

APPLICATION FOR AREA VARIANCE

BOARD OF ADJUSTMENT
PO Box 268, Jackson, N.H. 03846

Revised 01/08

An Area Variance (also called a dimensional variance) is one which involves physical aspects of a property such as building height or size, setback, frontage or lot size. If you have questions about an area variance or this application, additional information can be found in the application instructions or by contacting the Chairman, Jackson Board of Adjustment.

Do not write in space below:

Case No. _____ Date Filed _____
ZBA Signature _____ Public Hearing _____
Decision _____

Applicant Signature Brian Byrne Date 9/28/09

TAX LOT NUMBER: 000V01 - LOT 009

Name of applicant Brian Byrne - William E Fetterolf

Address Box 322, Jackson, NH. 57, Green Hill Rd.

Owner same
(if same as applicant write, same)

Location of property Green Hill Rd. # 57
(street, number, sub-division)

Acres .170 or Sq. Ft. _____

A variance is requested from section 2 of the zoning ordinance to permit:
The raising of the northwell and creating a single roofline on the north end.

In order for a variance to be granted all of the following conditions must apply:

1. The value of surrounding property will not be diminished because:
The current structure is delapidated and moldy and quite eyesore. It was built of a miss-match of materials. The rebuild will match the style of the remaining structure and tie in nicely with the neighborhood.

2. The variance will not be contrary to the public interest because:
the public would see a clean and uniform structure with a common roofline. The new structure would be safer for the public because it would meet egress standards (R311). The new structure will be built using modern insulating technique that will meet (R316 and N1102.2.2) as well as meeting minimum ceiling height (R305) and minimum room size (R304)

3. Special conditions exist such that literal enforcement of the ordinance results in unnecessary hardship. To establish unnecessary hardship for an area variance, you must prove that:

a. An area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property because:

To meet IRC codes - R311, R316, N1102.2.2 and R304, R305 we must raise the north wall and straighten out the roofline.

b. The benefits sought cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance because:

The small size of the lot as well as the small size of the structure limits the location of the (2) bedrooms to be located in the (12'x21') rebuild.

4. Substantial justice is done because:

The proposed rebuild will meet the state requirements. The new structure will be more aesthetically sound from the inside and outside.

5. The variance is consistent with the spirit of the ordinance because:

The variance will benefit the general welfare of the town because the rebuilt structure will be safer, healthier and energy efficient. It will also have a clean and uniform roadside appearance.

The following additional information must be completed regarding the property in question:

Is any Use or Structure currently Non-Conforming? YES NO
If yes, explain in detail:

The current structure is in the 50' roadside setback.
The current structure is in the 50' body of water setback.

Does the property in question including all existing or proposed building, signs, driveways, and septic systems meet Jackson Zoning Ordinance requirements and applicable state regulations? YES NO
If no, explain in detail:

The current structure is in the 50' roadside setback. Both bedrooms do not meet state code for egress, or minimum ceiling height. The failing septic system has been re-designed and passed the state and town requirement. Work on the new septic is planned for on 10/8/09.

ADDITIONAL INFORMATION: Summarize below any information from preliminary discussions with any state agency personnel in regard to the case. In addition, attach copies of any correspondence from state agencies, or Jackson officials and boards pertaining to the property.

*I have had discussions with our selectman and Andy from B.T.S.
They have expressed their support for this project.*

Attach all pertinent document and correspondence.

NOTE: This application is not acceptable unless all required statements have been made. Use additional attachments or separate sheet to provide answers to questions not already covered if the space provided is inadequate.

IMPORTANT NOTICE : Board of Adjustment By-Laws state that information from the applicant and/or his representatives must be provided to the Board no less than 7 calendar days prior to the date of the public hearing.

Selectmen minutes of 9/17/09

GF _____

DM _____

BD _____

is looking for \$40,000 to go to Kennett for production; if all eight towns involved in the school participate that fee goes down to \$5,000 for each town. Selectman Mason noted that folks in town have indicated over and over that they would like to have Channel 3 coverage. Selectman Davis will go to the meeting and see what the costs are; then we can bring it to the voters in March. Filming in Jackson shouldn't be a big issue but of greater importance, we want to see what our kids are doing in Conway. There is a meeting of the Television Board in November. Selectman Mason made a motion to get Channel 3 back. Selectman Davis won't second that; she would support investigating this only; she wants the townspeople to know what this is going to cost them. This needs to be put on a warrant as an article. Mike would like to get some agreement on this. Selectman Mason thanked Mike and Dick for bringing this to the Board; he supports this and hopes to see a discussion on this. We need to focus on the franchise fee. Mike would have to get information on the fee from Time/Warner. Jerry Dougherty, Jr. would like to see this; it's good for the kids. Sarah Clemons thinks it would be good to appoint Martha Benesh to the Committee. Dick is our representative. Michael P. Clemons noted that other towns that participate in Channel 3 have their meetings recorded; would we do that? It was explained Jackson could hire Valley Vision to do the recording. Madison made the decision to go out on their own; they were paying \$17,000 to Valley Vision and it would be \$21,000 this year. Fryeburg films its own meetings and then Valley Vision puts it on Channel 3 for them.

7. Building Permits: Jack Dever, Jackson Building Inspector Jack Dever introduced himself. Jack is trying to set up a schedule of working two five hour days. One of them will be Tuesday which is the same day as the Fire Inspector will be working and then again on Thursdays. Jackson should become a member of the Code Council. **Selectman Mason, seconded by Selectman Davis, made a motion that Jackson joins the International Code Organization. The motion passed unanimously.**
- A. Hall, David & Dorval, Lisa (Map V1, Lot 23) – Certificate of occupancy Approved as recommended for approval.
- B. Byrne, Brian (Fetterolf, William – V1, Map Lot 9) – Replace sheathing & rafters Brian Byrne was asked not to proceed to demolish until get reading from ZBA as the replacement would be considered as a new building. Brian has talked with Andy Chalmers about this situation. The recommendation is that the Board deny the permit and Brian would then go to the ZBA. There is more volume planned than the current structure that he wants to tear down. Brian explained he was going to stabilize the roof, and now we want to reframe it; the old roof goes into the section he wants to take down so the volume of non-conformity would be increased height-wise. To meet the codes it has to be changed or it can't be used as a living

space. The first phase is reroofing the original area, which is approved but the reframing is denied; Brian's next step is to go to the ZBA. Andy Chalmers is supportive of this request.

- C. Siebert, Laurence & Marjorie (Map V9 – Lot 9) – Display Fence This permit is not recommended. There are many problems with this application but the fence is over 6 feet tall and needs an engineered foundation. Jack noted that if it's over 6 feet high it can't be a fence. Larry's next step is to go to the ZBA however he'll still need to put in a foundation. The permit is denied.
- D. Town of Jackson (Map V1, Lot 42) – Replace ball field dugout This application was approved as recommended. This will be paid for by money from the Lila Pond Fund.
- E. Farish, Stephen & Heidmann, Jeanette (Map V5, Lot 35) Solar Panels This permit is held in abeyance until the Selectmen get more information about it.

