

TOWN OF HENNIKER
ZONING BOARD OF ADJUSTMENT
VARIANCE APPLICATION

Revised 1-17-18



CASE NO. _____

Name of Applicant Frank Chen

Address 844 Massachusetts Ave, Lexington MA 02420

Telephone [REDACTED] Fax [REDACTED]

E-mail Address [REDACTED]

Owner of Property Frank Chen

Location of Property 8 Maple St Map 00005D Lot 000210

Zoning District where Property is Located CV

Signature of Owner of Property [REDACTED]

If the property owner is not the applicant, the property owner MUST provide a notarized letter (original) authorizing the applicant to file an application.

You are applying to use your property in a way that is prohibited by the requirements in the Zoning Ordinance. Please state the Article X and Section 133-39 of the Zoning Ordinance that you are requesting a variance from.

Please give a detailed description of your proposal below.

We are hoping to convert the space that currently houses the Gin Gin chinese restaurant into residential living space. This will address a need for housing in Henniker due to housing shortages.

Has this property received a Special Exception or Variance in the past? Yes

If "YES", please provide copies of past Zoning Board of Adjustment Notices of Decision.

Please provide copies of the Property Tax Card, Plot Plan, and any other information that you feel would be helpful for the Zoning Board to have when reviewing the application. If you cite case law in your argument, please provide a copy of the case with your filing.

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1. Granting the variance would not be contrary to the public interest because:
The conversion would not be contrary to the public interest because there is a need for housing for Henniker residents. There is currently a lack of housing which means residents do not have a wide variety of options available to them.

2. Describe how the spirit of the ordinance would be observed by granting the variance:

We are not changing the footprint or adding gross space to the building that is already at that location.

We are not changing the character of the building. With the release of the front parking area to only residents, we will add 9 more spaces for a total of 18 parking spaces for the entire building.

3. Describe how substantial justice would be done by granting the variance:

For the past decade, the restaurants who have rented 8 Maple Street have struggled to survive.

The Gin Gin restaurant is closing its doors when its lease expires in May 2024 due to lack of available and future business. I do not want to subject another restaurant to unfavorable business conditions in the current space where it is difficult to succeed as a restaurant. For this reason, utilizing the space to create more high quality housing instead will foster more justice for the inhabitants the town.

4. Describe how values of surrounding properties would not be diminished:

There are multifamily units in the surrounding properties where residents do not have enough parking spaces for enough parking permits for each resident. By removing the restaurant that requires significant commercial parking but that is not actively being used by customers, we create more parking and space for the surrounding residents. Equitable parking allows for more peaceful living conditions for the residents.

5. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship¹ because:

¹ The definition of "unnecessary hardship" set forth in subparagraph (5) shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation

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- a. no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because:

The restaurant storefront itself looks like a residential building. The building as a whole looks more residential than commercial. There are plenty of other food establishments in the vicinity for the public to choose from. Gin gin restaurant is not renewing its lease in May 2024 and it is common in the restaurant business for unsuccessful restaurants to close its doors.

- b. the proposed use is a reasonable one because:

I constantly receive inquiries from people who already or want to live in Henniker who are in the market to look for apartment homes to rent. There are more and more students who also are registering at New England College looking for housing. Most of the time, I have to unfortunately tell them that I do not know of any open apartments that they can rent. There is clearly a desire for people to have more places to rent and if 8 Maple Street is not a space for a business to succeed, then at least it can be a place where Henniker residents can create a residential home.

- c. If the criteria in subparagraph 5(a) and (b) 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.

There is already a lot of restaurant competition in Henniker that has made it difficult for the surrounding food businesses to make a reasonable profit. I spoke to several restaurant owners in the area who can attest to this. By converting this restaurant space into a residential space, it provides a few more customers and one less competitor creating a slightly better environment for the surrounding businesses to have success.

ABUTTER LIST

An abutter list and three (3) sets of 1" x 2 5/8" mailing labels containing names and addresses of those on the mailing notification list, including abutters, property owners, agents, prospective Applicants, easement (conservation, preservation, agricultural) holders, and any professional whose seal appears on the plan **202-9.A**

on a permitted use, or any other requirement of the ordinance.

