



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - AGENDA

Meeting Type: Regular Meeting
Meeting Location: **Council Chambers & Council Conference Room, City Hall**
288 Central Ave., Dover, NH 03820
Meeting Date: **Thursday, February 18, 2021**
Meeting Time: **7:00 pm**

Certain members of the Zoning Board of Adjustment may be participating in this meeting remotely. In addition, the Chair of the Zoning Board of Adjustment may, per NH RSA 91-A:2, III (b), declare an “emergency” within the meaning of that statute and waive the requirement that a quorum be physically present at the meeting. In either event, remote members will identify their location and any person present with them at that location. All votes will be by roll call.

The City of Dover has taken extra steps to ensure the physical location of this meeting conforms with all safety provisions during the pandemic, including social distancing, face coverings, and frequently sanitized facilities. Although qualified members of the public can participate in the meeting by speaking at the physical location, the public is encouraged to leave comments in advance by calling 516-MEET (6338), emailing Dover-Planning@dover.nh.gov, or mailing written comments to Zoning Board of Adjustment, Dover City Hall, 288 Central Ave., Dover, NH 03820. Messages must be received no later than 4 p.m. the day of the meeting and should identify the name and Dover address of the person leaving the message or providing the comment

1. ATTENDANCE

2. APPROVAL OF MEETING MINUTES OF JANUARY 21, 2021

3. HEARINGS

- A. Z21-03 Owner/Applicant Sebring Holdings, LLC., Dover Point Road (Tax Map K, Lot 26), located in the Medium Density Residential (R-12) Zoning District, requests a variance from **Sections 170-12.B, 170-5 (D) and 170-11 (D)** to construct and operate a professional/medical office within a residential district with a distance of 64.5 feet from a residential structure, where 150’ is required and 77.8’ from the front yard property line, where a 25’ build to line is required.
- B. Z21-04 Owner/Applicant Diamond Capital, Inc., Gulf Road (Tax Map N, Lot 2-A-2), located in the Rural Residential (R-40) Zoning District, requests a variance from the definition of “lot” per **Section 170-6** of the Zoning Ordinance, to permit the construction of two principal buildings (two single-family dwellings) on one lot, where the definition of “lot” does not permit the placement of more than one principal building on a lot.
- C. Z21-05 Owner Gloria Michaud and Applicant Colbea Enterprises, LLC, 45 Knox Marsh Road (Tax Map H, Lot 32), located in the Commercial Manufacturing (CM) Zoning District, requests a Special Exception as per **Section 170-11.C** and **Section 170-52 (3)** to permit a vehicle refueling and recharging station in the CM Zoning District.

4. OTHER BUSINESS

5. ADJOURN

Persons with questions or interested in reviewing the meeting materials are invited to visit the Planning Department located in City Hall, open Monday-Thursday from 8:30 am to 5:30 pm and Friday from 8:30 am to 4:00 pm. The meeting materials are also available online at www.dover.nh.gov. Follow us on Twitter @DoverNHPlanning and find us on Facebook at <https://www.facebook.com/DoverNHPlanning>.



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers, City Hall – 288 Central Ave., Dover, NH 03820
Meeting Date: Thursday, January 21, 2021
Meeting Time: 7:00 pm

1. ATTENDANCE

Members Present: Chris Prior (Chair), Nick Couturier, Rich Onufry (Alternate), Anthony Sillitta, Casey Conley

Members Absent (Excused): James Burdin (Alternate), Otis Perry (Vice Chair), George Reagan

Staff Present: Elena Piekut (Assistant City Planner, Zoning Administrator)

The Chair called the meeting to order at 7:00 PM

2. ELECTION OF OFFICERS

Motion: Anthony Sillitta moved to move this item to the end of the meeting. Seconded by Nick Couturier. Vote: U/A

3. APPROVAL OF MEETING MINUTES OF NOVEMBER 19, 2020

Motion: Rich Onufry moved to approve the minutes of November 19, 2020 as submitted. Seconded by Anthony Sillitta. Vote: U/A

4. HEARINGS

Chair Prior explained the hearing process.

A. Z21-01 Owner/Applicant Portside Properties, LLC, 418 Dover Point Road (Tax Map 8, Lot 38-D), located in the Little Bay Waterfront (LBW) Zoning District, requests a variance from Section 170-6 of the Zoning Ordinance, specifically the definition of “lot,” to permit two principal buildings on the lot, where only one is permitted.

Doug MacMillan and Marc Bamberger, owners of the property presented the case. They purchased the property two years ago and continued using the property in the same way it was being used before they bought it. They did not know they were in violation of the zoning ordinance until they approached the City for a permit. They explained the uses of the property. The business (office) is run out of the back (building “C”). Building “B” is used for office storage. They rent out the apartment and the front house for residential uses.

They propose to combine building A and B by adding a 12x12 addition which will make that one building and then building C would become the second building on the lot. Building B will become part of the apartment- it will no longer be part of the business.

They are planning to purchase the small parcel adjacent to their lot and combine it with their property. The purchase is ready to go as soon as this zoning issue is resolved.

The applicants explained their building permit plans and that they are aware of the fees that will be associated. They spoke to the neighbors and there was no opposition to their plans. He is a long-standing resident of that neighborhood and would like to remain at that location.

Public hearing open - No one spoke.

Elena Piekut said the Planning Department is not opposed to granting the variance. These mixed uses would be allowed in the zone except that the buildings are not connected. This proposal is an appropriate way to accommodate these uses. One condition suggested is to connect the two buildings, which is what the applicants presented they will do.

Public hearing was closed.



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - MINUTES

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Meeting Time: 7:00 pm

Chair Prior noted the applicant put together a good presentation and he would be in favor of granting the variance with the two buildings connected.

Motion: Otis Perry moved to grant the variance with the condition that the front two structures are connected into one building. Nick Couturier seconded. Vote: U/A

B. Z21-02 Owner Paula DePlanche (Lincoln Building LLC) and Applicant Sundance Sign Company, 113 Locust Street (Tax Map 9, Lot 53), located in the Central Business District – Mixed Use Subdistrict (CDB-MU), request a variance from Section 170-32.A of the Zoning Ordinance to permit a new freestanding sign, where freestanding signs are not permitted.

Michael Leary, Sundance Sign Company presented the case. There is one sign for the building that is set back and difficult to see from the road. The zone does not allow free-standing signs. Most businesses in the zone are downtown and sit close to the road. This older building sits further back. There are other free-standing signs in the neighborhood so it will fit right in. The proposed sign will be posted in granite rather than wood. The sign will not be lit.

Public hearing open

Paula DePlanche, one of the owners of the building said the existing sign has been in place over 30 years. Many people do not know where the business is because the sign is difficult to see. There is a toddler school nearby, so it is a hazard to have drivers looking for the sign with children in the neighborhood.

Elena Piekut noted the Planning Department is in support of granting the variance due to the age and set back location of the building. The Planning Department is going to look into the sign restrictions in that neighborhood since it is so restrictive.

Public hearing was closed.

Motion: Nick Couturier made a motion to grant the variance. Seconded by Anthony Silitta. Vote: U/A

2. ELECTION OF OFFICERS

Motion: Anthony Silitta moved to nominate Chris Prior as Chair and Otis Perry as Vice Chair. Seconded by Nick Couturier.

The board wrote their votes on paper for secret ballot.

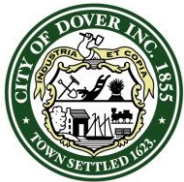
The motion passed unanimously.

5. OTHER BUSINESS

Chair Prior announced Elena Piekut will be leaving the City of Dover tomorrow for a new job opportunity.

6. ADJOURN

Motion: Nick Couturier moved to adjourn at 7:33pm. Rich Onufry seconded. Vote: U/A



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO

Meeting Type:	Regular Meeting
Meeting Location:	Council Chambers and Conference Room , City Hall 288 Central Ave. Dover, NH 03820
Meeting Date:	Thursday, February 18, 2021
Meeting Time:	7:00 pm

INTENT: The Applicant requests to construct and operate a medical or professional office within a residential district 64.5 feet from a residential structure, where 150' is required and 77.8' from the front yard property line, where a 25' build to line is required.

UNITS PROPOSED: N/A

AGENDA ITEM #: 3-A

ZONING DISTRICT: Medium
Density Residential (R-12)

FILE: Z21-03

APPLICANT/OWNER: Sebring
Holdings, LLC

LOCATION: Dover Point Road (Tax
Map K, Lot 26)

ACREAGE: .76 acres

EXISTING LAND USE: Vacant

PROPOSED LAND USE:
Professional/medical office

SURROUNDING LAND USE:
Single-family, multifamily dwellings,
standalone and mixed use commercial

PREVIOUS ZBA ACTION: Z05-25
and Z05-08 (denied).

**PLANNING BOARD APPROVAL
REQUIRED:** Yes

ATTACHMENTS: Application, plan

STAFF RECOMMENDATION:
Staff supports granting the variance.

BACKGROUND INFORMATION

The property subject to this variance request is a vacant three quarters acre lot located on the north side of Dover Point Road. The lot has over 100 feet of frontage on Dover Point road and is a transition point between commercial to the south and residential to the north. This portion of Dover Point Road has evolved over the last ten years to include mixed use buildings, residential multi-family and commercial development. The lot to the south, at Pointe Place received a special exception in 2019 to allow a vehicle refueling and recharging station.

The property shares a driveway easement with the lot to the north, however the variance plan notes that this proposed use would share an access way onto Dover Point Road with the refueling station and abandon the shared driveway with the single family home.

The property is at a confluence of zones. The lot is zoned Medium Density Residential (R-12). To the east the property is zoned Innovative Technology (IT), and to the south the property is zoned Commercial (C). The lot is at the end of a string of single family homes stretching between the Commercial district around the Weathervane and Dover Chevrolet. The corridor has evolved and developed into a true mixture of uses along this high volume traffic roadway. Across Dover Point Road there is a multi-family complex as well as a mixed use building with commercial uses on the first floor. Behind the property is a new neighborhood that contains single family, multifamily, assisted living, mixed use and office space.

REASON FOR RECOMMENDATION

Staff believes there are many reasonable uses for this property. These range from single family homes (the lot is larger than the minimum lot size and could be subdivided), to multi-family to the proposed office use.

The R-12 zone allows some non-residential uses, such as childcare, Assembly Hall (church, fraternal organization, function hall), bed and breakfast and educational uses. All of these uses would generate more traffic and have greater impact to abutters for hours of operation.

Regarding the setbacks, the 150' separation between residential and non-residential. This works on larger lots, but any of the above referenced allowed non-residential uses would require relief from this as the lot is less than 150' wide. If enforced, the City would be in a takings situation as it would render the lot unbuildable.

Finally, regarding the front setback relief, the building is set at a point on the parcel in line with the existing Single Family home to the north, and approximately in line with the Refueling station to the south. The intent of the

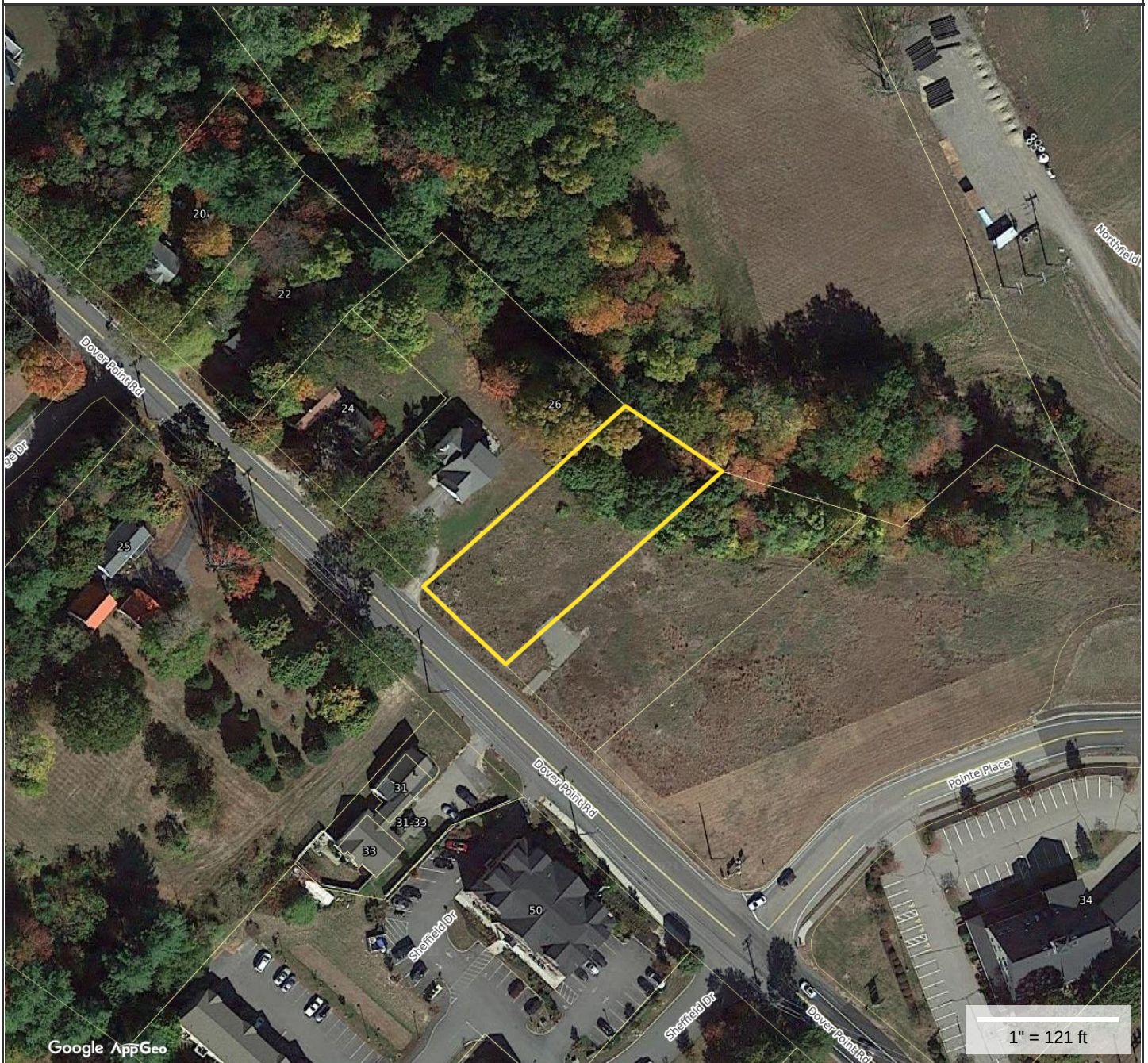
build to line to create that framing of buildings along the roadway. If the structure were moved forward and the parking was to the rear of the building, the parking would be more of a nuisance to the residential abutter, and the building would be the focus of the lot for the abutter, as they enter their property. Furthermore, the building would stand out for its placement along the street.

Staff Recommendation

Staff recommends that the Board open the public hearing and accept testimony. If the Board is inclined to grant the variance, staff suggests the following conditions of approval:

- 1) The property shall be served by a single, shared driveway with Map K lot 19C.
- 2) The applicant shall relinquish any rights to the shared driveway over Map K lot 26-1
- 3) The Site Plan submitted shall include an 8' tall fence and landscaped buffer between the proposed structure and Map K lot 26-1, and landscaping along the frontage of Dover Point road to shield the cars from the abutters across the street.

Dover Point Road

**Property Information**

Property ID K0026-000000
Location DOVER POINT RD
Owner SEBRING HOLDINGS LLC
Land Use 130

**MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT**

City of Dover, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 5/20/2020
Data updated Daily

FRANCIS X. BRUTON, III
CATHERINE A. BERUBE
JOSHUA P. LANZETTA

OF COUNSEL
JAMES H. SCHULTE

Bruton & Berube, PLLC

ATTORNEYS AT LAW

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(603) 743-6300
FAX (603) 343-2986

www.brutonlaw.com

January 28, 2021

VIA HAND DELIVERED

Christopher G. Parker,
Director of Planning and Community Development
City of Dover
288 Central Avenue
Dover, New Hampshire 03820

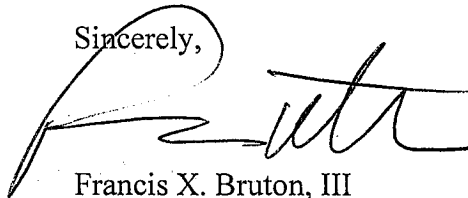
**RE: Sebring Holdings, LLC
Dover Point Road, Dover, NH
Map K, Lot 26**

Dear Mr. Parker:

Enclosed please find an original and nine (9) copies of an Application for Variance together with a check in the amount of \$224.00 for the application fee, legal notice fee and a portion of abutter fees.

We understand that this matter will be placed on the agenda of the Zoning Board of Adjustment for its meeting of February 18, 2021. As such, should there be any questions regarding the enclosed application, please do not hesitate to contact me.

Sincerely,



Francis X. Bruton, III
E-mail: fx@brutonlaw.com

FXB/mas
Enclosure

cc: Sebring Holdings, LLC
Civilworks New England



City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Revised April 7, 2017]

Office Use Only Case #: _____ Date Received: _____
Amount Paid: \$ _____ Time Received: _____

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: Sebring Holdings, LLC Phone # _____

Address of Applicant: 340 Central Avenue, Suite 202, Dover, New Hampshire 03820

E-Mail Address: _____

PROPERTY OWNER (*if different from applicant*): Same

Address: _____ Phone # _____

E-Mail Address: _____

PROPERTY/PARCEL INFORMATION

Address: Dover Point Road, Dover, NH

Brief Directions: _____

Zoning District: R-12 Assessor's Map # K Lot(s) # 26

TYPE OF APPEAL: (Please check one)

- ☒ Variance
☐ Physical Disability Variance (RSA 674:33-V)
☐ Special Exception
☐ Appeal of Administrative Decision
☐ Equitable Waiver

170-12.B of the of Zoning Ordinance and the R12 Zoning District Table of Uses and Dimensional Regulations; 170-15 (D); and 170-11 (D)

from Section _____ of the Zoning Ordinance
from Section _____ of the Zoning Ordinance
per Section _____ of the Zoning Ordinance
regarding Section _____ of the Zoning Ordinance
per Section _____ of the Zoning Ordinance

DESCRIBE BRIEFLY YOUR PLANS FOR THE PROPERTY:

The Applicant intends to construct and operate a professional/medical office.

APPLICATION CHECKLIST (Please check off)

- A. **Application signed** by Applicant and Property Owner (if different from Applicant) X
Note: In order for the application to be accepted by Planning Department staff and placed on the ZBA agenda YOU MUST COMPLETE (1) ALL SECTIONS ON PAGE 1 as well as (2) ALL QUESTIONS FOR THE SPECIFIC APPEAL YOU ARE SEEKING.
- B. **10 Copies of Completed Zoning Board of Adjustment Application** X
Note: Only include those pages of the application that are relevant to your request. Please do not include the abutters list with the 10 copies (include only as part of original signed application (Part A above)).
- C. **10 copies of a plot plan** drawn in accordance with a boundary line to scale not less than 1" = 40'. They need to include the lot dimensions including area in square feet, and also the size and location of existing and proposed buildings if applicable, including setbacks. X
- D. Submit at least one (1) copy of the plot plan at a size of **8 1/2 x 11** (this is in addition to the 10 copies required in 'C' above). X
- E. **10 copies of photos** (suggested but optional) and any **other materials** applicant would like to submit in support of the application. X
- F. **Abutter Notification/Mailing Labels** - this office will create and print the abutter list and provide labels in triplicate for each abutter. The applicant/owner will need to provide to this office the engineer, architect, land surveyor or soil scientist whose professional seal appears on the plan with names and addresses for notices. You will be notified with the amount due, once this has been completed.
1. Applicant & Owner, engineer, architect, land surveyor or soil scientist
Certified letters fee # 3 of x \$8.00 = \$24.00 +
 2. Certified letters fee: # of abutters TBD X \$8.00 = \$TBD \$ 24.00
 3. First Class Mail fee (for individual owner of units within a condominium or other collective form of ownership): # of abutters _____ X \$1.00 = \$ _____
 4. Creating/Printing Abutter Labels in triplicate per sheet _____ x \$10.00 = \$ _____
- G. **TOTAL FEE** paid by cash or check made payable to "City of Dover"
1. Application fee of:
 - \$100.00 VARIANCE (per Section requested) \$ 100.00
 - \$100.00 SPECIAL EXCEPTION \$ _____
 - \$100.00 APPEAL FROM ADMINISTRATIVE DECISION \$ _____
 - \$100.00 EQUITABLE WAIVER \$ _____
 2. Foster's newspaper public notice \$ 100.00

TOTAL FEE \$ 224.00

VARIANCE REQUIREMENTS

THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY

A. Variance Requested

170-12.B of the of Zoning Ordinance and the R12 Zoning District Table of Uses and Dimensional Regulations; 170-15 (D); and 170-11 (D)

A variance is requested from Section(s) _____ of the Zoning Ordinance to permit:

the construction and operation of a professional/medical office within the R-12 zone, with a distance of 64.5 feet from a residential building and 77.8 feet from the front yard property line.

B. The Five Variance Criteria (as set forth in NH RSA 674:33, I(b))

Please demonstrate compliance with the following:

1. Waiving the terms of the Ordinance will not be contrary to the public interest because:

See attached.

2. Deviation from the strict requirements of the Ordinance is consistent with the spirit of the Ordinance because:

See attached.

3. Granting the variance would do substantial justice because:

See attached.

4. The value of surrounding property will not be diminished because:

See attached.

NOTE: please complete EITHER paragraph 5A OR paragraph 5B. Staff recommends that you complete paragraph 5B only if you feel you cannot meet the requirements set forth in paragraph 5A.

5A. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship:

(i) The following special conditions of the property distinguish it from other properties in the area:

See attached.

and

(ii) No fair and substantial relationship exists between the general purposes of the ordinance provision and the specific application of that provision to the property because:

See attached.

and

(iii) The proposed use is a reasonable one because:

See attached.

OR

5B. If the criteria in subparagraph 5A above are not established, explain how, 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:

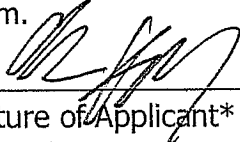
SIGNATURE PAGE

THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS

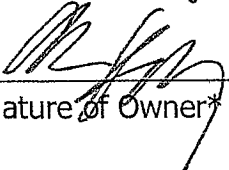
I, the undersigned Applicant, hereby certify that the information contained within this Application is complete and accurate, and I acknowledge that I have read and understand the Application Instructions, which are set forth on the first two pages of this Application form.

IMPORTANT

PROPERTY IDENTIFICATION SIGN
MUST BE POSTED ON THE PROPERTY
FOR THE 5 DAYS PRIOR TO HEARING.
FAILURE TO POST MAY RESULT IN
APPLICATION NOT BEING ACCEPTED.


Signature of Applicant*

By: Chad Kageleiry, Manager of
Sebring Holdings, LLC


Signature of Owner*

By: Chad Kageleiry, Manager of
Sebring Holdings, LLC

*Both Signatures Required

AUTHORIZATION TO ENTER SUBJECT PROPERTY

I, and my successors, hereby authorize members of the Dover Zoning Board, Planning Department and other pertinent City Departments and boards to enter my property for the purpose of evaluating this application, including performing inspections during the application phase, post-approval phase, construction phase and occupancy phase. It is understood that these individuals must use all reasonable care, courtesy, and diligence when on the property.

Signature of Property Owner:


By: Chad Kageleiry, Manager of
Sebring Holdings, LLC

Date:

1/28/21

Sebring Holdings, LLC
Dover Point Road, Dover, New Hampshire
Tax Map K, Lot 26
BOARD OF ADJUSTMENT APPLICATION

INTRODUCTION

Sebring Holdings, LLC, the Applicant, is the owner of the parcel located at Dover Point Road (no address number at this time, and is depicted in the Dover Tax Maps as Map K, Lot 26. The Applicant is requesting a variance to allow the construction and operation of a professional / medical office, on the property.

The R-12 zone does not allow for professional / medical offices as a matter of right. The parcel is adjacent to a lot that is partially located within the Commercial (C) zone, where such a use would be permitted. For the reasons set forth herein, it is respectfully submitted that the use should be permitted as a result of the grant of the variance requests contained herein.

In addition to the use, the Applicant will require two variances related to setback on the property. For the purposes set forth below, the building will need to be setback from the front property line 77.8 feet, as opposed to the 25-foot build-to-line pursuant to the R-12 Table of Uses. Also, the building will be 64.5 feet from a residential building, where 150 feet is required pursuant to Section 170-15 (D) of the zoning ordinance.

The Applicant has been working with planning staff as well as the adjacent lot owner of lot K-19C, who plans to construct a vehicle refueling and recharging station with a retail convenience store. As a result of this collaborative effort, the property owners and the planning staff have developed a shared driveway entrance strategy, which, in turn, will reduce the driveway cuts upon Dover Point Road, increasing the safety of the uses of the property. To the extent the variances are granted, and pending site plan approval and construction, the Applicant will cease use of the existing curb cut on the subject parcel. In addition, the subject parcel has the benefit and burden of a 30' x 50' access easement, per Plan 88-27 recorded at the Strafford County Registry of Deeds, which is shared by the residential abutter on the left (west) side of the property. Subject to approval and construction, the Applicant would no longer utilize that access area as well, and will allow for only private use by the residential abutter.

The use of the above-described shared access way with the gas station dictates that the building cannot be located within the 25' max build-to-line, which is the front setback limit. In addition, the building will be located as far as it can be to the anticipated commercial use (gas station), but would never be able to satisfy the restriction that the commercial use must be 150' away from the residential use. In this instance the building will be 77.85' from the front yard, and 65.07' from the residential use. Given the proximity to the residential use, the Applicant intends to add fencing along the left (west) side of the parking area, as depicted on the plan.

APPLICANT'S REQUEST FOR VARIANCES

FACTS SUPPORTING THIS REQUEST

1. Waiving the terms of the Ordinance will not be contrary to the public interest because:

To be contrary to the public interest or injurious to public rights of others, the variances must unduly, and in a marked degree, conflict with the ordinance such that they violate the ordinance's basic zoning objectives. In order to determine whether a variance would violate the basic zoning objectives, it is appropriate to examine whether the granting of the variance would "alter the essential character of the locality or threaten the public health, safety or welfare." In this case, the property will be consistent with the surrounding commercial uses located at Point Place and to that planned on the adjacent property. In addition, multiple access points from this parcel will be reduced to a shared driveway between two commercial uses. The shared driveway approach would be inappropriate to be shared with a gas station and a residential use. Also, the Applicant will provide a visual buffer between the commercial and the adjacent residential use and will construct a building that is only one-story in height, lessening the view by the abutting residential use. Based upon the foregoing, the grant of the variance to permit the professional / medical office, with the setback variances as described, would not change or alter the essential character of the area.

2. Deviation from the strict requirements of the Ordinance is consistent with the spirit of the ordinance:

The Applicant respectfully submits that if the variances are granted, the spirit of the ordinance would be observed as the use in question is suitable, considering the existence of the commercial used already in the vicinity and given the planned use. The Applicant believes that, with the shared driveway, the safety factor at this point of the roadway will increase, particularly with the elimination of the curb cut located within the property. Within its general purpose and intent clause, the Dover Zoning Ordinance indicates that its intent is to promote the health, safety and general welfare of Dover. The Applicant respectfully submits that the general purposes and intent of the Dover Zoning Ordinance will be maintained, to the extent that the variance is granted.

3. Granting the variance would do substantial justice because:

In New Hampshire, the only guiding rule in determining whether the requirement for substantial justice is satisfied is that any loss to the individual that is not outweighed by a gain to the general public is an injustice. New Hampshire also looks at whether a proposed development was consistent with the area's present use. In this instance, the grant of the variance would result in substantial justice as that would allow the parcel to be utilized in a less invasive way with a building limited to one-story than those within the surrounding neighborhood. In addition, the aesthetic nature of the property would be first class. There is no negative aspect that the public will suffer. Rather, in this instance, the residential neighbor will be buffered, and as a result of the construction of the project, the subject property will not utilize its access

easement rights upon the abutting residential parcel. Thus, denial of the variance would result in a loss to the Applicant that is not outweighed by any gain to the general public. As such, granting of the requested relief would result in justice.

4. The value of surrounding property will not be diminished because:

It is respectfully submitted that all of the surrounding properties have a value associated with them which is premised upon the existence of the existing building and uses located upon the subject property and surrounding properties. In this instance, the Applicant is conscious of the need for an appropriate buffer and has proposed a professional / medical office, which represents the lowest form of noise and associated disturbances that could emanate from a commercial use on the property. At the same time, given the lack of use of the easements rights as to access to the site, the value of the residential abutter's property will increase, as it would no longer be burdened by such potential use. Thus, granting the variance will not result in a diminution of surrounding property values.

5A. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

i. The following special conditions of the property distinguish it from other properties in this area

The lot is unique given its proximity to Pointe Place, and other associated business uses, such as Patty B's restaurant and other office uses with that property as well as just across from a large multi-unit residence, with auto dealerships in sight from both directions. In addition, the property will be located next to a gas station, and such its use for residential purposes will be limited. Further, the property has the benefit of a future shared driveway accessway, which will need to be constructed on a commercial scale, and maintained as such by the commercial owners of the benefitted parcels. This shared accessway is unique to the property, and its utilization will result in a safer means of access from these properties unto Dover Point Road. Finally, this professional / medical office use, low-impact by nature, will serve as a transitional buffer between the anticipated gas stations and the adjacent residential use.

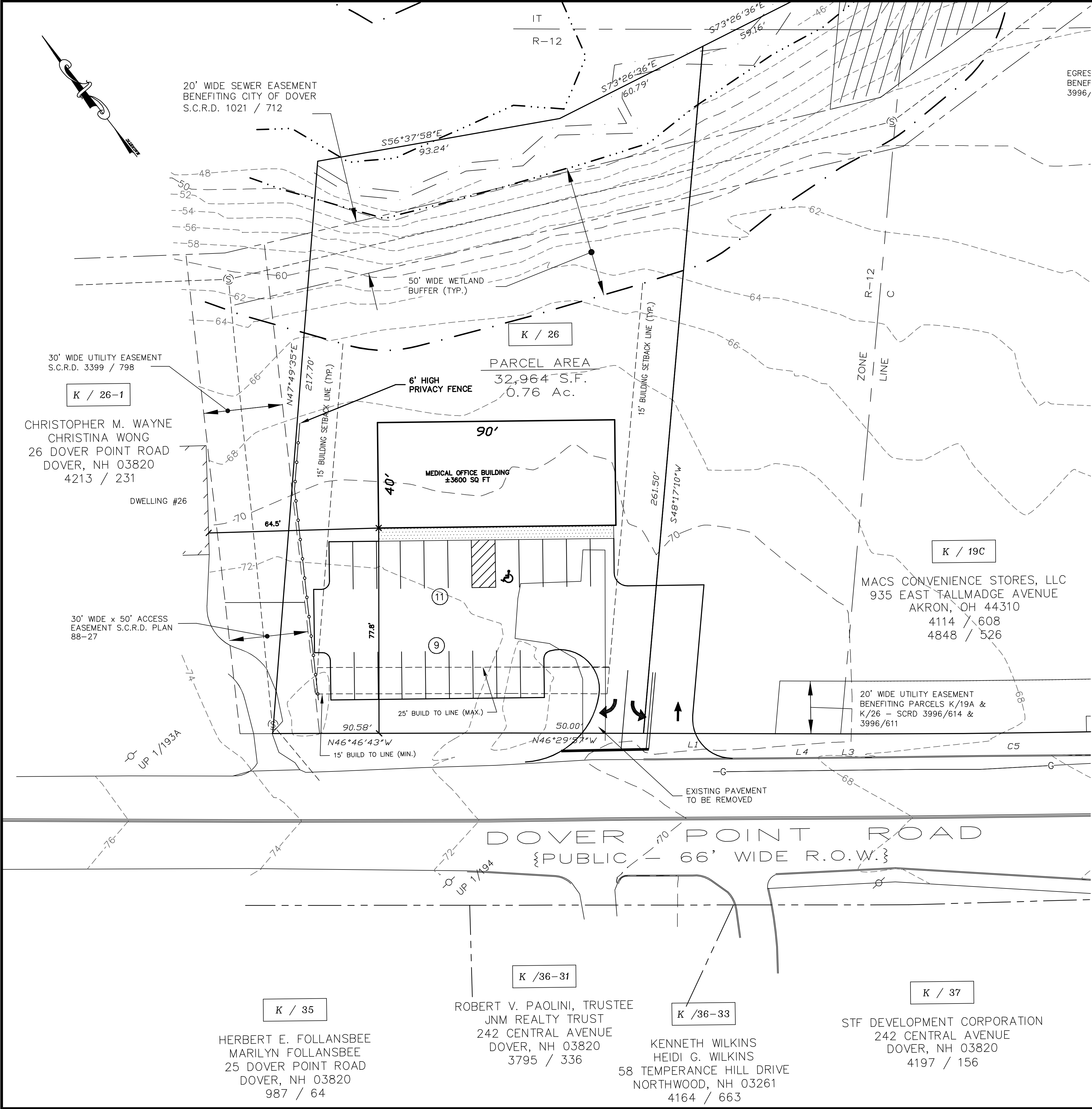
ii. no fair and substantial relationship exists between the general purposes of the ordinance provision and the specific application of that provision to the property because:

The general purposes of the ordinance are to promote the health, safety and general welfare; to encourage the most appropriate land uses in various parts of the City; and to prevent overcrowding. This proposal is designed as a transitional buffer to the existing residential uses, will resolve further access from the subject parcel unto the adjacent residential parcel and will improve the safety factors of not only this parcel as to access onto Dover Point Road, but will do so for the intended gas station, as the shared accessway will be located along the shared property line between this parcel and the adjacent commercial parcel. For the reasons set forth above, the Applicant respectfully submits that the restrictions that cannot be met by the Applicant are not necessary in this unique instance to enforce in order to protect the purpose

of the ordinance. Thus, if unnecessary, there is no conflict between the general public purpose of the ordinance, and enforcing the restrictions for which the Applicant seeks the variance, and denial of the variance would result in an unnecessary hardship.

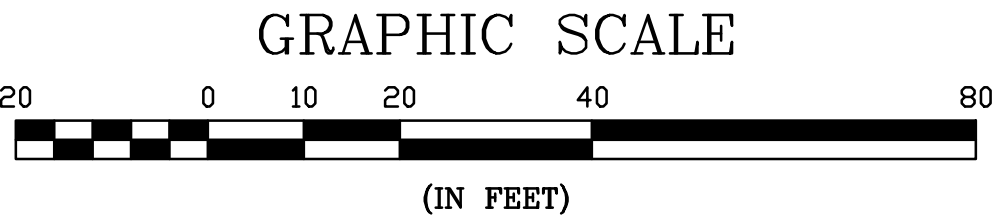
iii. The proposed use is a reasonable use:

For the reasons set forth above, the Applicant respectfully suggests that the professional / medical office use and the need for relief from the setbacks is a result of a comprehensive strategy to provide the mentioned transitional buffer and for the safety as to access to Dover Point Road results in a proposal that represents a reasonable use of the property.



- ZONING BOARD OF ADJUSTMENT NOTES:**
- USE VARIANCE FROM SECTION 170-11.(D) TO ALLOW A PROFESSIONAL/MEDICAL OFFICE BUILDING IN THE MEDIUM DENSITY RESIDENTIAL (R-12) DISTRICT.
 - VARIANCE FROM SECTION 170-15.(D) TO ALLOW A COMMERCIAL USE 64.5' FROM A RESIDENCE WHERE 150' IS REQUIRED.
 - VARIANCE FROM SECTION 170-12.(B) TO ALLOW A BUILDING TO BE SETBACK 77.8' WHERE 25' MAXIMUM IS REQUIRED.

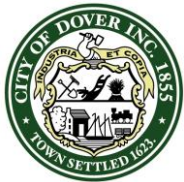
DIMENSIONAL REQUIREMENTS (ZONES R-12)		
	REQUIRED	PROPOSED
MINIMUM LOT AREA	12,000 SF	32,964 SF
OUTSIDE CONSERVATION DISTRICT	7,200 SF	22,101 SF
MINIMUM LOT FRONTAGE	100'	±140'
FRONT YARD SETBACK	15'-25'	±77.8'
SIDE YARD SETBACK (ABUT A LOT)	15'	±17'
SIDE YARD SETBACK (ABUT A STREET)	15-25'	N/A
REAR YARD SETBACK	30'	102'
MAXIMUM LOT COVERAGE	30%	
MAXIMUM BUILDING HEIGHT	35'	<35'
COMMERCIAL BUILDING SETBACK FROM RESIDENTIAL STRUCTURE	150'	±64.5'



ZONING BOARD OF ADJUSTMENT PLAN			NOT FOR CONSTRUCTION FOR PERMIT USE ONLY			
Z-1	SEBRING HOLDINGS LLC 340 CENTRAL AVE SUITE 202 DOVER, NH 03820	SEBRING HOLDINGS LLC 340 CENTRAL AVE SUITE 202 DOVER, NH 03820	DATE: 1-27-21			
			SCALE: 1"=20'			
			DRAWN BY: JRG			
			DESIGN BY: S:JH			
			APPROVED BY:S:JH			
			PROJECT NO:19018			
	FILE: CONCEPT-3D	NO.	REVISION	APP'D	DATE	
			CIVILWORKS NEW ENGLAND 181 Watson Road, PO Box 1166 Dover, New Hampshire 03821 603.748.0443			

Z21-03 Dover Point Road

Property ID	Location	Owner 1	Owner 2	Owner Address 1	City	State	Zip
K0018-A00010	APPLEVALE DR	CITY OF DOVER		288 CENTRAL AVE	DOVER	NH	03820
K0019-A00000	28 DOVER POINT RD	SEBRING HOLDINGS LLC		340 CENTRAL AVE STE 202	DOVER	NH	03820
K0019-C00000	DOVER POINT RD	MACS CONVENIENCE STORES LLC		935 EAST TALLMADGE AVE	AKRON	OH	44310
K0026-001000	26 DOVER POINT RD	WAYNE CHRISTOPHER M &	WONG CHRISTINA	26 DOVER POINT RD	DOVER	NH	03820
K0027-000000	24 DOVER POINT RD	MORIN JOHN K &	MORIN MELISSA D	48 HALL RD	BARRINGTON	NH	03825
K0028-000000	22 DOVER POINT RD	FORTUNA DAVIN M &	ASSELTA-FORTUNA CAROLYN	16 CEDAR ST	STONY BROOK	NY	11790
K0035-000000	25 DOVER POINT RD	FOLLANSBEE MARILYN E TRUSTEE	FOLLANSBEE MARILYN E REV TRUST OF 2011	25 DOVER POINT ROAD	DOVER	NH	03820
K0036-000000	31 33 DOVER POINT RD	31 33 DOVER POINT RD CONDOMINIUM	PAOLINI ROBERT TRUSTEE AND WILKINSON STE	15 BRIARWOOD LN	DOVER	NH	03820
K0036-000031	31 DOVER POINT RD	PAOLINI ROBERT V TRUSTEE	JNM REALTY TRUST	242 CENTRAL AVE	DOVER	NH	03820
K0036-000033	33 DOVER POINT RD	WILKINS KENNETH &	WILKINS HEIDI G	58 TEMPERANCE HILL DR	NORTHWOOD	NH	03261
K0037-000000	50 SHEFFIELD DR	STF DEVELOPMENT CORP		242 CENTRAL AVE	DOVER	NH	03820
K0026-000000	DOVER POINT RD	SEBRING HOLDINGS LLC		340 CENTRAL AVE STE 202	DOVER	NH	03820
		BRUTON & BERUBE, PLLC	FRANCIS X. BRUTON, III	601 CENTRAL AVE	DOVER	NH	03820
		CIVILWORKS NEW ENGLAND	STEVE HAIGHT	191 WATSON ROAD	DOVER	NH	03821



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO

Meeting Type:	Regular Meeting
Meeting Location:	Council Chambers and Conference Room , City Hall 288 Central Ave. Dover, NH 03820
Meeting Date:	Thursday, February 18, 2021
Meeting Time:	7:00 pm

INTENT: The Applicant requests a variance to permit two principal buildings (two single-family dwellings) on one lot.