8. Elderly Exemption applications

- A. Map R9, Lot 3 Approved
- B. Map R18, Lot 58 Approved
- C. Map V8, Lot 17 Denied
- D. Map R18, Lot 11 Denied
- E. Map V8, Lot 35-C Denied
- F. Map R12, Lot 68 Denied

Selectman Mason noted there has been some question as to whether the levels of income should be reviewed; it's been a long time since they've been set.

9. Veteran's Credit Application

- A. Map V8, Lot 48 Approved

10. Porter Office Machines: Maintenance Agreement **Selectman Mason, seconded by Selectman Davis, made a motion to approve the maintenance agreement for the photocopy machine. The motion passed unanimously.**

11. Town Office Exterior Door Replacement There were two bids received for replacement of the back door; the bid from Granite State Glass was in excess of \$5,000 and a bid from William Duggan Builders was \$3,900. We did seek bids from a number of contractors but we only received two. **Selectman Mason, seconded by Selectman Davis, made a motion to accept the bid from William Duggan Builders for replacing the back door at the Town**



TOWN OF JACKSON

OFFICE OF THE SELECTMEN

September 22, 2009

Winterlong Design
Mr. Brian Byrne
PO Box 322
Jackson, NH 03846

Dear Brian:

As you are aware, during the Selectman's Board meeting on September 17, 2009, your building permit request for phase II was denied on the increase in volume in a building setback. This building permit was requested on behalf of William E. Fetterolf for his property located on Map V-1 Lot 9. In order to proceed with your plans, you will need to obtain an area variance from Jackson's Zoning Board. The present chairman is Frank Benesh (tel: 383-8229).

Since your building permit was denied, enclosed is your check #953 for \$75.00 which is the value portion of your building permit fee that is refundable.

Thank you for your cooperation.

Sincerely,

Linda M. Dresch
Town of Jackson

Cc: William E. Fetterolf
4 Dockside Court
Ocean Pines, MD 21811

Town of Jackson
Jackson, N.H. 03846

9/11/09

COPY

To whom it may concern:

Please be advised that I
grant permission to Brian and
Kathy Burnes to occupy, repair,
reconstruct and/or make any
needed improvements to my
property located at 57 Green
Hill Road, Jackson N.H.

Map# 000001 Lot# 000009

prior to the sale/settlement
of said property.

Correspondence or comments
may be directed to:

William E. Fetteroff
4 DOCKSIDE COURT
Ocean Pines, MD. 21811
(Hm) 410-641-7989
(cell) 302-841-4450

William E. Fetteroff.

From the workbench of:

Date:

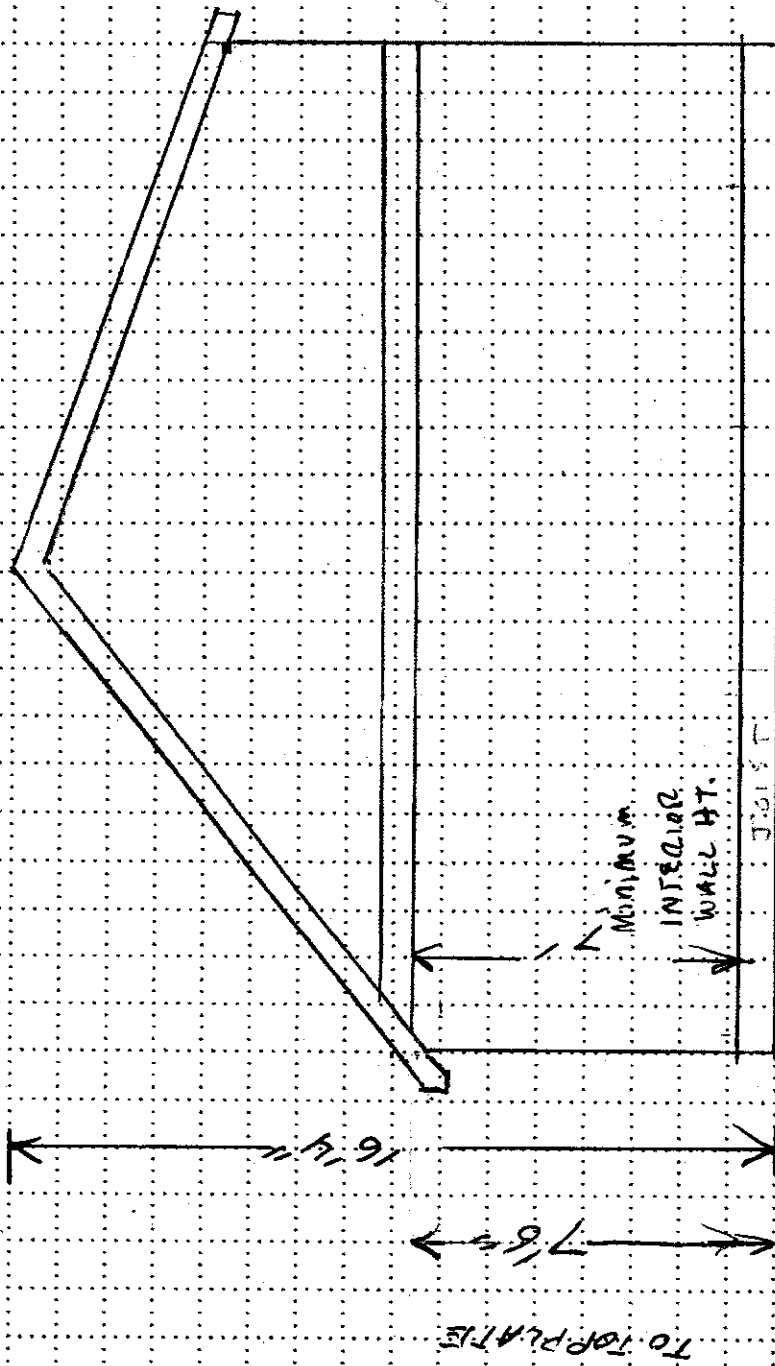
Brian Byrne 9/8/09

We purchased the cabin on 57 Green Hill rd. from William Fetterolf. As part of our agreement I was to re-roof the main structure. On 9/4/09 I had (1) of my worker strip the roof hoping to cover the existing sheathing with Grace water & ice shield. As it turns out the sheathing was rotten and some rafters need to be replaced. With this current dry weather, I am going to push through and get the roof back together by the weekend.

I have also submitted a demolition application to have the 12' x 21' ft structure (2 bedroom) demolished and rebuilt on the existing ~~structure~~ footprint. I have filled out a application for that (phase #2) but still have some details to finalize.