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An abutter is defined as any person whose property is located in NH and adjoins or is directly across the street or stream from the land under consideration by the Zoning Board of Adjustment. The term abutter includes all holders of conservation, preservation, or agricultural easements; the officers of a condominium or other collective form of ownership; the manufactured housing park owner and the tenants who own manufactured housing which adjoins or is directly across the street or stream from the land under consideration by the Zoning Board of Adjustment; and any professionals hired by the applicant/property owner (surveyors, engineers, etc.). See NH RSA 672:3.

Information for the abutters list can be obtained at the Town Hall during regular business hours. Abutter information must be obtained no more than 1 month prior to application submittal.

FEES

Application Fee	\$125.00
Newspaper Notice Fee	\$125.00
Abutter Notice Fee	\$10.00 per abutter

<u>Amount enclosed with application:</u>	
Application Fee	\$ 125
Newspaper Notice	\$ 125
Abutters	\$ 40 50
Total	\$ 290 300

Fees **MUST** be paid at the time the application is submitted or the application will not be accepted. Fees can be paid in cash or by check made out to the "Town of Henniker".

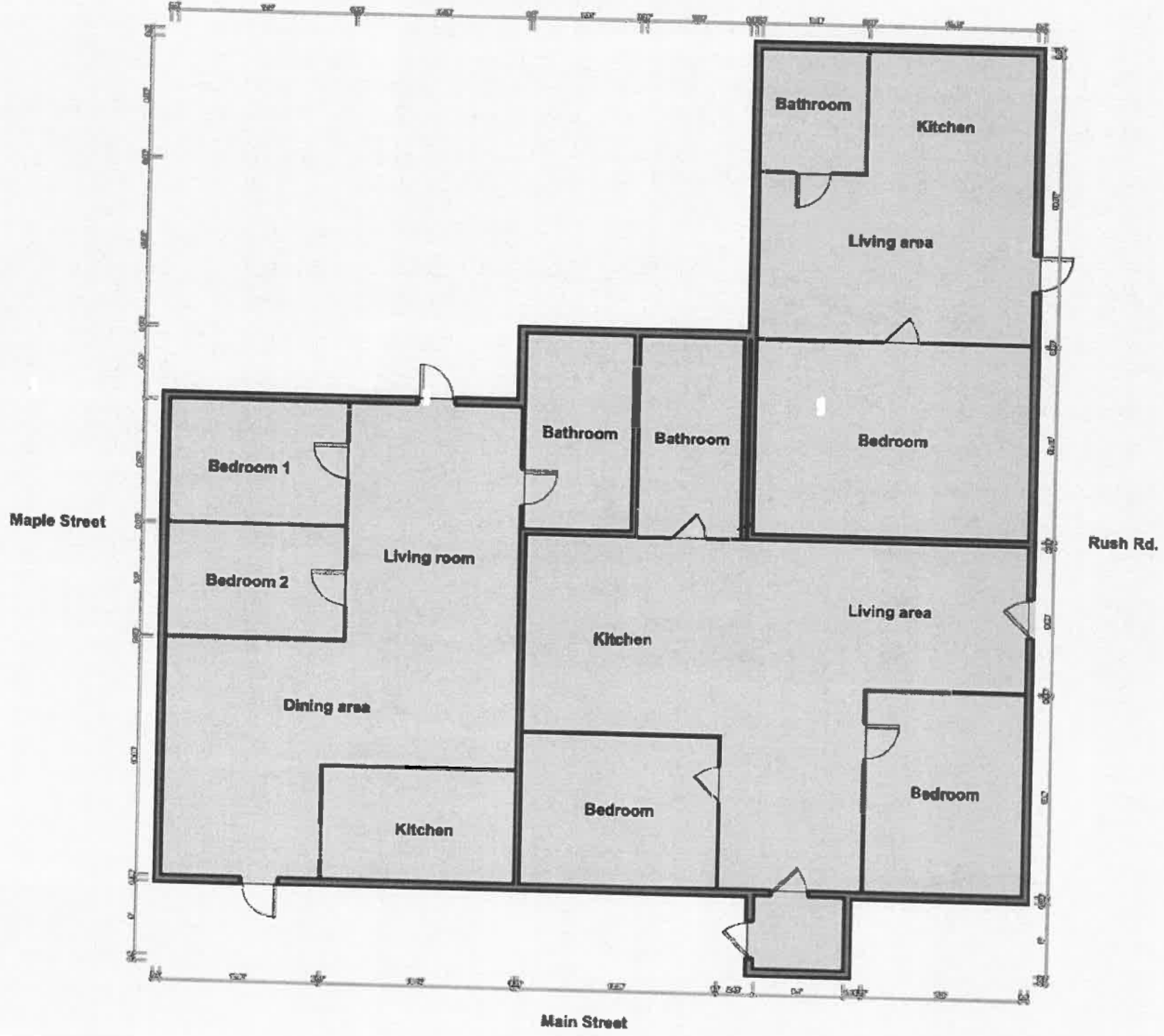
The ZBA may require the establishment of an escrow account to pay for independent consultants to assist the ZBA in their review of the application. If you wish to proactively establish this escrow account prior to meeting with the ZBA, contact the Planning Consultant.