UNITS PROPOSED: Two

AGENDA ITEM #: 3-B

ZONING DISTRICT: Rural Residential (R-40)

FILE: Z21-04

APPLICANT/OWNER: Diamond Capital, Inc.

LOCATION: Gulf Road (Tax Map N, Lot 2-A-2)

ACREAGE: 5 acres

EXISTING LAND USE: Vacant

PROPOSED LAND USE: Two single-family dwellings

SURROUNDING LAND USE: Single-family dwellings, conservation land

PREVIOUS ZBA ACTION: None (this item was tabled at the 11/19/2020 ZBA meeting)

PLANNING BOARD APPROVAL REQUIRED: No

ATTACHMENTS: Application, plan

STAFF RECOMMENDATION: Staff does not oppose granting the variance request.

BACKGROUND INFORMATION

The property subject to this variance request is a vacant five-acre lot located on the north side of Gulf Road. The lot has 388.5 feet of frontage on Gulf Road. The lots on either side are also 5+ acres, with similar or greater road frontage, and were part of the same original subdivision in 2003. This property and all properties surrounding it are located in the Rural Residential (R-40) Zoning District.

The applicant requests a variance from the definition of lot in order to permit two principal buildings (single-family dwellings) on one lot:

LOT means a parcel of land which fronts on and has ingress and egress by means of a public vehicular right-of way and is occupied by, or is intended to be occupied by one (1) PRINCIPAL BUILDING and its accessory BUILDINGS or uses customarily incidental to it, together with such OPEN SPACES and yards as are required by this Chapter. More than one (1) PRINCIPAL BUILDING may be placed on a LOT located in the Central Business or Gateway District. More than one (1) PRINCIPAL BUILDING may also be placed on a LOT in all other districts with PLANNING BOARD approval for non-residential developments, MULTI-FAMILY DWELLING developments, and OPEN SPACE subdivisions.

The applicant notes that a Planning Board approval of transfer of development rights might be a way to achieve the same outcome, but the lot does not qualify because a transfer of development rights is not permitted where public water and sewer is not available.

REASON FOR RECOMMENDATION

The R-40 Zoning District is primarily a single-family residential zoning district. The definition of “lot” applies to all lots in the City regardless of zoning, but it makes a few specific exceptions in which more than one principal building may be placed on a lot if a certain condition is met: it is in the Central Business or Gateway District; it is part of an open space subdivision approval; or it is subject to a non-residential or multi-family site plan review by the Planning Board.

The Zoning Ordinance does not specifically address the reasons for prohibiting multiple principal buildings on one lot, so the restriction can be presumed to serve the general

purposes of the Zoning Ordinance. The outcome of granting this variance would be the same density of residential development as there would be if the lot were subdivided in accordance with the R-40 district's dimensional regulations. The exceptions listed in the definition of lot identify targeted conditions under which this restriction should not apply.

The Zoning Ordinance also provides for the option of an Accessory Dwelling Unit (ADU) in any zoning district that allows single-family dwellings. The applicant has not addressed why the property is not suited to this solution.

The R-40 Zoning District requires a minimum lot size of 40,000 square feet and 150 feet of street frontage per lot. This lot, like the lots on either side of it, could be subdivided into two lots. The applicant seems to indirectly rely upon the deed restriction imposed on this (and the abutting two) lots that prevents further subdivision as the special conditions of the property creating a hardship.

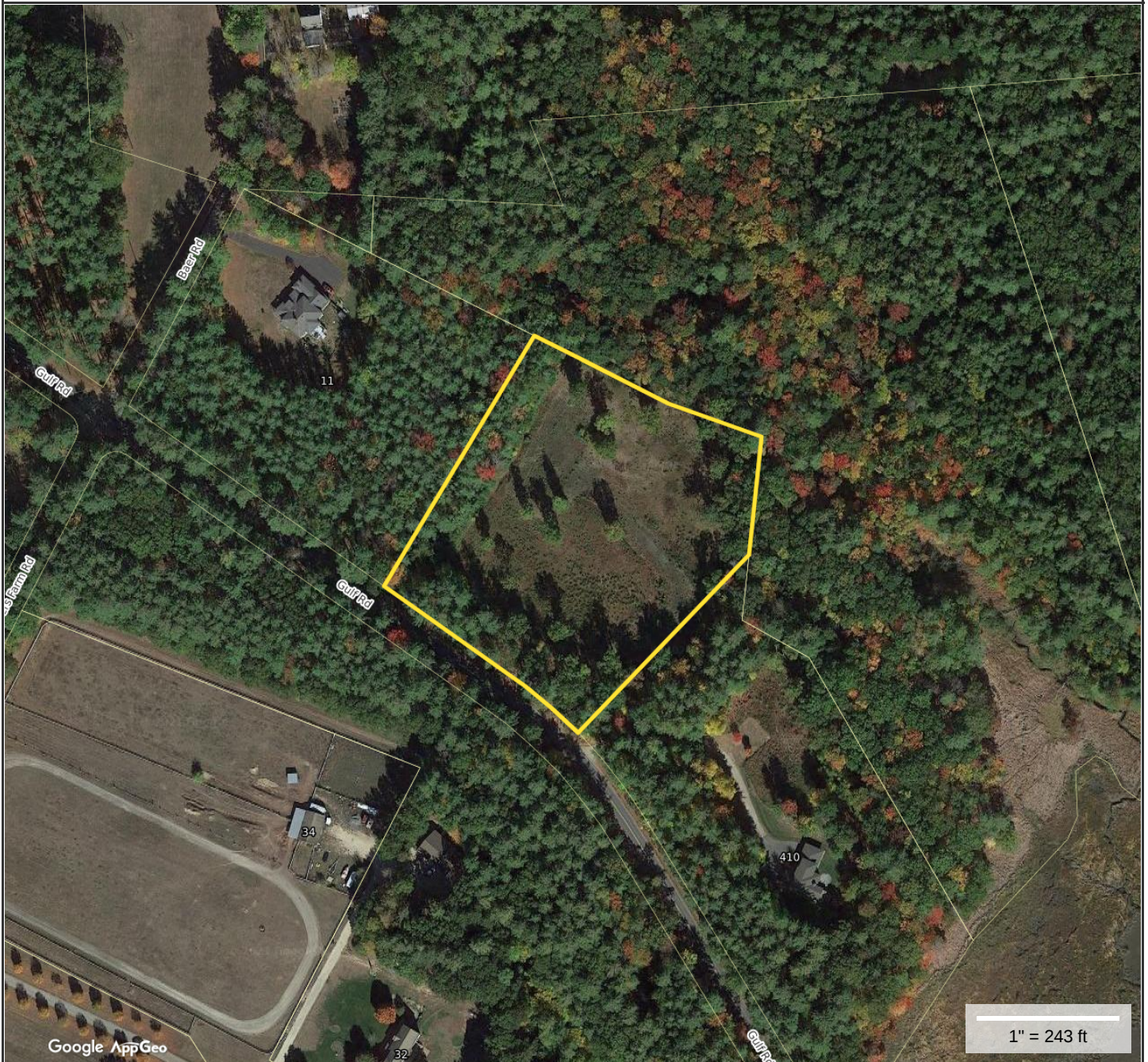
Staff has confirmed that the deed restrictions on these lots were not imposed as a condition of their 2003 subdivision approval. With the cooperation of the two other lot owners, it is conceivable that this restriction could be removed, allowing the lot to be subdivided without risk of civil penalty.

STAFF RECOMMENDATION

Staff recommends that the Board open the public hearing and accept testimony. If the Board is inclined to grant the variance, staff suggests the following conditions of approval:

- 1) The property shall be served by a single, shared driveway.
- 2) NHDES well and subsurface disposal system permit approvals shall be submitted to the Zoning Administrator for review in regard to this variance approval.
- 3) A covenant shall be submitted to the City and recorded at the Registry of Deeds noting that the property shall not be subject to a declaration of condominium and must be conveyed as one property with two units in perpetuity.
- 4) A covenant shall be submitted to the City and recorded at the Registry of Deeds noting that neither single family home shall be permitted to have an accessory dwelling unit.

Gulf Road

**Property Information**

Property ID N0002-A00002
Location GULF RD
Owner DIAMOND CAPITAL INC
Land Use 130

**MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT**

City of Dover, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 5/20/2020
Data updated Daily

FRANCIS X. BRUTON, III
CATHERINE A. BERUBE
JOSHUA P. LANZETTA

OF COUNSEL
JAMES H. SCHULTE

Bruton & Berube, PLLC
ATTORNEYS AT LAW

601 Central Avenue
Dover, NH 03820

TEL (603) 749-4529
(603) 743-6300
FAX (603) 343-2986

www.brutonlaw.com

January 28, 2021

VIA HAND DELIVERED

Christopher G. Parker,
Director of Planning and Community Development
City of Dover
288 Central Avenue
Dover, New Hampshire 03820

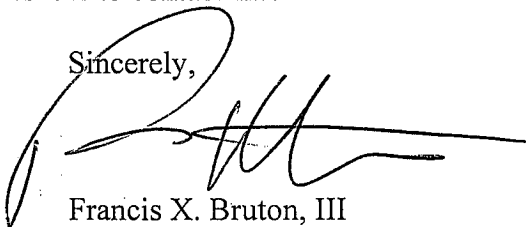
**RE: Diamond Capital, Inc.
Gulf Road, Dover, NH
Map N, Lot 2-A-2**

Dear Mr. Parker:

Enclosed please find an original and nine (9) copies of an Application for Variance together with a check in the amount of \$224.00 for the application fee, legal notice fee and a portion of abutter fees.

We understand that this matter will be placed on the agenda of the Zoning Board of Adjustment for its meeting of February 18, 2021. As such, should there be any questions regarding the enclosed application, please do not hesitate to contact me.

Sincerely,



Francis X. Bruton, III
E-mail: fx@brutonlaw.com

FXB/mas
Enclosure

cc: Diamond Capital, Inc.
Joseph D. Peznola, P.E., Hancock Associates



City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Revised April 7, 2017]

Office Use Only Case #: _____ Date Received: _____
Amount Paid: \$ _____ Time Received: _____

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: Diamond Capital, Inc. Phone # _____

Address of Applicant: 35 Village Road, Suite 100, Middleton, MA 01949

E-Mail Address: diamondcapital@icloud.com

PROPERTY OWNER (if different from applicant): Same

Address: _____ Phone # _____

E-Mail Address: _____

PROPERTY/PARCEL INFORMATION

Address: Gulf Road, Dover, NH

Brief Directions: Second lot on left after Baer Road off of Gulf Road.

Zoning District: R-40 Assessor's Map # N Lot(s) # 2-A-2

TYPE OF APPEAL: (Please check one)

☒ Variance	from Section <u>170-6</u> of the Zoning Ordinance
☐ Physical Disability Variance (RSA 674:33-V)	from Section _____ of the Zoning Ordinance
☐ Special Exception	per Section _____ of the Zoning Ordinance
☐ Appeal of Administrative Decision	regarding Section _____ of the Zoning Ordinance
☐ Equitable Waiver	per Section _____ of the Zoning Ordinance

DESCRIBE BRIEFLY YOUR PLANS FOR THE PROPERTY:

The Applicant intends to construct two single family dwellings on the lot.

APPLICATION CHECKLIST (Please check off)

- A. **Application signed** by Applicant and Property Owner (if different from Applicant) X
Note: In order for the application to be accepted by Planning Department staff and placed on the ZBA agenda YOU MUST COMPLETE (1) ALL SECTIONS ON PAGE 1 as well as (2) ALL QUESTIONS FOR THE SPECIFIC APPEAL YOU ARE SEEKING.
- B. **10 Copies of Completed Zoning Board of Adjustment Application** X
Note: Only include those pages of the application that are relevant to your request. Please do not include the abutters list with the 10 copies (include only as part of original signed application (Part A above)).
- C. **10 copies of a plot plan** drawn in accordance with a boundary line to scale not less than 1" = 40'. They need to include the lot dimensions including area in square feet, and also the size and location of existing and proposed buildings if applicable, including setbacks. X
- D. Submit at least one (1) copy of the plot plan at a size of **8 1/2 x 11** (this is in addition to the 10 copies required in 'C' above). X
- E. **10 copies of photos** (suggested but optional) and any **other materials** applicant would like to submit in support of the application. X
- F. **Abutter Notification/Mailing Labels** - this office will create and print the abutter list and provide labels in triplicate for each abutter. The applicant/owner will need to provide to this office the engineer, architect, land surveyor or soil scientist whose professional seal appears on the plan with names and addresses for notices. You will be notified with the amount due, once this has been completed.
1. Applicant & Owner, engineer, architect, land surveyor or soil scientist
Certified letters fee # 3 of x \$8.00 = **\$24.00**
 2. Certified letters fee: # of abutters TBD X \$8.00 = **\$TBD** \$ 24.00
 3. First Class Mail fee (for individual owner of units within a condominium or other collective form of ownership): # of abutters _____ X \$1.00 = \$ _____
 4. Creating/Printing Abutter Labels in triplicate per sheet _____ x \$10.00 = \$ _____
- G. **TOTAL FEE** paid by cash or check made payable to "City of Dover"
1. Application fee of:
 - \$100.00 VARIANCE (per Section requested) \$ 100.00
 - \$100.00 SPECIAL EXCEPTION \$ _____
 - \$100.00 APPEAL FROM ADMINISTRATIVE DECISION \$ _____
 - \$100.00 EQUITABLE WAIVER \$ _____
 2. Foster's newspaper public notice \$ 100.00
- TOTAL FEE** \$ 224.00

VARIANCE REQUIREMENTS

THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY

A. Variance Requested

A variance is requested from Section(s) 170-6 of the Zoning Ordinance to permit:

Two principal buildings on the lot, where only one is allowed according to the definition of "Lot."

B. The Five Variance Criteria (as set forth in NH RSA 674:33, I(b))

Please demonstrate compliance with the following:

1. Waiving the terms of the Ordinance will not be contrary to the public interest because:

See attached.

2. Deviation from the strict requirements of the Ordinance is consistent with the spirit of the Ordinance because:

See attached.

3. Granting the variance would do substantial justice because:

See attached.

4. The value of surrounding property will not be diminished because:

See attached.

NOTE: please complete EITHER paragraph 5A OR paragraph 5B. Staff recommends that you complete paragraph 5B only if you feel you cannot meet the requirements set forth in paragraph 5A.

5A. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship:

(i) The following special conditions of the property distinguish it from other properties in the area:

See attached.

and

(ii) No fair and substantial relationship exists between the general purposes of the ordinance provision and the specific application of that provision to the property because:

See attached.

and

(iii) The proposed use is a reasonable one because:

See attached.

OR

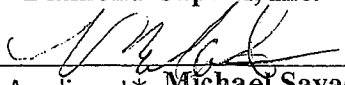
5B. If the criteria in subparagraph 5A above are not established, explain how, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it:

SIGNATURE PAGE

THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS

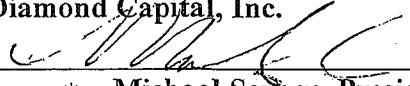
I, the undersigned Applicant, hereby certify that the information contained within this Application is complete and accurate, and I acknowledge that I have read and understand the Application Instructions, which are set forth on the first two pages of this Application form.

Diamond Capital, Inc.

BY: 

Signature of Applicant* **Michael Savage, President**

Diamond Capital, Inc.

BY: 

Signature of Owner* **Michael Savage, President**

*Both Signatures Required

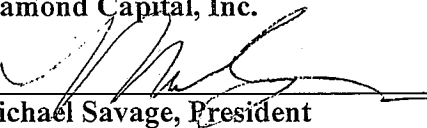
IMPORTANT

PROPERTY IDENTIFICATION SIGN
MUST BE POSTED ON THE PROPERTY
FOR THE 5 DAYS PRIOR TO HEARING.
FAILURE TO POST MAY RESULT IN
APPLICATION NOT BEING ACCEPTED.

AUTHORIZATION TO ENTER SUBJECT PROPERTY

I, and my successors, hereby authorize members of the Dover Zoning Board, Planning Department and other pertinent City Departments and boards to enter my property for the purpose of evaluating this application, including performing inspections during the application phase, post-approval phase, construction phase and occupancy phase. It is understood that these individuals must use all reasonable care, courtesy, and diligence when on the property.

Diamond Capital, Inc.

Signature of Property Owner: BY: 

Michael Savage, President

Date: _____

Diamond Capital, Inc.
Gulf Road
Dover, NH 03820
Map N, Lot 2-A-2

APPLICATION FOR VARIANCE

Introduction

The property subject to this application is a five-acre vacant lot located at Gulf Road (no number address has yet to be assigned) and is depicted on the City's Tax Maps at Map N, Lot 2-A-2. The property is located in the Residence 40 ("R-40") Zone. The lot is flat and is vacant. The trees and vegetation were cut by a previous owner of the property in a way that would be excessive for only one single-family residence, leaving, however, a significant dense level of trees and vegetation from any other surrounding property.

The property is subject to a restriction on subdivision pursuant to the terms of the two deeds attached hereto as Exhibits A and B. The Applicant understood the restriction on subdivision when the lot was purchased and specifically does not wish to subdivide the property. Further, the Applicant does not intend to subject the parcel or future structures to a condominium declaration, and will, as a condition of approval so restrict the title of the property as such. The Applicant intends to build a single-family house for the Applicant's owner, Mike Savage, to reside, as well as a second single-family house for the elderly parents of Mr. Savage, as depicted on the enclosed plan attached hereto as Exhibit C. In previous plans, shown to the abutters, one of the single-family houses was located closer to the road front, but has now, in an effort to appease abutters, been moved further to the rear of the lot.

Although the property would contain two primary structures, the property will not be subdivided or become subject to a condominium declaration. The definition of a "Lot" does not permit two primary structures, thus the need for the variance. Given the 5 acres of land, where only 40,000 (less than 1 acre) of land is required for minimum lot size with thin the R-40 Zone, the Applicant submits that the second house could likely qualify as permitted under the City's Transfer of Development Rights ("TDR") provisions. However, although the lot is oversized, it is not serviced by water and sewer, and, as such, does not qualify for an additional TDR "unit."

In addition to proposing and accepting a condition of approval that the property not be subject to a declaration of condominium, in a further effort to appease the abutters, the Applicant also would propose and accept a condition of approval that neither single-family home be permitted to add an accessory dwelling unit (ADU) which would be permitted by the Dover zoning ordinance. In addition, the Applicant is willing to propose and accept a condition of approval that the property be serviced by only one driveway, as depicted on the submitted plan. The proposed conditions of approval are made as a result of comments from the direct abutters.

The relief requested herein is identical to the relief recently provided by the Board in the case of 418 Dover Point Road (ZBA Case#Z21-01), where two primary structures were

permitted as a result of the grant of a variance, despite a substandard lot size. In that case a primary residential structure existed, as did a primary commercial space. As the uses were permitted, the variance was granted. In addition, and closer to home, the Board granted a variance for a lot located at 206 Gulf Road (ZBA Case#20-01) in order for two primary structures to exist on a substandard lot by allowing to subdivide the lot, with testimony provided and relied upon that one of the purposes was to create localized family ownership, or a "family compound," such as in this case, with the zoning administrator finding the proposal favorable noting the two structures would use a shared driveway and that it would be reasonable use of the land and provides for a family compound for the current time. In this instance, two primary structures would exist, with a lot size well over the minimum requirements for the R-40 zone.

In addition to the above, the Applicant notes that the request is for two dwelling units. abutters, Mr. and Mrs. Comstock, through legal counsel, have indicated to the Applicant, and the City, that based upon its own reading of the restrictions that likewise burden their property, as well as the subject property, that each 5-acre lot can only be developed with one dwelling, and, thus two dwelling units are not permitted. Despite the Comstocks' declaration that they purchased their lot fully aware of the same deed restriction encumbering their lot, like other properties subject to the same restrictions, the tax cards for the property of the Comstocks shows that they have already constructed two dwelling units on their property (see Comstock tax card attached hereto as Exhibit D). The Comstocks' own actions serve to waive their right to assert that any such restriction barring two dwelling units on the property, as alleged by the Comstocks, applies to the subject parcel.

It would be disingenuous for the Comstocks to object to 2 dwellings units on the Applicant's parcel, when they themselves have constructed two dwelling units upon their own. Most importantly, the deed restriction relied upon by the Comstocks only precludes subdivision. In addition, the restriction does not preclude multiple dwellings, and speaks in plural as to each house on the lot and "garages." Rather, when referring to the Dover zoning ordinance, the deed restrictions only limits applicability to future subdivisions, not to situations of two dwelling units on the property. Suggesting that the parcel could be subject to a declaration of condominium, the Comstocks claim the variance request amounts to an end-run around the subdivision prohibition. Agreeing to a condition of approval, precluding any such condominium should resolve any such concern. Rather, the question, within the context of the City zoning ordinance, is can two dwellings be located on the property, as was the case in the aforementioned recent case before this Board. Nothing in the title to the Applicants or the Comstock's chain of title precludes two dwellings. If so, as alleged by the Comstocks, would the Comstocks now remove their second dwelling unit? It seems as though they would only approve of a development that is as limited to their own. The Comstocks claim that an ADU represents a "reasonable alternative" that precludes the grant of a variance, however, as set forth below, NH jurisprudence squarely rejects such a requirement.

For the reasons set forth herein, the Applicant respectfully submits that the grant of the variance is reasonable and can be supported by the following evidence:

Variance Requirements:

1. The variance will not be contrary to the public interest.

Within the general community, and more specifically located within the subdivisions of Wisteria Drive, Childs Drive, Saddle Trail Drive, and homes along Gulf Road, most houses are located on parcels less than an acre in size, or if larger only Gulf road, on lots that have more acreage, but are narrow, and thus most suitable for one single-family house (See tax map attached hereto as Exhibit E). In contrast, the Applicant's lot is 5 acres in size and mostly shaped as a square, with a width that is similar to its depth. This configuration of the lot lends itself to the location of two single-family dwellings where other lots in the vicinity are much smaller or narrow in design, where a second single-family house would be impossible. In addition, the physical characteristics of the lot are unique in that the lot is flat in nature and had been cleared by a previous owner. The Applicants respectfully submit that the proposed use represents a reasonable use of the property in question. By permitting the use, the public interest is served by permitting a reasonable use of the property for a lot, if subdivided as have other lots been, would be similar to that which exists within the entire local community. The size and squared shape, as opposed to rectangular shape of the property, and proposed location of the houses, serves to continue to protect the health, welfare and general safety of the surrounding neighborhood. As such, the proposed use will not be contrary to the public interest, as the use will not "alter the essential character of the locality." It is the above that the N.H Supreme Court relies upon when considering these issues. Whether or not the title to the Applicant's and the Comstocks' properties prohibit subdivision, does not address the criteria under review as to whether two units can be located in an area where the zoning ordinance itself requires one-fifth of the size of a lot for only one dwelling unit. To the extent the Comstocks believe that they can preclude two dwellings on the lot as a matter of title, particularly where the Comstocks have waived the alleged restriction themselves, such is clearly a civil matter between the parties, and not a matter related to the City's zoning ordinance, as it is being considered within this application.

2. The spirit of the Ordinance will be observed.

The Applicants respectfully submit that if the variance is granted, the spirit of the ordinance would be observed as the use in question is suitable, considering configuration and size of the lot given the surrounding properties and dense tree and vegetative buffer to any neighboring property, resulting in an encouragement of the most appropriate use of the land. Given that the minimum lot size in the R-40 zone is less than an acre, the allowance of the second single-family house, the spirit of the ordinance will be observed. Further, the purpose of the zoning ordinance is to promote the reasonable use of property and prevent overcrowding, not to be utilized to enforce alleged title restrictions between adjacent property owners. To be contrary to the public interest or injurious to the public rights of others, the variance must unduly and in a marked degree conflict with the ordinance, such that it violates the ordinance's basic zoning objectives. To simply assert that the ordinance precludes the request, which is why the variance process exists, cannot be relied upon as any reason why the spirit of the ordinance would not be observed. Rather, compliance with the spirit of the ordinance is to be viewed

within the context of the property, the proposed use and whether the ordinance's basic zoning objectives are observed. Examples of similar requests as to multiple dwelling on single lots are referenced above, and further set forth in the report of Brian White attached hereto as Exhibit F. It is respectfully submitted, that given the reasons set forth above, the granting of the variances will consistent, and thus preserve, the ordinance's basic zoning objectives:

3. Granting the variances will result in substantial justice.

The granting of the variances would do substantial justice as it would allow the Applicants' property to be utilized in a reasonable fashion given the similar surrounding location of single-family houses, typically on less than an acre. This test considers whether the benefit to the Applicants outweighs the burden to the public. In this instance, given the size and squared configuration of the property, which if subdivided would still have excess acreage than required or that exists in the area, there will be no burden to the public whatsoever. Further consideration of the effect of the grant of the variance to the surrounding neighbors is set forth in Mr. White's report. Accordingly, the benefit to the Applicants would exceed the burden to the public, thus resulting in substantial justice being done.

4. Granting the variances will not diminish the values of the surrounding properties.

It is respectfully submitted that all of the surrounding properties have a value associated with them that is premised upon the existence of the same type of structure and use to be located upon the Applicants' property. In this instance, the Applicant intends to build two single-family homes on this unique lot. After construction, the homes will be buffered from the road. However, even if the homes were visible from the road, the houses would appear to be located on excess acreage, and would be similar in appearance to surrounding properties. The construction of two single-family houses on this unique lot will have no negative affect upon any abutter with respect to its property, and consistent with the intent of the existing zoning. In addition, the Applicant has engaged the services of Brian White, MAI, SRA, a New Hampshire licensed appraiser of White Appraisal to evaluate the impact to the surrounding property values should the variance be granted. For the reasons set forth within the attached report (Exhibit F), the Applicant respectfully submits that the grant of the variance will not diminish the surrounding property values.

5. A. Owing to special conditions of the property that distinguish it from other properties in the area,

(1) 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.

As illustrated above, it is respectfully submitted that the Applicant's property is unique, give its lot size at five acres, but also given its squared shape. This squared shape differs from other properties in the area as it is neither odd shaped, or narrow in width, as many of the properties are shaped along Gulf Road. Further, with the squared shape, the property lends itself nicely to the construction of the two-single family homes, which, after construction, will appear as if the are two homes located on a more traditional lot, as found in the surrounding area. Given the foregoing, and as the general purpose of the ordinance is to promote orderly development and to protect the health, safety and general welfare of the public, with house lots required to have less than one-fifth, or 20%, of the lot size of the property subject to this application, the purpose of the ordinance and the purposes of the specific restrictions as to the location of a single-family house upon a certain minimum proscribed area will be preserved. Further, but for not being services by water and sewer, the Applicant's lot would be a perfect candidate for award of a second single-family "unit" pursuant to the City's TDR regulations. Thus, the Applicants respectfully submit that there is no relationship between the general public purpose of the ordinance, and the specific application of the limitation as to one single-family house restriction, given the lot size and configuration and the proposed use submitted by the Applicants and that to impose the restriction to limit the construction of only one single-family house on this lot would result in an unnecessary hardship.

In reviewing the above, the Comstocks have asserted that the Applicant has reasonable alternative uses to make of its lot, specifically that, as they have done, the Applicant should be limited to an accessory dwelling unit. This logic stems from the debunked legal theory of old that an applicant should be denied a variance if there is "any" form of alternative reasonable use. This logic formed the basis of *Governors' Island Club, Inc. v. Town of Gilford*, a case that specifically overruled by the NH Supreme Court in the case of *Simplex Technologies v. Town of Newington*, 145 N.H. 727 (2001). In that case, which subsequently formed the basis for the codification of the statutory 5-pronged test for the grant of a variance pursuant to NH RSA 674:33 (1) (a) & (b), the NH Supreme Court indicated that the standard promoted by the Comstocks had become "too restrictive in light of the constitutional protections by which it must be tempered." Id. at 731. Rather, the proposal is to be considered in the context of the uniqueness of the property itself, not that there is no other reasonable alternative. That is why the test considers whether there is an "unnecessary hardship," not "ultimate hardship," meaning it must be found that it is necessary to deny the variance in order to protect the general purposes of the zoning ordinance (not title restrictions). Put another way, "Is the restriction on the property necessary in order to give full effect to the purpose of the ordinance, or can relief be granted to this property without frustrating the purpose of the ordinance?" See page 11-14, *The Board of Adjustment in New Hampshire*, New Hampshire Office of Strategic Initiatives, December 2017.

In this case, it is respectfully submitted that the Applicants have proved that such is not the case, and, as such, the Applicant requests approval of the variance to permit two dwellings on the property, where the Applicant has agreed that no subdivision or ADU unit will further be possible.

AND

(2) The proposed use is a reasonable one.

The proposed use is reasonable as it provides for the location of two-single family residences on an oversized lot, which will, after construction, present as a conventional location of single-family houses.

Return To: Diamond Capital, Inc.
35 Village Road, Ste 100
Middleton MA 01949

E-Doc # 200006364
Book 4756 Page 592

05/01/2020 11:17:02 AM
Page 1 of 3

Catherine A. Berube
Register of Deeds, Strafford County
LCHIP STA157172 25.00
TRANS TAX ST850859 3,435.00

TAX STAMPS: \$ 3,435.00

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENT: That Dana A. Pregent and Gina D. Pregent, as husband and wife, both of 11 Doe Drive, Eliot, ME 03903 for consideration paid grant(s) to Diamond Capital, Inc., a Massachusetts Corporation, of 35 Village Road, Suite 100, Middleton, MA 01949, with WARRANTY COVENANTS:

A certain tract or parcel of land with any improvements thereon, situate on the northerly side of Gulf Road-Eliot Bridge Road and Baer Road in Dover, County of Strafford, State of New Hampshire and shown as Lot #2 on a plan entitled "Lot Line Adjustment and Subdivision Plan of Land Prepared for Victor & Ruth McElheny Tax Map N, Lot Nos. 1A and 2A Gulf Road and Baer Road, Dover, Strafford County, New Hampshire" by McEneaney Survey Associates, Inc. dated November 15, 2002 and recorded in the Strafford County Registry of Deeds as Plan #68-46, being more particularly bounded and described as follows:

Beginning at an iron rod on the northerly sideline of Gulf Road - Eliot Bridge Road at the southerly corner of Lot 1; thence running N 30° 25' 44" E along Lot #1 as shown on said Plan a distance of 465.86 feet to an iron rod at other land now or formerly of Victor McElheny; thence turning and running S 63° 56' 28" E along said McElheny land as shown on said Plan a distance of 239.84 feet to a steel stake; thence running S 70° 58' 24" E along said McElheny land a distance of 158.24 feet to a steel stake; thence turning and running S 05° 32' 24" W along said McElheny land a distance of 189.01 feet to a steel stake at the northerly corner of Lot #3; thence turning and running S 43° 19' 32" W along Lot #3 as shown on said Plan a distance of 393.54 feet to an iron rod on the northerly sideline of Gulf Road - Eliot Bridge Road; thence turning and running along Gulf Road - Eliot Bridge Road on a curve to the left with a radius of 733.00 feet a distance of 129.19 feet to a point; thence running N 55° 23' 41" W along said Gulf Road - Eliot Bridge Road a distance of 259.32 feet to an iron rod at the point of beginning.

Subject, however, to the protective covenants and restrictions as outlined in the deed of Ashton Rollins, II, John Davis and Lucius F. Hallett, III, Trustees under the Will of Ashton Rollins to Victor McElheny and Ruth S. McElheny dated February 2, 1985, recorded in the Strafford County Registry of Deeds at Book 1158, Page 765.

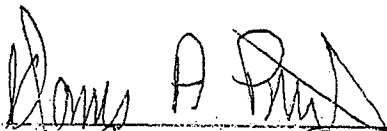
Subject further to the restriction that the above-described parcel cannot be further subdivided and that the above-described parcel shall be used only for residential use and any dwelling erected thereon shall have a minimum of 2,500 square feet of living space excluding open porches, basements and garages.

Subject to and together with an Easement Area and Transformer Box Agreement, dated February 28, 2013 and recorded with the Strafford Registry of Deeds in Book 4107, Page 996.

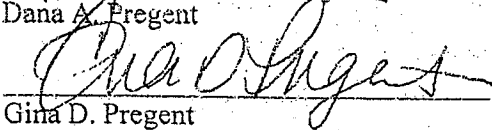
Meaning and intending to describe and convey the same premises conveyed to Dana A. Pregent and Gina D. Pregent by virtue of a Warranty deed from James J. Hurley, III and Julia Leigh-Hurley, Trustees of the James J. Hurley, III Living Revocable Trust of 2009 and James J. Hurley, III and Julia Leigh-Hurley, Trustees of the Julia Leigh-Hurley Living Revocable Trust of 2009, dated 11/27/2017 and recorded at the Stafford County Registry of Deeds in Book 4529, Page 432.

We, the grantor(s) hereby release all rights of homestead in the above described premises.

Executed this 29th day of April, 2020.



Dana A. Pregent



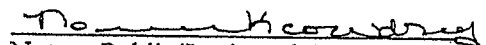
Gina D. Pregent

State of New Hampshire
County of Rockingham

April 29, 2020

Then personally appeared before me on this 29th day of April, 2020, the said Dana A. Pregent and Gina D. Pregent and acknowledged the foregoing to be his/~~her~~/their voluntary act and deed.




Notary Public/Justice of the Peace
Commission expiration:

1985 FEB 14 AM 9:42

STRAFFORD COUNTY
REGISTRY OF DEEDS

006538



BK 1158 PG 0765

FIDUCIARY DEED

ASHTON ROLLINS, II; JOHN DAVIS; and LUCIUS F. HALLETT, III,
Trustees under the Will of Ashton Rollins, late of Dover,
Strafford County, State of New Hampshire, by the power conferred
by the Will of said Ashton Rollins, Strafford County Probate
Record #A-4545, and every other power, for Thirty-five Thousand
Twenty-six Dollars and Sixty-seven Cents (\$35,026.67) paid, grant
to VICTOR McELHENY and RUTH S. McELHENY, husband and wife, 113
Huron Avenue, Cambridge, Massachusetts 02138, as joint tenants
with rights of survivorship, a certain tract of land situate at
the junction of Eliot Bridge Road and Baer Road in Dover,
Strafford County, State of New Hampshire, as shown on a certain
Plan entitled "Estate of Ashton Rollins, Dover, N.H., Scale: 1" =
100', Sept. 1984, Frederick E. Draw Associates, 8 Cherry Lane,
Madbury, N.H. 03823, Plan No. A-1599," bounded and described as
follows:

Beginning at the junction of the northerly line of Eliot
Bridge Road and the easterly line of Baer Road;

Thence northerly by the easterly line of Baer Road three
hundred ninety-nine and forty-nine hundredths feet (399.49') to
an iron pin in a stone bound at land of Corydon T. and Shirley A.
Curtis, formerly of Mabel C. Franklin;

Thence by said Curtis land South forty-eight degrees
twenty-two minutes East (S. 48° 22' E.) two hundred twenty-seven
and five tenths feet (227.5') to a concrete bound;

Thence by land of said Victor McElheny South forty-eight
degrees thirty-seven minutes East (S. 48° 37' E.) one hundred
seventy-eight and five tenths feet (178.5') to a stake and
stones;

Thence South forty-eight degrees forty-five minutes East (S.
48° 45' E.) three hundred fifty-four and four tenths feet
(354.4') to a stake and stones;

Thence South fifty-five degrees forty-seven minutes East (S.
55° 47' E.) one hundred fifty-eight and four tenths feet (158.4')
to a stake and stones;

Thence South twenty degrees thirty-nine minutes West (S. 20°
39' W.) one hundred eighty-nine and one tenth feet (189.1') to a
stake and stones;

Thence continuing South twenty degrees thirty-nine minutes West (S. 20° 39' W.) one hundred five and four tenths feet (105.4') feet to a stake and stones;

Thence South forty-six degrees twenty minutes East (S. 46° 20' E.) one hundred twenty-two and five tenths feet (122.5') to a stake and stones;

Thence South twenty-four degrees twenty-eight minutes East (S. 24° 28' E.) one hundred forty-one and five tenths feet (141.5') to a point;

Thence South four degrees fifteen minutes East (S. 04° 15' E.) one hundred ninety-eight and nine tenths feet (198.9') to a point;

Thence South twenty degrees eighteen minutes West (S. 20° 18' W.) one hundred seventy-four and six tenths feet (174.6') to a point;

Thence South one degree twenty-nine minutes East (S. 01° 29' E.) one hundred twenty-eight and seven tenths feet (128.7') to a thirty inch (30") oak tree;

Thence South forty-six degrees twenty-four minutes East (S. 46° 24' E.) twenty and three tenths feet (20.3') to a stake and stones;

Thence continuing on the same course twenty seven feet (27'), more or less, to the shore of the Salmon Falls River;

Thence southerly two hundred five feet (205'), more or less, by the shore of said River to Eliot Bridge Road;

Thence westerly by the northerly line of Eliot Bridge Road one thousand seven hundred seventy-six and forty-one one hundredths feet (1,776.41'), more or less, to the point of beginning, containing fourteen and two tenths (14.2) acres, more or less.

SUBJECT, HOWEVER, to the following protective covenants which shall be mutually restrictive and run with the land:

1) All subdivision plans must advance good, positive land use, and will be designed to enhance and protect the existing environment.

2) Any parcels to be laid out by subsequent subdivision plans shall contain a minimum of five (5) acres.

3) Any subdivision plans shall be in accordance with existing town and city zoning, and be approved by the New Hampshire Water Supply and Pollution Control Commission.