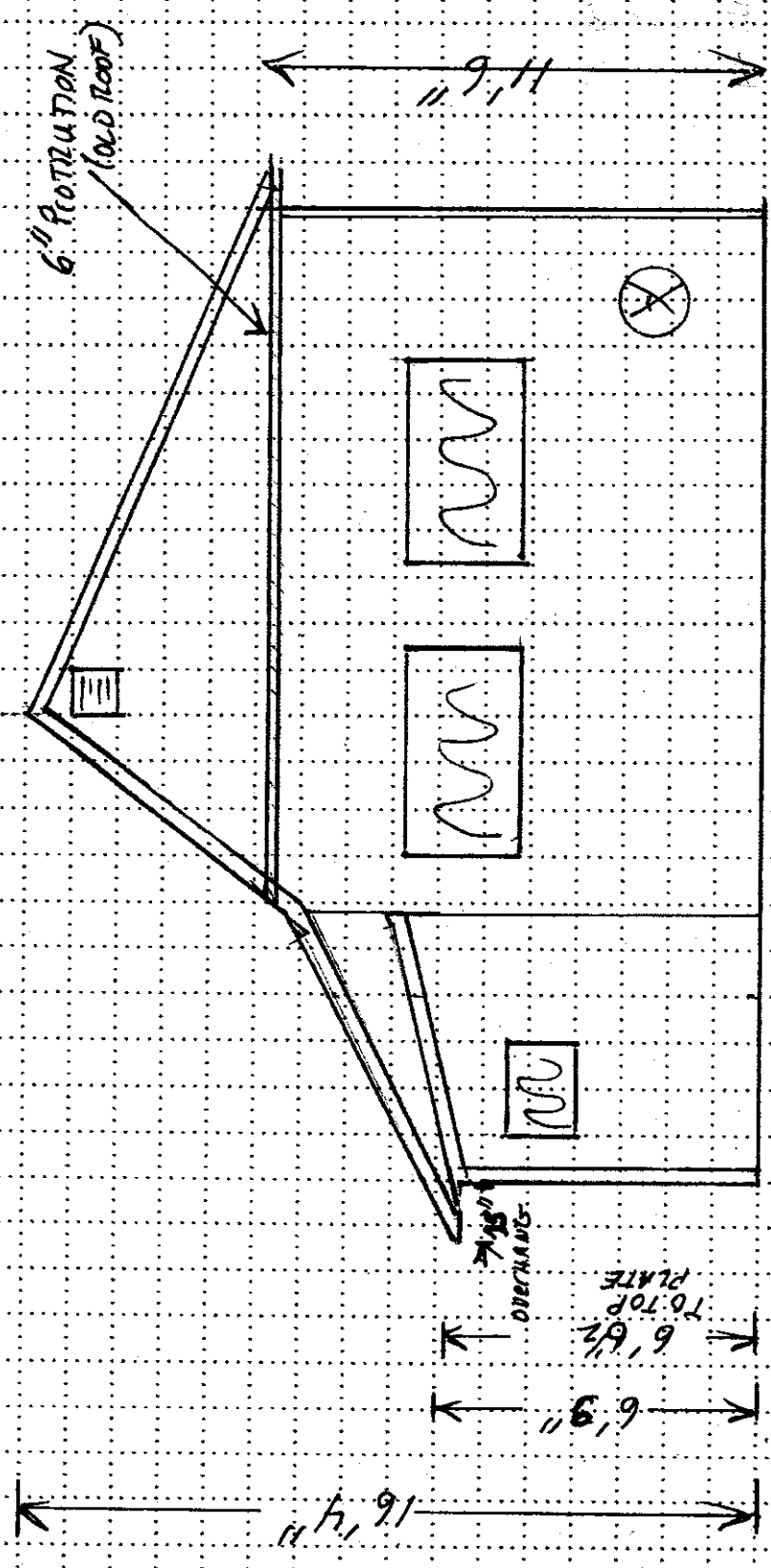
We had a new septic designed, and pass the town and state. We are waiting on a change on the deed to continue with the septic installation.

Thank you -
Brian Byrne



WEST VIEW OF NEW STRUCTURE

From the workbench of:
Date:

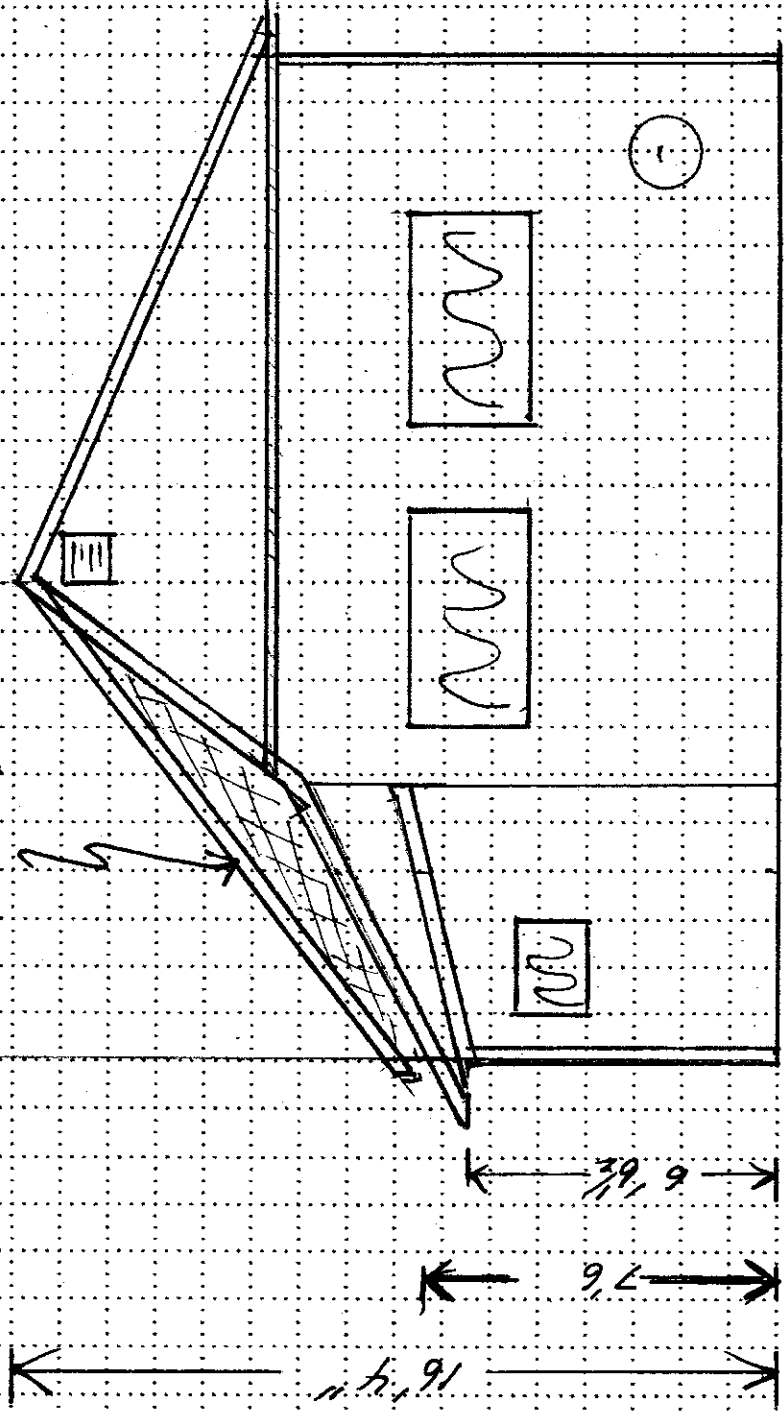


21' WEST
 OLD VIEW OF EXISTING STRUCTURE
 BYRNE 1/4"=1'