APPLICATION SUBMISSION

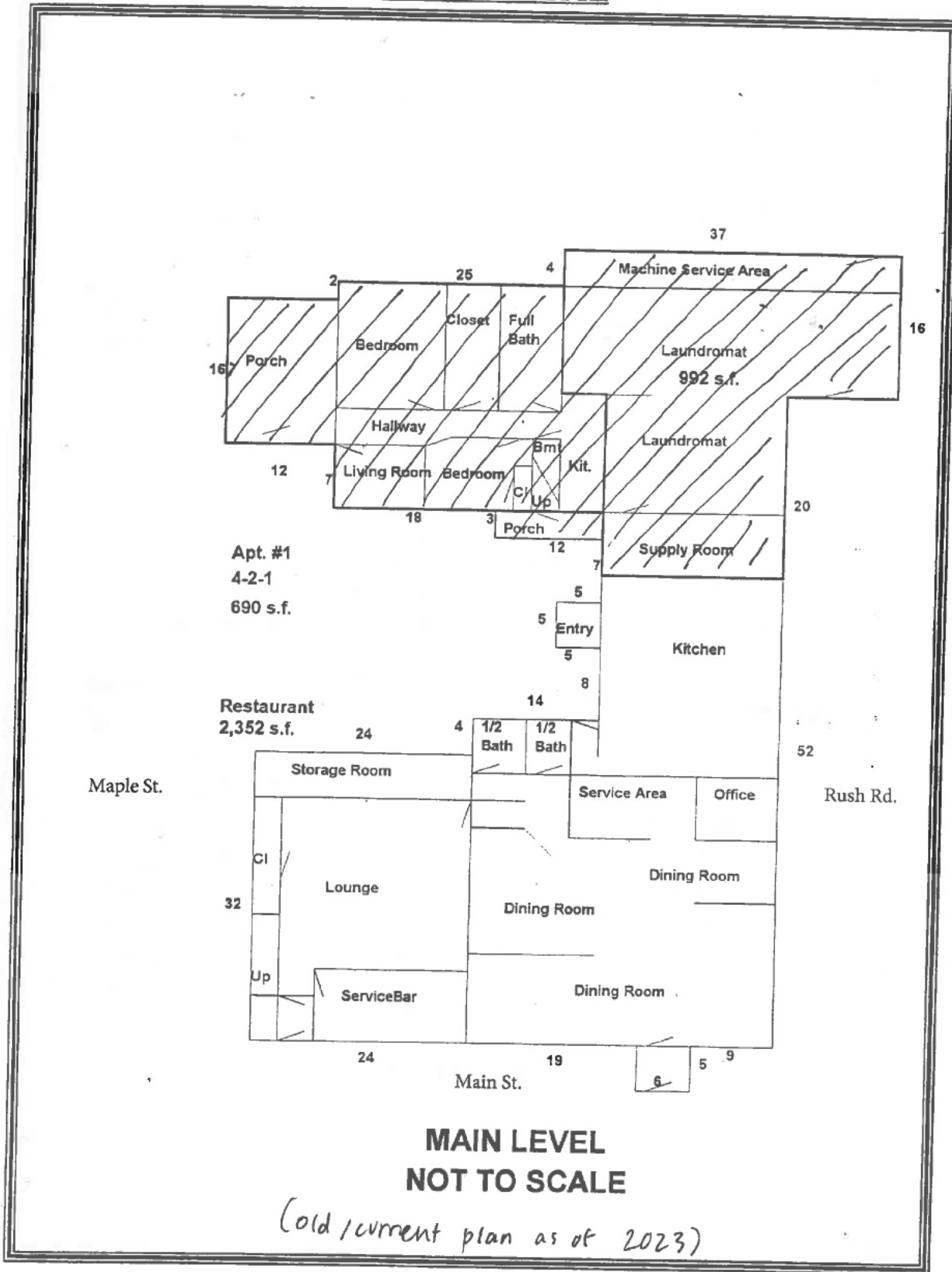
Submissions must be made in accordance with the adopted Zoning Board of Adjustment submission deadline, which is posted at the Town Hall. All applicants are encouraged to meet with the Town Planner prior to submitting an application to avoid delays due to incomplete information.