4) No dumping will be permitted on any portion of the above-described premises, nor will abandoned cars or trailers be permitted thereon.

RESERVING, MOREOVER, to the Grantors and successor Trustees under the Will of Ashton Rollins the right to use and maintain their existing water source for the benefit of present users, their heirs and devisees, including both water for drinking and household use and for recreation (swimming pool).

EX 1158 Pg 0766

Meaning and intending to describe and convey a portion of the premises of the Estate of Ashton Rollins, Strafford County Probate Record #A-4545.

WITNESS our hands this Second day of January, 1985.

TRUST UNDER THE WILL OF
ASHTON ROLLINS

Carroll K. Hallett
Witness

By: Ashton Rollins II
Ashton Rollins, II, Trustee

Carroll K. Hallett
Witness

By: John Davis
John Davis, Trustee

Carroll K. Hallett
Witness

By: Lucius F. Hallett, III
Lucius F. Hallett, III, Trustee

STATE OF NEW HAMPSHIRE
STRAFFORD, SS.

The foregoing instrument was acknowledged before me this 2nd day of January, 1985, by Ashton Rollins, II, Trustee u/w Ashton Rollins.

Ashton Rollins II
Notary Public

My commission expires: 4-11-89

STATE OF NEW HAMPSHIRE
STRAFFORD, SS.

The foregoing instrument was acknowledged before me this 2nd day of January, 1985, by John Davis, Trustee u/w Ashton Rollins.

Ashton Rollins II
Notary Public

My commission expires: 4-11-89

STATE OF NEW HAMPSHIRE
STRAFFORD, SS.

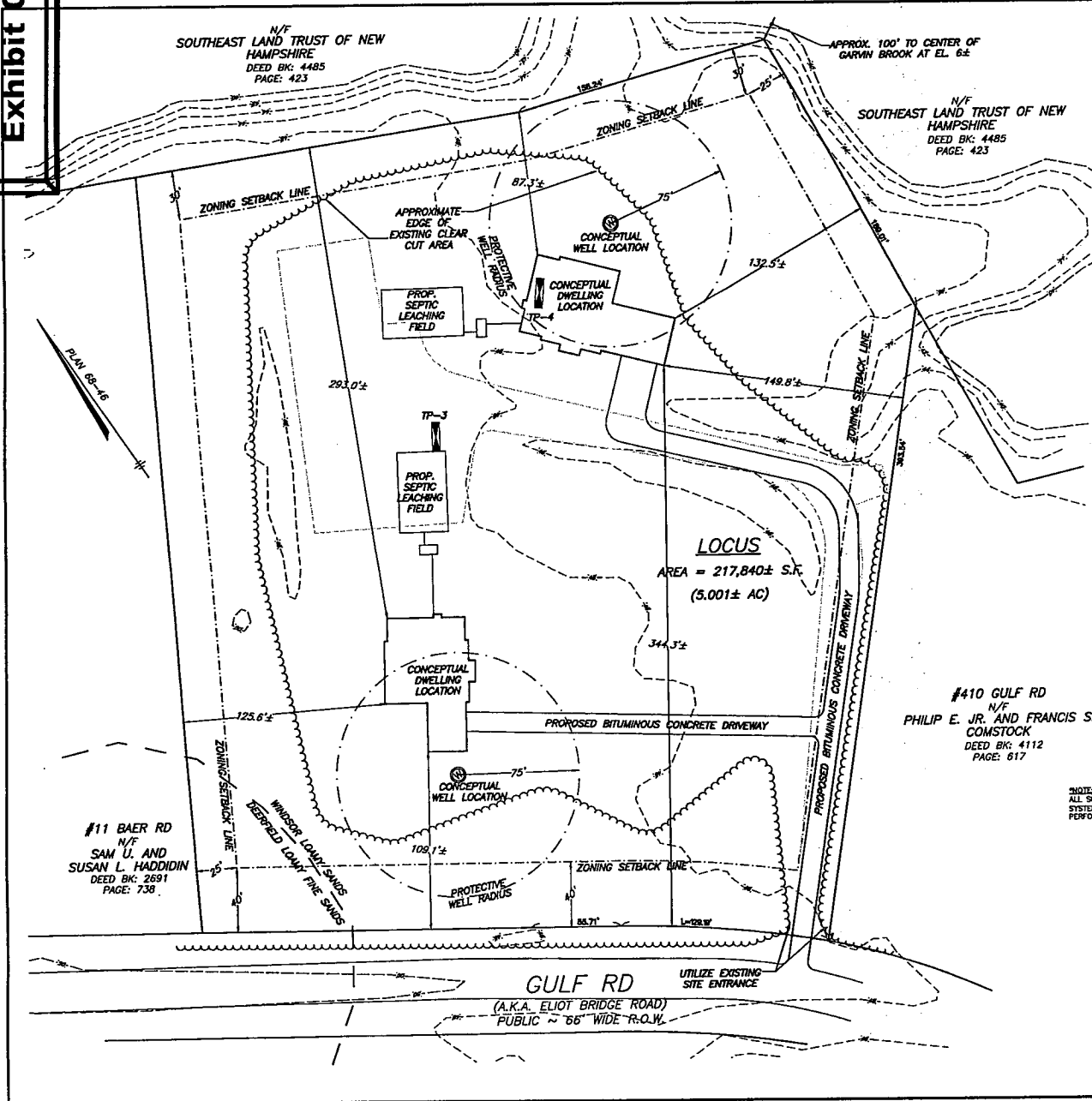
The foregoing instrument was acknowledged before me this 2nd day of January, 1985, by Lucius F. Hallett, III, Trustee u/w Ashton Rollins.

Ashton Rollins II
Notary Public

My commission expires: 4-11-89

REGISTER OF DEEDS
STRAFFORD COUNTY

EX 1158 P00767

**ASSESSORS:**

PARCEL ID: N0002-A00002

ZONING:

RURAL RESIDENTIAL (R-40)

REFERENCES:DEED BOOK 4756, PAGE 582
PLAN 68-48**RECORD OWNER:**DIAMOND CAPITAL, INC.
35 VILLAGE RD, SUITE 100
MIDDLETON, MA 01949**NOTES:**

- 1) THE PURPOSE OF THIS PLAN IS TO CONCEPTUALLY SHOW THE PLACEMENT OF TWO SINGLE FAMILY DWELLINGS ON EXISTING PARCEL N0002-A00004. THIS PLAN IS NOT SUITABLE FOR PERMITTING PURPOSES.
- 2) ELEVATION DATA SHOWN HEREON IS APPROXIMATE ONLY AND HAS BEEN TAKEN FROM DATA AVAILABLE ON THE GRANVIEW GIS WEBSITE.
- 3) NO SURVEY HAS BEEN DONE BY HANCOCK ASSOCIATES ON THE SUBJECT PROPERTY. ALL EXISTING SITE FEATURES, PROPERTY LINES, AND CONTOUR INFORMATION SHOWN HEREON IS APPROXIMATE ONLY.
- 4) ACCORDING TO AVAILABLE GIS DATA, NO HYDRIC SOILS ARE PRESENT ON SITE.
- 5) PROJECT WILL REQUIRE HIGH INTENSITY SOIL MAPPING BY A NH CERTIFIED SOIL SCIENTIST, SOIL TESTING FOR SEPTIC DESIGN BY A LICENSED SEPTIC DESIGNER, AND SEPTIC SYSTEM APPROVAL BY THE CITY OF DOVER HEALTH DEPARTMENT.

SOIL TESTING LOGS:**TP-3**

00-12"	DARK BROWN	10YR 3/3	LOAMY SAND, GRANULAR, FRIABLE
12-24"	YELLOWISH BROWN	10YR 5/6	LOAMY SAND, GRANULAR, FRIABLE
24-40"	OLIVE	5Y 5/3	LOAMY SAND, MASSIVE, FIRM
40-68"	OLIVE	5Y 5/3	LOAMY FINE SAND, BLOCKY, FRIABLE

NO LEDGE
WATER OBSERVED AT 48"
ESHT = 24"
PERC RATE = 6 MIN/INCH @ 24"

TP-4

00-12"	DARK BROWN	10YR 3/3	LOAMY SAND, GRANULAR, FRIABLE
12-22"	YELLOWISH BROWN	10YR 5/6	LOAMY SAND, GRANULAR, FRIABLE
22-32"	OLIVE	5Y 5/3	LOAMY SAND, MASSIVE, FIRM
32-40"	OLIVE GRAY	5Y 5/2	SILT LOAM, BLOCKY, FRIABLE
40-52"	DARK BROWN	10YR 4/3	LOAMY FINE SAND, MASSIVE, LOOSE

NO LEDGE
WATER OBSERVED AT 44"
ESHT = 22"

NOTE:
ALL SOIL TESTING SHOWN HEREON LOGGED BY KENNETH J. FAUCHER (NH DESIGNER OF SUBSURFACE DISPOSAL SYSTEMS #801) FOR MCNEANEY SURVEY ASSOCIATES, INC. ON DECEMBER 11, 2002. HANCOCK ASSOCIATES HAS PERFORMED NO SOIL TESTING ON THIS PROPERTY.

ZONING TABULATION

CURRENT ZONING ORDINANCE: AMENDED THROUGH JULY 22, 2020			
CURRENT ZONING MAP: MARCH 15, 2017			
ZONING CLASSIFICATION: RURAL RESIDENTIAL DISTRICT (R-40)			
OVERLAY DISTRICTS: NONE			
PROPOSED USE: SINGLE FAMILY DWELLING			
TOTAL LOT AREA: 217,840± S.F.			
REQUIRED PERMITS: BUILDING PERMIT, PLUMBING PERMIT, ELECTRICAL PERMIT, DRIVEWAY PERMIT, SEPTIC SYSTEM APPROVAL			
ITEM (BY-LAW REFERENCE)	REQUIRED	EXISTING	PROPOSED
MINIMUM LOT AREA	40,000 S.F.	217,840± S.F.	NO CHANGE
MINIMUM FRONTAGE	150 FEET	368.55 FEET	NO CHANGE
MINIMUM FRONT YARD SETBACK	40 FEET	VACANT	109.18 FEET
MINIMUM SIDE YARD SETBACK	25 FEET	VACANT	125.08 FEET
MINIMUM REAR YARD SETBACK	30 FEET	VACANT	87.35 FEET
MINIMUM COVERAGE	10%	0.0%	7.5%
MAXIMUM BUILDING HEIGHT	35 FEET	VACANT	<35 FEET

SCALE: 1" = 30'

0 30 60 120

CONCEPTUAL LOT DIVISION

Dover, New Hampshire 03820

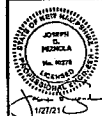
PREPARED FOR

DIAMOND CAPITAL, INC.35 Village Rd, Suite 100
Middletown, Massachusetts 01949**HANCOCK ASSOCIATES**

Civil Engineers

Land Surveyors

Wetland Scientists

185 CENTRE STREET, DAVENPORT, MA 01923
VOICE (978) 777-3050, FAX (978) 774-7818
WWW.HANCOCKASSOCIATES.COM

1 JUL 21 12/21/21 REG. LOCATION/FOOTPRINTS

NO. BY APP. DATE ISSUE/REVISION DESCRIPTION

DATE: 9/29/20 DRAWN BY: JPH

SCALE: 1" = 30' CHECK BY: JPH

CONCEPTUAL PLAN OF LAND IN DOVER, NH

DWG: 23953-CONCEPT.dwg

LAYOUT: Layout13-Layout11

SHEET: 1 OF 1

PROJECT NO.: 23953

Property Location:

410 Gulf Rd

Residential Property Record Card - Dover, New Hampshire

Parcel ID: N0002-A00000

Map Block No. N-2-A-0

Class: R

Use:

101

Card 1 of 1

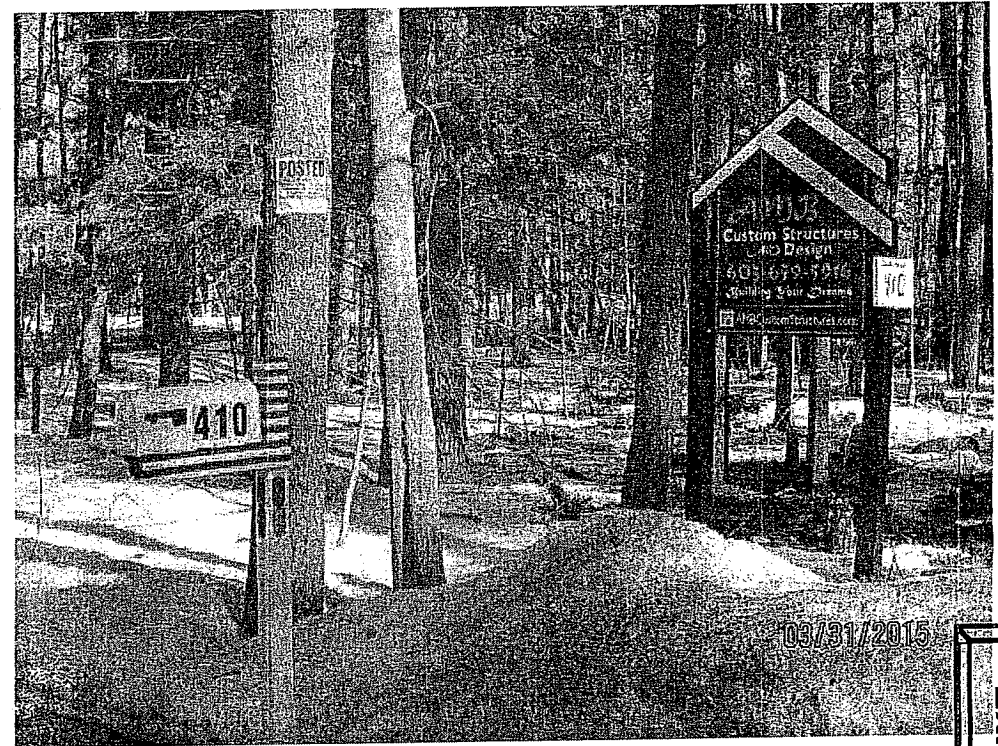
Current Owner		Previous Owner History			Miscellaneous		Assessment Information	
Comstock Philip E Jr & Comstock Frances S 410 Gulf Rd Dover Nh 03820-5123		Name	Deed	Date	Deed Info:	4112/617-04/01/2013	Assessed Value:	*
		Samson Molly &	2780/964	06/23/2003	Zoning:	R-40	Land:	365,700
		Gabriel Daniel G Rev Trust	2702/121	03/12/2003	Neighborhood:	159	Building:	546,500
		McElheny Victor	1158/765		Living Units:	2	Total:	912,200
					Street/Road:	Public	Assessed Information:	
							Value:	912,200
Notes		Entrance Information			Estimates		Effective DOV:	
No Tres.sign=xmeasest=bldgplan Mud Flats, North Side Of Bridg		Date	Time	ID Actv Entrance Code Source	MRA:		Value Flag:	COST VALUE
				Entry & Sign	Weighted:			
				Entry & Sign	Market:			
		08/31/2015	P	SM				
				Est-See Note				

Sales History				
Book/Page	Date	Price	Type	Validity
4112/617	04/01/2013	255,000	1	08
2780/964	06/23/2003	350,000	1	1

Permit Information				
Date	Permit #	Price	Purpose	% Comp.
01/08/2014	13-441	600,000	New Constrctn	100
				0

Land Information					
Type	Size	Grade	Influence Factor 1, 2 and %		Value
Waterfront	A	1 0	Topography	-10	171,000
Residual	A	4.77 0		0	56,860
Waterfront	L	536x1 0	Restriction	-55	137,790
Total Acres for this Parcel		5.77	Total Land Value		365,700

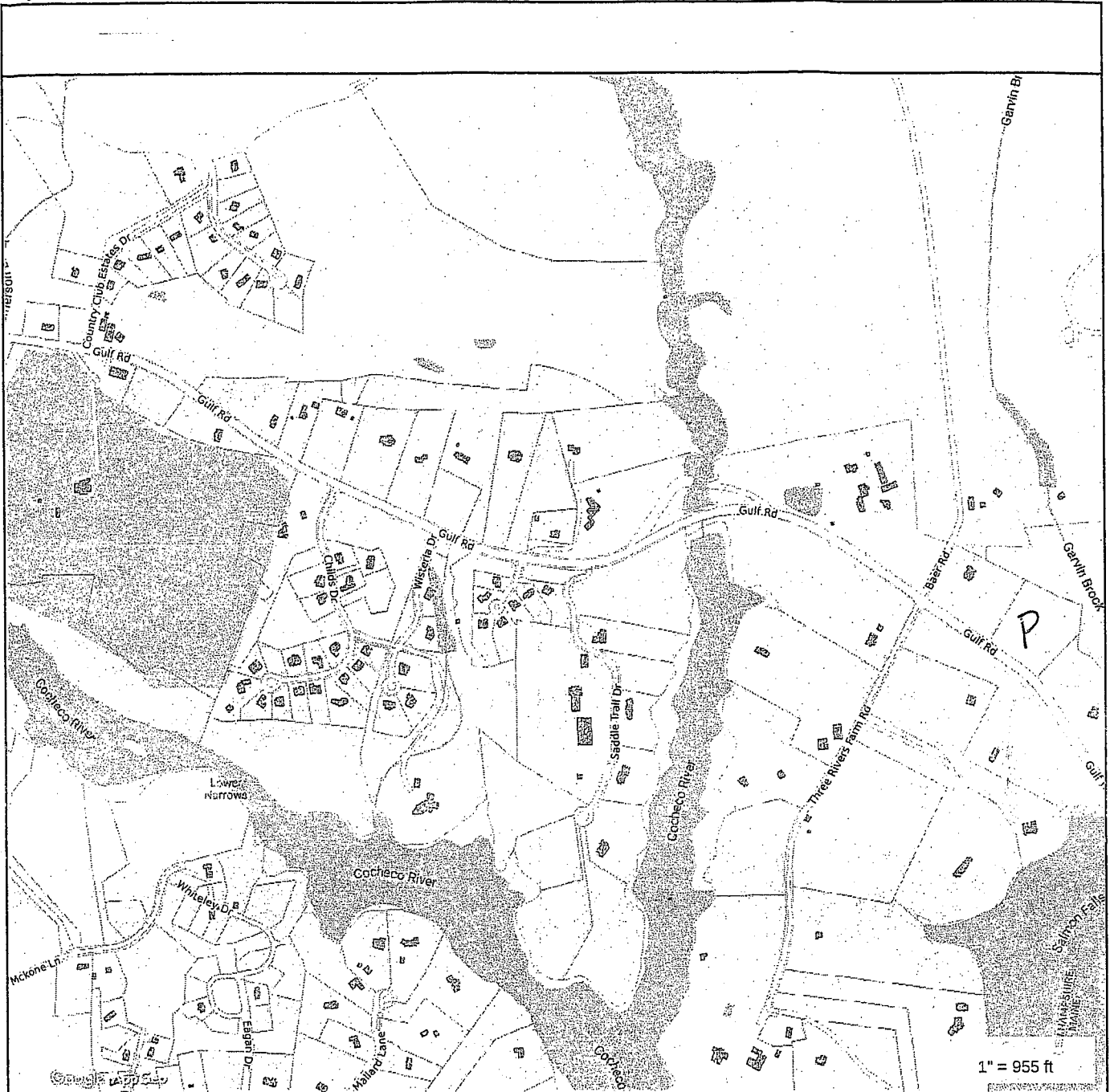
Out Building Information							
Type	Qty	Year	Size1	Size2	Grade	Cond	%Good Value
	0	0	0	0			0%
	0	0	0	0			0%
	0	0	0	0			0%
	0	0	0	0			0%
	0	0	0	0			0%
	0	0	0	0			0%
	0	0	0	0			0%
Total OBY for this card							0



Inspection witness by:

April 1, 2020 Assessment

Descriptor/Area
A: 2Fr/B 1348 sqft
B: 1Fr/FG 90 sqft
C: FG 462 sqft
D: FOH/OFF 98 sqft
E: OFF 212 sqft
F: CP 336 sqft
G: 1Fr/B 264 sqft
H: WD/OFF 168 sqft
I: WD 84 sqft
J: WD 48 sqft
K: FUB 30 sqft



Property Information

Property ID N0008-A00D00
 Location 46 CHILDS DR
 Owner PARKER JASON &
 Land Use 101



MAP FOR REFERENCE ONLY NOT A LEGAL DOCUMENT

City of Dover, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 5/20/2020
 Data updated Daily

WHITE APPRAISAL

REAL ESTATE APPRAISING & CONSULTING

Brian W. White, MAI, SRA



January 28, 2021

Mr. Chris Prior, Chairperson
Dover Zoning Board of Adjustment
City Hall
288 Central Avenue
Dover, NH 03820

RE: The Variance application for the Diamond Capital, Inc. property located on Gulf Road
(Map N, Lot 2-A-2) in Dover, NH.

Mr. Prior:

I have been asked by Diamond Capital, Inc. to investigate the impact to the value of the abutting properties for the proposed residential development (two single family dwellings) to be located on Gulf Road and to prepare an analysis and opinion on the matter. I have reviewed the Dover Zoning Ordinance that addresses the standards for a variance. To prepare this letter, I have completed research on the proposed subject property, the neighborhood and the Dover marketplace. The following letter summarizes my analysis, findings and conclusions:

1. The Existing Development:

The subject property is a 5.0-acre parcel of land, with 388.5' of road frontage, located in the "R-40" (Rural Residential District) zone. The subject property is currently a vacant residential parcel of land only improved with a chain-link gate. The majority of the parcel has been cleared of trees with almost the entire perimeter of the parcel having an existing natural wooded area with a mixture of hardwoods and evergreens. A dirt and gravel drive has been roughed in and there are underground utilities in place. The entire parcel appears to be upland as there are no wetland areas on the parcel. The subject's parcel is unique as it meets the size and frontage requirements in the R-40 zone to be subdivided into two residential lots each containing 2.50 acres and approximately 195' of frontage on Gulf Road. There is also a deed restriction on the subject property that prohibits the subdivision of the subject's parcel into a lot size less than 5.0-acres in size. This makes the traditional subdivision of the subject's 5.0-acre parcel into two parcels impossible.

2. The Proposed Development:

Based on a site plan prepared by Hancock Associates, the subject property is proposed for development with two single family residential dwellings. There will be an asphalt driveway located in the eastern portion of the parcel that will extend approximately half way into the parcel providing access to a rear "eastern" dwelling. Approximately half way up this driveway area, there will be a second asphalt driveway that will provide access to a front "western" dwelling. Both of the dwellings will have a septic leachfield for sewage disposal.

and an artesian well providing water to the dwelling. The proposed development plans does not call for removing any of the existing natural perimeter screen. It is assumed that the two dwellings will be landscaped with traditional grassed lawn areas.

3. Neighborhood & Abutting Properties:

The subject property is located on Gulf Road in the eastern portion of the City of Dover in the "R-40" (Rural Residential District) zone. The subject property is located adjacent to two single family residential properties with an undeveloped parcel of land and conservation land located to the rear of the subject's parcel. The parcel to the west of the subject property (11 Baer Road) is developed with a single family residence that has a paved driveway off of Baer Road. Because of the dense wooded area between this residence and the subject property, this residence is not visible from the subject property. The parcel to the east of the subject property (410 Gulf Road) is developed with a single family residence that has a paved driveway off of Gulf Road. The driveway extends from the southwestern portion of the parcel in an easterly direction to the residence. There is a narrow natural buffer located on both the subject's parcel and on this parcel that provides a natural screen. There are a mixture of hardwoods and evergreens in this screen area. It is noted that the residence located on 410 Gulf Road is located approximately 400' from the eastern boundary of the subject property. Given this, the residence located on 410 Gulf Road is only visible in the distance, in a partially screened manner, from the front portion of the subject property (See page #14). The parcel located to the rear of the subject property is undeveloped woodlands. The parcel located across Gulf Road from the subject property (32 Three Rivers Farm Road) is developed with a single family residence that is over 250' from the front of the subject's parcel. Given the front wooded area of the subject property and the dense wooded area on the other parcel, the residence located on 32 Three Rivers Farm Road is not visible from the proposed dwelling areas of the subject property. It is noted that the subject property was viewed on January 11th when the foliage is largely off the trees and visibility from one parcel to another is at its maximum.

Other than the four cited "abutting" parcels, the subject's area along Gulf Road is dominated by the Cochecho Country Club, the Three Rivers Farm development and a few other residential developments that extend off of Gulf Road (Saddle Trail Drive, Wisteria Drive, Childs Drive and Winterberry Drive). Gulf Road consists of several single family frontage lots and a few undeveloped parcels of land. Gulf Road extends easterly providing access to the towns of South Berwick and Eliot, Maine. Gulf Road extends westerly providing access to Atlantic Avenue, Cohecho Street and the downtown area of Dover.

4. Factors that impact Value and the Application to the Subject Property:

For the subject property, there are three potential factors that could directly impact the market value of the abutting properties. These factors are noise, view and use.

Noise:

The subject property is proposed for development with two residential dwellings. The property will have an asphalt driveway that will provide access to the two residences. The western residence will be located in the front portion of the parcel and the eastern residence will be located in the rear portion of the parcel. Applying the R-40 dimensional

requirements for a residential lot (minimum of 40,000 SF and a minimum of 150' of road frontage), the subject property could be subdivided into two residential lots (not considering the deed restriction requiring a 5-acre minimum lot size). The noise that will be emitted from the subject property from normal residential use will be limited to the usual noises such as: running automobiles, doors opening and closing, lawn mowing and lawn maintenance, snow plowing and typical recreational yard use noises. Given the fact that each residence will effectively be located on lots that are substantially larger (2.5 effective acres each) than the minimum allowed by zoning (0.92 acres), the noise that will be emitted from this development will be similar to others that are found along Gulf Road. It is noted that the vehicle traffic along Gulf Road is typically traveling at speeds from 40 to 50 miles-per-hour (40 MPH posted). The road noise from cars and trucks traveling by the subject's area would likely overtake any potential noise from the proposed residential development.

View:

At the present time, the subject's vacant parcel is visible from Gulf Road and partially visible from the developed area of the single family residence located at 410 Gulf Road. The developed areas of the other parcels that either abut the subject property or are directly across Gulf Road from the subject property are screened by the natural buffers located on the subject property and on the properties in question.

The proposed two-dwelling single family development of the subject property will contain two traditional residences with attached garages. These structures will be partially visible from the traffic traveling on Gulf Road. It is important to point out that the proposed two-dwelling single family development of the subject property will be developed in such a manner that it will utilize the existing natural screening to continue to screen the view of the proposed subject from its residential abutters. The rear residence of the subject property will be largely or entirely obstructed from the single family residence located on 410 Gulf Road. The front residence will be largely obstructed from the single family residence located on 410 Gulf Road. It is noted that the single family residence located on 410 Gulf Road is approximately 400' from the property line and it will be located an additional 50' to 100' from the rear residence and an additional 300' from the front residence. Taking this into account, the view of the subject's two single family residences from the single family residence of 410 Gulf Road would be a "distant partially obstructed" view.

While it is true that the distant partially obstructed view of the subject property from the yard area of 410 Gulf Road will change from its current view of undeveloped land, it is not necessarily true that the market value of the abutting residences will change because of this view change. Any alternate use of the subject property different from the proposed single family use will likely result in a change in the view from the abutting properties. As an extreme example, the market value of the abutting residences could possibly be increased if the subject property were not a single family development but if it were to remain an undeveloped wooded parcel. Having no development on the subject property and having the view of the subject property being undeveloped woods could be a positive value enhancement for the abutting residences. However, this will not be the case and it is not reality.

Use:

The subject property is proposed for use as a two-dwelling single family development that will contain a rear "eastern" residence and a front "western" residence along with a shared paved driveway. In the surrounding neighborhood along Gulf Road and Three Rivers Farm Road there are a variety of single family developments. Most of these developments are traditional single family developments that contain a primary residence with garage and out buildings that are typical of supporting a single family home. However, in the Gulf Road and Three Rivers Farm Road area there are several residential developments that contain multiple residences on one parcel. For example, the single family development located on 125 Three Rivers Farm Road contains three separate residential buildings. There are effectively two single family residences on 53 Three Rivers Farm Road, 296 Gulf Road, 32 Wisteria Drive and 206 Gulf Road. All of these multiple residence properties, with the exception of 206 Gulf Road, have been permitted by grandfathering, variance or other means. The 206 Gulf Road residence was a single family on a larger parcel with a small amount of usable upland. A recent variance was granted that allowed for creating a second parcel that could support a second single family residence. All of these multiple residence dwellings are somewhat unique developments, as is the subject property. All of them have been able to find a means to obtain approval from the City of Dover to allow for the legal use of multiple residences effectively on one larger parcel of land. The subject property is unique as there is a deed restriction that prohibits subdivision to less than 5.0-acres. The owners of the subject property (Mike and Sarah Savage) are seeking to have a residential development that will be able to accommodate themselves in one residence and Mike Savage's elderly parents in the other residence. While this is a fairly unique request, it may not be so different from that found in several nearby residential developments.

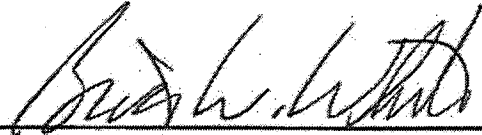
I have attempted to gather market sales data from the area that would speak to the change in view issue and possible value changes. In the greater Dover area, there is no exactly similar property from which to extract paired-sales. Therefore, only general observations can be made based on my experience in the marketplace and opinions from real estate brokers familiar with the subject's area of Dover. It was previously noted that there are several multiple residence residential properties located in the subject's Gulf Road and Three Rivers Farm Road neighborhoods. There have been several sales of single family homes in this area over the past several years. I have contacted three residential real estate brokers who have sold one or more residential property in this area, over the past several years, to get their opinion. These brokers are: Peggy Carter with Coldwell Banker – Peggy Carter Team, Jamieson Duston with the Bean Group and Jennifer Seabrooke with the Aland Realty Group. All of these brokers were aware of at least some of the existing multiple residence properties in the area and none of them indicated that their presence was detrimental to them obtaining full market value for their listing. After providing them with some of the specific facts of the subject's development, they each commented on the potential impact on value of the surrounding properties. Peggy Carter stated that there would be "no diminution of value" to the abutting properties. Jennifer Seabrooke indicated that the proposal was "on the right track as it is being designed to keep the look of the neighborhood". Jamieson Duston said he "doesn't see a big problem" with the proposal. He also indicated that "some buyers could see it as a negative". In the residential marketplace, there are various amenities and/or features of the subject property and the neighborhood that can be a negative for some buyers. Buyers can be fickle and each one may be looking for something slightly different for their residence and from the surrounding neighborhood. Typically, in the residential marketplace,

the values of the surrounding properties aren't negatively impacted by a specific amenity or feature of the surrounding neighborhood until the majority of the potential buyers view it as a negative.

5. *Specific Standard – Use Variance:*

Variances – 170-52 (4) - It is my opinion that granting a variance for the subject property to be used as a two-dwelling single family residence would not result in the diminution in value of the abutting property values in the immediate vicinity of the subject property and the proposed subject property would not substantially change the characteristics of the neighborhood.

Respectively submitted,

A handwritten signature in black ink, appearing to read "Brian W. White", written over a horizontal line.

Brian W. White, MAI, SRA NHC#-52

Addenda to White Appraisal available electronically
and on file in the Planning Office.

WHITE APPRAISAL

REAL ESTATE APPRAISING & CONSULTING

Brian W. White, MAI, SRA



January 28, 2021

Mr. Chris Prior, Chairperson
Dover Zoning Board of Adjustment
City Hall
288 Central Avenue
Dover, NH 03820

RE: The Variance application for the Diamond Capital, Inc. property located on Gulf Road
(Map N, Lot 2-A-2) in Dover, NH.

Mr. Prior:

I have been asked by Diamond Capital, Inc. to investigate the impact to the value of the abutting properties for the proposed residential development (two single family dwellings) to be located on Gulf Road and to prepare an analysis and opinion on the matter. I have reviewed the Dover Zoning Ordinance that addresses the standards for a variance. To prepare this letter, I have completed research on the proposed subject property, the neighborhood and the Dover marketplace. The following letter summarizes my analysis, findings and conclusions:

1. The Existing Development:

The subject property is a 5.0-acre parcel of land, with 388.5' of road frontage, located in the "R-40" (Rural Residential District) zone. The subject property is currently a vacant residential parcel of land only improved with a chain-link gate. The majority of the parcel has been cleared of trees with almost the entire perimeter of the parcel having an existing natural wooded area with a mixture of hardwoods and evergreens. A dirt and gravel drive has been roughed in and there are underground utilities in place. The entire parcel appears to be upland as there are no wetland areas on the parcel. The subject's parcel is unique as it meets the size and frontage requirements in the R-40 zone to be subdivided into two residential lots each containing 2.50 acres and approximately 195' of frontage on Gulf Road. There is also a deed restriction on the subject property that prohibits the subdivision of the subject's parcel into a lot size less than 5.0-acres in size. This makes the traditional subdivision of the subject's 5.0-acre parcel into two parcels impossible.

2. The Proposed Development:

Based on a site plan prepared by Hancock Associates, the subject property is proposed for development with two single family residential dwellings. There will be an asphalt driveway located in the eastern portion of the parcel that will extend approximately half way into the parcel providing access to a rear "eastern" dwelling. Approximately half way up this driveway area, there will be a second asphalt driveway that will provide access to a front "western" dwelling. Both of the dwellings will have a septic leachfield for sewage disposal

and an artesian well providing water to the dwelling. The proposed development plans does not call for removing any of the existing natural perimeter screen. It is assumed that the two dwellings will be landscaped with traditional grassed lawn areas.

3. *Neighborhood & Abutting Properties:*

The subject property is located on Gulf Road in the eastern portion of the City of Dover in the “R-40” (Rural Residential District) zone. The subject property is located adjacent to two single family residential properties with an undeveloped parcel of land and conservation land located to the rear of the subject’s parcel. The parcel to the west of the subject property (11 Baer Road) is developed with a single family residence that has a paved driveway off of Baer Road. Because of the dense wooded area between this residence and the subject property, this residence is not visible from the subject property. The parcel to the east of the subject property (410 Gulf Road) is developed with a single family residence that has a paved driveway off of Gulf Road. The driveway extends from the southwestern portion of the parcel in an easterly direction to the residence. There is a narrow natural buffer located on both the subject’s parcel and on this parcel that provides a natural screen. There are a mixture of hardwoods and evergreens in this screen area. It is noted that the residence located on 410 Gulf Road is located approximately 400’ from the eastern boundary of the subject property. Given this, the residence located on 410 Gulf Road is only visible in the distance, in a partially screened manner, from the front portion of the subject property (See page #14). The parcel located to the rear of the subject property is undeveloped woodlands. The parcel located across Gulf Road from the subject property (32 Three Rivers Farm Road) is developed with a single family residence that is over 250’ from the front of the subject’s parcel. Given the front wooded area of the subject property and the dense wooded area on the other parcel, the residence located on 32 Three Rivers Farm Road is not visible from the proposed dwelling areas of the subject property. It is noted that the subject property was viewed on January 11th when the foliage is largely off the trees and visibility from one parcel to another is at its maximum.

Other than the four cited “abutting” parcels, the subject’s area along Gulf Road is dominated by the Cochecho Country Club, the Three Rivers Farm development and a few other residential developments that extend off of Gulf Road (Saddle Trail Drive, Wisteria Drive, Childs Drive and Winterberry Drive). Gulf Road consists of several single family frontage lots and a few undeveloped parcels of land. Gulf Road extends easterly providing access to the towns of South Berwick and Eliot, Maine. Gulf Road extends westerly providing access to Atlantic Avenue, Cocheco Street and the downtown area of Dover.

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Respectively submitted,


Brian W. White, MAI, SRA NHCG-#52

ADDENDA

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PHOTOGRAPHS OF THE SUBJECT PROPERTY



Front of the Subject Property
Looking Northeast from Knox Marsh Road - (1/21)



Subject Property – Paved Drive Area off of Knox Marsh Road
Looking Northeast from Knox Marsh Road - (1/21)

PHOTOGRAPHS OF THE SUBJECT PROPERTY



Front of the Subject Property
Looking Southeast on Gulf Road – (1/21)



Front of the Subject Property
Looking Northwest on Gulf Road – (1/21)

PHOTOGRAPHS OF THE SUBJECT PROPERTY



Subject Property – Driveway
Looking Northeast from Gulf Road - (1/21)



Subject Property – Driveway
Looking Southwest from Gulf Road - (1/21)

PHOTOGRAPHS OF THE SUBJECT PROPERTY



Front of the Subject Property – Western Area
Looking North from Gulf Road - (1/21)



Front of the Subject Property – Eastern Area
Looking North from Gulf Road - (1/21)

PHOTOGRAPHS OF THE SUBJECT PROPERTY



Subject Property – Looking East from Future Location of the Eastern Residence – (1/21)



Subject Property – Looking South from Future Location of the Eastern Residence – (1/21)

PHOTOGRAPHS OF THE SUBJECT PROPERTY



Subject Property – Looking West from Future Location of the Eastern Residence – (1/21)



Subject Property – Looking North from Future Location of the Eastern Residence – (1/21)

PHOTOGRAPHS OF THE SUBJECT PROPERTY



Subject Property – Looking East from Future Location of the Western Residence – (1/21)



Subject Property – Looking South from Future Location of the Western Residence – (1/21)

PHOTOGRAPHS OF THE SUBJECT PROPERTY



Subject Property – Looking West from Future Location of the Western Residence – (1/21)



Subject Property – Looking North from Future Location of the Western Residence – (1/21)

No Picture Available

Inspection witness by:

April 1, 2020 Assessment

Type	Land Information			Value
	Size	Grade	Influence Factor 1, 2 and %	
Primary	A	1 0	0	150,000
Secondary	A	1 0	-10	33,750
Residual	A	3 0	0	36,500

Total Acres for this Parcel	5	Total Land Value	220,300		
	Out Building Information				
Type	Qty	Year	Size1 Size2 Grade Cond %Good Value		
	0	0	0 0	0%	0
	0	0	0 0	0%	0
	0	0	0 0	0%	0
	0	0	0 0	0%	0
	0	0	0 0	0%	0
	0	0	0 0	0%	0
	0	0	0 0	0%	0
Total Q&V for this card				0	

Total OBY for this card

Printed Fri. Oct 23, 2020

Descriptor/Area

Return To: Diamond Capital, Inc.
35 Village Road, Ste 100
Middleton MA 01949

E-Doc # 200006364
Book 4756 Page 592

05/01/2020 11:17:02 AM
Page 1 of 3

Catherine A. Berube
Register of Deeds, Strafford County
LCHIP STA157172 25.00
TRANS TAX ST850859 3,435.00

TAX STAMPS: \$ 3,435.00

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENT: That Dana A. Pregent and Gina D. Pregent, as husband and wife, both of 11 Doe Drive, Eliot, ME 03903 for consideration paid grant(s) to Diamond Capital, Inc., a Massachusetts Corporation, of 35 Village Road, Suite 100, Middleton, MA 01949, with WARRANTY COVENANTS:

A certain tract or parcel of land with any improvements thereon, situate on the northerly side of Gulf Road-Eliot Bridge Road and Baer Road in Dover, County of Strafford, State of New Hampshire and shown as Lot #2 on a plan entitled "Lot Line Adjustment and Subdivision Plan of Land Prepared for Victor & Ruth McElheny Tax Map N, Lot Nos. 1A and 2A Gulf Road and Baer Road, Dover, Strafford County, New Hampshire" by McEneaney Survey Associates, Inc. dated November 15, 2002 and recorded in the Strafford County Registry of Deeds as Plan #68-46, being more particularly bounded and described as follows:

Beginning at an iron rod on the northerly sideline of Gulf Road - Eliot Bridge Road at the southerly corner of Lot 1; thence running N 30° 25' 44" E along Lot #1 as shown on said Plan a distance of 465.86 feet to an iron rod at other land now or formerly of Victor McElheny; thence turning and running S 63° 56' 28" E along said McElheny land as shown on said Plan a distance of 239.84 feet to a steel stake; thence running S 70° 58' 24" E along said McElheny land a distance of 158.24 feet to a steel stake; thence turning and running S 05° 32' 24" W along said McElheny land a distance of 189.01 feet to a steel stake at the northerly corner of Lot #3; thence turning and running S 43° 19' 32" W along Lot #3 as shown on said Plan a distance of 393.54 feet to an iron rod on the northerly sideline of Gulf Road - Eliot Bridge Road; thence turning and running along Gulf Road - Eliot Bridge Road on a curve to the left with a radius of 733.00 feet a distance of 129.19 feet to a point; thence running N 55° 23' 41" W along said Gulf Road - Eliot Bridge Road a distance of 259.32 feet to an iron rod at the point of beginning.