From the workbench of:
 Date:

CROSS-HATCHED AREA

RED INDICATES THE AREA THAT IS INCREASED IN VOLUME



TO OLD ROOF TOP PLATE

TO NEW ROOF TOP PLATE

WEST VIEW OF EXISTING STRUCTURE

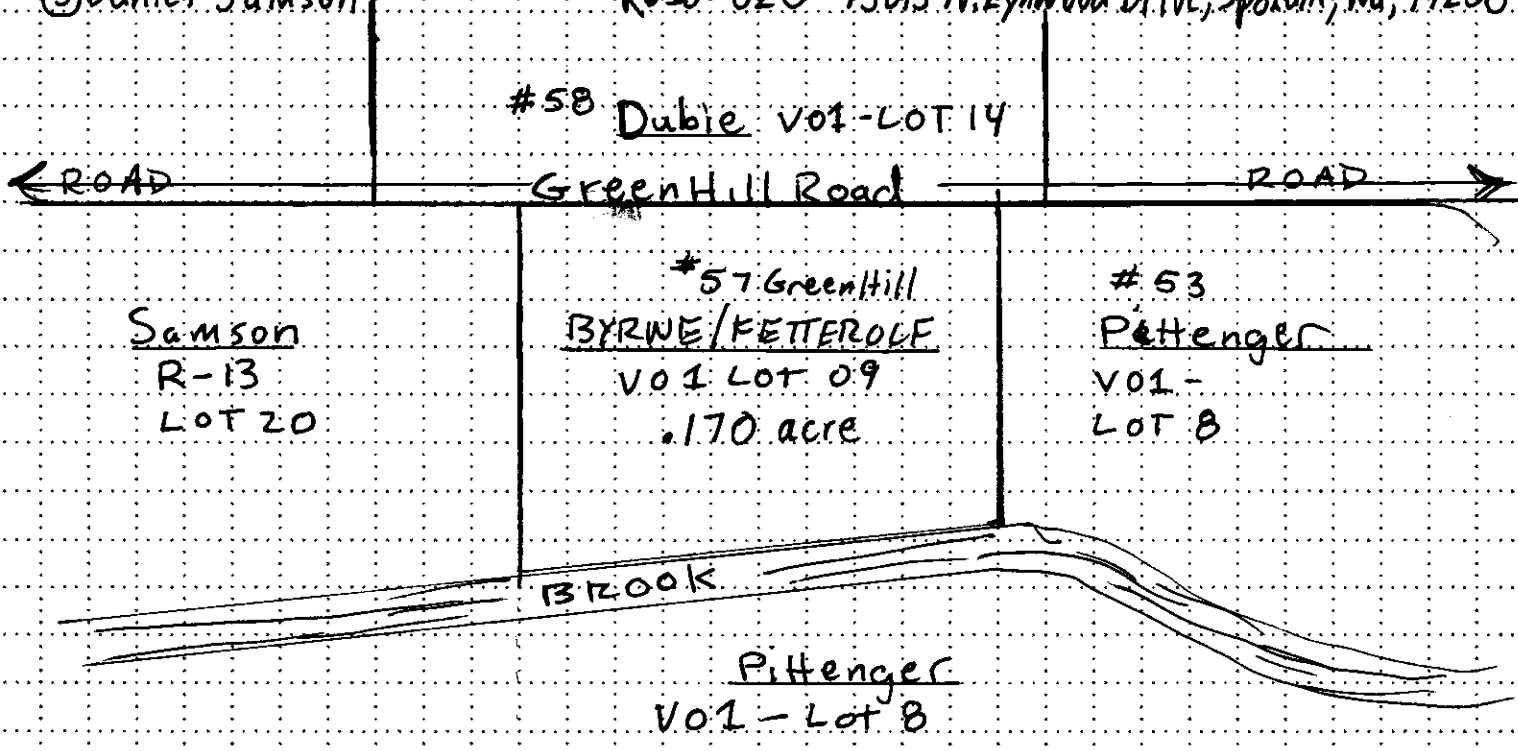
BYRNE 1/4" = 1'

From the workbench of: Date:

From the workbench of:
Date:

