXCEED ON-SITE STORAGE CAPACITIES, EXCESS VOLUMES OF SNOW SHALL BE REMOVED FROM THE SITE AND DISPOSED OF AT A LEGAL DISPOSAL SITE. SEE SNOW STORAGE AREAS ON THIS PLAN.
- THIS PLAN SET CONTAINS A TOTAL OF 11 SHEETS. THE FULL SET OF PROJECT PLANS IS ON FILE AT THE NOTTINGHAM PLANNING DEPT.
- SEE ARCHITECTURAL PLANS FOR DETAILS AND OTHER FEATURES AT THE BUILDINGS. CONTRACTOR TO PERFORM THIS WORK AS DIRECTED BY THE OWNER.
- THE LOCATION OF ANY UTILITY INFORMATION SHOWN ON THIS PLAN IS APPROXIMATE. THE DUBAY GROUP, INC. MAKES NO CLAIM TO THE ACCURACY OR COMPLETENESS OF UTILITIES SHOWN. PRIOR TO ANY EXCAVATION ON SITE, THE CONTRACTOR SHALL CONTACT NEW HAMPSHIRE DIG-SAFE TO CONFIRM UTILITY LOCATIONS.
- ALL WORK PERFORMED SHALL BE IN ACCORDANCE WITH THE TOWN OF NOTTINGHAM CONSTRUCTION STANDARDS AND DETAILS, LATEST EDITION.
- THE CONTRACTOR IS RESPONSIBLE FOR THE MEANS AND METHODS OF CONSTRUCTION AND FOR CONDITIONS AT THE SITE. THESE PLANS DO NOT EXTEND TO OR INCLUDE SYSTEMS PERTAINING TO THE SAFETY OF THE CONSTRUCTION CONTRACTOR OR THEIR EMPLOYEES, AGENTS OR REPRESENTATIVES IN THE PERFORMANCE OF THE WORK. THE SEAL OF THE SURVEYOR OR ENGINEER HEREON DOES NOT EXTEND TO ANY SUCH SAFETY SYSTEMS THAT MAY NOW OR HEREAFTER BE INCORPORATED INTO THESE PLANS. THE CONSTRUCTION CONTRACTOR SHALL PREPARE OR OBTAIN THE APPROPRIATE SAFETY SYSTEMS WHICH MAY BE REQUIRED BY THE U.S. OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA) AND/OR LOCAL REGULATIONS.
- A MINIMUM DRIVE AISLE WIDTH OF 22 FEET IS TO BE MAINTAINED THROUGHOUT THE PROJECT.
- CONTRACTOR SHALL MAINTAIN AN EFFECTIVE MEANS OF DUST CONTROL DURING THE CONSTRUCTION PERIOD USING WATER TRUCKS AND SWEEPERS AS DEEMED NECESSARY BY THE TOWN INSPECTOR.
- PARKING REQUIREMENTS:  
1 SPACE/3 SEATS @ 150 SEATS = 50 SPACES  
1 SPACES/ 2 EMPLOYEES @ 10 EMPLOYEES = 5 SPACES  
REQUIRED = 55 SPACES  
PROVIDED = 58 SPACES + 6 EMPLOYEE ONLY = 64 SPACES
- ANY MISSING BOUNDARY MONUMENTATION SHALL BE SET AND CERTIFIED BY A LICENSED SURVEYOR.
- IF SOIL CONTAINING ANY LIVING OR VIABLE PORTION OF PLANTS ON THE NEW HAMPSHIRE PROHIBITED INVASIVE SPECIES LIST (AGR TABLE 3800) THE DEVELOPER WILL CONTACT THE NH COOPERATIVE EXTENSION SERVICE REGARDING RECOMMENDATIONS ON THE REMOVAL AND DISPOSAL OF THE INVASIVE SPECIES.
- PRIOR TO CONSTRUCTION, CONTACT DIG-SAFE CENTER, TOLL FREE AT 811. NEW HAMPSHIRE STATE LAW REQUIRES NOTIFICATION AT LEAST 3 BUSINESS DAYS BEFORE DIGGING OPERATIONS START.
- PERMITS:  
NHDES SEPTIC APPROVAL: \_\_\_\_\_
- ACCESS BOXES ("KNOX") WITH NECESSARY FACILITY KEYS SHALL BE INSTALLED IN LOCATIONS APPROVED BY AHJ.