Subject, however, to the protective covenants and restrictions as outlined in the deed of Ashton Rollins, II, John Davis and Lucius F. Hallett, III, Trustees under the Will of Ashton Rollins to Victor McElheny and Ruth S. McElheny dated February 2, 1985, recorded in the Strafford County Registry of Deeds at Book 1158, Page 765.

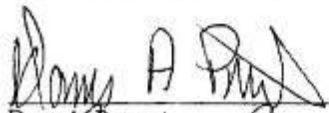
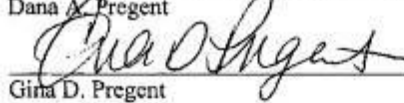
Subject further to the restriction that the above-described parcel cannot be further subdivided and that the above-described parcel shall be used only for residential use and any dwelling erected thereon shall have a minimum of 2,500 square feet of living space excluding open porches, basements and garages.

Subject to and together with an Easement Area and Transformer Box Agreement, dated February 28, 2013 and recorded with the Strafford Registry of Deeds in Book 4107, Page 996.

Meaning and intending to describe and convey the same premises conveyed to Dana A. Pregent and Gina D. Pregent by virtue of a Warranty deed from James J. Hurley, III and Julia Leigh-Hurley, Trustees of the James J. Hurley, III Living Revocable Trust of 2009 and James J. Hurley, III and Julia Leigh-Hurley, Trustees of the Julia Leigh-Hurley Living Revocable Trust of 2009 dated 11/27/2017 and recorded at the Stafford County Registry of Deeds in Book 4529, Page 432.

We, the grantor(s) hereby release all rights of homestead in the above described premises.

Executed this 29th day of April, 2020.

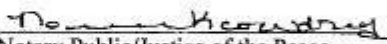

Dana A. Pregent

Gina D. Pregent

State of New Hampshire
County of Rockingham

April 29, 2020

Then personally appeared before me on this 29th day of April, 2020, the said Dana A. Pregent and Gina D. Pregent and acknowledged the foregoing to be his/~~her~~their voluntary act and deed.




Notary Public/Justice of the Peace
Commission expiration:

1935 FEB 14 AM 9 42
STRAFFORD COUNTY
REGISTRY

006538



BR 1158 PC 0765

FIDUCIARY DEED

ASHTON ROLLINS, II; JOHN DAVIS; and LUCIUS F. HALLETT, III,
Trustees under the Will of Ashton Rollins, late of Dover,
Strafford County, State of New Hampshire, by the power conferred
by the Will of said Ashton Rollins, Strafford County Probate
Record #A-4545, and every other power, for Thirty-five Thousand
Twenty-six Dollars and Sixty-seven Cents (\$35,026.67) paid, grant
to VICTOR McELHENY and RUTH S. McELHENY, husband and wife, 113
Huron Avenue, Cambridge, Massachusetts 02138, as joint tenants
with rights of survivorship, a certain tract of land situate at
the junction of Eliot Bridge Road and Baer Road in Dover,
Strafford County, State of New Hampshire, as shown on a certain
Plan entitled "Estate of Ashton Rollins, Dover, N.H., Scale: 1" =
100', Sept. 1984, Frederick E. Drew Associates, 8 Cherry Lane,
Madbury, N.H. 03020, Plan No. A-1599," bounded and described as
follows:

Beginning at the junction of the northerly line of Eliot
Bridge Road and the easterly line of Baer Road;

Thence northerly by the easterly line of Baer Road three
hundred ninety-nine and forty-nine hundredths feet (399.49') to
an iron pin in a stone bound at land of Corydon T. and Shirley A.
Curtis, formerly of Mabel C. Franklin;

Thence by said Curtis land South forty-eight degrees
twenty-two minutes East (S. 48° 22' E.) two hundred twenty-seven
and five tenths feet (227.5') to a concrete bound;

Thence by land of said Victor McElheny South forty-eight
degrees thirty-seven minutes East (S. 48° 37' E.) one hundred
seventy-eight and five tenths feet (178.5') to a stake and
stones;

Thence South forty-eight degrees forty-five minutes East (S.
48° 45' E.) three hundred fifty-four and four tenths feet
(354.4') to a stake and stones;

Thence South fifty-five degrees forty-seven minutes East (S.
55° 47' E.) one hundred fifty-eight and four tenths feet (158.4')
to a stake and stones;

Thence South twenty degrees thirty-nine minutes West (S. 20°
39' W.) one hundred eighty-nine and one tenth feet (189.1') to a
stake and stones;

Thence continuing South twenty degrees thirty-nine minutes West (S. 20° 39' W.) one hundred five and four tenths feet (105.4') feet to a stake and stones;

Thence South forty-six degrees twenty minutes East (S. 46° 20' E.) one hundred twenty-two and five tenths feet (122.5') to a stake and stones;

Thence South twenty-four degrees twenty-eight minutes East (S. 24° 28' E.) one hundred forty-one and five tenths feet (141.5') to a point;

Thence South four degrees fifteen minutes East (S. 04° 15' E.) one hundred ninety-eight and nine tenths feet (198.9') to a point;

Thence South twenty degrees eighteen minutes West (S. 20° 18' W.) one hundred seventy-four and six tenths feet (174.6') to a point;

Thence South one degree twenty-nine minutes East (S. 01° 29' E.) one hundred twenty-eight and seven tenths feet (128.7') to a thirty inch (30") oak tree;

Thence South forty-six degrees twenty-four minutes East (S. 46° 24' E.) twenty and three tenths feet (20.3') to a stake and stones;

Thence continuing on the same course twenty seven feet (27'), more or less, to the shore of the Salmon Falls River;

Thence southerly two hundred five feet (205'), more or less, by the shore of said River to Eliot Bridge Road;

Thence westerly by the northerly line of Eliot Bridge Road one thousand seven hundred seventy-six and forty-one one hundredths feet (1,776.41'), more or less, to the point of beginning, containing fourteen and two tenths (14.2) acres, more or less.

SUBJECT, HOWEVER, to the following protective covenants which shall be mutually restrictive and run with the land:

- 1) All subdivision plans must advance good, positive land use, and will be designed to enhance and protect the existing environment.
- 2) Any parcels to be laid out by subsequent subdivision plans shall contain a minimum of five (5) acres.
- 3) Any subdivision plans shall be in accordance with existing town and city zoning, and be approved by the New Hampshire Water Supply and Pollution Control Commission.
- 4) No dumping will be permitted on any portion of the above-described premises, nor will abandoned cars or trailers be permitted thereon.

RESERVING, MOREOVER, to the Grantors and successor Trustees under the Will of Ashton Rollins the right to use and maintain their existing water source for the benefit of present users, their heirs and devisees, including both water for drinking and household use and for recreation (swimming pool).

82 1158 190766

Meaning and intending to describe and convey a portion of the premises of the Estate of Ashton Rollins, Strafford County Probate Record #A-4545.

WITNESS our hands this Second day of January, 1985.

TRUST UNDER THE WILL OF
ASHTON ROLLINS

Charles K. Hallett
Witness

By: Ashton Rollins II
Ashton Rollins, II, Trustee

Charles K. Hallett
Witness

By: John Davis
John Davis, Trustee

Charles K. Hallett
Witness

By: Lucius P. Hallett, III
Trustee

STATE OF NEW HAMPSHIRE
STRAFFORD, SS.

The foregoing instrument was acknowledged before me this 2nd day of January, 1985, by Ashton Rollins, II, Trustee u/w Ashton Rollins.

Robert K. Hallett
Notary Public
My commission expires: 4-11-89

STATE OF NEW HAMPSHIRE
STRAFFORD, SS.

The foregoing instrument was acknowledged before me this 2nd day of January, 1985, by John Davis, Trustee u/w Ashton Rollins.

Robert K. Hallett
Notary Public
My commission expires: 4-11-89

STATE OF NEW HAMPSHIRE
STRAFFORD, SS.

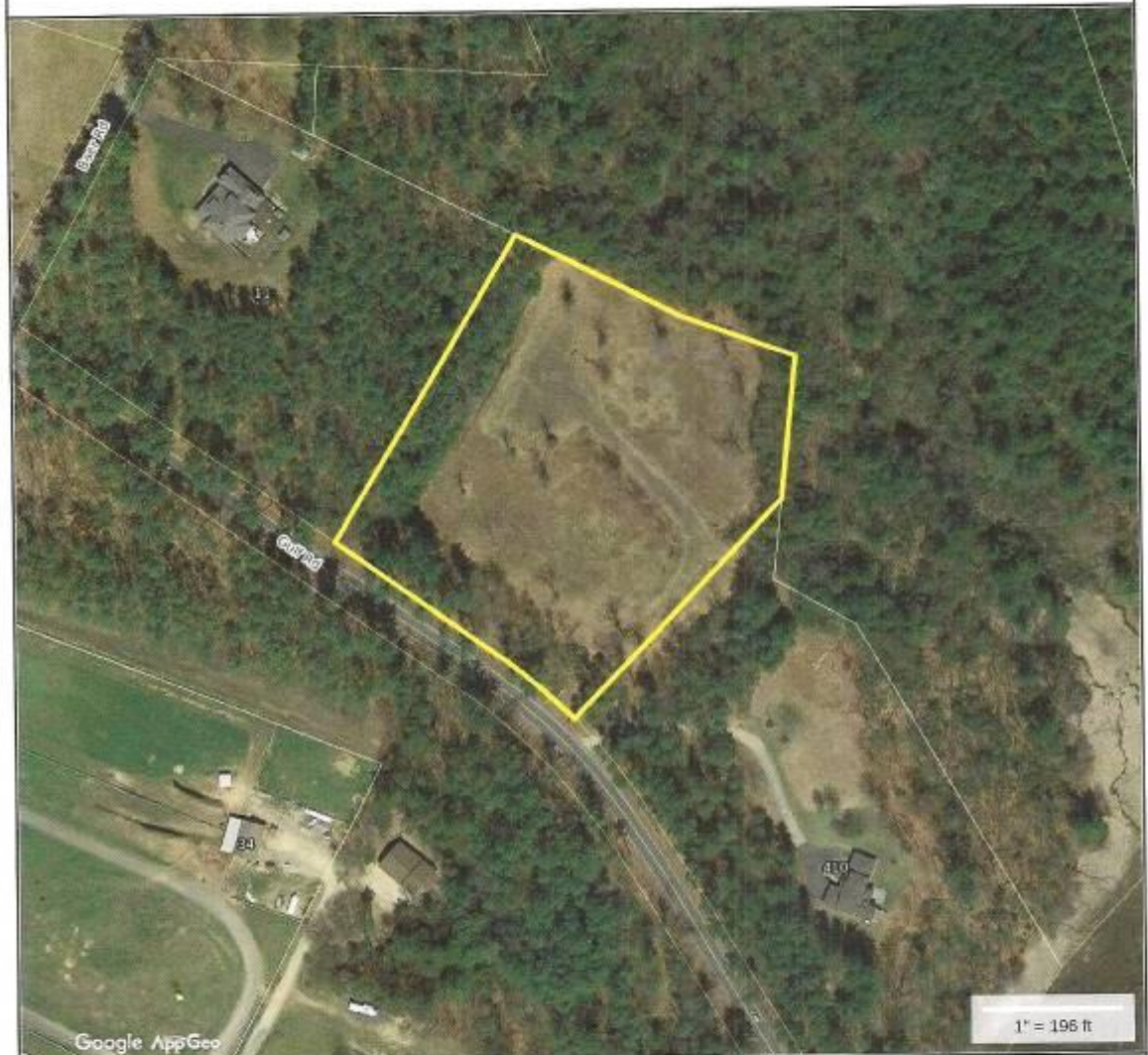
The foregoing instrument was acknowledged before me this 2nd day of January, 1985, by Lucius P. Hallett, III, Trustee u/w Ashton Rollins.

Robert K. Hallett
Notary Public
My commission expires: 4-11-89

REGISTER OF DEEDS
STRAFFORD COUNTY

W 1158 P80767

AERIAL VIEW



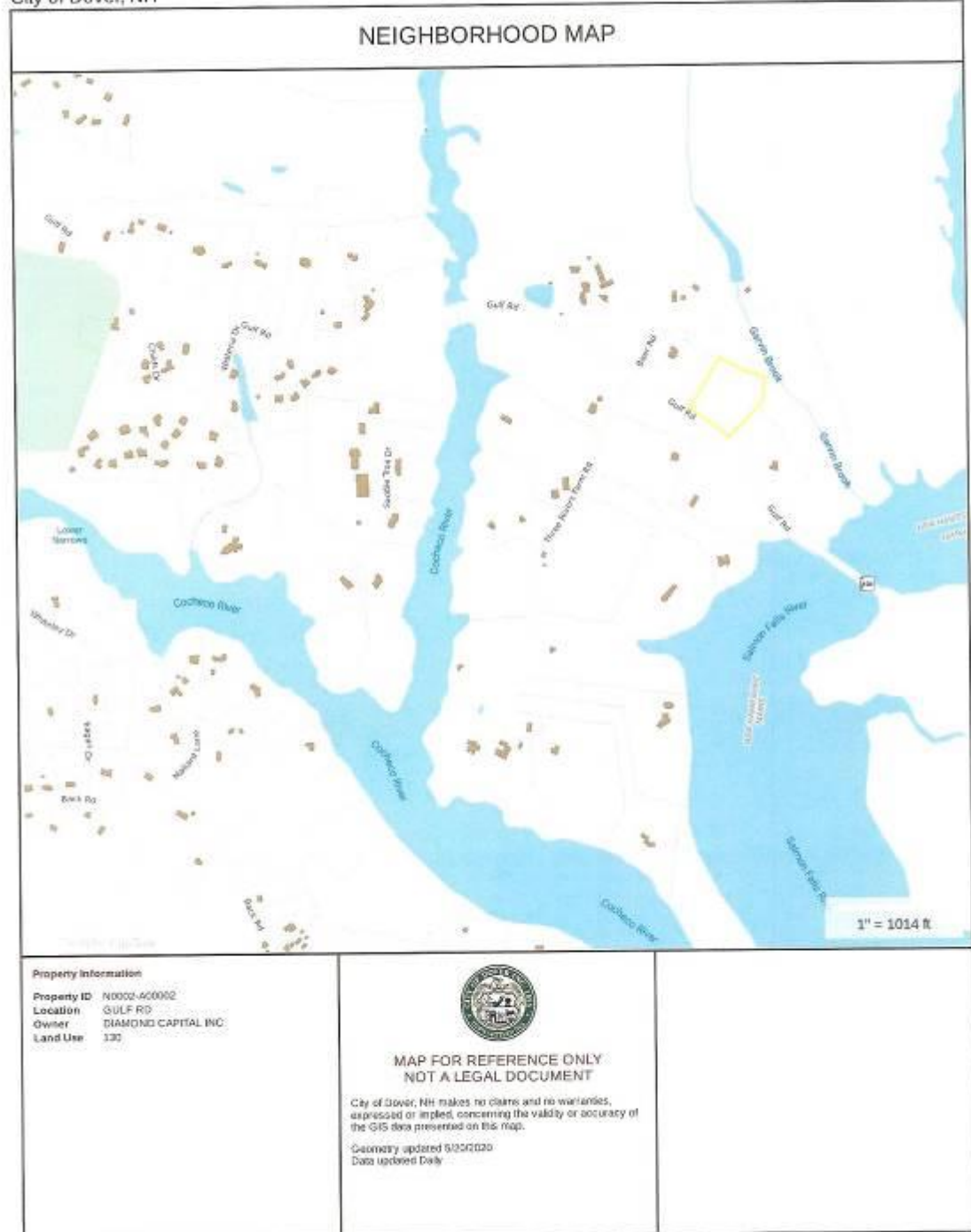
Property Information

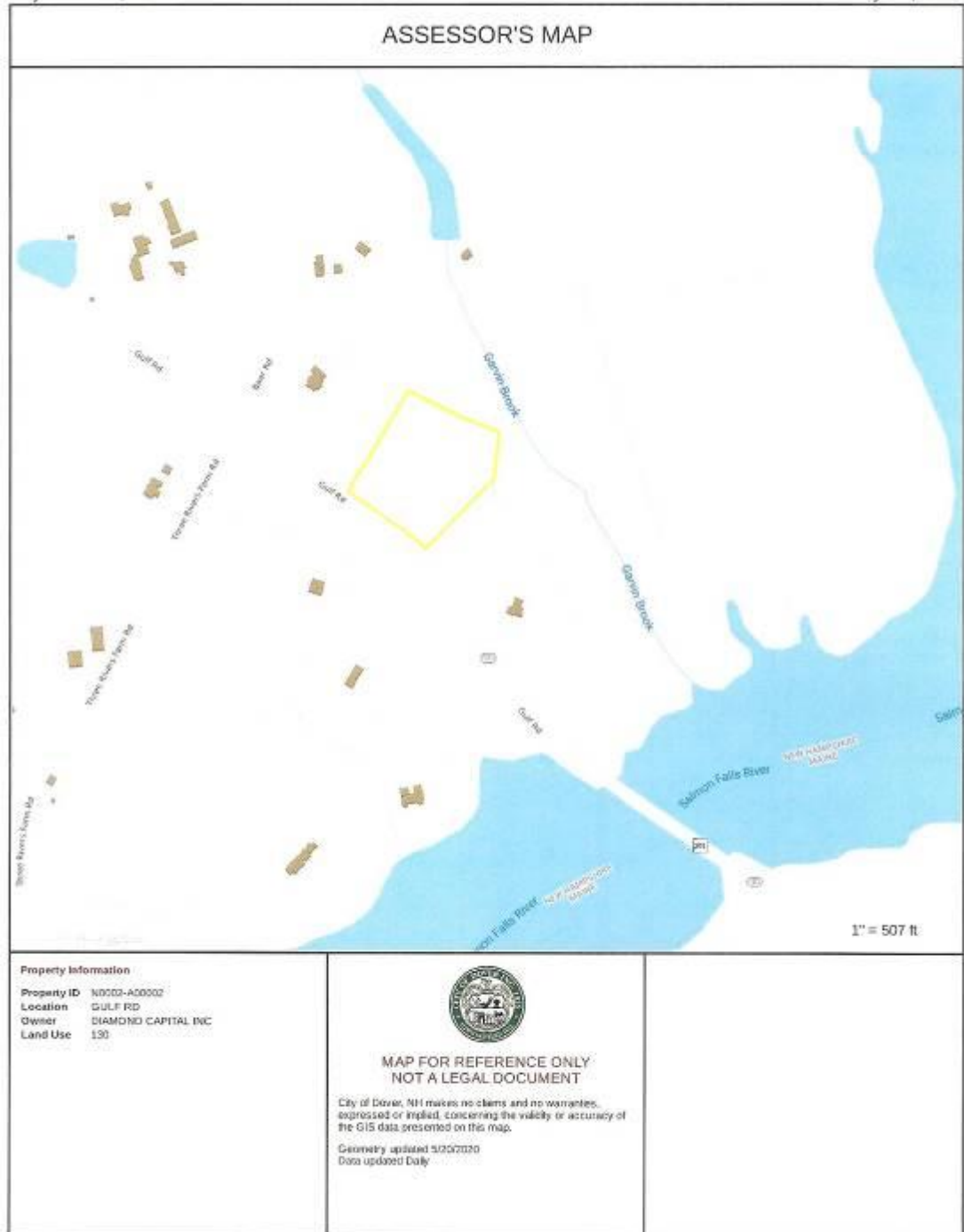
Property ID: N0002-A00002
Location: GULF RD
Owner: DIAMOND CAPITAL INC
Land Use: 130

MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT

City of Dover, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 5/20/2020
Data updated Daily





Property ID	N0002-A00002
Location	GULF RD
Owner	DIAMOND CAPITAL INC
Land Use	130



MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT

City of Dover, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 5/20/2020
Data updated Daily

Map Theme Legends

Zoning

Zoning Districts

	R-40 Rural Residential
	R-20 Low-Density Residential
	R-12 Medium-Density Residential
	HR Heritage Residential
	RM-SU Suburban Density Residential
	RM-U Urban Density Residential
	C Commercial
	IT Innovative Technology
	CM Commercial Manufacturing
	CBD Central Business District
	G Gateway
	CWD Cochecho Waterfront District
	H Hospital
	O Office
	LBW Little Bay Waterfront

Sub-Districts

	General Sub-District
	Mixed Use Sub-District
	Residential Sub-District
	Transit-Oriented Development Sub-District

City of Dover



Map Theme Legends

FEMA Flood Zones

- Cross-Sections
- Coastal Transects
- Limit of Moderate Wave Action
-  Coastal Barrier Resources System Area
- ~ Base Flood Elevations
- Flood Hazard Zones
 -  1% Annual Chance Flood Hazard
 -  Regulatory Floodway
 -  Special Floodway
 -  Area of Undetermined Flood Hazard
 -  0.2% Annual Chance Flood Hazard
 -  Future Conditions 1% Annual Chance Flood
 -  Area with Reduced Risk Due to Levees

FEMA Map Service Center

Rural Residential (R-40) District

Amended: 11-28-12 by Ord. No. 2012-11.14-24



Permitted Uses

- ACCESSORY DWELLING UNIT
- ADULT DAY CARE [5]
- ASSEMBLY HALL
- Bank [5]
- Beauty and Barber Shop [5]
- BED and BREAKFAST
- CHILD CARE FACILITY
- CHILD CARE HOME
- Clinic
- CONSERVATION LOT
- Conversion of Existing Dwelling to Accommodate not more than 2 units [6]
- COUNTRY CLUB [7]
- Dwelling, 2 Family [8]
- Dwelling, 3 To 4 family [8]
- DWELLING, SINGLE FAMILY
- EDUCATIONAL INSTITUTION, K-12
- EXCAVATION [7]
- FARM [9]
- FARM ANIMALS FOR FAMILY USE, for non-commercial purposes, on lots containing a one or two family dwelling [10]
- Hospital
- MANUFACTURED HOUSING
- OFFICE [5] [11]
- PERSONAL SERVICE ESTABLISHMENT [5]
- PUBLIC RECREATION
- Public Utility
- Recreational Camp
- Retail Sale of Agricultural or Farm Products Raised on Site
- Theater [5]
- Veterinary Office, Animal Hospital or KENNEL [12]
- WHOLESALING of Farm Products [7]

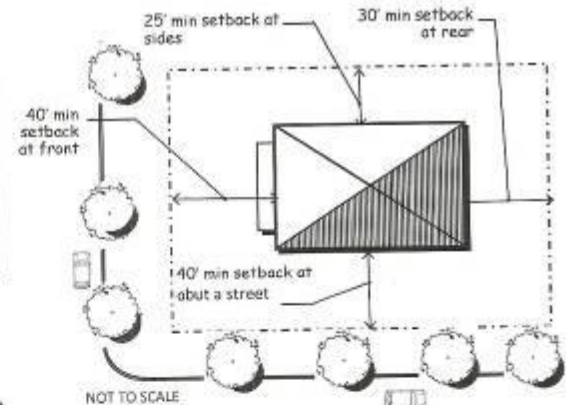
Uses Permitted by Special Exception

- ASSISTED LIVING FACILITY
- CONGREGATE CARE FACILITY
- CONTINUING CARE COMMUNITY FACILITY
- EDUCATIONAL INSTITUTION, POST SECONDARY
- ELDERLY ASSISTED CARE HOME
- Helicopter Take Offs & Landings
- JUNKYARD
- MANUFACTURED HOUSING Park
- NURSING HOME

Dimensional Regulations [1] [2]

LOT	
Minimum LOT Size [3] [4]	40,000 sf
Maximum LOT COVERAGE	10%
Minimum FRONTAGE	150 ft
PRINCIPAL BUILDING	
Front SETBACK	40 ft
Abut a Street SETBACK	40 ft
Side SETBACK	25 ft
Rear SETBACK	30 ft
OUTBUILDING/ACCESSORY USE	
Front SETBACK	40 ft
Abut a Street SETBACK	40 ft
Side SETBACK	10 ft
Rear SETBACK	10 ft
HEIGHT OF BUILDING	
PRINCIPAL BUILDING	35 ft max
OUTBUILDING	35 ft max

Principal Building Placement



Sign Regulations

Size	R-40 District
Total signs permitted	1
Total area permitted	16 sf (customary home occupation sign 2 sf max, development identification SIGN 20 sf max)
Type	
FREESTANDING	permitted (10 ft setback required)
PROJECTING	permitted
WALL/ Awning	not permitted
Temporary	not permitted

Rural Residential (R-40) District

Amended: 11-28-12 by Ord. No. 2012-11.14-24



Footnotes

- [1] In the case of an Open Space Subdivision, in accordance with Article IV of Chapter 157 of the Code of Dover, the dimensional requirements shall be as specified in 157-21 of the Code of the City of Dover, 1983. [Added 6-10-87 by Ord. No. 13-87]
- [2] Refer to 170-13 and 170-14 for exceptions to lot size, frontage and setback requirements.
- [3] All land containing wetlands shall not be counted in determining the gross land area of a lot for the purposes of minimum lot size or minimum density requirements for residential uses. The minimum non-wetland portion of any newly created lot shall be contiguous. For the purposes of this calculation, wetlands shall include areas that meet the definition of wetland in the NH Code of Administrative Rules – WL 101.87 and the 1987 Federal Manual For Identifying Jurisdictional Wetlands. [Amended 1-22-2003 by Ord. No. 35]. Wetland buffers shall only be allowed to count for 40 percent of the minimum lot size required.
- [4] Refer to Chapter 157, Subdivision of Land, Article IV for the minimum lot size for a major Subdivision. In an R-40 district, any major subdivision must follow the procedures for an Open Space Subdivision (OSS). [Amended 1-22-2003 by Ord. No. 35]
- [5] Use is allowed as a commercial component to an Open Space Subdivision. [See 157.21 section 7]. [Added 1-22-2003 by Ord. No. 35]
- [6] Any dwelling unit existing on or before May 27, 1964, may be converted, provided that the lot shall contain at least four thousand (4,000) square feet per dwelling unit and a minimum floor area of five hundred (500) square feet per dwelling unit.
- [7] Use is not allowed as a commercial component to an Open Space Subdivision. [See 157.21 section 7]. [Added 1-22-2003 by Ord. No. 35]
- [8] Use is allowed when included within an Open Space Subdivision with commercial components. [See 157.21 section 7]. [Added 1-22-2003 by Ord. No. 35]
- [9] FARM ANIMALS permitted, provided that the tract upon which such animals are kept shall support a minimum land area of one hundred thousand (100,000) square feet. In no instance shall the shelters used to contain said animals be closer than one hundred (100) feet from any property boundary.
- [10] Use is allowed on the portion of the lot that is behind the principal structure, provided the following standards are met: Chickens: No more than six (6) chickens and no roosters, with three (3) square feet of chicken coop and twenty (20) square feet of a fenced enclosure yard per chicken; all coops and enclosures shall be twenty (20) feet from any property line. Sheep or goats: one animal per 10,000 square feet of lot area, with a maximum of six (6) animals; ten (10) square feet of shelter and thirty (30) square feet of a fenced enclosure yard per animal; all shelters and enclosures shall be thirty (30) feet from any property line. [Amended 12-08-10 by Ord. No. 2010-10.27-13]
- [11] Permitted only if operated as a customary home occupation (Refer to definition in 170-6B)
- [12] Veterinary Office, Animal Hospital uses are allowed as a commercial component to an Open Space Subdivision. [See 155.22 section 7]. [Added 1-22-2003 by Ord. No. 35]. Shelters and runs used to house and/or contain animals shall be no closer than one hundred (100) feet from any property line and must support a minimum tract size of one hundred thousand (100,000) square feet. [Amended 8-1-90 by Ord. 8-90]

Special Exception Criteria

ASSISTED LIVING FACILITY:

- A. The facility shall be serviced by municipal sewer.
- B. The density per unit requirement is 7,500 sq. ft. of lot area in the R-40 District.
- C. Parking lots and service areas are screened from abutting residential uses.
- D. The facility shall obtain a license from the State of New Hampshire.

CONGREGATE CARE FACILITY [Added 09-15-93 by Ord. No. 19-93]: CONGREGATE CARE FACILITY is allowed by Special Exception in accordance with the density and

Rural Residential (R-40) District Regulations Summary

provisions stated below:

- A. In the R-40 District in areas not serviced by City water and sewer utilities at a density of one unit per 10,000 sq. ft. of land; in the R-40 District in areas serviced by City water and sewer utilities at a density of one unit per 7,500 sq. ft. of land;
- B. Provided that parking and service areas are screened from abutting residential uses.

CONTINUING CARE COMMUNITY FACILITY:

- A. The facility shall be serviced by municipal sewer.
- B. The density per unit requirement is 7,500 square feet of lot area in the R-40 District.
- C. Parking lots and service areas are screened from abutting residential uses.
- D. The facility shall obtain a license from the State of New Hampshire.

ELDERLY ASSISTED CARE HOME [Added 09-15-93 by Ord. No. 19-93]: ELDERLY ASSISTED CARE HOME is allowed by Special Exception in accordance with the density and provisions stated below:

- A. ELDERLY ASSISTED CARE HOMES larger than 6 bedrooms shall meet the following density requirements: In the R-40 District in areas not serviced by City water and sewer utilities at a density of one bedroom per 10,000 sq. ft. of land; in the R-40 District in areas serviced by City water and sewer utilities at a density of one bedroom per 7,500 sq. ft.
- B. Provided that parking and service areas are screened from abutting residential uses.
- C. Notwithstanding the above requirements, the maximum number of bedrooms and residents allowed in a facility may be increased provided the increase is found not to be detrimental to the surrounding properties and conforms with parking standards in Chapter 170-44 (Off Street Parking). Furthermore, any increase to an existing structure must be contained within or contiguous to the original structure. [Added 01-22-03 by Ord. No. 35-02]

Helicopter Take offs and Landings: Helicopter take offs and landings are allowed as a special exception subject to the following conditions:

- A. There shall be a distance of one thousand (1,000) feet between any existing residential structure and any proposed helicopter landing pad.
- B. Except in the case of an emergency, no helicopter take offs or landings shall occur between the hours of 9:00 p.m. and 7:00 a.m.
- C. The facility shall be accessory to the principal use located on the lot.
- D. All facilities shall be located and designed so that the operation thereof will not adversely affect adjacent residential areas, particularly with respect to noise levels.
- E. The conditions for granting a Special Exception, contained in Chapter 170-52-C(3), must also be satisfied.

JUNKYARD: A JUNKYARD may only be permitted upon the determination that the property values of land adjacent to such use will not be compromised. Conditions may include but not be limited to the provision of adequate and properly maintained screening around land so used.

MANUFACTURED HOUSING Parks: MANUFACTURED HOUSING parks shall be subject to the following regulations:

- A. The proposed park must conform to the Manufactured Home Chapter of the Code (Ch. 126, Manufactured Home Parks)
- B. All plans for the proposed park must have been granted preliminary approval from the Dover Planning Board.
- C. A determination by the Zoning Board of Adjustment that the proposed MANUFACTURED HOUSING will not adversely affect overall land values in the neighborhood.
- D. A determination by the Zoning Board of Adjustment that the proposed MANUFACTURED HOUSING will not result in the creation of hazardous traffic conditions.

NURSING HOME [Added 09-15-93 by Ord. No. 19-93]: NURSING HOME is allowed as a Special Exception in accordance with the density and provisions stated below:

- A. In the R-40 District in areas not serviced by City water and sewer utilities at a density of one bedroom per 10,000 sq. ft. of land; in the R-40 District in areas serviced by City water and sewer utilities at a density of one bedroom per 7,500 sq. ft. of land;
- B. Provided that parking and service areas are screened from abutting residential uses.

ARTICLE II

TERMINOLOGY

170-6. Word Usage and Definitions. [Amended on 9-24-80 by Ord. No. 15-80; Amended on 6-10-87 by Ord. No. 13-87; Amended on 9-14-88 by Ord. No. 15-88; Amended on 11-30-88 by Ord. No. 24-88; Amended on 08-01-90 by Ord. No. 8-90; Amended on 04-03-91 by Ord. No. 01-91; Amended on 09-01-93 by Ord. No. 20-93; Amended on 09-15-93 by Ord. No. 19-93; Amended on 10-20-93 by Ord. No. 28-93; Amended on 08-24-94 by Ord. No. 09-94; Amended on 03-18-98 by Ord. No. 02-98; Amended on 02-17-99 by Ord. No. 25-98; Amended on 01-22-2003 by Ord. No. 35-02; Amended on 03-19-2003 by Ord. No. 05-03; Amended on 03-21-2007 by Ord. No. 01-07; Amended on 12-09-2009 by Ord. No. 2009.09.09-15; Amended on 12-08-2010 by Ord. No. 10-10.27-13; Amended on 02-22-2012 by Ord. No. 2012.01.25; Amended on 11-28-2012 by Ord. No. 2012.11.14-24; Amended on 08-19-2015 by Ord. No. 2015.07.22-017; Amended on 06-22-2016 by Ord. No. 2016.06.08-010; Amended on 08-22-2018 by Ord. No. 2018.08.08-009, Amended on 07-22-2020 by Ord. No. 2020.07.08.006, Amended on 07-22-2020 by Ord. No. 2020.07.08.007.]

- A. For the purposes of this Chapter, the present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular. The word "shall" is mandatory; the word "may" is permissive; the words "used" or "occupies" include the words "intended, designed or arranged to be used or occupied," and certain terms or words shall be interpreted as follows:
- B. Words and terms appearing in CAPITAL LETTERS throughout this Chapter shall have the meanings indicated below. Other Land Use/Planning related words and terms not defined in this Chapter shall rely on the definition(s) contained within *A Planners Dictionary* published and updated by the American Planning Association:

ABANDONED SIGN means any SIGN that does not display a well-maintained message for a consecutive one-hundred eighty (180) day period, and/or the owner of said SIGN cannot be located after reasonable efforts have been made, and/or said SIGN is no longer fully supported by the STRUCTURE designed to support the SIGN for a consecutive one-hundred eighty (180) day period, and/or the SIGN no longer advertises bona fide business and/or products sold for a consecutive one-hundred eighty (180) day period. The Zoning Administrator shall direct the removal of any SIGN which meets this definition.

ABUTTER means:

- (1) The owner of record of a parcel of land located in New Hampshire and adjoins or is directly within two hundred (200) feet (including land across the STREET or waterway) of the proposed site under consideration by the PLANNING BOARD.

- (2) For the purposes of receiving testimony only, and not for purposes of notification, the term "ABUTTER" shall include any person or entity who is able to demonstrate that his land will be directly affected by the proposal under consideration.
- (3) In the case of an abutting property being under a condominium or other collective form of ownership, the term "ABUTTER" means the officers of the collective or association, as defined in RSA 356-B: 3, XXIII. Additionally, the individual owners of units within the association, which are located within two hundred (200) feet of the common property line shall be notified only by first class mail.
- (4) For purposes of notification and receiving testimony, ABUTTER means all affected towns and the regional planning commission in the case of a development having regional impact, as determined by the PLANNING BOARD.
- (5) For purposes of notification, ABUTTER ownership information for LOTs located in Dover, shall be obtained through the City's Tax Assessment Office.

ACCESSORY DWELLING UNIT means a secondary DWELLING UNIT (a) attached and subordinate to a SINGLE FAMILY DWELLING or (b) constructed above a detached garage that is accessory and subordinate to a SINGLE FAMILY DWELLING. See Section 170-24 for the ACCESSORY DWELLING UNIT regulations.

ACCESSORY STRUCTURE means a STRUCTURE with a minimum FLOOR AREA of one hundred (100) square feet which exists on the same LOT and within the same zoning district as the PRINCIPAL BUILDING and which shall be customarily incident and subordinate to the PRINCIPAL BUILDING subject to the provisions of Chapter 170-10 E.

ACCESSORY USE means a use existing on the same LOT and within the same zoning district as the principal use which shall be customarily incident and subordinate to the principal use, subject, however, to the provisions of 170-10 E.

ADULT BOOKSTORE AND/OR VIDEO STORE means a place of business that devotes more than fifteen percent (15%) of the total display, shelf, rack, table, stand or FLOOR AREA, for the display and sale of the following: [Added]

- (1) Books, magazines, periodicals or other printed matter or photographs, films, motion pictures, video cassettes, slides, tapes, records, CD-ROMS or other

ZONING

- B. The Building Inspector shall not approve an application or issue a BUILDING permit or CERTIFICATE OF OCCUPANCY for any purpose, except in compliance with the provisions of this Chapter.

170-48 – 170-150. Reserved. [Removed on 12-09-2009 by Ord. No. 2009.09.09-15]

170-51. Violations and Penalties. [Amended on 9-24-80 by Ord. No. 15-80.]

The administration and enforcement of this ordinance shall be in any manner authorized by State statute, including but not limited to, RSA 31:39-d, 676:14, 676:15, 676:17, 676:17-a, and 676:17-b.

170-52. ZONING BOARD OF ADJUSTMENT. [Amended on 9-24-80 by Ord. No. 15-80; Amended on 6-10-87 by Ord. No. 13-87; Amended on 08-01-90 by Ord. No.8-90; Amended on 11-28-2012 by Ord. No. 2012.11.14-24.]