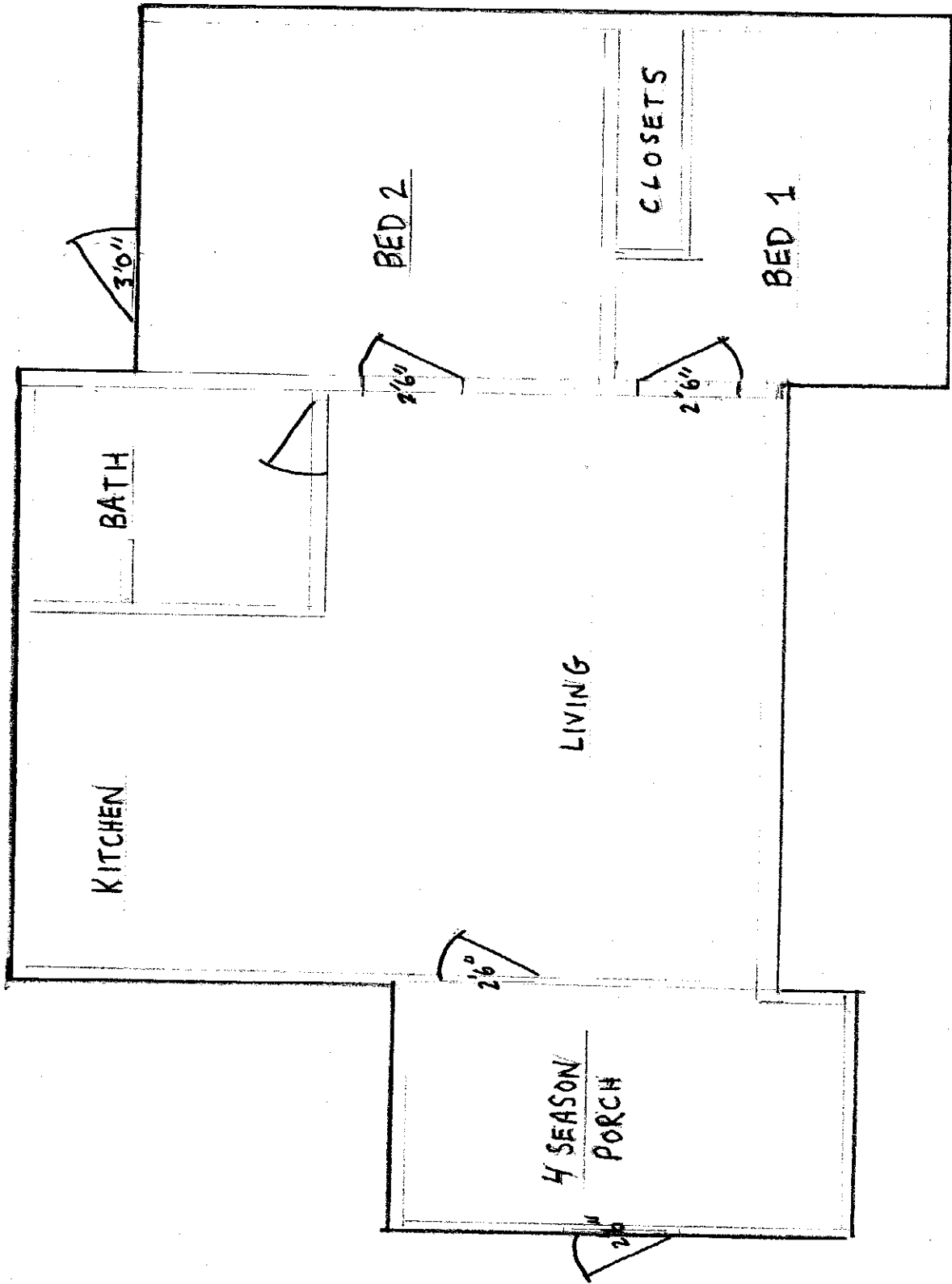
List of abutters

- ① Edward and Pauline Dubie V01-014 P.O. BOX 111
- ② Fredrick and Nancy Pittenger V01-015 152 LINCOLN STREET, Melrose, Ma, 02176
- ③ Daniel Samson R-13-020 15015 N. Lynnwood Drive, Spokane, Wa, 99208



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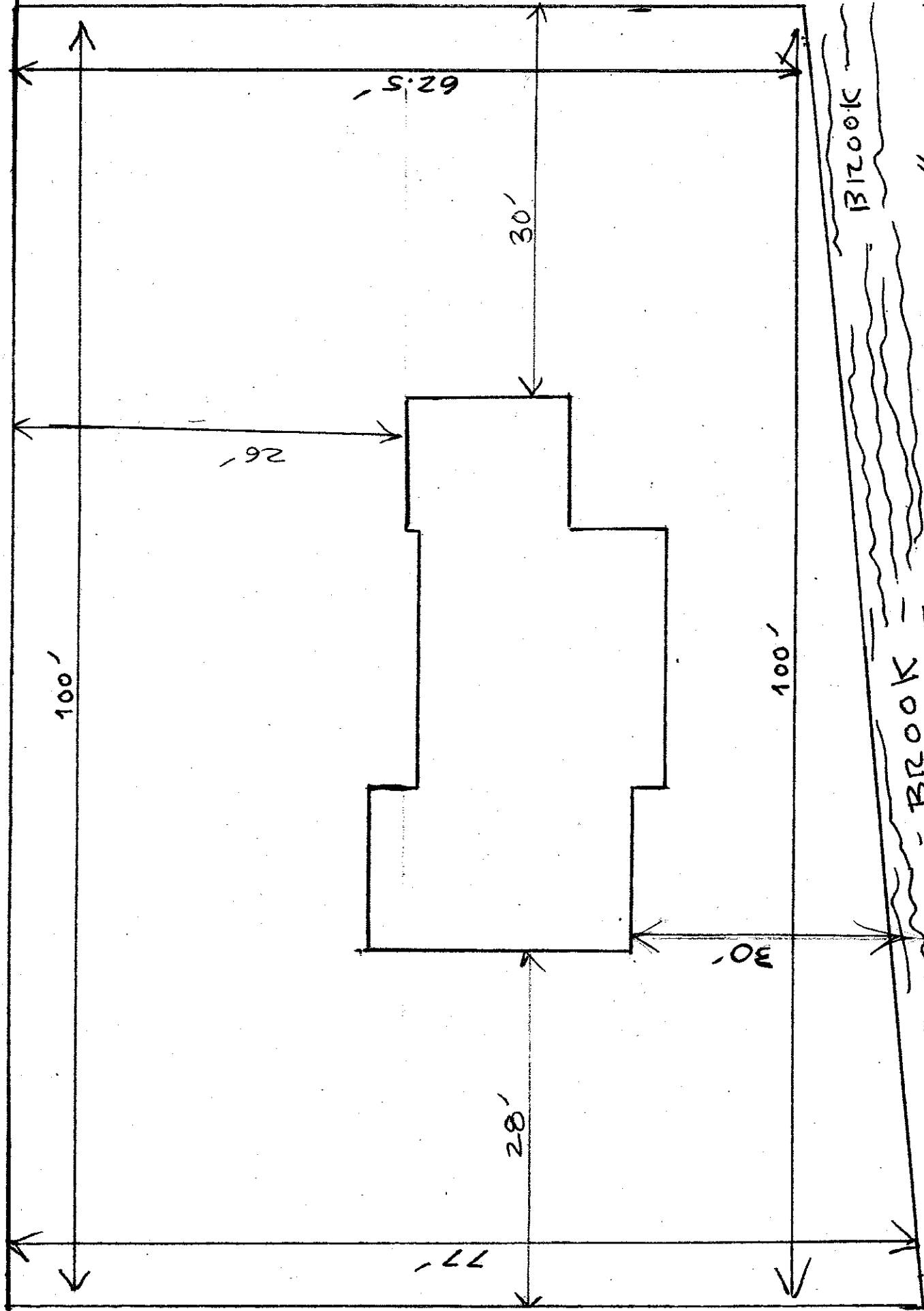


BYLANE 57 GREENHILL ROAD
1/4" = 1'