**The Dubay Group, Inc.**  
136 Harvey Road Bldg B101  
Londonderry, NH 03053  
603-458-6462

Engineers  
Planners  
Surveyors  
TheDubayGroup.com



REVISIONS:			
REV.	DATE	COMMENT	BY:
1	7/6/22	REVISED PER TOWN COMMENTS	DCM

DRAWN BY: SJK  
CHECKED BY: DGM  
DATE: MAY 16, 2022  
SCALE: 1"=30'  
FILE: 539-SITE  
DEED REF: BK 6364  
PAGE 280

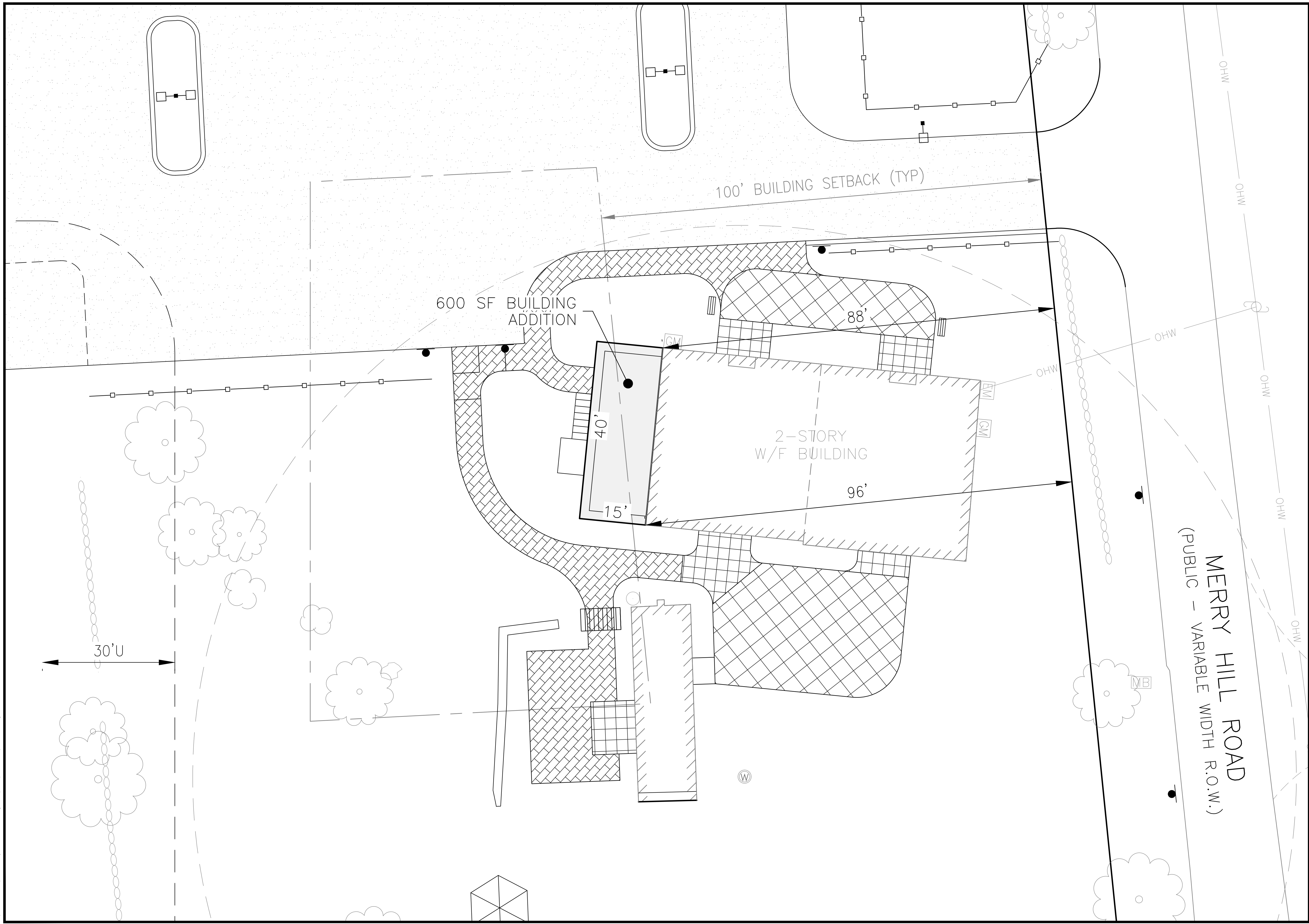
PROJECT:  
**THE BARN AT MERRY HILL**  
2 MERRY HILL ROAD  
NOTTINGHAM, NH 03290

FOR:  
**KUNG FOOD, LLC**  
PO BOX 72  
CHESTER, NH 03036

SHEET TITLE:  
**SITE PLAN**



N:\PROJECTS\539-Merry Hill Rd., Nottingham\DWG\CURRENT\539-GU.dwg



**The Dubai Group, Inc.**  
136 Harvey Road Bldg B101  
Londonderry, NH 03053  
603-458-6462

Engineers  
Planners  
Surveyors

TheDubayGroup.com

1 INCH = 10 FEET

REVISIONS:

REV.	DATE:	COMMENT:	BY:

DRAWN BY: SJK  
CHECKED BY: DGM  
DATE: MAY 16, 2022  
SCALE: 1"=10'  
FILE: 539-GU  
DEED REF: BK 6364  
PAGE 280

PROJECT:

**THE BARN AT MERRY HILL**  
2 MERRY HILL ROAD  
NOTTINGHAM, NH 03290

FOR

**KUNG FOOD, LLC**  
PO BOX 72  
CHESTER, NH 03036

SHEET TITLE:

**ZBA EXHIBIT**

PROJECT #539 SHEET 1 of 1