- A. Purpose. The purpose of the ZONING BOARD OF ADJUSTMENT is to hear and decide appeals of any person(s) who are aggrieved by the administration, enforcement and application of this Chapter.
- B. Authority. The ZONING BOARD OF ADJUSTMENT shall be duly constituted and shall have such duties and powers as specified under RSA 673:3 and 674:33 and this Chapter as set forth herein.
- C. Powers and duties.
- (1) Powers. The ZONING BOARD OF ADJUSTMENT shall have the following powers:
- (a) To hear and decide appeals where it is alleged there is error in any order, requirements, decision or determination made in the enforcement of this Chapter (interpretation of ordinance).
- (b) To hear and decide special exceptions to the terms of this Chapter upon which the ZONING BOARD OF ADJUSTMENT is required to pass under this Chapter (special exception).
- (c) To authorize, upon appeal in specific cases, such variance from the terms of this Chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this Chapter will result in unnecessary hardship and so that the spirit of this Chapter shall be observed and substantial justice done (variance).

DOVER CODE

- (d) To hear and decide requests for equitable waivers from the dimensional terms of this Chapter upon where a STRUCTURE has been found to be in violation of said dimensional requirement.
- (2) Interpretation of Chapter.
 - (a) On appeal from an order or decision made by any officer or board of the City, the ZONING BOARD OF ADJUSTMENT shall have the power to decide any of the following questions:
 - (i) Determination of the meaning of any provision of the text of this Chapter.
 - (ii) Determination of the exact location of any district boundary shown on the Zoning Map. ****
 - (iii) ZONING BOARD OF ADJUSTMENT shall hear and decide appeals de novo and review on appeal any order, requirement, decision or determination made in the enforcement or application of this Chapter. Upon such appeal, the ZONING BOARD OF ADJUSTMENT may, in accordance with the provisions of this Chapter, reverse or affirm, wholly or partly, or may modify any such order, requirement or decision, as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.
- (3) Special exceptions. ZONING BOARD OF ADJUSTMENT shall have the power to hear and decide on application for special exceptions. In applying a special exception, the APPLICANT need not demonstrate hardship, since the basis for the action is of general benefit to the city as a whole. In granting a special exception, the ZONING BOARD OF ADJUSTMENT, with due regard to the nature and condition of all adjacent STRUCTURES and uses and the district within which the same is located, shall find all of the following general conditions to be fulfilled:
 - (a) The requested use is essential or desirable to the public convenience or welfare.
 - (b) The requested use will not create undue traffic congestion, or unduly impair pedestrian safety.
 - (c) The requested use will not overload any public water, drainage or sewerage system or any other municipal system to such an extent that the requested use

**** Said Zoning Map is on file in the office of the City Clerk, where it may be examined during regular business hours.

ZONING

or any developed use in the immediate area or in any other area of the City will be unduly subjected to hazards affecting health, safety or the general welfare.

- (d) Any special exception which has not been acted upon in accordance with the approval of the ZONING BOARD OF ADJUSTMENT within four (4) years of the date of said approval shall be considered null and void.

(4) Variances.

- (a) The ZONING BOARD OF ADJUSTMENT may authorize a variance from the terms of this Chapter for:

- (i) A particular use.
- (ii) A parcel of land.
- (iii) An existing/proposed BUILDING.

- (b) Said variance shall only be granted where unusual difficulty or special hardship would be imposed by the literal application and rigorous enforcement of this Chapter.

- (c) In granting variances, the ZONING BOARD OF ADJUSTMENT, if it deems it proper to the carrying out of the intent and purpose of this Chapter, may impose such reasonable and additional stipulations and conditions as will, in its judgment, better fulfill the purpose of the Chapter.

- (d) Any variance which has not been acted upon in accordance with the approval of the ZONING BOARD OF ADJUSTMENT within four (4) years of the date of said approval shall be considered null and void.

- (5) Other requirements. The granting of any appeal by the ZONING BOARD OF ADJUSTMENT shall not exempt the APPLICANT from any provision of this Chapter not specifically ruled upon by the ZONING BOARD OF ADJUSTMENT or specifically set forth as excepted in this particular case from a provision of this Chapter. It shall be unlawful for any owner or person to reconstruct, convert or ALTER a STRUCTURE or change the use, increase the intensity of use or extend or displace the use of any BUILDING, other STRUCTURE or LOT or change any required limitations or special conditions imposed by the ZONING BOARD OF ADJUSTMENT in authorizing a special exception or variance without appealing to the ZONING BOARD OF ADJUSTMENT as a new case, over which the ZONING BOARD OF ADJUSTMENT shall have complete administrative power to deny, approve or modify.

P 170-160

DOVER CODE

- (6) Public Hearing. The ZONING BOARD OF ADJUSTMENT shall fix a reasonable time for the hearing of an appeal in accordance to its By-Laws; and before any hearing is given either on an appeal or an application for variance or special exception of this Chapter, notice shall be given to all ABUTTERS of any portion of the LOT in question. Notice shall be given to ABUTTERS by Verified Mail, and also placed in a newspaper of general circulation, not less than five (5) days before the date fixed for the hearing of the appeal. The costs of any notice shall be paid by the appellant or APPLICANT to the Department of Planning and Community Development

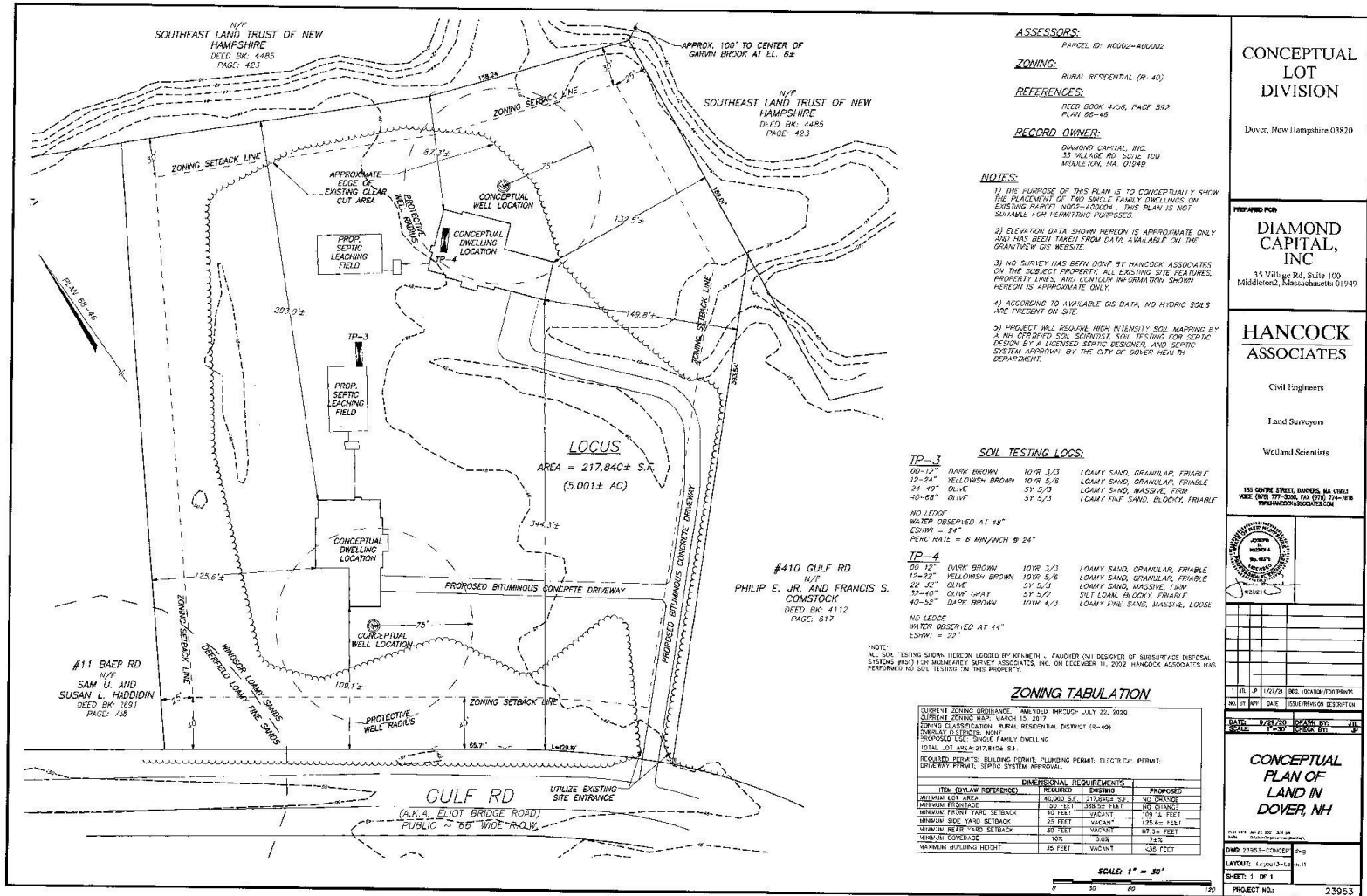
D. Appeal from the decision of the ZONING BOARD OF ADJUSTMENT.

- (1) Rehearing. Within thirty (30) days after any order or decision of the ZONING BOARD OF ADJUSTMENT, any party to the action or proceedings or any person directly affected thereby may apply for a rehearing in respect to any matter determined in the action or proceeding or covered or included in the order, specifying in the motion for rehearing the grounds therefor; and the ZONING BOARD OF ADJUSTMENT may grant such rehearing if, in its opinion, good reason therefor is said in such motion.
- (2) Appeal to Superior Court. No appeal from any order or decision of the ZONING BOARD OF ADJUSTMENT shall be taken unless the appellant shall have made application for rehearing as provided above, and when such application shall have been made, no ground set forth herein shall be urged, relied on or given any consideration by the Court, unless the Court for good cause shown shall allow the appellant to specify additional grounds. Within thirty (30) days after the application for a rehearing is denied or, if the application is granted, then within thirty (30) days of the decision on such rehearing, the APPLICANT may appeal by petition to the Superior Court.

170-53. Amendment Procedure. [Amended on 12-09-2009 by Ord. No. 2009.09.09-15]

- A. Power to Amend. In accordance with RSA 674:16, the City Council may, from time to time, amend the provisions of this Chapter.
- B. Initiation of Amendments. Amendments may be initiated by the City Council, the PLANNING BOARD, or by petition from one or more property owners in Dover or citizens of Dover.
- C. Procedure for Consideration of a Proposed Amendment.
- (1) Amendments Initiated by the PLANNING BOARD. The PLANNING BOARD may, upon its own initiative, from time to time, consider amendments to this

P 170-161



Professional Designations:

Member, Appraisal Institute (**MAI**) – Awarded by the Appraisal Institute. MAI #9104
Senior Residential Appraiser (**SRA**)

Employment:

1989 to Present	White Appraisal – Dover, NH President – Senior Appraiser Owner of White Appraisal, a commercial and residential real estate appraisal firm. Complete appraisals on all types of commercial and residential properties. Consulting.
1988	Finlay Appraisal Services – Portsmouth, NH Senior Vice President/Chief Operations Officer Oversaw the operation of four appraisal offices. Completed commercial and residential appraisals on all types of properties.
1985	Finlay Appraisal Services – Portsmouth, NH and Appraisal Services Manager – South Portland, ME. Completed commercial and residential appraisals on all types of properties.

Education:

Mitchell College
Associate of Arts, Liberal Studies, 1979

University of Southern Maine
Bachelors of Science, Business Admin., 1984
Bus 022 Real Estate Law
Bus 023 Real Estate Practice
Bus 025 Real Estate Valuation

American Institute of Real Estate Appraisers
1A-1 Real Estate Appraisal Principles, 1985
1A-2 Basic Valuation Procedures, 1985
1B-A Cap. Theory and Technique (A), 1985
1B-B Cap. Theory and Technique (B), 1985
2-3 Standards of Pro. Practice, 1985
Exam #7 Industrial Valuation, 1986

Society of Real Estate Appraisers
101 Intro. To Appraising Real Property, 1986
102 Applied Residential Property Val., 1987
201 Prin. Of Income Property Appraising, 1985
202 Applied Income Property Valuation, 1985

Education (Continued):**Recent Appraisal Institute Classes:**

Residential & Commercial Valuation of Solar – 2017
Online Data Verification Methods - 2019
USPAP Update – 2019

Recent Seminars:

Excel Can Do That - 2017
Mixed Use Properties - Income Capitalization Approach - 2017
Paragon - Appraisal Essentials for Appraisers – 2017
Current Use - 2018
Real Estate Damages Overview - 2018
Understanding and Using Public Data - 2018
Appraising Energy Efficient Residential Properties – 2018
Commercial Real Estate Roundtable – 2019
Appraiser Essentials with CRS and Green Fields – 2019
Land Development & Residential Building Costs – 2019
Myths in Appraiser Liability - 2019
Appraising in Uncertain Times – 2019
Market Trends in NH Real Estate – 2020
Appraising Commercial Property during a Pandemic – 2020
Appraising Residential Property during a Pandemic – 2020

Appointments:

Board of Directors – New Hampshire Chapter of the Appraisal
Institute - 1991 to 1993; 2000 to 2010, 2015-2018 & 2020
Vice President - New Hampshire Chapter of the Appraisal Institute – 2011-2012 & 2019
President – New Hampshire Chapter of the Appraisal Institute – 2013 & 2014

Experience:

Review Chairperson – New Hampshire Chapter of the Appraisal
Institute – 1994 to 2010

Licenses:

N.H. Certified General Appraiser #NHCG -52, Expires 4/30/2021

Partial List of Clients:**Banks:**

Androscoggin Bank
Granite Bank
First Seacoast Bank
Sovereign Bank
Eastern Bank
Century Bank
TD Bank
Kennebunk Savings Bank
Northeast Federal Credit Union
Profile Bank
Peoples United Bank
Key Bank
Cambridge Bank & Trust
Provident Bank

Attorneys:

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Karyn Forbes
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Richard Krans
Simone Massy
Samuel Reid
Daniel Schwartz
Robert Shaines
William Shaheen
Steve Soloman
Gerald Giles
Ralph Woodman
Gayle Braley
Fred Forman

Others:

City of Dover
Town of Durham
University of New Hampshire
Wentworth-Douglass
The Homemakers
Strafford Health Alliance
Goss International
Chad Kageleiry
Gary Levy
Stan Robbins
Daniel Philbrick
Keith Frizzell
Chuck Cressy
John Proulx

Z21-04 Gulf Road

Property ID	Location	Owner 1	Owner 2	Owner Address 1	City	State	Zip
N0001-A00000	GULF RD	SOUTHEAST LAND TRUST OF NEW HAMPSHIRE		PO BOX 675	EXETER	NH	03833
N0002-003000	32 THREE RIVERS FARM RD	MOURGENOS NICHOLAS G &	MOURGENOS BECKY L	32 THREE RIVERS FARM	DOVER	NH	03820
N0002-A00000	410 GULF RD	COMSTOCK PHILIP E JR &	COMSTOCK FRANCES S	410 GULF RD	DOVER	NH	03820-5123
N0002-A00001	11 BAER RD	HADDADIN SAM U &	HADDADIN SUSAN L	11 BAER RD	DOVER	NH	03820-5114
N0002-A00002	GULF RD	DIAMOND CAPITAL INC		35 VILLAGE RD STE 100	MIDDLETON	MA	01949
		BRUTON & BERUBE, PLLC	FRANCIS X. BRUTON, III	601 CENTRAL AVENUE	DOVER	NH	03820
		HANCOCK ASSOCIATES	JOSEPH D PEZNOLA, P.E.	185 CENTRE STREET	DANVERS	MA	01923



Wyskiel,
Boc,
Tillinghast
& Bolduc, P.A.
Attorneys at Law

William E. Boc
*Michael J. Bolduc
**Thomas G. Ferrini
Abigail Sykas Karoutas
*William R. Phipps
***D. Lance Tillinghast
*Christopher A. Wyskiel

* also admitted in Maine
** also admitted in MA & VT
*** also admitted in MA, ME & VT

December 10, 2020

Zoning Board of Adjustment
City of Dover
288 Central Avenue
Dover, NH 03820

RE: Case No. Z20-08
Owner/Applicant: Diamond Capital, Inc.

**Objection to Requested Variance by
Abutters Philip and Frances Comstock
(410 Gulf Road, Tax Map N, Lot 2-A)**

Dear ZBA Members:

This office represents Phil and Fran Comstock of 410 Gulf Road, Dover, NH. Exhibit 1, attached, is a copy of the Dover Tax Map showing the Applicant's property outlined in red, the Comstocks' property highlighted in yellow, and other residential lots generally referred to (but not depicted by plans) in the Variance Application.

The Comstocks object to a variance being granted. To summarize hearing presentation and clarify this case's record, this letter shows how the Applicant cannot meet its burden of proof to demonstrate all statutory criteria for the granting of a variance.

1. Denying the variance will not result in hardship to the Applicant.

The Variance Application requests permission for two single-family dwellings on one lot. The Application characterizes this as relief from Section 170-12.B and the list of permitted uses for the R-12 district (this is mistaken, the property is in the R-40 district). The Staff Memo characterizes the request for relief from the Dover Code Section 170-6 definition of "LOT."

The Staff Memo correctly quotes the "LOT" definition. By definition, the Ordinance defines a lot as a parcel occupied by (only) one "PRINCIPAL BUILDING" and its "ACCESSORY BUILDINGS," or uses customarily incidental to it, together with such Open space and yards. The definition expressly allows for more than one principal building in certain districts and in all other districts for development subject to Planning Board non-residential and multi-family dwelling approvals.

Given that the Applicant's lot is in the R-40 district without water and sewer services, the Ordinance expressly limits it to one principal building. By deed restriction (addressed below), the property is restricted to residential use. Permitted residential uses for the R-40 district include single-family dwellings and accessory dwelling units. Two separate single family homes are not allowed, by zoning. Relevant deed restrictions (addressed below) also intended to limit the lot to one (not multiple) dwelling.

The Staff Memo appropriately points out (at the bottom of page 1) that the Applicant does not address why an Accessory Dwelling Unit ("ADU") does not meet its needs to accommodate residence for its principals (Mr. and Mrs. Savage), and their elderly parents. ADUs are expressly intended by State law and the Dover Zoning Ordinance to accommodate such needs. They are reasonable uses. ADUs are particularly appropriate for extended family use. The Applicant has explained its desire for the requested variance to house their elderly parents.

The Applicant characterizes the subject property as "unique" in its size and configuration given its location in this portion of Dover's R-40 district. Pictures are worth thousands of words. Exhibit 1 refutes Applicant's assertion. The subject property is not at all unique.

Deed restrictions encumbering the Applicant's lot (and the Comstocks' and the lot on the other side of Applicant's) do not make Applicant's lot unique. The concluding sentence to the first paragraph on page 2 of the Staff Memo suggests that Applicant indirectly relies upon deed restrictions as "special conditions" distinguishing its lot from others nearby. Nowhere is this point made in Applicant's Application. Even if asserted, the relevant deed restrictions do not support finding of a hardship as defined by N.H. law.

Understanding the origins of the deed restriction is important context for the ZBA to consider. Attached as Exhibit 2 is a summary of the creation of the 3-lot subdivision (each at least 5 acres in size), of which the Applicant, the Comstocks and their neighbors, Sam and Susan Haddadin, are each a part. The three lots are shown highlighted in yellow, and outlined in solid red and dotted red on Exhibit 1. The three lots are shown on Exhibit 2.3. The relevant deed restriction origins are explained by Exhibit 2, with highlighted copies of the deed restrictions in additionally identified Exhibits 2.1 through 2.8.

The RSA 674:33, I variance criteria grew out of the Legislature's codification of evolving cases decided by our N.H. Supreme Court. As all Board Members know, the multi-prong hardship test springs from the Simplex Technologies v. Town of Newington, 145, N.H. 727 (2001) case. Special conditions distinguishing a property from others in the area were intended to be germane to the property and its unique setting and its environment. Hardship relief is considered for properties burdened by zoning restrictions in a manner that is distinct from similarly situated property. In considering the surrounding environment, courts (and this ZBA) must consider "whether the land owner's proposed use would alter the essential character of the neighborhood." Harrington v. Town of Warner, 152 N.H. 74 (2005).

Applicant's counsel characterizes the Applicant's property as uniquely sized and shaped, significantly different than those within the subdivisions of Wisteria Drive, Childs Drive and Saddle Trail Drive. Those three open space subdivisions (necessarily requiring designated open space as part of subdivision approval for smaller lots) have their respective open space areas colored in purple, green and blue, respectively, on Exhibit 1. The subject parcel, and its two neighboring lots (created by virtue of Exhibit 2.3) are not at all uniquely sized for the district, and especially not given the immediate character of the neighborhood. The Applicant's property is just one 5 acre house lot away from the Salmon Falls River, the Maine/NH border. All the lots between the Salmon Falls River and Fresh Creek are of equal or even larger size than the Applicant's. It is only beyond Fresh Creek, closer to downtown, where more dense and older neighborhoods approach the City's core, that open space subdivisions were approved allowing smaller lots in exchange for preserving certain open space land.

The deed restrictions referred to in the Staff Memo are not special conditions unique to Applicant's property. The Applicant purchased its property fully aware of the deed restrictions summarized by Exhibit 2. The 5 acre minimum lot size restriction is not unique to the three lots shown on Exhibit 2.3. The McElhenys acquired many more acres abutting their Exhibit 2.3 land by deeds with deed restrictions similarly restricting any subdividing to the creation of 5 acre lots. The McElhenys' deed restrictions for the three lots depicted on Exhibit 2.3 further encumbered the lots "for residential use and any dwelling erected thereon shall have a minimum of 2,500 square feet of living space excluding open porches, basements and garages." Clearly this restriction precludes commercial uses of any sort and imposes a minimum square foot size for "any dwelling." The words "any dwelling" invite careful consideration of intent.

A fair reading evidences the intent that each 5 acre lot only be developed with one dwelling (and, impliedly, its associated accessory structures). This is consistent with the Exhibit 2.1 page 2 third numbered deed restriction (that runs with the land and thus encumbers the Applicant's and Comstocks' lots) that subdivision plans be in accord with City zoning. The pending Application puts in focus Dover's zoning requirement/"LOT" definition that allows only one dwelling per lot.

Applicant would interpret the "any dwelling" language as requiring both dwellings Applicant would build on the subject lot (if the variance is granted) as both being at least 2,500 square feet in size. That is inconsistent with Exhibit 2.1 deed restriction (which "runs with the land," thus continues to apply to Applicant's lot) requiring City zoning compliance. It is also inconsistent with the intent of the writer of the deed restriction, whose intent is relevant.

Since purchasing their lot and building their home, the Comstocks have on occasion conversed and otherwise communicated with the McElhenys, the subdividers and original grantors of the three Exhibit 2.3 lots. By e-mail, the Comstocks informed the McElhenys of the Applicant's variance request, specifically stating "there is a question as to whether the covenants you included in each deed for Lots 1, 2 and 3 on Gulf Road permit multiple dwellings on any of the lots." By e-mail response, Victor McElheny responded, stating clearly "we don't believe that multiple homes on any of the three 5-acre properties are permitted." The Applicant's variance request and intent to develop two dwellings on one lot violates the deed restriction.

The Comstocks purchased their lot fully aware of the same deed restrictions encumbering their lot. The deed restrictions appropriately preserve the essential character of the neighborhood between the Salmon Falls River and Fresh Creek.

A fair and substantial relationship exists between the general public purpose of the Zoning Ordinance's "LOT" definition and its application to Applicant and all lots surrounding the Applicant's, especially between the Salmon Falls River and Fresh Creek. The Applicant has reasonable alternative uses to make of its lot. It can have a single-family dwelling and an Accessory Dwelling Unit. The ADU can be attached to the house, or detached. Imagine a large, barn-like structure, providing for a multi-vehicle garage, storage, as well as an ADU.

The conceptual plans provided (one with the Application and another subsequently) essentially propose a 2-lot subdivision. Applicant claims it is deed restricted from subdividing, yet everything in the nature of the proposed conceptual use screams 2 lots. There are two long driveways, one bordering the Comstocks' common boundary line to the Applicant's property. The claimed need is to house elderly parents, now living at 21 Atlantic Avenue in Dover. The conceptual plans show houses spaced as if compliant with subdivision setbacks, spaced so that the houses appear as separate, not closely combined for family related use, spaced to accommodate use by separate families.

If an ADU was developed on the lot, regulations for same (see Exhibit 3) would preclude a severance in ownership by City required and approved deed restriction, preventing the units from being declared as condominiums accommodating separate ownership. The current Application makes no similar offer or proposed condition. Consequently, if the variance were granted and two houses allowed, the Applicant could take an end run around the no subdivision prohibition, condominiumize the two houses, and sell them to separate owners. Even if the Applicant agreed (by deed restriction) not to sever ownership, nothing would prevent the Applicant from renting one or both dwellings to create an income generating use quite different from the present character of the neighborhood.

The Staff Memo further points out that the Application does not address the second allowed dwelling having its own ADU unit, or for that matter, both dwellings having ADU units. This could potentially give rise to four dwellings on the lot, occupied by unrelated parties. This would create an intensification of use substantially different from the present character of the neighborhood and a violation of the deed restrictions intended to preserve the character of the neighborhood.

The development options allowed the Applicant under current zoning are all reasonable in relation to this property's size and setting, in the zone generally and particularly in its neighborhood between the Salmon Falls River and Fresh Creek. The Application does not meet the required hardship showing.

2. The spirit of the Ordinance is not observed by granting the variance.

The Dover Code Section 170-6 "LOT" definition in the Staff Memo is clear. One principal dwelling per lot, except for those express exceptions noted. Had the Planning Board in recommending

this definition to the City Council, and the City Council by endorsing it (following public hearings) intended for the Ordinance to provide further exceptions, the definition could have so expressly provided such exceptions. But it did not. Accordingly, the spirit of the Ordinance is one principal building per lot.

The spirit of Dover zoning is also to create a denser core at the City center, with progressive less density as one moves outward to the RM, then R-12, then R-20, then R-40 zones. The subject property, in particular, lies at the furthest edge of the City. It is one house lot away from Maine. Exhibit 1 clearly depicts this progressive density as one comes from the State border into the City. To create an exception to this by variance will not observe the spirit of the Ordinance.

3. Granting the variance will be contrary to the public interest.

The public interest is served by administering the Zoning Ordinance and other City regulations consistent with related title matters. In this case, the Comstocks, as immediate abutters, are injured by the granting of a variance that, for practical purposes, takes an end run around the deed covenants prohibiting subdivision. While two single-family dwellings (required to be at least 2,500 square feet in size by deed covenants) can be technically presented as “not a subdivision,” for practical purposes (structures, people using, neighborhood density), it will be a subdivision. If then declared as separate condominiums, it would be a subdivision under State law (notwithstanding Dover not acknowledging the condominium form of ownership as development requiring Planning Board subdivision approval).

The Comstocks purchased and developed their single-family home in reliance upon theirs and their neighbors’ deed restrictions. They are injured by the above described practical end run. They need not prove a decrease in property values to demonstrate their harmed property rights and interests. They will simply no longer have next to them that which they researched and bought in reliance of deed restrictions. If the variance were granted, and the Comstocks forced to defend their position by litigation in the Superior Court for Strafford County to enforce the intent of the above addressed deed restrictions, the public interest would not be served by forcing the Comstocks to go to such lengths. Granting the variance would thus be contrary to the public interest.

The general public is similarly injured. Other properties within the City are similarly restricted by protective covenants or deed restrictions precluding certain uses, or subdivision, or setbacks. For applicants to circumvent such basic restrictions by requesting administrative relief as in this case injures home and land purchasers relying upon matters of title they investigate and rely upon before purchasing.

4. Granting the variance would not do substantial justice.

As Board Members are well aware, one way to consider whether substantial justice is done is to determine whether there is a gain to the public that is greater than the loss suffered by the Applicant if the variance is not granted. See, Farrar v. City of Keene, 158 N.H. 685, 692 (2009). To apply this legal standard, the ZBA imagines a scale, and on it weighs the loss suffered by the Applicant on one

side against (on the other side of the scale) the public benefit gained by strict adherence, in this case, to the one principal dwelling per lot standard. All of the above demonstrates the loss to the Comstocks and, by representation, the public at large. The public benefit gained by not watering down the Zoning Ordinance's "LOT" definition in this case outweighs the gain to the Applicant, so substantial justice would not be done by granting the variance.

The Applicant has plenty to gain by developing this lot. It is in a very desirable section of Dover. Exclusive homes are built on neighboring lots. The subject lot is undeveloped, so the Applicant can develop it as it sees fit. The Applicant can accommodate elderly parents by an ADU. If the 800 square foot size limitation of the ADU is undesirable, perhaps the Applicant should seek a variance from that zoning regulation. See Exhibit 3, ADU Regulations.

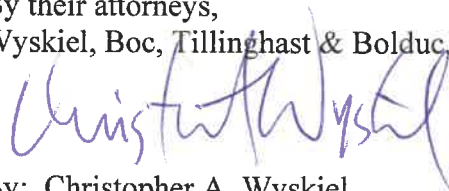
The Applicant's pitch to accommodate their elderly parents is unconvincing. Neither Applicants, nor their parents, will use this property forever. Nor will other family members who might use the second dwelling after Applicants' elderly parents no longer do. Once built, however, the structures remain as an aberration to the zoning definition, and the neighborhood in general, as shown above. The property will eventually be resold. The Applicant is in the business of reselling and/or renting properties. See printout of Applicant's website attached as Exhibit 4. With all due respect, the variance is sought for eventual resale profit and/or rental income. The proposed conceptual plan's depiction of two separate houses, two long, separate driveways, two yards, having structures meeting lot setbacks, etc., support this obvious observation.

The Comstocks do not know if their property values would be adversely affected if the variance is granted, but they do not concede that they won't, which is a point which Applicant has the burden to meet. The harms the Comstocks and the public would experience otherwise as summarized above support denial of the variance.

Respectfully submitted,

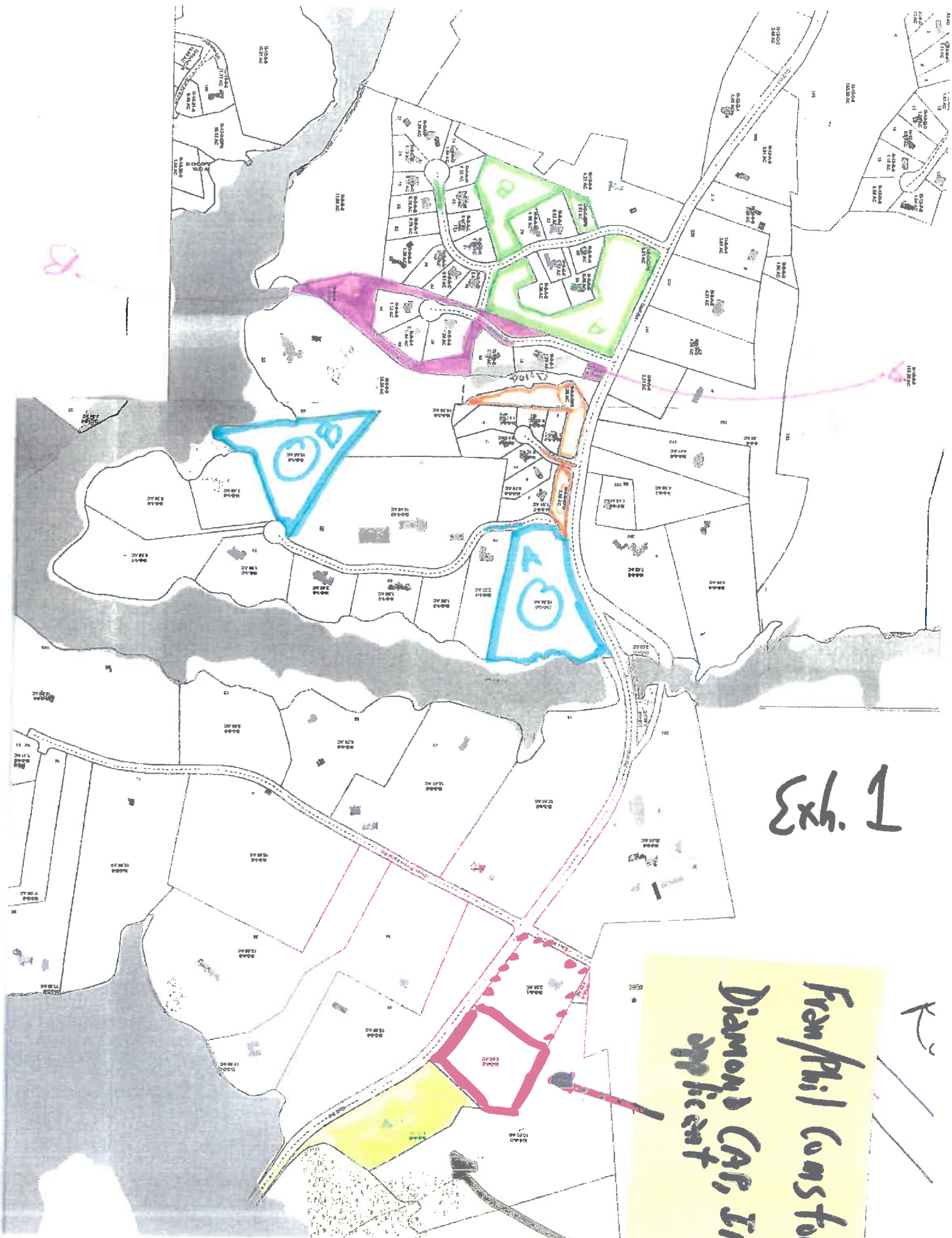
Philip and Frances Comstock

By their attorneys,
Wyskiel, Boc, Tillinghast & Bolduc, P. A.



By: Christopher A. Wyskiel

CAW/nl
Enclosures



Exh. 1

Franklin Comstock
Diamond CAP, Inc
applicant

EXHIBIT 2

Objection Letter of abutters Philip and Frances Comstock
to
Variance Application by Diamond Capital, Inc., Case No. Z20-08

The following summarizes and provides context to the “no further subdivision” deed restriction encumbering the Applicant’s and its two immediate abutters’ properties.

1. By Fiduciary Deed dated February 2, 1985, recorded at Strafford County Registry of Deeds (SCRD) Bk 1158, Pg 765 (copy attached as Exhibit 2.1), the Trustees under the will of Ashton Rollins conveyed the 14.2 acre parcel surveyed on SCRD Plan 25-54 (copy attached as Exhibit 2.2) to Victor and Ruth McElheny.
2. Protective Covenants declared by Exhibit 2.1 (highlighted) required any future subdivision of the 14.2 acres to have 5-acre minimum size parcels.
3. McElhenys acquire approximately 1.5+ acres by lot line adjustment and create a 3-lot subdivision. Copy of approved plan recorded as SCRD Plan 68-46 (attached as Exhibit 2.3). McElheny conveys 3 lots by deeds referencing Exhibit 2.1 restrictions, summarizing each lot (at least 5 acres in size) cannot be further subdivided (consistent with Exhibit 2.1 restriction) and further encumbering all three lots to “for residential use and any dwelling erected thereon shall have a minimum of 2,500 square feet of living space excluding open porches, basements and garages.”
 - a) February 25, 2003 McElheny to Haddadin deed for Lot 1 (SCRD Bk 2691, Pg 738); copy attached as Exhibit 2.4 with restrictions highlighted.
 - b) March 12, 2003 McElheny to Gabriel deed for Lot 2 (SCRD Bk 2702, Pg 123); copy attached as Exhibit 2.5 with restrictions highlighted.
 - c) March 12, 2003 McElheny to Gabriel deed for Lot 3 (SCRD Bk 2702, Pg 121); copy attached as Exhibit 2.6 with restrictions highlighted.
4. Gabriel conveyed both Lots 2 and 3 to Molly Samson and Michael Blackman by SCRD Bk 2780, Pg 964 – copy not attached – deed description and restrictions the same as Exhibits 2.5 and 2.6.
5. Samson and Blackman conveyed Lot 3 to the Comstocks, repeating the same description and same restriction. See SCRD Bk 4112, Pg 617; copy attached as Exhibit 2.7 with restrictions highlighted.
6. Lot 2 was subsequently conveyed among various parties, and eventually acquired by the Applicant by deed dated April 29, 2020. See SCRD Bk 4756, Pg 592; copy attached as Exhibit 2.8 with restrictions highlighted.

1158-76

1158/765

FIDUCIARY DEED

1985 FEB 14 AM 9 42
STRAFFORD COUNTY
REGISTRY OF DEEDS

006538

STATE OF NEW HAMPSHIRE
TAX ON TRANSFER
OF REAL PROPERTY
COMMISSION
FEB 14 1985
351.00
500880

EX 1158 PC0765

ASHTON ROLLINS, II; JOHN DAVIS; and LUCIUS F. HALLETT, III,
Trustees under the Will of Ashton Rollins, late of Dover,
Strafford County, State of New Hampshire, by the power conferred
by the Will of said Ashton Rollins, Strafford County Probate
Record #A-4545, and every other power, for Thirty-five Thousand
Twenty-six Dollars and Sixty-seven Cents (\$35,026.67) paid, grant
to VICTOR MCELHENY and RUTH S. MCELHENY, husband and wife, 113
Huron Avenue, Cambridge, Massachusetts 02138, as joint tenants
with rights of survivorship, a certain tract of land situate at
the junction of Eliot Bridge Road and Baer Road in Dover,
Strafford County, State of New Hampshire, as shown on a certain
Plan entitled "Estate of Ashton Rollins, Dover, N.H., Scale: 1" =
100', Sept. 1984, Frederick E. Drew Associates, 8 Cherry Lane,
Madbury, N.H. 03820, Plan No. A-1599," bounded and described as
follows:

Plan 25-54

Beginning at the junction of the northerly line of Eliot
Bridge Road and the easterly line of Baer Road;

Thence northerly by the easterly line of Baer Road three
hundred ninety-nine and forty-nine hundredths feet (399.49') to
an iron pin in a stone bound at land of Corydon T. and Shirley A.
Curtis, formerly of Mabel C. Franklin;

Thence by said Curtis land South forty-eight degrees
twenty-two minutes East (S. 48° 22' E.) two hundred twenty-seven
and five tenths feet (227.5') to a concrete bound;

Thence by land of said Victor McElheny South forty-eight
degrees thirty-seven minutes East (S. 48° 37' E.) one hundred
seventy-eight and five tenths feet (178.5') to a stake and
stones;

Thence South forty-eight degrees forty-five minutes East (S.
48° 45' E.) three hundred fifty-four and four tenths feet
(354.4') to a stake and stones;

Thence South fifty-five degrees forty-seven minutes East (S.
55° 47' E.) one hundred fifty-eight and four tenths feet (158.4')
to a stake and stones;

Thence South twenty degrees thirty-nine minutes West (S. 20°
39' W.) one hundred eighty-nine and one tenth feet (189.1') to a
stake and stones;

Exh. 2.1

Thence continuing South twenty degrees thirty-nine minutes West (S. 20° 39' W.) one hundred five and four tenths feet (105.4') feet to a stake and stones;

Thence South forty-six degrees twenty minutes East (S. 46° 20' E.) one hundred twenty-two and five tenths feet (122.5') to a stake and stones;

Thence South twenty-four degrees twenty-eight minutes East (S. 24° 28' E.) one hundred forty-one and five tenths feet (141.5') to a point;

Thence South four degrees fifteen minutes East (S. 04° 15' E.) one hundred ninety-eight and nine tenths feet (198.9') to a point;

Thence South twenty degrees eighteen minutes West (S. 20° 18' W.) one hundred seventy-four and six tenths feet (174.6') to a point;

Thence South one degree twenty-nine minutes East (S. 01° 29' E.) one hundred twenty-eight and seven tenths feet (128.7') to a thirty inch (30") oak tree;

Thence South forty-six degrees twenty-four minutes East (S. 46° 24' E.) twenty and three tenths feet (20.3') to a stake and stones;

Thence continuing on the same course twenty seven feet (27'), more or less, to the shore of the Salmon Falls River;

Thence southerly two hundred five feet (205'), more or less, by the shore of said River to Eliot Bridge Road;

Thence westerly by the northerly line of Eliot Bridge Road one thousand seven hundred seventy-six and forty-one one hundredths feet (1,776.41'), more or less, to the point of beginning, containing fourteen and two tenths (14.2) acres, more or less.