ROADSIDE
↓

#50 WPE

GREEN HILL ROAD

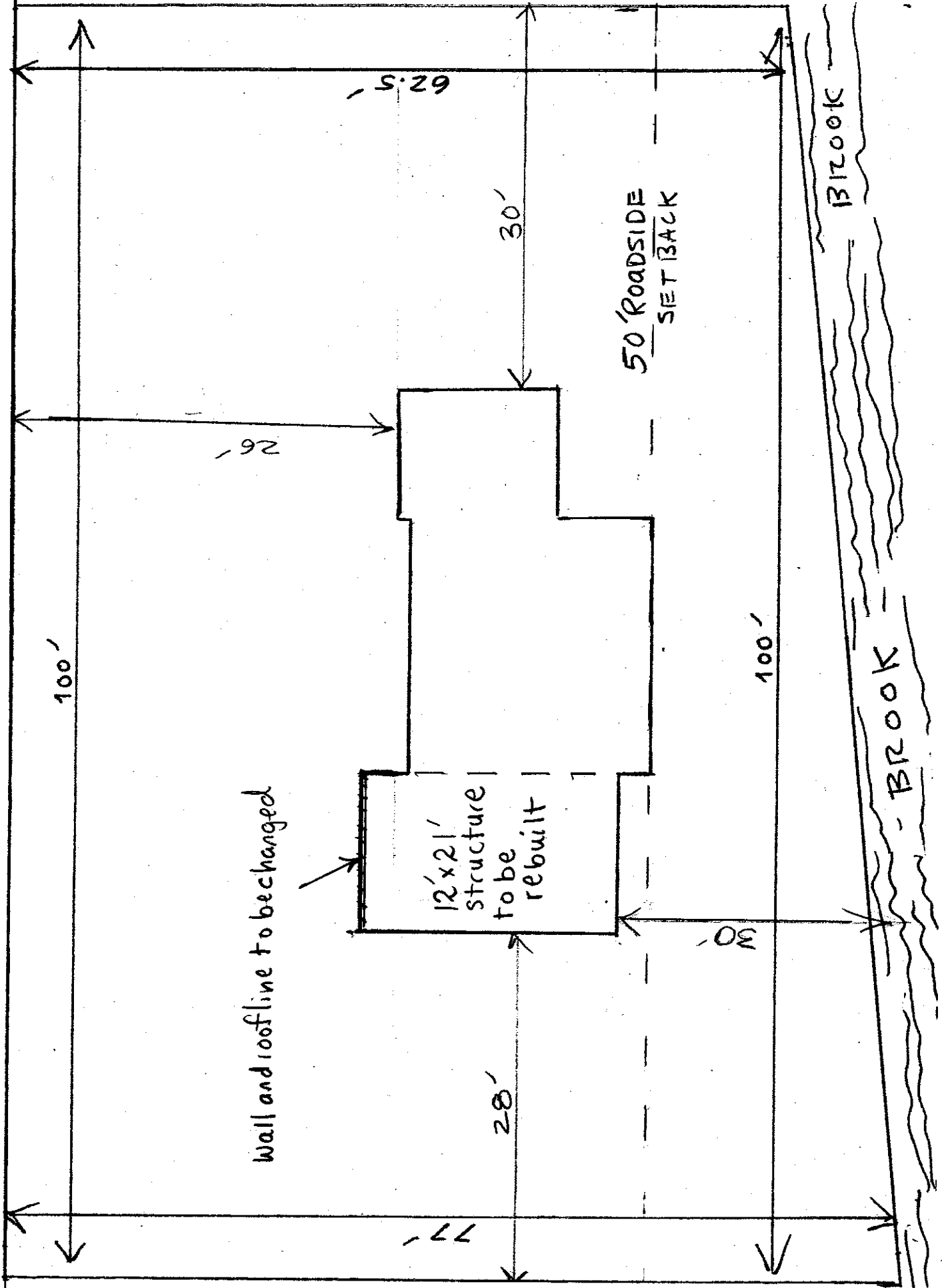


BROOK

57 Green Hill 1" = 10' BYRNIE.

#50 WINE

GREEN HILL ROAD



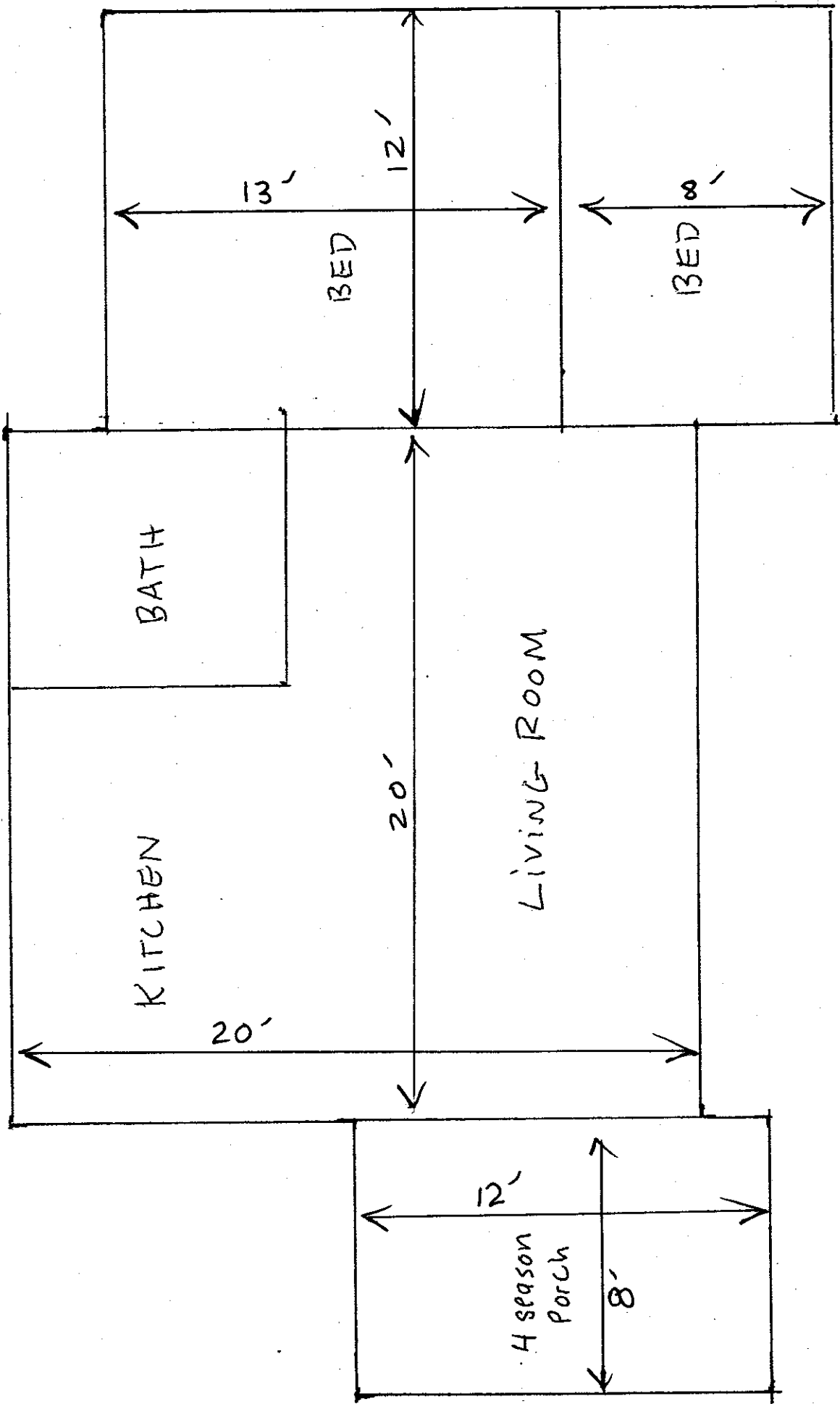
Wall and roofline to be changed

12' x 21'
structure
to be
rebuilt

50' ROADSIDE
SET BACK

BROOK

BROOK



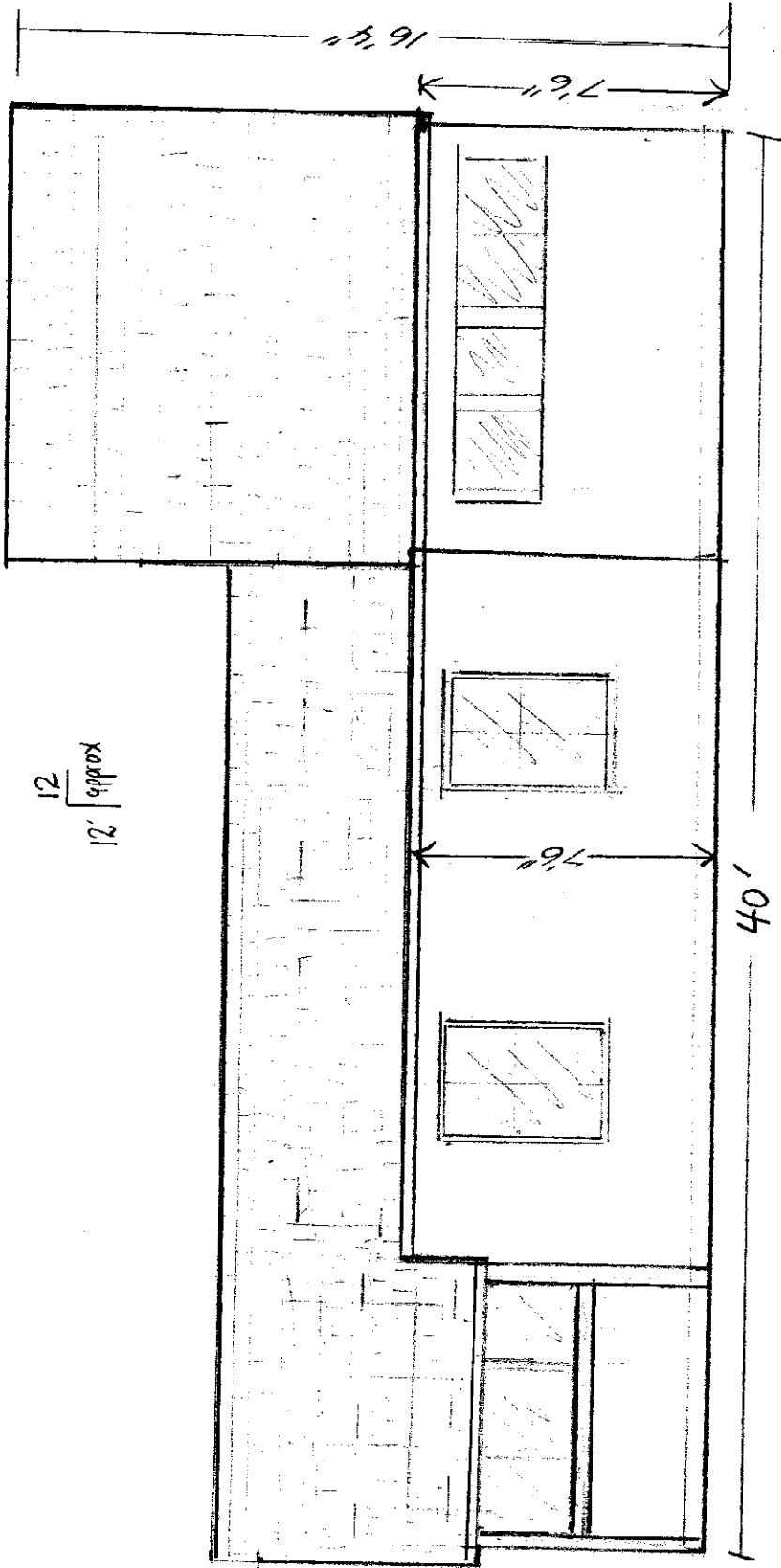
WALL and ROOFLINE TO BE CHANGED

1ft 57 GREENHILL / Byrne / 6/25/11

← GREENHILL ROAD →

12' |
12' |

12' approx
|



NORTH 1/4" = 1'

EXISTING STRUCTURE
VIEW FROM GREENHILL ROAD

TORN DOWN AND REBUILT

PURCHASE AND SALES AGREEMENT

AGREEMENT made this ____ day of October, 2009, by and between **William E. Fetterolf** of 4 Dockside Court, Ocean Pines, Maryland 21811, hereinafter referred to as "SELLER", and **Brian Byrne and Kathy Byrne** of P.O. Box 322, Jackson, New Hampshire 03846, hereinafter referred to as "BUYER".

In consideration of the covenants as hereinafter set forth, the parties agree as follows:

(1) PROPERTY DESCRIPTION: SELLER shall sell and convey and the BUYER shall purchase, on the terms and conditions hereinafter set forth, and 57 Green Hill Road, Jackson, New Hampshire and being Tax map 00V01, lot 000009.

(2) PURCHASE PRICE: The total purchase price shall be Eighty Five Thousand (\$85,000.00) Dollars.

(a) A deposit in the amount of One Thousand (\$1,000.00) Dollars tendered by BUYER to SELLER to be held at Melendy & Lee, P.A. of Conway, New Hampshire.

(b) The balance of the purchase price is to be paid by Certified Check at the time of closing.

(3) DATE AND PLACE OF TRANSFER OF TITLE: Transfer of title shall take place on or before October _____, 2009. Transfer is to take place at a location mutually acceptable to the parties or by mail. The SELLER agrees to deliver legal possession to BUYER simultaneously with the closing of title.