S:\Zoning Board\Member Binder\ZBA Application2018 -Variance.docx

PROPOSED PLAN



BUILDING SKETCH



Abutter list of names and addresses

New England College
15 Main St
Henniker NH 03242

Citizens Bank
c/o Henniker 3006431
PO Box 182011
Columbus, OH 43218-2011

Davis & Towle Insurance Group
8 Main St
Henniker NH 03242

McMurphy Family
24 Rush Road
Henniker 03242

NH Real Estate Investment, LLC
c/o Kim Hamilton
16 Hemlock Street
Londonderry, NH 03053



**Town of Henniker
Zoning Board of Adjustment
Notice of Decision**

November 29, 2017

Case 2017:10 – Request for a Special Exception from Article XVI Non-conforming Uses – Non-complying Structures & Non-conforming Lots to allow for increased housing density (10,000 square feet of land required for each housing unit) by adding one housing unit to replace existing laundromat, (existing 15,246 square foot lot contains a restaurant, 5 apartments and a laundromat), 8 Maple Street, Applicant: Frank Chen, Owner: Chen Henniker, LLC, Map 2 Lot 210, Zoned Commercial Village CV.

At the November 15, 2017 meeting, the Zoning Board of Adjustment held a public hearing relative to your request as outlined above. The Board, after hearing the arguments for the request along with deliberations and a public hearing, voted:

Mr. Pagano made a motion to approve the Special Exception request, seconded by Ms. Oliveira with the stipulation that two diagonal striped parking spaces shall be provided for the new housing unit. Said spaces shall not extend into the adjoining Rush Road. Staff shall inspect said space prior to occupancy; Vote 5 Yes 0 No.

Leon Parker, Presiding Chair
Zoning Board of Adjustment
November 29, 2017

Under the provisions of RSA 677:2 a request of rehearing must be filed with the ZBA within 30 days after a decision of the ZBA has been made. The request for rehearing is required to set forth fully every ground upon which it is claimed that the decision or order is unlawful or unreasonable. In the event that a rehearing is granted, a new application along with the appropriate fee must be presented to the Land Use Office in accordance with the posted schedule.

Per 133-64, Special Exception Time Limits, A. If the use or construction so authorized by the granting of a Special Exception has not commenced within a two year period from the date of the decision, then the Special Exception shall be deemed to have expired and the ZBA's decision rendered null and void. B. If after commencement, a Special Exception is abandoned or discontinued for a period of two years, then the Special Exception shall be deemed to have expired and cannot be re-established without a new application process and the affirmative decision of the ZBA.

Cc: File

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