SUBJECT, HOWEVER, to the following protective covenants which shall be mutually restrictive and run with the land:

1) All subdivision plans must advance good, positive land use, and will be designed to enhance and protect the existing environment.

2) Any parcels to be laid out by subsequent subdivision plans shall contain a minimum of five (5) acres.

3) Any subdivision plans shall be in accordance with existing town and city zoning, and be approved by the New Hampshire Water Supply and Pollution Control Commission.

4) No dumping will be permitted on any portion of the above-described premises, nor will abandoned cars or trailers be permitted thereon.

RESERVING, MOREOVER, to the Grantors and successor Trustees under the Will of Ashton Rollins the right to use and maintain their existing water source for the benefit of present users, their heirs and devisees, including both water for drinking and household use and for recreation (swimming pool).

190766

Meaning and intending to describe and convey a portion of the premises of the Estate of Ashton Rollins, Strafford County Probate Record #A-4545.

WITNESS our hands this Second day of ^{February} ~~January~~, 1985.

TRUST UNDER THE WILL OF
ASHTON ROLLINS

Lucius F. Hallett
Witness

By: Ashton Rollins II
Ashton Rollins, II, Trustee

Lucius F. Hallett
Witness

By: John Davis
John Davis, Trustee

Lucius F. Hallett
Witness

By: Lucius F. Hallett, III
Lucius F. Hallett, III, Trustee

STATE OF NEW HAMPSHIRE
STRAFFORD, SS.

The foregoing instrument was acknowledged before me this 2nd day of January, 1985, by Ashton Rollins, II, Trustee u/w Ashton Rollins.

Lucius F. Hallett
Notary Public
My commission expires: 4-12-89

STATE OF NEW HAMPSHIRE
STRAFFORD, SS.

The foregoing instrument was acknowledged before me this 2nd day of January, 1985, by John Davis, Trustee u/w Ashton Rollins.

Lucius F. Hallett
Notary Public
My commission expires: 4-12-89

STATE OF NEW HAMPSHIRE
STRAFFORD, SS.

The foregoing instrument was acknowledged before me this 2nd day of January, 1985, by Lucius F. Hallett, III, Trustee u/w Ashton Rollins.

Lucius F. Hallett
Notary Public
My commission expires: 4-12-89

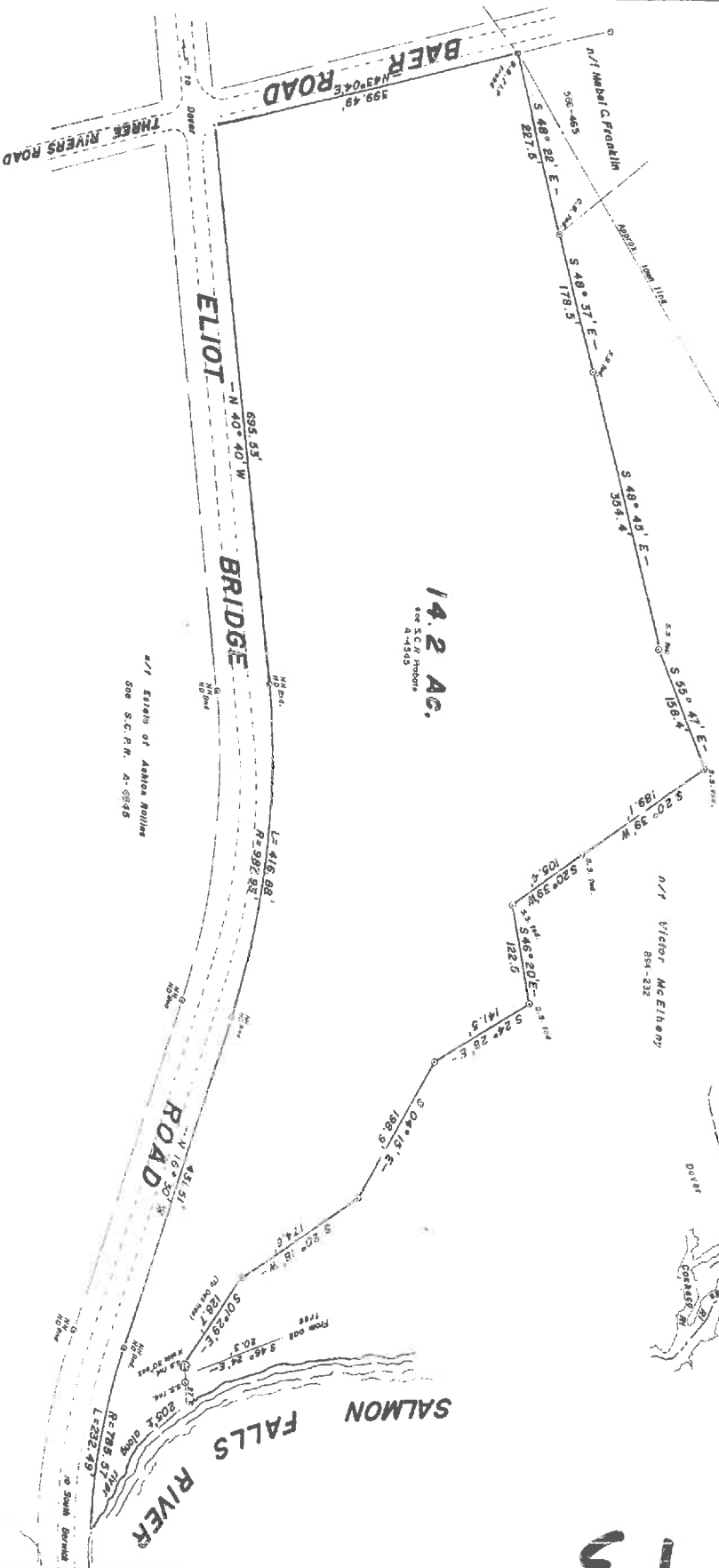
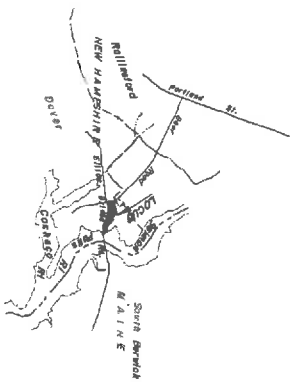
158 760767

006539

Plan 25-54

NOV FEB 14 AM 9 46
STAFFORD COUNTY
REGISTER OF DEEDS

2.2.43



Notes: Preliminary map from plan by G. L. Davis titled
"Plan of land Dover, New Hampshire, owned by
Victor McElenny," dated Sept. 1971, Series 1-207

I certify that this survey and showing the property lines that are the
basis of existing ownerships and that the lines of streets and
ways shown are those of public or private streets or ways actually
established and that no new lines for division of land are shown
outstanding or for new ways to be shown
Dated 10/18/84
Frederick E. Drew
Licensed Land Surveyor (SMA)



Estate of
ASHTON ROLLINS
DOVER, N.H.

Scale: 1"=100'
FREDERICK E. DREW ASSOCIATES
LAND SURVEYS
CHERRY LANE MADRURY, N.H.
399/1986
ENGINEERING

Plan No. A-1839

PLAN 25-54

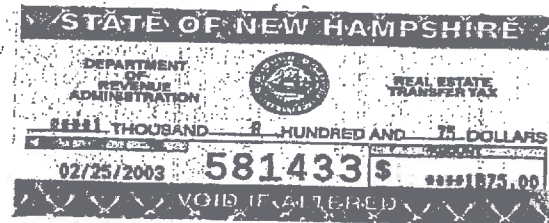


2003 FEB 25 AM 10:10

STRAFFORD COUNTY
REGISTRY OF DEEDS

005532

BK 2691 PG 0738



WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, that we, Victor McElheny and Ruth S. McElheny, husband and wife, of 113 Huron Avenue, Cambridge, State of Massachusetts 02138

for consideration paid, hereby grant to Sam U. Haddadin and Susan L. Haddadin, of 10 Westwood Circle, Dover, County of Strafford, and State of New Hampshire 03820, as joint tenants with rights of survivorship

with WARRANTY COVENANTS, the following described premises:

A certain tract or parcel of land situate at the intersection of Gulf Road - Eliot Bridge Road and Baer Road in Dover, County of Strafford, State of New Hampshire and shown as Lot #1 on a plan entitled "Lot Line Adjustment and Subdivision Plan of Land Prepared for Victor & Ruth McElheny Tax Map N, Lot Nos. 1A and 2A Gulf Road & Baer Road, Dover, Strafford County, New Hampshire" by McEneaney Survey Associates, Inc. dated November 15, 2002 and recorded in the Strafford County Registry of Deeds as Plan #68-46, being more particularly bounded and described as follows:

Beginning at a point at the intersection of the easterly sideline of Baer Road and the northerly sideline of Gulf Road - Eliot Bridge Road and running along Baer Road N 27° 30' 38" E a distance of 391.60 feet to a granite bound - town line marker at land of Corydon T. Curtis, Trustee of the Corydon T. Curtis 1991 Trust; thence running along said Curtis land S 63° 41' 50" E a distance of 227.32 feet to a concrete bound w/G.L. Davis Cap at land of Victor McElheny; thence running along land of said Victor McElheny S 63° 50' 38" E a distance of 178.17 feet to a steel stake found; thence running S 63° 56' 28" E a distance of 114.50 feet to an iron rod set at Lot #2; thence turning and running along Lot #2 S 30° 25' 44" W a distance of 465.86 feet to an iron rod set at the northerly sideline of Gulf Road - Eliot Bridge Road; thence running along said Gulf Road - Eliot Bridge Road N 55° 23' 41" W a distance of 500.00 feet to the point of beginning. Containing 5.00 acres.

Subject, however, to the protective covenants and restrictions as outlined in the deed of Ashton Rollins, II, John Davis and Lucius F. Hallett, III, Trustees under the Will of Ashton Rollins to Victor McElheny and Ruth S. McElheny dated February 2, 1985, recorded in the Strafford County Registry of Deeds at Book 1158, Page 765.

Subject further to the restriction that the above-described parcel cannot be further subdivided and that the above-described parcel shall be used only for residential use and any dwelling erected thereon shall have a minimum of 2,500 square feet of living space excluding open porches, basements and garages.

Exh. 2.4

Meaning and intending to convey a portion of the premises conveyed to Victor McElheny and Ruth S. McElheny as joint tenants with rights of survivorship by Fiduciary Deed of Ashton Rollins, II, John Davis and Lucius F. Hallett, III, Trustees under the Will of Ashton Rollins dated February 2, 1985 and recorded in said Registry at Book 1158, Page 765.

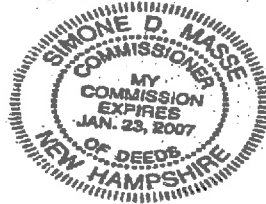
Signed this 25th of February, 2003.

Victor McElheny
Victor McElheny

Ruth S. McElheny
Ruth S. McElheny

STATE OF NEW HAMPSHIRE
COUNTY OF STRAFFORD

On this, the 25th of February, 2003, before me, the undersigned Officer, personally appeared Victor McElheny and Ruth S. McElheny, known to me, or satisfactorily proven, to be the persons whose names are subscribed to the foregoing instrument, and acknowledged that they executed the same for the purposes set forth therein.



[Signature]
Justice of the Peace/Notary Public
Commissioner of Deeds
My commission expires: 1/23/07

BK 2691 PG 0739

007401

2003 MAR 12 AM 10:23

STRAFFORD COUNTY
REGISTRY OF DEEDS

STATE OF NEW HAMPSHIRE	
DEPARTMENT OF REVENUE ADMINISTRATION	REAL ESTATE TRANSFER TAX
### THOUSAND 8 HUNDRED AND 75 DOLLARS	
03/12/2003 581599 \$	### 1875.00
VOID IF ALTERED	

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, that we, Victor McElheny and Ruth S. McElheny, husband and wife, of 113 Huron Avenue, Cambridge, Massachusetts 02138

for consideration paid, hereby grant to Daniel G. Gabriel, Trustee of the Daniel G. Gabriel Revocable Trust of 270 Gulf Road, Dover, County of Strafford, and State of New Hampshire 03820

with WARRANTY COVENANTS, the following described premises:

A certain tract or parcel of land situate on the northerly side of Gulf Road – Eliot Bridge Road in Dover, County of Strafford, State of New Hampshire and shown as Lot #2 on a plan entitled "Lot Line Adjustment and Subdivision Plan of Land Prepared for Victor & Ruth McElheny Tax Map N, Lot Nos. 1A and 2A Gulf Road & Baer Road, Dover, Strafford County, New Hampshire" by McEneaney Survey Associates, Inc. dated November 15, 2002 and recorded in the Strafford County Registry of Deeds as Plan #68-46, being more particularly bounded and described as follows:

Beginning at an iron rod on the northerly sideline of Gulf Road – Eliot Bridge Road at the southerly corner of Lot 1; thence running N 30° 25' 44" E along Lot #1 as shown on said plan a distance of 465.86 feet to an iron rod at other land of Victor McElheny; thence turning and running S 63° 56' 28" E along said Victor McElheny land as shown on said plan a distance of 239.84 feet to a steel stake; thence running S 70° 58' 24" E along said McElheny land a distance of 158.24 feet to a steel stake; thence turning and running S 05° 32' 24" W along said McElheny land a distance of 189.01 feet to a steel stake at the northerly corner of Lot #3; thence turning and running S 43° 19' 32" W along Lot #3 as shown on said plan a distance of 393.54 feet to an iron rod on the northerly sideline of Gulf Road – Eliot Bridge Road; thence turning and running along Gulf Road – Eliot Bridge Road on a curve to the left with a radius of 733.00 feet a distance of 129.19 feet to a point; thence running N 55° 23' 41" W along said Gulf Road – Eliot Bridge Road a distance of 259.32 feet to an iron rod at the point of beginning. Containing 5.00 acres.

Subject, however, to the protective covenants, restrictions and reservations as outlined in the deed of Ashton Rollins, II, John Davis and Lucius F. Hallett, III, Trustees under the Will of Ashton Rollins to Victor McElheny and Ruth S. McElheny dated February 2, 1985, recorded in the Strafford County Registry of Deeds at Book 1158, Page 765.

Subject further to the restriction that the above-described parcel cannot be further subdivided and that the above-described parcel shall be used only for residential use and any dwelling erected thereon shall have a minimum of 2,500 square feet of living space excluding open porches, basements and garages.

Meaning and intending to convey a portion of the premises conveyed to Victor McElheny and Ruth S. McElheny as joint tenants with rights of survivorship by Fiduciary Deed of

Exh. 2.5

BK2702PG0123

Ashton Rollins, II, John Davis and Lucius F. Hallett, III, Trustees under the Will of Ashton Rollins dated February 2, 1985 and recorded in said Registry at Book 1158, Page 765.

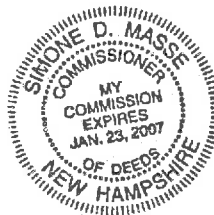
Signed this 12th of March, 2003.

Victor L. McElheny
Victor McElheny

Ruth S. McElheny
Ruth S. McElheny

STATE OF NEW HAMPSHIRE
COUNTY OF STRAFFORD

On this, the 12th of March, 2003, before me, the undersigned Officer, personally appeared Victor McElheny and Ruth S. McElheny, known to me, or satisfactorily proven, to be the persons whose names are subscribed to the foregoing instrument, and acknowledged that they executed the same for the purposes set forth therein.



[Signature]
Justice of the Peace/Notary Public
Commissioner of Deeds
My commission expires: 1/23/07

007400

2003 MAR 12 AM 10:23

STRAFFORD COUNTY
REGISTRY OF DEEDS

2702/121

**WARRANTY DEED**

KNOW ALL MEN BY THESE PRESENTS, that We, Victor McElheny and Ruth S. McElheny, husband and wife, of 113 Huron Avenue, Cambridge, Massachusetts 02138

for consideration paid, hereby grant to Daniel G. Gabriel, Trustee of the Daniel G. Gabriel Revocable Trust of 270 Gulf Road, Dover, County of Strafford, and State of New Hampshire 03820

with WARRANTY COVENANTS, the following described premises:

A certain tract or parcel of land situate on the northerly side of Gulf Road - Eliot Bridge Road in Dover, County of Strafford, State of New Hampshire and shown as Lot #3 on a plan entitled "Lot Line Adjustment and Subdivision Plan of Land Prepared for Victor & Ruth McElheny Tax Map N, Lot Nos. 1A and 2A Gulf Road & Beer Road, Dover, Strafford County, New Hampshire" by McElheny Survey Associates, Inc. dated November 15, 2002 and recorded in the Strafford County Registry of Deeds as Plan #68-46, being more particularly bounded and described as follows:

Beginning at an iron rod on the northerly sideline of Gulf Road - Eliot Bridge Road at the southerly corner of Lot #2; thence running N 43° 19' 32" E along Lot #2 as shown on said plan a distance of 393.54 feet to a steel stake at other land of Victor McElheny; thence turning and running S 05° 31' 46" W along said Victor McElheny land a distance of 105.33 feet to a steel stake; thence turning and running S 61° 26' 57" E along said McElheny land a distance of 122.52 feet to a steel stake; thence running S 30° 47' 00" E along said McElheny land a distance of 450.00 feet to an iron rod along the westerly shore of the Salmon Falls River; thence continuing along the same course a distance of 21 feet, more or less, to the shore of the Salmon Falls River; thence turning and running southerly and southeasterly along the shore of said River to a point at the northerly sideline of the Eliot Bridge Road, also known as Gulf Road; (the survey tie line for the courses along the river are S 31° 05' 15" W a distance of 288.76 feet to a steel stake and S 20° 21' 58" E a distance of 244.69 feet); thence turning and running along said Gulf Road - Eliot Bridge Road on a curve to the right with a radius of 785.57 feet a distance of 260.61 feet to a New Hampshire Highway Department bound; thence running N 31° 50' 47" W along said Gulf Road - Eliot Bridge Road a distance of 484.71 feet to a point; thence running along said Gulf Road - Eliot Bridge Road on a curve to the left with a radius of 733.00 feet a distance of 171.63 feet to an iron rod at the point of beginning. Containing 5.77 acres, more or less.

Subject, however, to the protective covenants and restrictions as outlined in the deed of Ashton Rollins, II, John Davis and Lucius F. Hallett, III, Trustees under the Will of Ashton Rollins to Victor McElheny and Ruth S. McElheny dated February 2, 1985, recorded in the Strafford County Registry of Deeds at Book 1158, Page 765.

Subject further to the restriction that the above-described parcel cannot be further subdivided and that the above-described parcel shall be used only for residential use and any dwelling erected thereon shall have a minimum of 2,500 square feet of living space excluding open porches, basements and garages.

BK 2702 PG 012

Exh. Z.6

Subject also to the protective covenants, restrictions and reservations as outlined in deed of Lucius F. Hallett, Jr., Henry P. Chandler, Jr. and Ashton Rollins, II, as Trustees under the Will of Ashton Rollins to Victor McElheny dated September 30, 1971, recorded in the Strafford County Registry of Deeds at Book 894, Page 232.

Meaning and intending to convey a portion of the premises conveyed to Victor McElheny and Ruth S. McElheny by Fiduciary Deed of Ashton Rollins, II, John Davis and Lucius F. Hallett, III, Trustees under the Will of Ashton Rollins dated February 2, 1985 and recorded in said Registry at Book 1158, Page 765; and meaning and intending to convey a portion of the premises conveyed to Victor McElheny by Fiduciary Deed of Lucius F. Hallett, Jr., Henry P. Chandler, Jr. and Ashton Rollins, II, as Trustees u/w/o Ashton Rollins dated September 30, 1971, recorded in the Strafford County Registry of Deeds at Book 894, Page 232.

Signed this 12th of March, 2003.

Victor McElheny
Victor McElheny

Ruth S. McElheny
Ruth S. McElheny

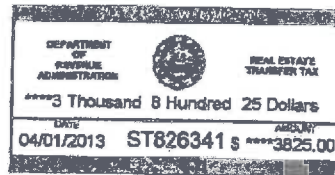
STATE OF NEW HAMPSHIRE
COUNTY OF STRAFFORD

On this, the 12th of March, 2003, before me, the undersigned Officer, personally appeared Victor McElheny and Ruth S. McElheny, known to me, or satisfactorily proven, to be the persons whose names are subscribed to the foregoing instrument, and acknowledged that they executed the same for the purposes set forth therein.



Simone D. Masie
Justice of the Peace/Notary Public
Commissioner of Deeds
My commission expires: 1/24/07

002702PC0122



WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, that we, **Michael Philip Blackman and Molly Samson**, husband and wife, of 47 Seapoint Road, Kittery, ME 03905, for consideration paid grant to **Philip E. Comstock, Jr. and Frances S. Comstock**, husband and wife, of 3207 Henson Avenue, Annapolis, MD 21403, as joint tenants with rights of survivorship, with **WARRANTY COVENANTS**, the following described premises:

A certain tract or parcel of land with any improvements thereon, situate on the northerly side of Gulf Road-Eliot Bridge Road in Dover, County of Strafford, State of New Hampshire and shown as **Lot #3** on a plan entitled "Lot Line Adjustment and Subdivision Plan of Land Prepared for Victor & Ruth McElheny Tax Map N, Lot Nos. 1A and 2A Gulf Road and Baer Road, Dover, Strafford County, New Hampshire" by McEneaney Survey Associates, Inc. dated November 15, 2002 and recorded in the Strafford County Registry of Deeds as **Plan #68-46**, being more particularly bounded and described as follows:

Beginning at an iron rod set on the northerly side of Gulf Road - Eliot Bridge Road, as shown on said plan, said point being the westerly corner of the within described Lot #3; thence running N 43° 19' 32" E along Lot #2 as shown on said Plan a distance of 393.54 feet to a steel stake found at other land now or formerly of Victor McElheny; thence turning and running S 05° 31' 46" W along said McElheny land as shown on said Plan a distance of 105.33 feet to a steel stake found; thence turning and running S 61° 26' 57" E along said McElheny land a distance of 122.52 feet to a steel stake; thence turning and running S 30° 47' 00" E still along said McElheny land a distance of 450.00 feet to an iron rod; thence continuing twenty one feet, more or less, on the same course to the shoreline of the Salmon Falls River (tidal) as shown on said plan: thence turning and running in a southerly direction along the shoreline of said Salmon Falls River to a point, said point being 37 feet easterly from a steel stake on a course of N 60° 25' 24" W (survey tie line between the last iron rod and said steel stake being S 31° 05' 15" W a distance of 288.76 feet); thence turning and running in a southeasterly direction along said River to a point on the northerly sideline of said Gulf Road - Eliot Bridge Road (survey tie line between said point and previous steel stake being S 20° 21' 58" E a distance of 244.69 feet); thence turning and running along the northerly sideline of said Gulf Road-Eliot Bridge Road the following courses and distance: along a curve to the right with a radius of 785.57 feet a distance of 260.61 feet, more or less, to a NHHD bound; thence turning and running N 31° 50' 47" W a distance of 484.71 feet, more or less, to a NHHD bound; thence turning and running along a curve to the left with a radius of 733.00 feet for a distance of 171.63 feet, more or less, to an iron rod at the point of beginning.

Containing 5.77 acres.

Subject, however, to the protective covenants and restrictions as outlined in the deed of Ashton Rollins, II, John Davis and Lucius F. Hallett, III, Trustees under the Will of Ashton Rollins to Victor McElheny and Ruth S. McElheny dated February 2, 1985, recorded in the Strafford County Registry of Deeds at Book 1158, Page 765.

Subject further to the restriction that the above-described parcel cannot be further subdivided and that the above-described parcel shall be used only for residential use and any dwelling erected thereon shall have a minimum of 2,500 square feet of living space excluding open porches, basements and garages.

Subject to all matters, restrictions and conditions as set forth on Plan #68-46.

Said premises are conveyed together with and subject to the terms and conditions of the Easement Area and Transformer Box Agreement recorded on March 13, 2013 in Book 4107, Page 996, in the Strafford County Registry of Deeds.

THIS IS LAND ONLY AND NOT HOMESTEAD PROPERTY.

Meaning and intending to describe and convey a portion of the same premises conveyed to Michael Philip Blackman and Molly Samson from Daniel G. Gabriel, Trustee of the Daniel G. Gabriel Revocable Trust by deed dated June 23, 2003 and recorded in the Strafford County Registry of Deeds at Book 2780, Page 0964.

Executed this 1st day of April, 2013.

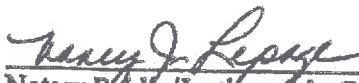

Michael Philip Blackman


Molly Samson

State of New Hampshire
County of Strafford

Then personally appeared before me, on this 1st day of April, 2013, the said Michael Philip Blackman and Molly Samson and they acknowledged the foregoing to be their voluntary act and deed.




Notary Public/Justice of the Peace
Commission expiration:

Return To: Diamond Capital, Inc.
35 Village Road, Ste 100
Middleton MA 01949

E-Doc # 200006364
Book 4756 Page 592

05/01/2020 11:17:02 AM
Page 1 of 3

Catherine A. Berube
Register of Deeds, Strafford County
LCHIP STA157172 25.00
TRANS TAX ST850859 3,435.00

TAX STAMPS: \$ 3,435.00

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENT: That Dana A. Pregent and Gina D. Pregent, as husband and wife, both of 11 Doe Drive, Eliot, ME 03903 for consideration paid grant(s) to Diamond Capital, Inc., a Massachusetts Corporation, of 35 Village Road, Suite 100, Middleton, MA 01949, with WARRANTY COVENANTS:

A certain tract or parcel of land with any improvements thereon, situate on the northerly side of Gulf Road-Eliot Bridge Road and Baer Road in Dover, County of Strafford, State of New Hampshire and shown as Lot #2 on a plan entitled "Lot Line Adjustment and Subdivision Plan of Land Prepared for Victor & Ruth McElheny Tax Map N, Lot Nos. 1A and 2A Gulf Road and Baer Road, Dover, Strafford County, New Hampshire" by McEneaney Survey Associates, Inc. dated November 15, 2002 and recorded in the Strafford County Registry of Deeds as Plan #68-46, being more particularly bounded and described as follows:

Beginning at an iron rod on the northerly sideline of Gulf Road - Eliot Bridge Road at the southerly corner of Lot 1; thence running N 30° 25' 44" E along Lot #1 as shown on said Plan a distance of 465.86 feet to an iron rod at other land now or formerly of Victor McElheny; thence turning and running S 63° 56' 28" E along said McElheny land as shown on said Plan a distance of 239.84 feet to a steel stake; thence running S 70° 58' 24" E along said McElheny land a distance of 158.24 feet to a steel stake; thence turning and running S 05° 32' 24" W along said McElheny land a distance of 189.01 feet to a steel stake at the northerly corner of Lot #3; thence turning and running S 43° 19' 32" W along Lot #3 as shown on said Plan a distance of 393.54 feet to an iron rod on the northerly sideline of Gulf Road - Eliot Bridge Road; thence turning and running along Gulf Road - Eliot Bridge Road on a curve to the left with a radius of 733.00 feet a distance of 129.19 feet to a point; thence running N 55° 23' 41" W along said Gulf Road - Eliot Bridge Road a distance of 259.32 feet to an iron rod at the point of beginning.

Exh. 2.8

Subject, however, to the protective covenants and restrictions as outlined in the deed of Ashton Rollins, II, John Davis and Lucius F. Hallett, III, Trustees under the Will of Ashton Rollins to Victor McElheny and Ruth S. McElheny dated February 2, 1985, recorded in the Strafford County Registry of Deeds at Book 1158, Page 765.

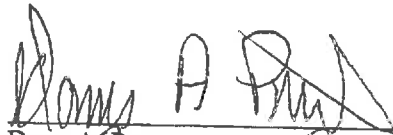
Subject further to the restriction that the above-described parcel cannot be further subdivided and that the above-described parcel shall be used only for residential use and any dwelling erected thereon shall have a minimum of 2,500 square feet of living space excluding open porches, basements and garages.

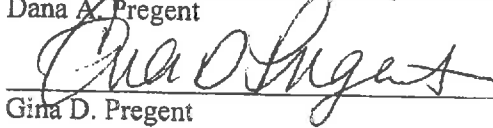
Subject to and together with an Easement Area and Transformer Box Agreement, dated February 28, 2013 and recorded with the Strafford Registry of Deeds in Book 4107, Page 996.

Meaning and intending to describe and convey the same premises conveyed to Dana A. Pregent and Gina D. Pregent by virtue of a Warranty deed from James J. Hurley, III and Julia Leigh-Hurley, Trustees of the James J. Hurley, III Living Revocable Trust of 2009 and James J. Hurley, III and Julia Leigh-Hurley, Trustees of the Julia Leigh-Hurley Living Revocable Trust of 2009 dated 11/27/2017 and recorded at the Stafford County Registry of Deeds in Book 4529, Page 432.

We, the grantor(s) hereby release all rights of homestead in the above described premises.

Executed this 29th day of April, 2020.


Dana A. Pregent

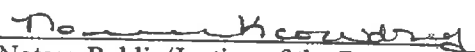

Gina D. Pregent

State of New Hampshire
County of Rockingham

April 29, 2020

Then personally appeared before me on this 29th day of April, 2020, the said Dana A. Pregent and Gina D. Pregent and acknowledged the foregoing to be his/her/their voluntary act and deed.




Notary Public/Justice of the Peace
Commission expiration:

ZONING

170-24. ACCESSORY DWELLING UNITS. [Amended on 11-28-2012 by Ord. No. 2012.11.14-24; Amended on 06-22-2016 by Ord. No. 2016.06.08-010.]

Where permitted, an ACCESSORY DWELLING UNIT shall comply with the following:

- A. A maximum of one (1) ACCESSORY DWELLING UNIT (ADU) per property is permitted. An ADU shall not be permitted on property where more than one DWELLING UNIT currently exists.
- B. Exterior ALTERATIONS, enlargements, or extensions of the SINGLE FAMILY DWELLING or detached ACCESSORY STRUCTURE are permitted in order to accommodate the ACCESSORY DWELLING UNIT. However, no such change is permitted which would ALTER the appearance of the SINGLE FAMILY DWELLING to look like a duplex or any other multi-family STRUCTURE (i.e., the house should not look like it was designed to occupy more than one family). The construction of any access ways into the house and/or detached garage which are required for access to the ACCESSORY DWELLING UNIT shall be located to the side or REAR of the BUILDING whenever possible.
- C. An ADU shall have an area of no less than three hundred (300) square feet and no greater than eight hundred (800) square feet. If located in a detached ACCESSORY STRUCTURE, the ACCESSORY DWELLING UNIT shall be located entirely on the second floor of the STRUCTURE.
- D. A minimum of one dedicated OFF-STREET PARKING space shall be provided for the ADU.
- E. The SINGLE-FAMILY DWELLING (and detached ACCESSORY STRUCTURE, when applicable) and LOT shall not be converted to a condominium or any other form of legal ownership distinct from the ownership of the SINGLE-FAMILY DWELLING. In order to ensure compliance with this requirement, the property owners at the time the ADU is established shall be required to execute a restrictive covenant running in favor of the City, which shall be recorded in the Strafford County Registry of Deeds and a copy of which shall be provided to the Planning and Community Development Department and the City Assessor prior to the issuance of a CERTIFICATE OF OCCUPANCY.
- F. The property owner must occupy one of the two DWELLING UNITS. Electric, water and sewer utilities shall be metered on a single bill.
- G. Where municipal sewer service is not provided, the septic system shall meet NH Department of Environmental Services, Water Division requirements for the combined system demand for total occupancy of the premises.
- H. A certificate of use issued by the Zoning Administrator is required to verify conformance with the preceding standards. Said certificate shall be renewed annually. Applications to renew the certificate of use shall be due by January 1st following the date of approval of the certificate of use and then by every January 1st thereafter for so long as the ACCESSORY DWELLING UNIT continues. Fees shall be levied as set forth in the City of Dover Fee Schedule, as amended annually, for ACCESSORY DWELLING UNIT certificates of use and renewals.

Exh. 3

DIAMOND CAPITAL INC.

Property Portfolio

Diamond Capital Inc. has been in business since 9/2015

Sarah and Michael Savage have sold/leased a combination of over
500 properties since 2004

Exh. 4



14 Marion Street Hudson MA 01749

- **Single Family Colonial in Middlesex County MA.**
- **4 bed/1 bath, 1860 sq ft, built in 1928**
- **Put house under contract for \$162,500**
- **Put on MLS for \$207,000**
- **Sold as an assignment of contract in 1 Day
for \$245,000 cash on 7/20/18**
- **Profit after commission \$75,150**



[VIEW LISTING](#)

14 Endicott Street, Saugus MA 01906

- Single Family Colonial in Essex County MA.
- 3 bed/1 bath, 1096 sq ft, built in 1910
- Put house under contract in 2 days for \$249,000
- Found direct cash investor and assigned contract for \$285,000
- Profit \$36,000 on 9/28/18



13-19 Merrill Street, Methuen MA 01844

- Multiple Family House with an additional 4800 sq ft lot included in sale
- Located in Essex County MA.
- 15 rooms/8 bedrooms/4 baths, 3798 sq ft, built in 1900
- Put house under contract for \$359,000
- Diamond Capital INC closed on the property 11/14/18 (with Hard Money Loan) Put on MLS for \$447,800
- Sold in 3 days for \$440,000 on 1/9/19
- Profit after commission and hard money loan \$47,800



**17 Edge Street,
Ipswich MA 01938**

- Single Family Ranch in Essex County MA
- 3 beds/1 bath, 1626 sq ft, built in 1962
- Property was purchased for \$310,000
- House was rehabbed and sold for \$485,000 on 12/4/17
- Profit after commission \$82,000



**36 Collins Avenue,
Amesbury MA 01913**

- Single Family Bungalow House in Essex County MA
- 2 bed/1 bath, 774 sq ft, built in 1900
- Property was purchased for \$141,000 on 7/5/19
- Property was sold in days for \$165,000 to direct cash buyer closes 7/29/19
- Made a 20k profit in 24 days



**690 East 7th Street,
South Boston, MA 02127**

- 1st floor condominium on the East Side of South Boston
- 3 bedrooms/3 full bathrooms 1476 sq ft
- Condo was purchased for \$329,900 on 8/1/12
- 40k in updates made to condo
- Condo was rented for 4 years
- Property sold for \$630,000 on 7/27/16



3 Farrwood Drive, Andover MA 01810

- Single Family Split Entry House in Essex County MA
- 4 bedrooms/2.5 baths, 2240 sq ft, built in 1945
- Property was purchased for \$355,000
- Property was rehabbed and sold for \$677,500 on 6/24/16
- Profit after commission was \$163,500



58 Trapelo Rd. Lincoln, MA

- Single Family Colonial House in Middlesex County MA
- 4 bedrooms/2.5 baths, 4157 sq ft built in 1974
- House is on a huge 5.29 acre lot
- House is assessed at \$1,411,200.00

Michael Savage also owns a real estate brokerage firm that has been in business since 2010 called Northeast Residential INC based out of Middleton MA. We have the ability to list our own real estate properties/rehabs on MLS and only pay 1/2 the commission.

Licensed as a Broker to sell real estate in both MA & NH.

**Here's a list of some other properties that were located & sold by
Diamond Capital Inc.:**

**47 Gould Road,
Andover MA**

- Property was purchased for \$334,000 on 9/24/15
- Rehabbed and sold for \$499,000 on 3/30/16

**468 Lowell Street,
Andover MA**

- Property was purchased for \$310,000 on 9/11/15
- Rehabbed and sold for \$450,000 on 6/20/16

**2 Molloy Road,
Georgetown MA**

- Purchased for \$215,000 on 4/14/17
- Rehabbed and sold for \$419,000 on 10/27/17

**7 Amburg Street,
Georgetown MA**

- Purchased for \$305,000 on 12/7/16
- Rehabbed and sold for \$439,000 on 6/23/17

**6 Billings Street,
Acton MA**

- Property was purchased for \$405,000 on 1/15/16
- Rehabbed and sold for \$550,000 on 6/22/16

**48 Longfellow Drive,
Newburyport MA**

- Property was purchased for \$334,000 on 9/24/15
- Rehabbed and sold for \$499,000 on 3/30/16

Michael Savage
President

Sarah Savage
Acquisition Manager

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Wyskiel,
Boc,
Tillinghast
& Bolduc, P.A.
Attorneys at Law

February 11, 2021

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*Michael J. Bolduc
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Abigail Sykes Karoutas
*William R. Phipps
***D. Lance Tillinghast
*Christopher A. Wyskiel

* also admitted in Maine
**also admitted in MA & VT
***also admitted in MA, ME & VT

Zoning Board of Adjustment
City of Dover
288 Central Avenue
Dover, NH 03820

RE: Case No. Z21-04
Owner/Applicant: Diamond Capital, Inc.
**Objection to Requested Variance by
Abutters Philip and Frances Comstock
(410 Gulf Road, Tax Map N, Lot 2-A)**

Dear ZBA Members:

This office represents Phil and Fran Comstock of 410 Gulf Road, Dover, NH. The Comstocks are direct abutters to the Applicant's property for which relief is requested. The Comstocks object to the requested relief.