(4) FORM OF TRANSFER: SELLER is to give a Warranty Deed and convey a marketable title free and clear of all liens and encumbrances. If BUYER desires an examination of title, they shall pay for the cost thereof. If upon examination of title it is found that title is not marketable or insurable pursuant to the New Hampshire Bar Title Examination standards, this agreement may be rescinded at the option of the BUYER and the deposit shall be refunded to the BUYER. If the BUYER elects not to rescind the agreement should title not be marketable, then the SELLER shall undertake to correct the title defect. Should the SELLER be unable to correct the title defect on or before thirty (30) days from the date the BUYER notifies the SELLER of the defect, this agreement shall terminate and the deposits shall be returned to the BUYER, in accordance with the terms of this contract, who shall have no further action or claim against the SELLER.

The SELLER may use the purchase money or any portion thereof to clear or perfect their

title; all instruments procured thereof to be recorded simultaneously with this said deed. Either party may have thirty (30) days extension to cure any defect found in title.

(5) PRORATIONS: It is agreed that real estate taxes shall be prorated at the time of closing.

(6) AGENT: The parties agree the realtor in this matter is NONE.

(7) VIOLATION OF GOVERNMENTAL RULE AND RESTRICTIONS: The SELLER represents that, to the best of her knowledge, at the time of the closing of title there shall exist no violations of governmental (including zoning and planning) rules, regulations or limitations and no violations of any restrictive covenants, agreement or condition to which the title, as conveyed by the Deed given in accordance with the terms hereof, shall be made subject.

(8) ACTIONS: The SELLER represents that there is no pending, to the best of SELLER'S knowledge, threatened action or proceeding (including, but not limited to, any condemnation or eminent domain action or proceeding) before any court, governmental agency or arbitrator or relating to or arising out of the ownership of the Premises or any portion thereof, or which may adversely affect SELLER'S ability to perform this Agreement, or which may affect the Premises or any portion thereof.

