

LINCOLN ZONING BOARD OF ADJUSTMENT (ZBA)
NOTICE OF HEARING ON REQUEST FOR A VARIANCE ON
WEDNESDAY May 1, 2024 at 6:00 PM

*Hybrid meeting available both in person & via Zoom Meeting Platform to allow for town wide participation. A quorum of Zoning Board of Adjustment (ZBA) members must be physically present at the meeting. Although there is space in the large conference room for 8-12 guests in addition to the Board members, the public is welcome to participate remotely using ZOOM. ZBA Meetings can be attended in-person at the Town Hall Building. Recordings of all ZBA meetings can be found at www.youtube.com (Lincoln NH Zoning Board Meeting 05-01-2024). Zoom access is for your convenience; use at your own risk. If any technical difficulties or if ZOOM should go down, the meeting will NOT be rescheduled.

Join Zoom Meeting

<https://us02web.zoom.us/j/81700766161?pwd=WUFKR2N1Zk9xSzI1bVFPRWVzbyt4UT09>

Meeting ID: 817 0076 6161

Passcode: 179696

Find your local number: <https://us02web.zoom.us/j/81700766161?pwd=WUFKR2N1Zk9xSzI1bVFPRWVzbyt4UT09>

Or dial by your location 1-929-205-6099 US (New York)

(See also town website www.lincolnnh.org for same link, meeting ID and passcode.)

Notice is hereby given a ZBA hearing will be held in Conference Room of Town Hall, 148 Main Street, Lincoln, NH, & via ZOOM concerning a request by Appellant David Yager d/b/a Madjah, LLC, 57 Flanagan Drive, Framingham, MA 01701, for a **Variance** for 2 properties – two three-story 12-unit Residential Multi-Family Housing condominium buildings on Twin Tip Terrace concerning Article VI (District and District Regulations), Section B (District Regulations), Paragraph 2 (Land Use Schedule), Paragraph 7 (HEIGHT REQUIREMENTS) of the Land Use Plan Ordinance (LUPO).

Appellant & Property Owner: David Yager d/b/a Madjah, LLC, 57 Flanagan Drive, Framingham, MA 01701.

Subject Property: 2 3-story 12-unit Residential Multi-Family Housing condominium buildings on common land around Twin Tip Terrace (E911 numbers not assigned yet): (1) [**Building #5** [Map 114, Lot 078-05-49 to 60] and (2) **Building #6** [Map 114, Lot 078-06-61 to 72)].

Property is in **General Use (GU) District** and is accessible via private roads within the Forest Ridge Resort. Approved buildings plan for all six (6) buildings were identical with slab on grade foundations.

Subject Property History: Subject property is part of the Forest Ridge Development. Property development was approved as a phased development by the Planning Board 01-05-2006, recorded on 02-02-2006 as Plan #12175. This particular phase known as “Forest Gardens”, was approved for a “Residential Use” with a total of seventy-two (72) units – 6 three-story twelve-unit “garden-style” multi-family building condominiums on common land clustered around a circle of open space with access off what is now called “Twin Tip Terrace” located off from Woodland Loop. Total density of 72 units supported by the following parcels: (1) Map 114, Lot 078 (5.34 Acres) – where the buildings would be located; (2) Map 114, lot 079 (13.52 Acres) – vacant; (3) Map 114, Lot 077 (4.13 Acres) – vacant; & (4) Map 114, Lot 081 (1.98 Acres) – vacant.

Appellant purchased undeveloped portion of “Forest Gardens” of the property at recent foreclosure, & plans to complete rest of buildings ASAP. Status of Forest Gardens project was as follows:

1. Two buildings complete. Building #1 (Map 114, Lot 078-01-01 to 12); Building #2 (Map 112, Lot 078-02-13 to 24).
2. One building under construction. Building #3 (Map 114, Lot 078-03-25 to 36). Appellant completed building.
3. Appellant received a Land Use Permit for Building #4 currently under construction.* Under Construction: Building #4 (Map 114, Lot 078-04-37 to 48).

4. Two twelve-unit “garden-style” multi-family buildings on common land are unbuilt. Request for a variance involves those two buildings: 1.) Building #5 (Map 114, Lot 078-05-49 to 60; & 2.) Building #6 = Map 114, Lot 078-06-61 to 72.

*When constructing Building #4, Appellant realized prior owner disturbed much of the soil on remaining four (4) building sites to such an extent that current owner had to excavate down nine feet (9') to find virgin ground stable enough to put foundations for fourth building. Cost and time of this excavation and fill effort was staggering. All buildings were designed and approved as a slab on grade project with the State. However, had he known the extent of unsuitable soils at this location he would have prepared a different design using a full basement configuration, saving cost of filling foundation for a slab and only suffering the cost of removing so much unsuitable materials.

The 5th and 6th buildings also sit on many feet of unsuitable materials. Forest Ridge property manager informed them that previous owners buried several damaged foundations on these sites from failed Forest Woods projects.

Land Use Plan Ordinance (LUPO)

ARTICLE VI

DISTRICT AND DISTRICT REGULATIONS

Section B. DISTRICT REGULATIONS. Uses in all districts shall conform to the requirements for the Districts set forth in this section.

7. HEIGHT REQUIREMENTS

- b. In the General Use, Village Center, Rural Residential and the Mountain Residential-Zones the following height restrictions shall apply:
 - i. The maximum structure height shall be thirty-five (35) feet measured from the primary eaves on the uphill side of the structure.
 - ii. There shall be no more than four (4) floors used as living space above or below ground level as measured through any vertical plane of the building.

Request for Variance:

Requests are for the ZBA to grant a variance to allow five (5) floors to be used as living space above or below ground level as measured through any vertical plane of the buildings for Building #5 and #6 to help offset the extreme cost of mitigating the damage caused by the buried foundations and lack of suitable land to support the buildings using the original design.