The Applicant's variance application requests the same variance for the same requested relief for the same purpose for which the Applicant's practically identical application was submitted last fall as Dover ZBA Case No. Z20-08. The Comstocks objected to that requested variance. Their objections were summarized by this office's December 10, 2020 letter to the ZBA with referenced exhibits (the "December 10 letter"). The Comstocks' objections summarized by that letter and exhibits are equally relevant to the pending application. For that reason, on behalf of the Comstocks, the December 10 letter is resubmitted with and incorporated by reference as a part of this objection to the pending application.

Following submission of the Comstocks' December 10 letter, the Applicant withdrew its variance request. It is resubmitted now, with an appraisal and other exhibits, and a supporting argument rebutting the Comstocks' December 10 letter and otherwise attempting to bolster their arguments.

The points made below are applicable to some, if not all, of the five requirements the Applicant must prove. To help Board members appreciate the Applicant's and Comstocks' points of view, this letter focuses on the pending Application's new arguments or differing points (from the 2020 application).

The December 10 letter's Exhibit 1 shows the Applicant's property outlined in red and the Comstocks' outlined in yellow. More importantly, Exhibit 1 demonstrates, contrary to Applicant's assertion, that Applicant's Map N, Lot 2-A-2 property is not "unique" for the area. The Comstocks' December 10, 2020 letter explains the title history of both parties' lots, and how they came into existence, with deed restrictions requiring them to be five acres in size.

Applicant's pending application repeatedly characterizes its lot as unique. Clearly, it is not. Applicant supports its burden of proof to meet the five-prong test for a variance on its assertion that Applicant's property is unique. Since it is not unique, Applicant's arguments in support of the five-prong test are unconvincing in reliance that misrepresented fact.

Applicant's application (page 3 of 10 on City form) correctly represents that "Applicant intends to construct two single-family dwellings on the lot." Its supporting five-page letter embellishing its arguments, however, mixes up references to Dover Zoning Code's DWELLING and DWELLING UNIT and ACCESSORY DWELLING UNIT definitions to suggest the Comstocks' objections are "disingenuous" and waived.

There is a distinction between "DWELLING" and "DWELLING UNIT." Per Dover Code definitions:

DWELLING, SINGLE-FAMILY means a detached BUILDING containing one (1) DWELLING UNIT only.

DWELLING UNIT means one or more rooms, designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided within the DWELLING UNIT for exclusive use of a single family maintaining a household.

An Accessory Dwelling Unit (ADU) is defined as follows:

ACCESSORY DWELLING UNIT means a secondary DWELING UNIT (a) attached and subordinate to a SINGLE FAMILY DWELLING or (b) constructed above a detached garage that it accessory and subordinate to a SINGLE FAMILY DWELLING. See Section 170-24 for the ACCESSORY DWELLING UNIT regulations.

In the Applicant's narrative supporting it's form application, it characterizes its request (second paragraph on page 2) as one "for two dwelling units." That is not true. Its request is for two dwellings ... two stand-alone single family dwellings on one lot.

The construction of two separate single family dwellings on Applicant's lot is contrary to the intent of the deed restrictions as they historically came into being should be interpreted, and clearly were intended. See especially the original restriction declarant's intent explained at bottom paragraph

on page 3 of the December 10 letter. The December 10 letter explains how violation of the deed restriction prevents Applicant from proving all of the required five tests for being granted a variance.

Applicant's narrative for its pending application goes on (in the third paragraph on page 2) to say the Comstocks have two dwelling units just like Applicant wants. The Comstocks have a single family home on their lot. The construction fully conforms to the relevant deed restrictions. Their accessory dwelling unit is annually authorized by the City, most recently this December. See December 29, 2020 email from City with December 29, 2020 approved Certificate of Use for ADU (Comstock Exh 2021-1). The Comstocks' ADU is not physically observable from the exterior of the house. The house looks like a single family home, consistent with the setting of the zone and neighborhood.

The Applicant is disingenuous in its argument that the Comstocks have waived their right to object to the pending variance. The Applicant wants two DWELLINGS, not two DWELLING UNITS. Two houses is objectionable for all the reasons outlined in the December 10 letter.

The Applicant is further disingenuous in arguing (at the bottom of page 1 of its narrative) that the "relief requested herein is identical to the relief recently provided "in ZBA Case #Z21-01). Comstock Exh 2021-2 attached, briefly summarizes the distinguishing facts of that case that do not make it identical. To meet the City's deadline to submit this Letter of Objection in time to be disseminated to Board Members this day, the undersigned will further address ZBA Case #20-01 at the hearing. That said, to the extent relief was granted to facilitate a "family compound" or localized family ownership, the Comstocks' December 10 letter already address such facts cannot support the granting of a variance. The Applicant's immediate family use intent cannot assure such use over the long time. It is inconceivable to think that both single family homes, if allowed and constructed, would forever be used by and jointly owned by family. The construction of two homes on this five acre lot, similarly sized for its most immediate abutting lots, not at all "unique" and in violation of deed restrictions does not support the granting of a variance for all the reasons pointed out by the Comstocks.

The Applicant's concessions (to the December 10 letter) that its requested variance be granted with conditions of approval precluding future condominiumation, or an ADU within either unit is not sufficient to warrant granting the variance. For the other reasons asserted by the December letter, and now, the variance should be denied.

Since the filing of the Applicant's Fall application, there is further reason to deny the variance. Zoning Amendments posted by the Planning Board on February 9, clarify the two family dwelling permitted use in the R40 zone. The proposed amendment makes clear that any such structures should look like one single family home. See Comstock Exh 2021-3. The Applicant's requested relief flies in the face of that stated posted zoning change, and as such, is contrary to the spirit and intent of the ordinance.

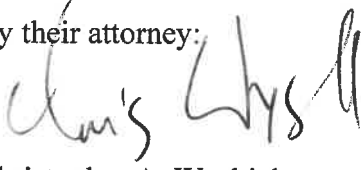
Zoning Board of Adjustment
Case No. Z21-04
Page 4

The Applicant's variance request should be denied.

Respectfully submitted,

Philip and Frances Comstock

By their attorney:


Christopher A. Wyskiel

CAW/nl
Enclosures

cc: FX Bruton, Esquire (Applicant's Attorney)

Christopher A. Wyskiel

From: pcomstock@comcast.net
Sent: Tuesday, February 9, 2021 11:39 AM
To: Christopher A. Wyskiel
Cc: Nancy J. Lepage; 'Frances'; pcomstock@comcast.net
Subject: FW: Approved Accessory Dwelling Unit Cert of Use Application --THIS IS THE ORIGINAL (2014) APPROVAL OF COMSTOCK ADU -- IT NOTES RESTRICTIONS AT BOOK 4193 PAGE 0082 -- THIS IS FYI -- THANK YOU
Attachments: 14-01_ADU_410 Gulf Road.pdf

From: Britt, Diane [<mailto:D.Britt@dover.nh.gov>]
Sent: Thursday, January 30, 2014 11:02 AM
To: pcomstock@comcast.net
Subject: Approved Accessory Dwelling Unit Cert of Use Application

Please see the attached ADU Certificate of Use Application which was approved with conditions.

Diane Britt
Planning Clerk
Planning & Community Development
City of Dover, NH
288 Central Avenue
Dover, NH 03820-4169
e: d.britt@dover.nh.gov
p: 603.516.6008 f: 603.516.6049
City Hall Office Hours: Mon-Thur 8:30-5:30, Closed Fridays

Dover: First in New Hampshire, First with you!
<http://www.dover.nh.gov>

Please consider conserving our natural resources before printing this e-mail and/or any attachments.

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City of Dover, New Hampshire

APPLICATION FOR ACCESSORY DWELLING UNIT

CERTIFICATE OF USE

[Revision Date: November 21, 2016]

Office Use Only	Certificate of Use # (if new)	Application Fee (new)	\$50.00	Check #	657	Date Received	RECEIVED Planning Office
	Existing Certificate of Use # (if renewal)	Application fee (renewal)	\$50.00	Cash		Received by	DEC 23 2020
							Dover, New Hampshire

APPLICATION TYPE (check one): ☐ NEW ☐ RENEWAL (due January 1st each year)

OWNER AND APPLICANT INFORMATION

Name of Property Owner(s) PHILIP & FRANCES COMSTOCK Telephone # 443-994-0397
 Address of Property Owner(s) 410 GULF ROAD E-Mail Address PCOMSTOCK@COMCAST.NET
 Name of Applicant (if different from owner) _____ Telephone # _____
 Address of Applicant _____ E-Mail Address _____
 Relationship of Applicant to Property Owner _____

PROPERTY INFORMATION

Property Address 410 GULF ROAD Assessor's Map # N Lot # 2A

Total Area of Accessory Dwelling Unit (sq. ft.) 592

Type of Accessory Dwelling Unit (circle one and provide area of existing structure and any proposed addition)

- ☐ ground floor unit attached to dwelling
- ☐ interior to dwelling (e.g. basement)
- ☐ second floor of attached garage
- ☐ second floor of detached structure

Total Area of House (sq. ft.) _____
 Total Area of House (sq. ft.) 2937
 Total Area of House (sq. ft.) _____
 Total Area of Detached Structure (sq. ft.) _____

RENEWAL CERTIFICATION

I/we hereby verify by signing this application that I/We continue to meet the ADU guidelines set forth in Section 170-24 of the Zoning Ordinance of the City of Dover and have not changed and/or expanded the ADU in any manner since the ADU Certificate of Use was originally issued. I/we understand that I am/we are still subject to any and all conditions of approval set forth in the original Certificate of Use.

Signature(s) of Property Owner(s): Philip Comstock Date: 12/21/2020

Signature of Applicant (if different from owner): _____ Date: _____
 (For Office Use Only – FOR RENEWALS ONLY)

Approved / Denied (circle one) by [Signature] Date 12/29/20
 Zoning Administrator

Comstock Exh 2021-1

(ZBA Case#Z21-01
418 Dover Point Road

The property is located in the Little Bay Waterfront (LBW) zone, a mixed-use district whose purpose is to “provide locations for a mixture of residential and commercial uses” It’s located on the section of Dover Point Road that runs behind the Spaulding Turnpike (same road as Newick’s) and consists of 3 (currently) disconnected buildings situate one behind the other on a narrow lot. Among the allowed uses in the LBW zone are ADU, single-family, 2-family and 3-family dwellings, offices, retail stores and (non drive-through) restaurants.

The relief sought by the applicant was a variance from Section 170-6 of the zoning ordinance definition of “LOT” permitting only 1 principal building. While it is technically the same relief sought by Diamond Capital, the reason for this variance request and the property circumstances differ substantially.

The purpose for the requested variance was first, to create a 2-family dwelling within two existing structures, which the applicant intended to physically connect by a 12’x12’ addition, and to allow a business/office for applicant’s use in the existing 3rd structure on the property, in a zone where such mixed use is encouraged “to provide locations for a mixture of residential and commercial uses” and second, to allow the commercial use of that office space without the requirement that the property owner reside in the property. Note that the first “principal building” would become a 2-family dwelling (not two separate dwellings), and the second “principal building” would become a commercial/business office (not a residence).

Apparently, there is a history of the property being used for both residential and business purposes through the years. Previous owners had a commercial kitchen in one of the structures on the property, and some uses over time not necessarily “approved.” The City’s January 21, 2020 Staff Memo indicates that not all building construction or uses may have been officially permitted. Ongoing Turnpike construction has certainly affected the surrounding area, perhaps having an adverse effect on neighborhood property values (encouraging any potential to increase property tax revenues). And, unlike Diamond Capital’s request, this Applicant appeared to have neighbors who supported granting the variance, as indicated by several form letters in the application packet. The City was disposed to granting the variance.

Comstock Exh 2021-2

 CITY OF DOVER	CITY OF DOVER – ORDINANCE	
	Posted February, 09 2021	
	Ordinance Number:	O – yyyy.mm.dd -
	Ordinance Title:	Updating the Dover Zoning Ordinance
	Chapter:	170

The City of Dover Ordains:

1. PURPOSE

The purpose of this ordinance is to amend Chapter 170 of the Code of the City of Dover, entitled Zoning, by updating the Code to reflect changes in the community and in land use regulations.

2. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-6 “Word Usage and Definitions” by revising the definition of Accessory Structure as follows:

“**ACCESSORY STRUCTURE** means a **STRUCTURE** with a minimum **FLOOR AREA** of ~~400~~ 200 square feet which exists on the same LOT and within the same zoning district as the **PRINCIPAL BUILDING** and which shall be customarily incident and subordinate to the **PRINCIPAL BUILDING** subject to the provisions of Chapter 170-10 E.”

3. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the official Zoning Map of the City of Dover, referred to in Section 170-6 of said Chapter as follows:

“The official Zoning Map of the City of Dover, New Hampshire, dated September 11, 2019, is amended by changing from “Rural Residential District” (R-40) to “Low Density Residential” (R-20) District an area of approximately 42 acres located along Bellamy Road and Cold Springs Road, consisting of Map H lots 4-A, 4-C, 4-D, 4-E, 4-F, 4-U, 6-L, 45-A, 45-B, 45-C, 46, 47-A, 48, 49, 50, 50-A, 55 and the portion of Map H lot 53 that is zoned R-40”

4. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-12 “Applicability of Tables of Use and Dimensional Regulations By District” by revising the Dimensional Regulations Table in the Medium Density Residential District (R-12) footnote [6] as follows:

“Any dwelling unit ~~existing on or before May 27, 1964,~~ may be converted, not replaced, provided that the lot shall contain at least four thousand (4,000) square feet per dwelling unit and a minimum floor area of five hundred (500) square feet per dwelling unit.

see p 13
Constock Exh 2021-3



CITY OF DOVER

CITY OF DOVER – ORDINANCE

Posted February, 09 2021

Ordinance Number: O – yyyy.mm.dd -
Ordinance Title: Updating the Dover Zoning Ordinance
Chapter: 170

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-12 “Applicability of Tables of Use and Dimensional Regulations By District” by revising the Dimensional Regulations Table in the Medium Density Residential District (R-20) footnote [7] as follows:

~~“Use is allowed when included within an Open Space Subdivision with commercial components. (See 157.21 section 7). Two family dwellings are permitted on lots with a density of twelve thousand (12,000) square feet per dwelling unit. The structures shall be designed to look like single family dwellings (i.e. the 2 family dwelling should not look like it was designed to occupy more than one family). At a minimum, this shall mean that only one entrance shall be visible from a public street, and only one driveway shall exist with no on street parking required for residents. Single family density shall be used for TDR. If two family density is used, a two family unit shall be built.”~~

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-12 “Applicability of Tables of Use and Dimensional Regulations By District” by revising the Dimensional Regulations Table in the Medium Density Residential District (R-40) footnote [6] as follows:

“Any dwelling unit ~~existing on or before May 27, 1964,~~ may be converted, not replaced, provided that the lot shall contain at least four thousand (4,000) square feet per dwelling unit and a minimum floor area of five hundred (500) square feet per dwelling unit.

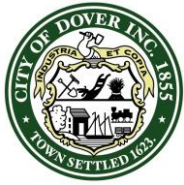
2 family dwellings shall be designed to look like single family dwellings (i.e. the 2 family dwelling should not look like it was designed to occupy more than one family). At a minimum, this shall mean that only one entrance shall be visible from a public street, and only one driveway shall exist with no on street parking required for residents.”

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-12 “Applicability of Tables of Use and Dimensional Regulations By District” by revising the Dimensional Regulations Table in the Medium Density Residential District (R-40) footnote [8] as follows:

~~“3-4 family dwellings Use is are~~ allowed when included within an Open Space Subdivision with commercial components. (See 157.21 section 7). 2 family dwellings are permitted by right. In either case, the density on lots shall be twenty five thousand (25,000) square feet per dwelling unit. The structures shall be designed to look like single

Coms to de Exh 2021-3



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO

Meeting Type: Regular Meeting
Meeting Location: Council Chambers, City Hall – 288 Central Ave. Dover, NH 03820
Meeting Date: Thursday, February 18, 2021
Meeting Time: 7:00 pm

INTENT: The Applicant requests a special exception to permit a vehicle refueling and recharging station.

UNITS PROPOSED: N/A

AGENDA ITEM #: 3-C

ZONING DISTRICT: Commercial Manufacturing (CM)

FILE: Z21-05

APPLICANT/OWNER: Gloria Michaud/Colbea Enterprises LLC

LOCATION: 45 Knox Marsh Road (Tax Map H, Lot 32)

ACREAGE: 3.27 acre (142,543 sq. ft.)

EXISTING LAND USE: Single Family Home

PROPOSED LAND USE: Vehicle refueling and recharging station

SURROUNDING LAND USE: Commercial, multi-family dwellings

PREVIOUS ZBA ACTION: Z10-02: special exception granted for gas station/convenience store

PLANNING BOARD APPROVAL REQUIRED: Yes, Site Plan and Conditional Use review

ATTACHMENTS: Application, plan

STAFF RECOMMENDATION: Staff does not oppose granting the special exception.

BACKGROUND INFORMATION AND SUMMARY OF REQUEST

The property subject to this variance request is located on the northwest side of Knox Marsh Road at its intersection with Littleworth Road. It consists of one with a single family home. The lot is encumbered by wetlands closer to the intersection. Any impact to those would require a Conditional Use Permit. Furthermore, the access to the site requires the State of New Hampshire to approve, as it controls the roadways.

The applicant requests a special exception to permit a vehicle refueling and recharging station in the CM Zoning District.

REASON FOR STAFF RECOMMENDATION

The applicant proposes the development of a vehicle refueling and recharging station and its accessory convenience store. The development will occur on a 3.27 acre parcel. After being granted a special exception for the use, the applicant will appear before the Conservation Commission to review the Conditional Use Permit and the Planning Board review and approve the Site Plan and Conditional Use Permit.

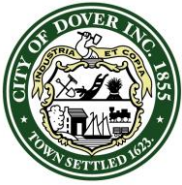
The Board must grant the special exception if it finds that the general criteria for special exceptions, per **Section 170-52.C(3)** and the criteria specific to the CM district, found on the reverse of the Table of Uses and Dimensional Regulations. These are as follows.

From 170-52.C(3):

1. The requested use is essential or desirable to the public convenience or welfare.
2. The requested use will not create undue traffic congestion, or unduly impair pedestrian safety.
3. The requested use will not overload any public water, drainage or sewerage system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the City will be unduly subjected to hazards affecting health, safety, or the general welfare.

Specific to the CM:

- A. The use of land for vehicle refueling/recharging station may only be permitted upon the determination that the property values of adjacent land will not be compromised. Any vehicle refueling/recharging station which discontinues operations for a period in excess of one hundred eighty (180) days shall be required to file a new application for a special exception with the Zoning Board of Adjustment. Such conditions may include, but need not be limited to, the provision of adequate and properly maintained screening around land so used.
- B. The minimum lot size shall be eighty thousand (80,000) square feet; the minimum lot width shall be one hundred fifty (150) feet. Thirty-three percent (33%) of the subject parcel shall be open/green space.



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO

Meeting Type:	Regular Meeting
Meeting Location:	Council Chambers, City Hall – 288 Central Ave. Dover, NH 03820
Meeting Date:	Thursday, February 18, 2021
Meeting Time:	7:00 pm

C. The total permitted sign area shall not exceed one-hundred (100) square feet.

D. No fuel storage tanks may be constructed or enlarged closer than one-hundred (100) feet to any Conservation District, and two hundred (200) feet to a secondary groundwater protection zone.

The general criteria for a special exception appear to be met, especially given that the site will undergo Planning Board review and its development will likely trigger the improvements to pedestrian and vehicular traffic control along Knox Marsh and Littleworth Road.

It is noted that the project might need to rely on a private septic tank if it cannot cross the private property to the west for connection to the public sewer.

Furthermore, it should be noted that the final layout may change. The access off Littleworth Road requires wetlands and buffer fill and that must be reviewed separately from the ZBA review. If the access is removed, staff anticipates the layout may change, but not significantly. Staff would review and if the impact is significant, the applicant would be encouraged to return to the ZBA for acknowledgement.

STAFF RECOMMENDATION

Staff recommends the Board hold a public hearing and evaluate and make findings on the special exception criteria.

45 Knox Marsh Road

**Property Information**

Property ID H0032-000000
Location 45 KNOX MARSH RD
Owner MICHAUD GLORIA
Land Use 101



**MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT**

City of Dover, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 5/20/2020
Data updated Daily



City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Revised April 7, 2017]

Office Use Only Case #: _____ Date Received: _____
Amount Paid: \$ _____ Time Received: _____

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: Colbea Enterprises, LLC Phone # _____

Address of Applicant: 7 Starline Way, Cranston, RI 02921

Francis X. Bruton, III, Esq.: fx@brutonlaw.com;

E-Mail Address: Robert McGann: rmcgann@seasonscornermarket.com

PROPERTY OWNER (if different from applicant): Gloria

Address: 45 Knox Marsh Road, Dover, NH Phone # _____

E-Mail Address: N/A

PROPERTY/PARCEL INFORMATION

Address: 45 Knox Marsh Road, Dover, NH 03820

Brief Directions: The parcel sits at the intersection of Knox Marsh Road and Littleworth Road.

Zoning District: CM Assessor's Map # H Lot(s) # 32

TYPE OF APPEAL: (Please check one)

☐ Variance	from Section _____ of the Zoning Ordinance
☐ Physical Disability Variance (RSA 674:33-V)	from Section _____ of the Zoning Ordinance
☒ Special Exception	170-52(C)(3) and Use Tables Commercial Manufacturing (CM) District per Section _____ of the Zoning Ordinance
☐ Appeal of Administrative Decision	regarding Section _____ of the Zoning Ordinance
☐ Equitable Waiver	per Section _____ of the Zoning Ordinance

DESCRIBE BRIEFLY YOUR PLANS FOR THE PROPERTY:

The Applicant intends to raze the existing building and construct a new retail store/gasoline station with a new canopy.

APPLICATION CHECKLIST (Please check off)

- A. **Application signed** by Applicant and Property Owner (if different from Applicant) X
Note: In order for the application to be accepted by Planning Department staff and placed on the ZBA agenda YOU MUST COMPLETE (1) ALL SECTIONS ON PAGE 1 as well as (2) ALL QUESTIONS FOR THE SPECIFIC APPEAL YOU ARE SEEKING.
- B. **10 Copies of Completed Zoning Board of Adjustment Application** X
Note: Only include those pages of the application that are relevant to your request. Please do not include the abutters list with the 10 copies (include only as part of original signed application (Part A above)).
- C. **10 copies of a plot plan** drawn in accordance with a boundary line to scale not less than 1" = 40'. They need to include the lot dimensions including area in square feet, and also the size and location of existing and proposed buildings if applicable, including setbacks. X
- D. Submit at least one (1) copy of the plot plan at a size of **8 1/2 x 11** (this is in addition to the 10 copies required in 'C' above). X
- E. **10 copies of photos** (suggested but optional) and any **other materials** applicant would like to submit in support of the application. X
- F. **Abutter Notification/Mailing Labels** - this office will create and print the abutter list and provide labels in triplicate for each abutter. The applicant/owner will need to provide to this office the engineer, architect, land surveyor or soil scientist whose professional seal appears on the plan with names and addresses for notices. You will be notified with the amount due, once this has been completed.
1. Applicant & Owner, engineer, architect, land surveyor or soil scientist
Certified letters fee # 4 of x \$8.00 = **\$24.00**
 2. Certified letters fee: # of abutters _____ X \$8.00 = **\$ TBD** \$ ~~32.00~~
 3. First Class Mail fee (for individual owner of units within a condominium or other collective form of ownership): # of abutters _____ X \$1.00 = \$ _____
 4. Creating/Printing Abutter Labels in triplicate per sheet. _____ x \$10.00 = \$ _____
- G. **TOTAL FEE** paid by cash or check made payable to "City of Dover"
1. Application fee of:
 - \$100.00 VARIANCE (per Section requested) \$ _____
 - \$100.00 SPECIAL EXCEPTION \$ **100.00**
 - \$100.00 APPEAL FROM ADMINISTRATIVE DECISION \$ _____
 - \$100.00 EQUITABLE WAIVER \$ _____
 2. Foster's newspaper public notice \$ **100.00**
- TOTAL FEE** \$ **232.00**

SPECIAL EXCEPTION REQUIREMENTS

THIS SECTION TO BE COMPLETED BY SPECIAL EXCEPTION APPLICANTS ONLY

A. General Special Exception Requirements (as set forth in §170-52.C.3 of the Zoning Ordinance)

1. Explain how the requested use would be essential or desirable to the public convenience or welfare.

See the attached.

2. Detail how the requested use would not create undue traffic congestion or unduly impair pedestrian safety.

See the attached.

3. Describe how the requested use would not overload any public water, drainage or sewerage system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the City will be unduly subjected to hazards affecting health, safety or the general welfare.

See the attached.

B. Specific Special Exception Requirements (as may be set forth in the applicable Table of Use)

Explain how the proposal meets the specific special exception requirements as may be set forth in the Table of Use for the zoning district in which the subject property is located:

A. See the attached.

B.

C.

D.

E.

F.

SIGNATURE PAGE

THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS

I, the undersigned Applicant, hereby certify that the information contained within this Application is complete and accurate, and I acknowledge that I have read and understand the Application Instructions, which are set forth on the first two pages of this Application form.

Colbea Enterprises, LLC

BY:

Robert C. McGann

Signature of Applicant* Name: Robert C. McGann

IMPORTANT

PROPERTY IDENTIFICATION SIGN
MUST BE POSTED ON THE PROPERTY
FOR THE 5 DAYS PRIOR TO HEARING.

FAILURE TO POST MAY RESULT IN
APPLICATION NOT BEING ACCEPTED.

Gloria Michaud POA for
Signature of Owner* Gloria Michaud

*Both Signatures Required

AUTHORIZATION TO ENTER SUBJECT PROPERTY

I, and my successors, hereby authorize members of the Dover Zoning Board, Planning Department and other pertinent City Departments and boards to enter my property for the purpose of evaluating this application, including performing inspections during the application phase, post-approval phase, construction phase and occupancy phase. It is understood that these individuals must use all reasonable care, courtesy, and diligence when on the property.

Signature of Property Owner:

Gloria Michaud POA for
Gloria Michaud

Date: 01/27/2021

Colbea Enterprises, L.L.C., Applicant
Gloria Michaud, Current Property Owner

Property Location: 45 Knox Marsh Road
Dover, New Hampshire

SPECIAL EXCEPTION APPLICATION

The Applicant, Colbea Enterprises, L.L.C., is under agreement to purchase the property located at 45 Knox Marsh Road (Tax Map H, Lot 32) in Dover, New Hampshire.

The property is a 3.27-acre (142,543 square feet) parcel of land, containing a single-family house and detached garage. The property is located in the "CM" (Commercial / Manufacturing) zone.

Colbea Enterprises, LLC develops and operates gasoline stations coupled with modern scale retail stores, operating as "Seasons Corner Market." In this instance, Colbea Enterprises, LLC intends to raze the existing buildings on the property and construct a new retail store/gas station, with a new canopy. The retail store, with drive-thru service for a co-tenant, will operate from an approximately 5,000 sq. ft. building, with a basement for storage and mechanicals, with gasoline dispensed at six (6) gas dispenser stations with a total of twelve (12) fueling positions. The gas dispensers will be underneath a fire-suppression fitted canopy, approximately 4,000 sq. ft. in size. The facility will contain 17 parking spaces along the retail store, with an additional 12 spaces at the fueling positions. One of the parking spaces will be dedicated, as required, to electric refueling. A copy of the conceptual site plan is attached.

As a result of the rebuild, the location of the retail store will be positioned approximately 145 feet (almost half a football field away) from the frontage of Knox Marsh Road in order to provide a safe traffic flow within the property for members of the public utilizing the business. The Applicant expects to access the property with an existing point of access along Littleworth Road, and with a point of access on Knox Marsh Road. Along Littleworth Road, the existing access will need to be widened. The retail store and fueling positions will not encroach upon the existing wetlands that exist along Littleworth Road, or its buffer. There is no carwash or car-cleaning stations proposed. The existing evergreen, hardwood and vegetative buffer along Littleworth Road, which provides a buffer to residential abutters on the opposite side of Littleworth Road, will essentially remain in place, except as to a small anticipated encroachment within the wetland buffer to provide safe access to the site from Littleworth Road.

In the CM zone, a "Vehicle Refueling and Recharging Station" is permitted by special exception. As such, it is respectfully submitted that the Applicant meets the criteria for a special exception for the use, and respectfully request that the special exception be granted. Please note that the project will still require full site plan review by the Dover Planning Board, and as conditional use permits will be requested, the project will also undergo review by the Dover Conservation Commission.

FACTS SUPPORTING THIS REQUEST

Special Exception Criteria per Section 170-52 (C)(3):

A. The requested use is essential or desirable to the public convenience or welfare.

The proposed gas station would be a desirable convenience to the public who currently do not have a location to purchase gas or "convenience good items" when traveling southbound from the exit of the Spaulding Turnpike and thence traveling along Knox Marsh Road or Littleworth Road. The addition of the gas station/convenience store immediately at the exit of the Spaulding Turnpike will provide essential and desirable public convenience to the area.

B. The requested use will not create undue traffic congestion, or unduly impair pedestrian safety.

The project has been designed to provide adequate parking stacking and vehicular and pedestrian circulation within the site. Gas bays, the convenience store and drive-thru access have been located to be accessible and without conflict to the associated users. The proposed use will be serviced from existing traffic, either along the Spaulding Turnpike and not a "generator" of new traffic. These improvements in conjunction with the proposed project will not create undue traffic, congestion or unduly impair pedestrian safety. In addition, the site plan and traffic will be reviewed by the Dover Technical Review Committee, the Dover Planning Board and the State of New Hampshire, as Littleworth Road and Knox Marsh Road are state highways.

C. The requested use will not overload any public water, drainage or sewerage system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the City will be unduly subjected to hazards affecting health, safety or the general welfare.

The proposed use will not overload any public water, drainage, or sewerage systems. Drainage will be collected and treated on-site prior to discharge (and we will match or decrease the pre-development peak rate of runoff as required). It is our understanding that the existing City system has sewer and water capacity for the proposed use. Anticipated water demand (including irrigation) is approximately 130 GPM and anticipated sewer demand is approximately 289 GPD.

Special Exception Criteria per Use Tables Commercial Manufacturing (CM) District:

A. The use of land for vehicle refueling station may only be permitted upon the determination that the property values of adjacent land will not be compromised.

The Applicant has engaged the services of Brian White, MAI, SRA, a New Hampshire licensed appraiser of White Appraisal to evaluate the impact to the surrounding property values should the special exception be granted. For the reasons set forth within the attached report, the Applicant respectfully submits that the grant of the special exception will not diminish the surrounding property values.

B. The minimum lot size shall be eighty thousand (80,000) square feet, the minimum lot width shall be one hundred fifty (150) feet. Thirty-three percent (33%) of the subject parcel shall be open/green space.

The Applicant intends to construct the plan as described hereinabove, and per the attached plan. In this instance, the lot size is approximately 142,543 square feet, the lot width varies from a minimum width of 205 feet to a maximum of 410 feet. Approximately 88,000 square feet (61.7%) of the subject parcel shall be open/green space.

C. The total permitted sign area shall not exceed one hundred (100) square feet.

In this instance, the total permitted sign area shall not exceed one hundred (100) square feet.

D. No fuel storage tanks may be constructed or enlarged closer than one-hundred (100) feet to any Conservation District, and two hundred (200) feet to a second groundwater protection zone.

In this instance, the Applicant's engineer and surveyor have reviewed the criteria set forth above. This included physical inspection, field survey and based upon coordination with various City personnel as to the location of the Conservation Districts and secondary groundwater protection zones. Dover defines a Conservation District to include areas of 2,000 sq. ft. of contiguous steep slope (slope greater than 20%). As denoted on the site plan attached hereto, any reasonable construction and development of the site will require an area of steep slope to be removed (area depicted in red). This area of slope serves no traditional purpose or function, as steep slope is typically associated with the protection of wetlands, which is not the case in this instance. This area just barely qualifies as a Conservation District, at 2,060 sq. ft. Given the foregoing, the Applicant will ask the Planning Board for a conditional use permit to remove the area. Thus, after removal, the location of the storage tanks will not be closer than one-hundred (100) feet to any Conservation District, and no closer than two hundred (200) feet to a second groundwater protection zone. As such, the Applicant seeks approval of the special exception, subject to the grant by the Planning Board of the conditional use permit to remove the depicted steep slope area.

WHITE APPRAISAL

REAL ESTATE APPRAISING & CONSULTING

Brian W. White, MAI, SRA



January 27, 2021

Mr. Chris Prior, Chairperson
Dover Zoning Board of Adjustment
City Hall
288 Central Avenue
Dover, NH 03820

RE: The Special Exception application for a Vehicle Refueling and Recharging Station to be located on 45 Knox Marsh Road in Dover, NH.

Mr. Prior:

I have been asked by Colbea Enterprises, L.L.C., dba Seasons Corner Market to investigate the impact to the value of the abutting properties for the proposed gasoline/convenience development (identified as a Vehicle Refueling and Recharging Station in the Dover Zoning Ordinance) to be located on 45 Knox Marsh Road and to prepare an analysis and opinion on the matter. I have reviewed the Dover Zoning Ordinance that addresses the standards for a special exception. To prepare this letter, I have completed research on the proposed subject property, the neighborhood and the Dover marketplace. The following letter summarizes my analysis, findings and conclusions:

1. The Existing Development:

The subject property is a 2.97-acre parcel of land located in the "CM" (Commercial Manufacturing) zone. The parcel is currently improved with a 2,683 square foot, one-story, single family residence with an attached two-car garage and a detached garage that was originally constructed in 1940. There is a front paved drive located off of Knox Marsh Road (Route 155) and a rear dirt and gravel drive located off of Littleworth Road (Route 9). The paved drive is located in the southern portion of the subject's parcel and it accesses Knox Marsh Road directly across from a dirt and gravel drive that provides access to Dover recreation land and the location of the Bellamy Park Disc Golf. The dirt and gravel drive is located in the northern portion of the subject's parcel and it accesses Littleworth Road directly across from a dirt and gravel drive and parking lot that provides access to a development that contains a single family residence and space that was formerly occupied by Dover Acupuncture. The subject's site area has a large upland area and an elongated wetland area located along Littleworth Road. The wetland area has numerous cat tails and several moderate to large sized hardwoods and evergreens that currently provide a visual screen from the Littleworth Road area. The upland area is largely grassed with a heavily treed area located in the rear portion of the parcel.

2. *The Proposed Development:*

The existing site improvements and building will be razed. The subject property is proposed for development with a gasoline/convenience development that will contain a 5,538 square foot, one-story building with a basement storage area. The gasoline component will have an elongated front canopy area with six island areas with gasoline dispensers. There will be an electric car charging area, a rear dumpster area with a fence surround and front and side parking areas. There will be two paved ingress and egress drives located in the same location of the two existing drives for the existing single family residence. While these drives will be located in the same location, the width of the drive area will be widened in order to accommodate multiple lanes. The northern drive located off of Littleworth Road will extend through a wetland buffer area. There will be landscaped and grassed areas surrounding the site improvements. The elongated wetland area and hardwood and evergreen tree screen will remain in place. There will be exterior lighting illuminating the drive, parking and sidewalk areas. These lights will be down-lighting designed to mitigate light visibility from the abutting properties.

3. *Neighborhood & Abutting Properties:*

The subject property is located on the western side of Knox Marsh Road (Route 155) and the southern side of Littleworth Road (Route 9) in the central portion of the City of Dover in the “CM” (Commercial Manufacturing) zone. The subject property is a corner parcel located at a multiple lane signalized intersection which is located just west of Exit #8 of the Spaulding Turnpike. The subject property is located in the eastern portion of a large CM zoned area located to the north and west of Knox Marsh Road. These areas are developed with a variety of office, retail, service and light industrial developments. The Bob Sherwood Landscape Company abuts the subject property to the south and west. This is a retail landscape and material storage development. The United Ag & Turf business abuts the subject property to the northwest. This development specializes in the sale and servicing of tractors and lawn mowers. There are no other immediately abutting properties for the subject property as the northeastern and southeastern areas of the subject property abut the signalized intersection of Knox Marsh Road and Littleworth Road. The City of Dover defines an “abutter” in Chapter 170-6 of the Zoning Ordinance as being “The owner of record of a parcel of land located in New Hampshire and adjoins or is directly within two hundred (200) feet (including land across the STREET or waterway) of the proposed site under consideration by the PLANNING BOARD.” Considering this, the additional abutters of the subject property are a four-unit residential condominium development located on 2-8 Trestle Way (off of Knox Marsh Road), a single family residence that was formerly used as a mixed-use building located on 17 Littleworth Road and two single family residences that are located on 29 West Knox Marsh Road and 9A Chandler Way (both located off of Knox Marsh Road).

4. *Knox Marsh Road and Littleworth Road as an Amenity or a Detrimental Factor to Value:*

All of the properties located on or nearby Knox Marsh Road and Littleworth Road near the intersection of these two roads are impacted by the vehicular traffic that travels on these two roads. The posted speed limit in the subject’s area of Knox Marsh Road is 40 miles-per-hour while the posted speed limit for Littleworth Road is 35 miles-per-hour. The observed average speed of the traffic in the subject’s area is in this general range and occasionally higher. The NH DOT Bureau of Traffic indicates that the recent average daily traffic count

along Knox Marsh Road in the subject's general area is approximately 17,500 vehicles per day and it is approximately 11,000 vehicles per day along Littleworth Road. These are considered to be a fairly heavy flow of traffic for the greater Seacoast area of New Hampshire. In general, this amount of daily traffic is considered to be an amenity for most commercial developments and some light industrial users as it provides enhanced visibility and access while it is generally a negative factor for single family properties. All of the pure single family properties located along Knox Marsh Road and Littleworth Road and those located within several hundred feet of these roads are impacted by the road noise from these two roads. In addition to the vehicle accelerating noises in the subject's signalized road intersection area, there are also deceleration and braking noises as vehicles approach the signal lights. These heavily trafficked roads put off a frequent road noise that is not desirable for most single family occupants. No matter what the future use is for the subject property, this road noise factor will not change. A single family development would not likely be a feasible use for the subject property, or several of the abutting parcels, given the road noise and the fact that access is directly off of a heavily trafficked road. It is noted that multi-unit residential developments are not typically as sensitive to road traffic and road noise. Many of the tenants or owners of a multi-family unit view road noise as being offset by the fact that the nearby road provides them with superior access to highways, shopping areas, service establishments and convenience developments. These users view the road noise as a trade-off for the many conveniences that come along with being in close proximity to a heavily trafficked road.

5. Factors that impact Value and the Application to the Subject Property:

For the subject property, there are three potential factors that could directly impact the market value of the abutting properties. These factors are noise, view and use.