(9) AFFIDAVIT: If requested by the BUYER, the SELLER agrees to execute, at the time of transfer of title, an affidavit with respect to the non-existence of mechanics' or materialmen's liens, tenants' rights, security interest in personal property or fixtures being sold with the premises, if any.

(10) FOREIGN PERSON AFFIDAVIT: If requested by the BUYER, the SELLER shall execute an affidavit stating that they are not "Foreign persons" within the meaning of Section 1445 (f)(3) of the Internal Revenue Code of 1986, as amended.

(11) OTHER PROVISIONS: This contract is subject to the following provisions: a) Buyer shall pay \$5,000 at closing and an additional \$3,500 shall be due and payable six (6) months from the date of closing; b) Seller will hold a mortgage in the amount of \$80,000 at 6% interest amortized over 15 years with a balloon payment in full due in 90 months. Initial payment shall be \$675.08 per month and after the additional payment of \$3,500 the monthly payment to be \$633.83; c) Sales price includes refrigerator, light fixtures, propane wood stove and propane cookstove.

(12) STATUTORY NOTICES: Pursuant to the provisions of New Hampshire RSA 477:4-a and 4-c the following information is provided:

"Radon Gas: Radon gas, the product of decay of radioactive materials in rock may be found in some areas of New Hampshire. This gas may pass into a structure through the ground or through water from a deep well. Testing can establish its presence and equipment is available

to remove it from the air or water."

"Lead Paint: Before 1977, paint containing lead may have been used in structures. The presence of flaking paint can present a serious health hazard, especially to young children and pregnant women. Tests are available to determine whether lead is present."

SELLER agrees to provide BUYER with the following information:

(a) Information relative to the type of private water supply system, its location, malfunctions, date of installation, date of the most recent water test and whether or not the SELLER has experienced a problem such as an unsatisfactory water test or a water test with notations.

(13) INTERPLEADER: In the event of any dispute concerning the deposit funds held in escrow, the Escrow Agent, in its sole discretion, shall pay said deposit funds into the Clerk of Court of proper jurisdiction in an Action of Interpleader, provide each party with notice thereof at the address set forth above and thereafter the Escrow Agent shall be discharged, and each party to this Agreement shall thereafter hold the Escrow Agent harmless in such capacity. Both parties hereto agree that Escrow Agent may deduct the cost of bringing such Interpleader action from the deposit monies held in escrow prior to the forwarding of same to the Clerk of Court.

(14) PRIOR STATEMENT: All representations, statements and agreements heretofore made between the parties are merged in this agreement which alone fully and completely expresses their respective obligations, and this agreement is entered into by each party after opportunity for investigation, neither party relying on any statements or representations not embodied in this agreement, made by the other or on his/her behalf.

This agreement shall be binding upon their heirs, executors, administrators and assigns of both parties.

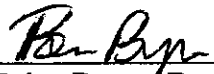
EXECUTED on the date first above written.

Witness


Witness

Witness

William E. Fetterolf, Seller



Brian Byrne, Buyer



Kathy Byrne, Buyer

DRAFT

PROMISSORY NOTE

\$80,000.00
90 months - 6%

October ____, 2009

FOR VALUE RECEIVED, **Brian Byrne and Kathy Byrne**, with a mailing address of P.O. Box 322, Jackson, New Hampshire, promises to pay to the order, **William E. Fetterolf**, the sum of EIGHTY THOUSAND AND NO/100 DOLLARS (\$80,000.00) with interest thereon at the rate of six percent (6%) per annum on the unpaid principal, payable as follows:

(1) Commencing November 15, 2009 monthly payments of principal and interest in the initial amount of Six Hundred Seventy Five and 08/100 (\$675.08) shall be made for six months. On the six month anniversary of this note, Makers shall pay the sum of Three Thousand Five Hundred Dollars (\$3,500.00). The monthly principal and interest payments following the principal reduction of \$3,500 shall be in the amount of Six Hundred Thirty Three and 83/100 Dollars (\$633.83) for eighty three months and a final payment of all outstanding principal and interest. Said payment shall made on the fifteenth day of each and every month. Anything herein to the contrary notwithstanding this note shall be payable in ninety months.

(2) Should any monthly payment not be made when due or within ten (10) days after it due date, the makers agree to pay, in addition to said payment, a late charge of five percent (5%) of said payment. This late charge shall not apply to the final payment. Should any payment (together with late charge) not be made within twenty-five (25) days of its due date this note shall be deemed in default.

(3) In the event of default, the holders of this note may demand that the entire balance of the note then due and payable (principal and accrued interest, if any) be immediately paid, the makers hereof failing so to do, will entitle holder to use such legal remedies as may be available to him to collect on this note, including initiating foreclosure proceedings of the mortgage securing this note.

(4) In the event of default, makers agree to be obligated for all costs of collection of this note, including attorney's reasonable fees and costs incurred by the holder, whether or not foreclosure proceedings or other legal action is initiated, and whether or not, if such is initiated, same is withdrawn for any reason.

(5) The waiver of non-action of holder relative to one or more defaults shall not be deemed a waiver of any of holder's rights or enforcement with regard to any subsequent defaults.

(6) The makers hereof agree to pay and discharge all real estate taxes assessed against the premises mortgaged to secure this note on or before their due date. In the event said taxes are not paid by their due date, the holders hereof shall have the right to pay such taxes and any such monies so advanced by holders shall bear interest at the rate charged by the Town of Jackson per annum, until reimbursed by makers. Such monies, plus the interest, shall be reimbursed by makers no later than the due date of the next payment.

(7) The makers agrees to keep and maintain fire insurance and extended coverage insurance in an amount so that the total coverage is equal to the mortgage secured by this note and holder to be named as loss payee as his interest may appear.

(8) Demand, notice, protest and other statutory formalities are hereby expressly waived.

(9) There shall be no penalty for prepayment of this note.

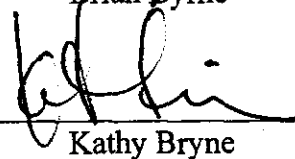
(10) This note is secured by a purchase money mortgage of real estate situated in Jackson, New Hampshire, conveyed to makers, of near or even date.

(11) This note, together with the mortgage, may not be assumed by any third parties without written consent of Holder hereof and upon such additional terms as they may require or impose. No conveyance of the legal title of the premises for which this note is given while still subject to the mortgage aforesaid, which conveyance results in a de facto assumption of this note and mortgage aforesaid, shall be permitted. Any violation of the foregoing provision shall constitute a default of this note and the mortgage securing same, enabling holder hereof to utilize the remedies set forth in Paragraph 3 hereof. Nothing herein contained shall obligate holder to consent to any assumption, and same shall be within the sole discretion of the holder.

(12) In the event that either parties' address changes from that shown on the front of this note, the parties agree to inform the other, in writing, of the new address.



Brian Byrne



Kathy Bryne

Byrne