Noise:

It was previously noted that the road noise emitted from both Knox Marsh Road and Littleworth Road is fairly high and this will not change regardless of the future use of the subject property. While the subject's proposed gasoline/convenience development will generate more vehicles entering and exiting the subject property, as compared to the existing single family use, so would all of the permitted commercial and light industrial uses in the CM zone. Any permitted commercial or light industrial use would likely result in more vehicle trips into and out of the property and there could be additional noise from exterior car and truck use around the development. A buyer of a property located within close proximity to the subject property would already be aware that the subject property is a well-located developable parcel of land, located on a major signalized intersection just off of Exit #8 of the Spaulding Turnpike, that would likely be developed with a more intensive commercial or light industrial development sometime in the future. It is also noted that the subject's proposed development will be located in the central and southern portions of the subject's parcel. The existing wetland area and hardwood and evergreen tree screen located in the northern portion of the parcel along Littleworth Road will remain in place. This area provides a visual screen and its proximity in the northern portion of the parcel provides additional distance from the developed area of the subject's parcel to any existing single family residence. Considering all of these factors, it is reasonable to conclude that the proposed gasoline/convenience development of the subject property is configured in such a manner that there would not be an increase in noise that would be over and above that of the

permitted commercial and light industrial uses in the CM zone. Additionally, the road noise from the existing traffic on Knox Marsh Road and Littleworth Road would likely overtake any potential noise from the proposed development.

View:

At the present time, the subject's single family residential development is very visible from points to the south and west of the subject. The existing tree screen located in the wetland area and the rear grouping of trees provide close to a full screening of the property depending on the time of the year. The photographs of the subject property and of the neighboring properties in this opinion letter provide a sampling of typical view of the subject from surrounding areas and of the abutting properties from the subject property. It should be noted that these pictures were taken in November when the trees have largely shed their leaves and when the views of other properties would be at their greatest.

The proposed gasoline/convenience development will have ingress and egress drives located in the same general area as the existing single family residence development. The proposed development will be retaining almost all of the existing natural screening that is located in the northwestern and northeastern portions of the property. The proposed building and canopy will be located in the central and southern portions of the property where there are now grassed lawn areas. The subject's improvements will be most visible from the properties located to the south, west and east with the properties located to the north of the subject being largely screened from the proposed improvements. The properties located to the north and west of the subject is a tractor and lawnmower sales and service business (10 Littleworth Road) and a commercial landscape development (55 Knox Marsh Road). Both of these developments would typically expect to be located adjacent to another commercial or light industrial development so their increased view of a commercial property would not be a negative. The property located to the east of the subject is largely undeveloped wetlands (northern portion of 2-8 Trestle Way) and a dirt and gravel drive that leads to Dover recreation land (19 Bellamy Road). The development potential or use of these properties would not be reduced or negatively impacted. To the south of the subject property the view is largely of Knox Marsh Road with a view of a 4-unit residential building approximately 500' in the distance (2-8 Trestle Way). This multi-unit residential building has a Coast bus stop approximately 50' in front of the 4-unit building and a new large veterinary clinic (Broadview Animal Hospital of Dover) is located directly across Knox Marsh Road from this property. There is an existing treed front area located between this property and Knox Marsh Road. This natural screen provides partial screening from all of Knox Marsh Road and the mixed commercial and residential uses that currently surround this property. The view of the subject's proposed gasoline/convenience development in the distance will not significantly change the overall views of the residential units in this development. There are two single family residential properties (9A Chandler Way & 29 West Knox Marsh Road) and a former mixed-use residential property (17 Littleworth Road) located to the north and northeast of the subject property. All of these properties already have a treed visual screen located on their property, the four lanes of Littleworth Road and the existing hardwood and evergreen screen on the subject property located between their building and the proposed improvements for the subject. Considering all of these factors, it is reasonable to conclude that the proposed gasoline/convenience development of the subject property will be developed in such a manner that it will utilize the existing natural screening to continue to screen the view of the proposed subject from its residential abutters.

While it is true that the distant view of the subject property from the yard areas of a few nearby single family residences will change, it is not necessarily true that the market value of the abutting residences will change because of this view change. Any alternate use of the subject property different from the existing single family use will likely result in a change in the view from the abutting properties. As an extreme example, the market value of the abutting residences could possibly be increased if the subject property were not a single family development but if it were an undeveloped wooded parcel. Having no development on the subject property and having the view of the subject property being undeveloped woods could be a positive value enhancement for the abutting residences. However, this will not be the case and it is not reality. The subject property is currently a single family development that is located on Knox Marsh Road and Littleworth Road in a mixed-use area. If the subject property is not a single family development, or a gasoline/convenience development in the future, it will be something else that changes the view of all of the nearby residential properties. Any other proposed developments for the subject property might not continue to utilize the existing natural screening on the property. Additionally, some permitted commercial or light industrial users could be more detrimental to the neighbor's view as they could contain larger structures, truck traffic, extensive exterior operations, etc.

Use:

The subject property is proposed for use as a 5,538 square foot convenience store building with a front canopy and six islands with gasoline dispensers. In the surrounding neighborhood along Knox Marsh Road and Littleworth Road there are a variety of commercial, light industrial and residential uses that include: single family residential, multi-unit residential, mixed-use, retail, office, service, and gasoline/convenience uses. Without considering the zoning requirements in the CM zone, the proposed use of the subject property as a gasoline/convenience development would mix in well with the variety of mixed commercial, light industrial and residential uses that currently exist along the Knox Marsh Road and Littleworth Road area of Dover. It is noted that there is one older gasoline/convenience development located on Knox Marsh Road at the intersection with Progress Drive (Irving & Circle K). There are some uses, such as a sexually orientated business, a medical marijuana distribution facility or a nightclub or bar that would obviously be undesirable uses for a neighboring single family residential home. Any of these uses would be so egregious that the surrounding neighborhood and the adjacent properties could experience market resistance or have a stigma. Because of the adjacent undesirable use, the demand for the abutting properties would decline and the market value would be negatively impacted. The subject's proposed use as a gasoline/convenience development is not one that would typically be associated with bringing a stigma to the surrounding neighborhood. Rather, a quality designed and constructed gasoline/convenience development may enhance the surrounding neighborhood by offering access to many convenience items and gasoline.

I have attempted to gather market sales data from the area that would speak to the change in view issue and possible value changes. In the greater Dover area, there is no exactly similar property from which to extract paired-sales. Therefore, only general observations can be made based on my experience in the marketplace. Over the past several decades in the surrounding areas of Dover, several new gasoline/convenience developments have been constructed. Many of these properties can be viewed by many multi-family and single family properties. While the view of these residential properties has changed, there is no sales data that I am aware of that indicates that the market value of any impacted property

has diminished. In many cases, these new gasoline/convenience developments have been constructed and they have added many conveniences and enhanced access to gasoline which has resulted in an overall value enhancement for the neighborhood. The Irving gasoline/convenience development located on 165 Knox Marsh Road is a good example. This property is located adjacent to several light industrial and commercial developments and it is located directly across from and within full view of the Lilac Garden residential condominium development. In 1988, this gasoline/convenience development required a Special Exception to allow for the gasoline/convenience use, similar to the subject's request. This gasoline convenience development has added access to convenience items and gasoline that would be viewed by many multi-unit residential owners or occupants as having value. The subject property is planned for a new modern gasoline/convenience development that will be similar to many other modern developments in the area.

6. *Specific Standards – Special Exception:*

Special Exception – 170-52 (C) (3) - It is my opinion that granting a special exception for the subject property to be used as a Vehicle Refueling and Recharging Station development would not result in the diminution in value of the abutting property values in the immediate vicinity of the subject property and the proposed subject property would not change the characteristics of the neighborhood. In fact, the addition of the proposed subject property will add a modern quality gasoline/convenience development to the neighborhood that very well could enhance the value of the surrounding properties as it will add convenient access to many convenience items, gasoline and an electric vehicle charging station.

Respectively submitted,

A handwritten signature in dark ink, appearing to read "Brian W. White", is written over a horizontal line.

Brian W. White, MAI
NHCG-#52

ADDENDA

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PHOTOGRAPHS OF THE SUBJECT PROPERTY



Front of the Subject Property
Looking Northeast from Knox Marsh Road - (11/20)



Subject Property – Paved Drive Area off of Knox Marsh Road
Looking Northeast from Knox Marsh Road - (11/20)

PHOTOGRAPHS OF THE SUBJECT PROPERTY



Front of the Subject Property
Looking Southwest from Littleworth Road – (11/20)



Subject Property – Paved Drive/Gravel Area off of Littleworth Road
Looking Southwest from Littleworth Road - (11/20)

PHOTOGRAPHS OF THE SUBJECT PROPERTY



Subject Property – Wetland Area and Tree Cover
Looking Northwest from Knox Marsh Road - (11/20)



Subject Property – Wetland Area and Tree Cover
Looking Southwest from Littleworth Road - (11/20)

PHOTOGRAPHS OF THE SUBJECT PROPERTY



Street Scene – Front of the Subject Property
Looking Southwest on Knox Marsh Road - (11/20)



Street Scene – Front of the Subject Property
Looking Southeast on Littleworth Road - (11/20)

PHOTOGRAPHS OF THE SURROUNDING PROPERTIES



Abutting Bob Sherwood Landscape Company Property
Looking West from front of the Subject Property - (11/20)



Abutting United Ag & Turf Property
Looking West from Littleworth Road - (11/20)

PHOTOGRAPHS OF THE SURROUNDING PROPERTIES



Littleworth Road from the Subject Property
Looking Northeast from front yard area - (11/20)



Knox Marsh Road from the Subject Property
Looking Southeast from front yard area - (11/20)

PHOTOGRAPHS OF THE SURROUNDING PROPERTIES



View across Knox Marsh Road from Paved Drive Area of the Subject Property
Looking Southeast - (11/20)



View across Littleworth Road from Paved/Gravel Drive Area of the Subject Property
Looking Southeast - (11/20)

Residential Property Record Card - Dover, New Hampshire

Property Location: 45 Knox Marsh Rd Dover, NH 03820		Parcel ID: H0032-000000 Map Block No.: H-32-0-0		Class: R	Use: 101 Card 1 of 2																								
Current Owner: Michael Glor 45 Knox Marsh Road Dover, NH 03820		Previous Owner History <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Name</th> <th>Deed</th> <th>Date</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> </tr> </tbody> </table>		Name	Deed	Date				Miscellaneous Deed Info: 1471/597 Zoning: B-4 Neighborhood: 100 Living Units: 1 Street/Road: Public																			
Name	Deed	Date																											
Notes Patio= NV, No Mortar Rst=mvize econ Loc/Satback/Cmrr		Entrance Information <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Date</th> <th>Time</th> <th>ID</th> <th>Activ</th> <th>Entrance Code</th> <th>Source</th> </tr> </thead> <tbody> <tr> <td>07/30/2012</td> <td>C</td> <td>BL</td> <td></td> <td>Entry Gained</td> <td>Owner</td> </tr> <tr> <td>12/27/2011</td> <td>C</td> <td>BL</td> <td></td> <td>Ext. Insp.</td> <td></td> </tr> <tr> <td>07/13/2000</td> <td>P</td> <td>RM</td> <td></td> <td>Ext. Insp.</td> <td></td> </tr> </tbody> </table>		Date	Time	ID	Activ	Entrance Code	Source	07/30/2012	C	BL		Entry Gained	Owner	12/27/2011	C	BL		Ext. Insp.		07/13/2000	P	RM		Ext. Insp.		Assessment Information Assessed Value: * Prior Land: 171,300 151,900 Building: 386,300 378,400 Total: 557,600 530,300 Assessed Information: Value: 557,600 Effective DOV: 4/1/2020 Value Flag: COST VALUE	
Date	Time	ID	Activ	Entrance Code	Source																								
07/30/2012	C	BL		Entry Gained	Owner																								
12/27/2011	C	BL		Ext. Insp.																									
07/13/2000	P	RM		Ext. Insp.																									

Book/Page		Sales History		Price		Type		Validity	
1471/597		Date	Permit #	Price	Purpose			% Comp.	
		07/28/1999	7687	7,200	Det Garage			100 0	
Land Information									
Type	Size	Grade	Influence Factor 1, 2 and %	Value					
Primary	A	1.0	Economic	-5		152,000			
Residual	A	1.97	0	0		19,250			
Total Acres for this Parcel		2.97		Total Land Value		171,300			
Out Building Information									
Type	Qty	Year	Size1	Size2	Grade	Cond	%Good	Value	
Pool-Plastic Liner	1	1972	20	40	C	G	30%	7,470	
Garage-Wd/Cb	1	1999	20	20	C	A	68%	11,580	
Wood Deck	1	1999	8	16	C	A	33%	900	
	0	0	0	0	0		0%	0	
	0	0	0	0	0		0%	0	
	0	0	0	0	0		0%	0	
	0	0	0	0	0		0%	0	
Total OBY for this card								19,950	



08-13-2008-14:10

Property Location:
45 Knox Marsh Rd

Residential Property Record Card - Dover, New Hampshire

Parcel ID: H0032-000000

Class: R Use: 101 Card 1 of 2

Dwelling Information

Style: Cape

Condo Style:

Exterior Walls: Frame

Story Height: 1.0

Attic: Full Fin./Wh

Interior/Exterior: Same

Basement: Full

Bsmt Garages: 0

Rec Room size: 0

FBLA size: 0

Unfinished Area: 0

WB Fireplaces: Stacks 1 Openings 2

MTL Fireplaces: Stacks 0 Openings 0

Heating Type: Basic

Fuel: Oil

Heating System: Steam/Hot Wa

Year Built: 1940

Eff. Yr Built: 0

Ground Flr Area: 1304

Tot Living Area: 2683

Basement Area: 0

Grade: C+

Condition: Good

CDU: GD

Building Notes:

Replacement Costs

Base Price: 157,730

Additions: 120,400

Unfinished Area: 0

Basement: 0

Attic: 40,870

Plumbing: 12,670

Heating A/C Adj.: 0

FBLA: 0

Rec Room: 0

Fire Place: 11,480

Basement Garage: 0

Exterior Trim: 0

Subtotal: 343,150

Grade Factor: 1.08

C & D Factor: 0.00

Total RCN: 370,500

Percent Good: 0.80

Eco Depr: -5

Func Depr: 0

Under Constn %: 0

Market Adj.: 0.00

Total RCNLD: 281,700

Addition Information

Low	1st	2nd	3rd	Area	Points
15	22	1600			
50	10	304	30100		
50	10	336	33300		
12	224	16200			
13	650	21800			
31	776	15400			
31	100	2000			

Rooms: 0 0 0 0 0 9

Bedrooms: 0 0 0 0 0 5

Full Baths: 0 0 0 0 0 3

Half Baths: 0 0 0 0 0 1

Add'l Fixtures: 0 0 0 0 0 0

Diagram:

Descriptor/area

A: FA/1F1/B 1304 sqft

B: EBPAY 22 sqft

C: 1F1/B 304 sqft

D: 1F1/B 336 sqft

E: EFP 224 sqft

F: FG 650 sqft

G: WD 776 sqft

H: WD 100 sqft

09 SEP 25 AM 10:57
REGISTER OF DEEDS
STRAFFORD COUNTY

014881

BK1471PG0597

Know Everyone by these Presents,

That I, HUBERT MICHAUD of Interstate Drive, Somersworth
of Strafford County, State of New Hampshire [Grantor(s)]

for consideration paid, grant(s) to GLORIA MICHAUD of 21 Knox Marsh Road, Dover,
of Strafford County, State of New Hampshire [Grantee(s)]

with quitclaim covenants,

A certain tract or parcel of land with the buildings thereon;
situated in Dover, County of Strafford, and State of New Hampshire, on
the Northwesterly side of the Knox Marsh Road, bounded and described as
follows; viz:

Beginning on the Northwesterly side of the Knox Marsh Road at a
New Hampshire Highway Department marker, on the Southwesterly side of
the Littleworth Road (relocation) New Hampshire Route No. 9; thence
running S 56° 35' W by said Knox Marsh Road, a distance of 424.4 feet
to a marker at other land now or formerly of Dorothy Calderwood; thence
running N 26° 20' W by said other land now or formerly of the said
Dorothy Calderwood herein a distance of 436.0 feet to a marker; thence
running N 56° 02' E by said other land now or formerly of the said
Dorothy Calderwood herein a distance of 204.6 feet to a marker; thence
running S 32° 48' E by said other land now or formerly of the said
Dorothy Calderwood herein a distance of 38.7 feet to a marker; thence
running S 84° 04' by said other land now or formerly of the said
Dorothy Calderwood, a distance of 41.0 feet to a marker; thence running
N 49° 50' E by said other land now or formerly of the said Dorothy
Calderwood herein, a distance of 117.9 feet to a marker at a right of
way of the Littleworth Road (relocation) thence turning and running S
36° 01' E by said Littleworth Road (relocation) a distance of 339.7
feet to the point of beginning.

The premises conveyed herein being shown on a plan entitled "Plan
of Lot Dorothy Calderwood, Dover, New Hampshire, G. L. Davis & Assoc-
iates Civil Engineers, Dover, New Hampshire, dated Jan. 1967, file No.
108-41" said plan recorded in said Registry.

Being the same premises conveyed to the Grantor by warranty Deed
of Marcel Bernier and Mildred A. Bernier dated August 2, 1969 and
recorded in Strafford County Registry of Deeds at Book 861, Page 35.

Pursuant to a legal separation in the Strafford County Superior
Court (being Equity #89-M-3631).

~~XXXXXX~~ Grantor(s), release to the Grantee(s) all rights of homestead and other interests therein.

Dated September 25, 1989 L.S. Hubert Michaud L.S.
Hubert Michaud

State of New Hampshire, County of Strafford ss: September 25, 1989

Personally appeared Hubert Michaud
known to me, or satisfactorily proven, to be the person whose name
foregoing instrument and acknowledged that he executed the same for the purposes therein contained.

Before me: Armand R. Monahan
Justice of the Peace Notary Public
My Commission Expires 12/31/90

REGISTER OF DEEDS
STRAFFORD COUNTY

WARRANTY DEED

THAT, I GLORIA MICHAUD, SINGLE, of 21 KNOX MARSH ROAD, DOVER 03592 OF

STRAFFORD COUNTY, STATE OF NEW HAMPSHIRE, for consideration paid, grant to The State of New Hampshire, whose address is P. O. Box 483, Concord, New Hampshire 03302-0483, with WARRANTY covenants,

A certain parcel of homestead land situated on the northerly side of Route 155 as now travelled, in the City of Dover, County of Strafford, State of New Hampshire, and being near Station 510 + 50, Route 155 Construction Center Line, as shown on a Plan of Dover M-5125(004) - 10023A, on file in the records of the New Hampshire Department of Transportation and to be recorded in the Strafford County Registry of Deeds, bounded and described as follows:

Beginning at a point in the Northerly Sideline of Route 155 as now travelled, said point also being in the Division Line between land of the Grantor, and land now or formerly of Rileen V. Hertel and Constance R. Bertel, thence Northwesterly with said Division Line to a point on a course that connects a point forty-five (45') feet Northwesterly of and directly opposite Route 155 Construction Center Line Station 507 + 98.67 and a point forty-five (45') feet Northwesterly of and directly opposite Station 510 + 00, thence Northeasterly to the last-named point, thence Northeasterly to a point fifty (50') feet Northwesterly of and directly opposite Station 511 + 10.89, thence Northwesterly and parallel with said Construction Center Line to a point directly opposite Station 512 + 75, thence Northerly to a point sixty and eighty-one hundredths (60.81') feet Northwesterly of and directly opposite Station 513 + 02.02, thence Northerly to a point one hundred (100') feet Southwesterly of and directly opposite Route 9 Construction Center Line Station 501 + 00, thence Northwesterly to a point in the Division Line between land of the Grantor and land now or formerly of Heritage Baptist Church on a course which passes through a point fifty-five (55') feet Southwesterly of and directly opposite Station 605 + 97, thence Northeasterly with said Division Line to a point in the Westerly Sideline of Route 9 as now travelled, thence Southeasterly with said Sideline to a point in the Northerly Sideline of Route 155 as now travelled, thence Southwesterly with said Sideline to the point of beginning.

Also taking with the above-described lands all rights of access, light, air and view over, from and to the same from the remainder of abutting lands to the new highway, excepting and reserving one (1) point of access on Route 155 and one (1) point of access on Route 9.

Containing fifteen hundredths (.15) of an acre, more or less, and being a portion of that real estate recorded in Strafford County Registry of Deeds, Book 1147, Page 597, dated September 25, 1989.

AND the Grantor does further convey to The State of New Hampshire the right to construct and maintain slopes and embankments beyond the limits of the land described above, together with the right to construct and maintain drainage, all in accordance with the plan referred to above.

It is hereby made a part of the before-mentioned consideration and a condition to this instrument that the 1992 Property Taxes are to be pro-rated as of February 15, 1993.

Executed this 11 day of March, 1993.


Gloria Michaud

STATE OF NEW HAMPSHIRE

SS.

A.D., 1993.

Personally appeared the above-named Gloria Michaud and acknowledged the foregoing instrument to be her voluntary act and deed.

Before me:

Justice of the Peace - Notary Public
My commission expires _____

003 APR 28 PM 2:03
REGISTER OF DEEDS
STRAFFORD COUNTY

005408

9K1669PC0650

ALL-PURPOSE ACKNOWLEDGMENT

State of California
 County of Riverside
 On 03-11-93 before me, Alvin J. Trautop
DATE NAME, TITLE OF OFFICER - E.G., "JANET DOE, NOTARY PUBLIC"
 personally appeared GLORIA J. MICHAUD*****
NAME(S) OF PERSON(S)

☐ personally known to me • OR • ☒ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

BN 16696051



Witness my hand and official seal.

Alvin J. Trautop
Signature of Notary

OPTIONAL SECTION

CAPACITY CLAIMED BY SIGNER

Though entities does not require history to fill in the data below, doing so may prove invaluable to persons relying on the document.

☒ INDIVIDUAL
☐ CORPORATE OFFICER(S)

☐ PARTNER(S) ☐ LIMITED GENERAL
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER: _____

SIGNER IS REPRESENTING:
 NAME OF PERSON(S) OR ENTITY(ES)

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED AT RIGHT.

Though the data requested here is not required by law, it could prevent fraudulent reattachment of this form.

Title or Type of Document _____

Number of Pages _____ Date of Document _____

Signer(s) Other than Named Above _____

2214 (2/93)

Leo Lepard
 REGISTER OF DEEDS
 STRAFFORD COUNTY

AERIAL VIEW



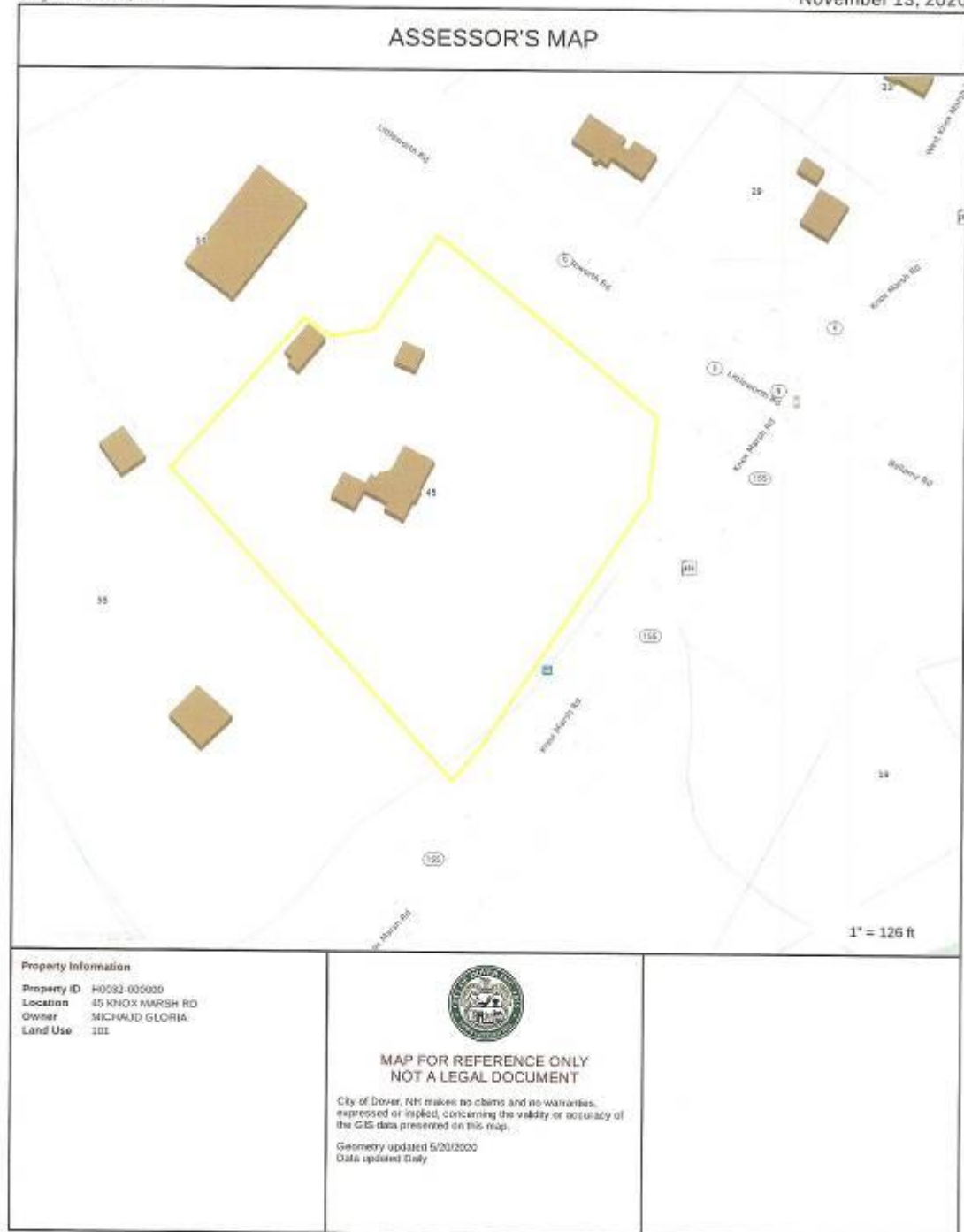
Property Information

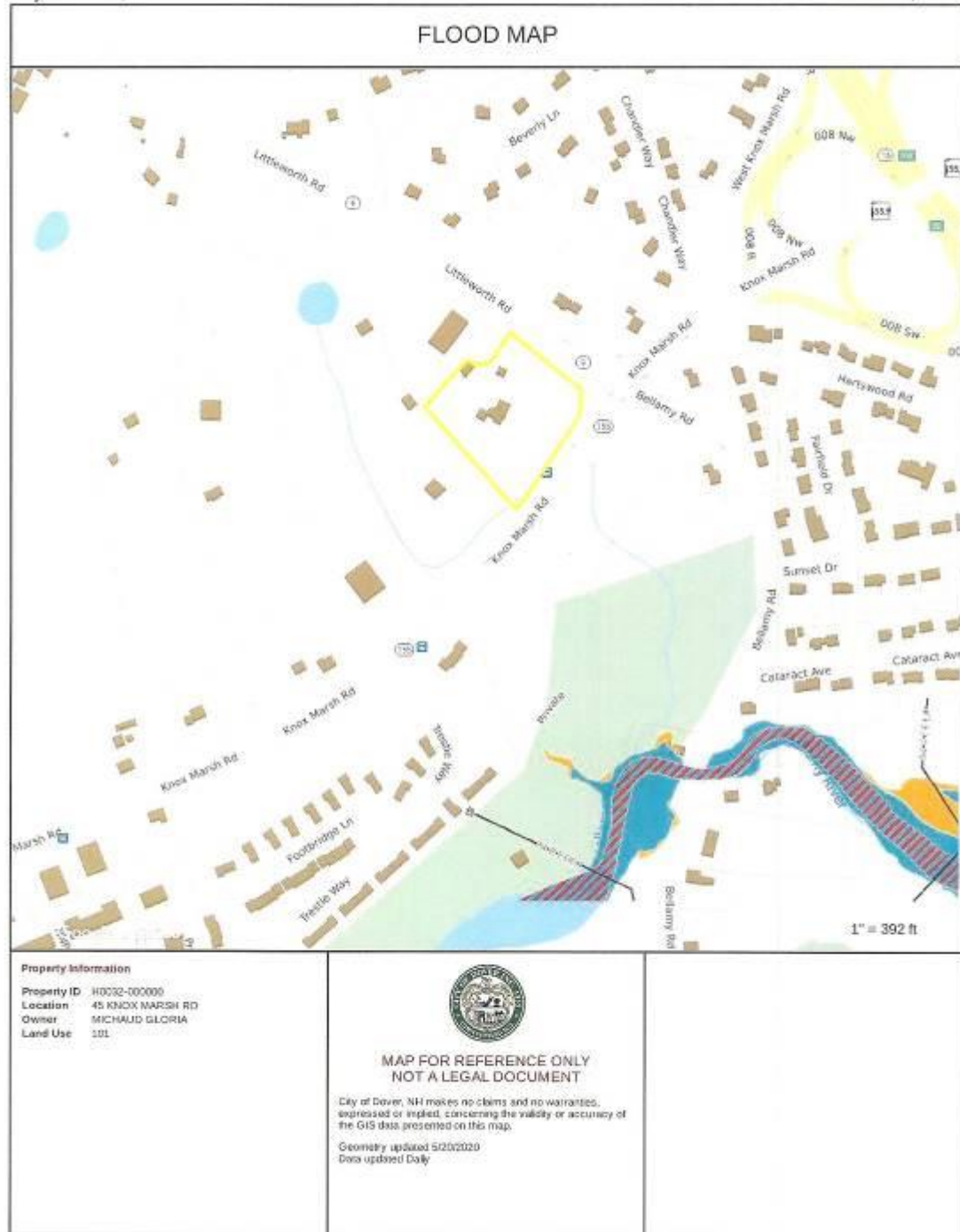
Property ID: 40032-00000
Location: 45 KNOX MARSH RD
Owner: MICHAUD GLORIA
Land Use: 101

MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT

City of Dover, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 5/20/2020
Data updated Daily





Map Theme Legends

FEMA Flood Zones

- Cross-Sections
- Coastal Transects
- Limit of Moderate Wave Action
- ▣ Coastal Barrier Resources System Area
- ~ Base Flood Elevations
- Flood Hazard Zones
 - 1% Annual Chance Flood Hazard
 - Regulatory Floodway
 - Special Floodway
 - Area of Undetermined Flood Hazard
 - 0.2% Annual Chance Flood Hazard
 - Future Conditions 1% Annual Chance Flood
 - Area with Reduced Risk Due to Levee

FEMA Map Service Center



Map Theme Legends

Zoning

Zoning Districts

	R-40 Rural Residential
	R-20 Low-Density Residential
	R-12 Medium-Density Residential
	HR Heritage Residential
	RM-SU Suburban Density Residential
	RM-U Urban Density Residential
	C Commercial
	IT Innovative Technology
	CM Commercial Manufacturing
	CBD Central Business District
	G Gateway
	CWD Cochecho Waterfront District
	H Hospital
	O Office
	LBW Little Bay Waterfront

Sub-Districts

	General Sub-District
	Mixed Use Sub-District
	Residential Sub-District
	Transit-Oriented Development Sub-District

City of Dover



Commercial Manufacturing (CM) District

Created: 07-22-2020 by Ord. No. 2020-07,08-007



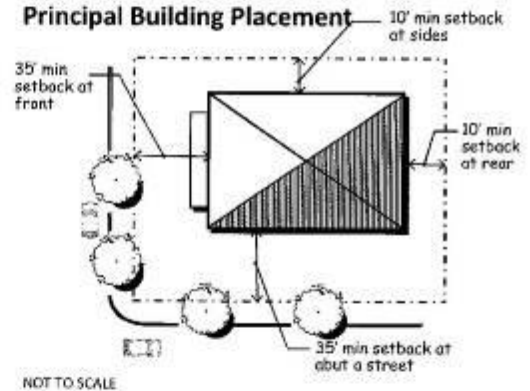
Permitted Uses

- ADULT DAY CARE
- CHILD CARE FACILITY
- COMMERCIAL RECREATION
- Eating and Drinking Establishment [5]
- Establishments for the manufacture assembly, services and repair of the products listed below and other uses of a similar nature:
 - ◊ Drugs
 - ◊ Office, computing and accounting machines
 - ◊ Radio and television receiving equipment
 - ◊ Communication equipment
 - ◊ Electronic components and Engineering, laboratory, scientific and research instruments and associated equipment
 - ◊ Measuring and controlling instruments
 - ◊ Optical instruments and lenses
 - ◊ Surgical, medical and dental instruments and supplies
 - ◊ Photographic equipment and supplies
 - ◊ Electrotherapeutic, electro-medical and X-ray apparatus
- FARM [6]
- Fuel, Oil, or Gas Storage
- Helicopter Take Offs & Landings [7]
- HOTEL/MOTEL
- Industry
- LIGHT INDUSTRY
- OFFICE
- Open Storage [8]
- PERSONAL SERVICE ESTABLISHMENT
- Public Utility
- PUBLISHING FACILITY
- Research Institutions
- Retail Sale of Agricultural or Farm Products Raised on Site
- Trucking Terminal
- WAREHOUSING
- WHOLESALING

Dimensional Regulations [1] [2]

LOT	
Minimum LOT Size	20,000 sf
Maximum LOT COVERAGE	50%
Minimum FRONTAGE	100 ft
PRINCIPAL BUILDING	
Front SETBACK [3]	35 ft
About a Street SETBACK	35 ft
Side SETBACK	10 ft
Rear SETBACK	10 ft
OUTBUILDING/ACCESSORY USE	
Front SETBACK	35 ft
About a Street SETBACK	35 ft
Side SETBACK	10 ft
Rear SETBACK	10 ft
BUILDING HEIGHT	
PRINCIPAL BUILDING [4]	50 ft max
OUTBUILDING/ACCESSORY USE	40 ft max

Principal Building Placement



Uses Permitted by Special Exception

- AUTO SERVICE
- VEHICLE REFUELING AND RECHARGING STATION

Uses Permitted by Conditional Use

- Alternative Treatment Center
- Educational Institution, Post Secondary
- Hotel/Motel
- SELF-SERVICE STORAGE FACILITY

Sign Regulations

Size	CM District
Total SIGNS permitted	2 [per tenancy, and is for lot (excluding development identification signs)]
Total area permitted	1 sf for each 100 sf of leased space (if less than 700 sf of leased space, then 6 sf max)
Type	
FREESTANDING	permitted, provided that the principal building is set back at least 35 ft (max size 100 sf, max ht 30 ft)
PROJECTING	permitted
WALL/ Awning	permitted
Temporary	permitted

Commercial Manufacturing (CM) District

Created: 07-22-2020 by Ord. No. 2020-07 08-007



Footnotes

- [1] Refer to 170-13 and 170-14 for exceptions to lot size, frontage and setback requirements.
- [2] All land containing wetlands shall not be counted in determining the gross land area of a lot for the purposes of minimum lot size or minimum density requirements for residential uses. The minimum non-wetland portion of any newly created lot shall be contiguous. For the purposes of this calculation, wetlands shall include areas that meet the definition of wetland in the NH Code of Administrative Rules – Wt. 101.87 and the 1987 Federal Manual For Identifying Jurisdictional Wetlands. [Amended 1-22-2003 by Ord. No. 35]. Wetland buffers shall only be allowed to count for 40 percent of the minimum lot size required.
- [3] The maximum building heights may be increased to seventy-five (75') feet provided the following conditions are met:
 - A. The additional building height above fifty (50') feet is necessary to meet an industrial function.
 - B. The building is located a minimum of 150 feet from a Residential District.
 - C. The Planning Board has granted preliminary approval to the development proposal containing the taller building.
 - D. The building is for a permitted use, and not one granted by special exception, conditional use permit or variance.
- [5] If the eating and drinking establishment has drive-in services, said service shall be setback either 150' from a residential abutting lot line, or 200' from the abutting residential structure whichever is greater.
- [6] Shall not include the raising and sale of FARM ANIMALS; the breeding, boarding, and training of equines, and equine riding instruction; the commercial raising, harvesting, and sale of fresh water fish or other aquaculture products; and/or the breeding of poultry or game birds.
- [7] Helicopter take offs and landings are allowed subject to the following conditions:
 - A. There shall be a distance of one thousand (1,000) feet between any existing residential structure and any proposed helicopter landing pad.
 - B. Except in the case of an emergency, no helicopter take offs or landings shall occur between the hours of 9:00 p.m. and 7:00 a.m.
 - C. The facility shall be accessory to the principal use located on the lot.
 - D. All facilities shall be located and designed so that the operation thereof will not adversely affect adjacent residential areas, particularly with respect to noise levels.
- [8] Provided that safety precautions be implemented so to prevent the endangerment of people and property adjacent to said storage. Screening, of at least six (6) feet in height, of all open storage shall be accomplished through use of a fence, wall or vegetal (evergreens) material.

Special Exception Criteria (see 170-52(C)(3) for additional regulations)

VEHICLE REFUELING AND RECHARGING and AUTO SERVICE STATIONS:

- A. The use of land for vehicle refueling/recharging station may only be permitted upon the determination that the property values of adjacent land will not be compromised. Any vehicle refueling/recharging station which discontinues operations for a period in excess of one hundred eighty (180) days shall be required to file a new application for a special exception with the Zoning Board of Adjustment. Such conditions may include, but need not be limited to, the provision of adequate and properly maintained screening around land so used.

- B. The minimum lot size shall be eighty thousand (80,000) square feet, the minimum lot width shall be one hundred fifty (150) feet. Thirty-three percent (33%) of the subject parcel shall be open/green space.
- C. The total permitted sign area shall not exceed one hundred (100) square feet.
- D. No fuel storage tanks may be constructed or enlarged closer than one-hundred (100) feet to any Conservation District, and two hundred (200) feet to a secondary groundwater protection zone.

Conditional Use Permit Criteria

An Alternative Treatment Center, as defined in RSA 126-X-1, I, shall be allowed if a Conditional Use Permit is granted by the PLANNING BOARD upon a finding that the following criteria are met:

- A. An Alternative Treatment Center shall not be located within one thousand (1,000) feet of the property line of a public or private elementary or secondary school or designated drug free school zone.
- B. The Alternative Treatment Center shall be located in a permanent BUILDING and may not be located in a trailer, MANUFACTURED HOME, cargo container, or any STRUCTURE that has axes with wheels. DRIVE-IN SERVICES are prohibited.
- C. Hours of operation shall be limited to 9 am to 9 pm, Monday through Friday, and 10 am to 6 pm on Saturday and Sunday.
- D. The Alternative Treatment Center shall provide for the proper disposal of cannabis remnants or byproducts, which remnants or byproducts shall not be placed in the facility's exterior refuse containers.
- E. The APPLICANT shall provide a detailed narrative and floor plan, as well as any other relevant documentation, describing how the Alternative Treatment Center shall be secured. The security plan must take into account the measures that will be taken to ensure the safe delivery of any product to the facility (including permitted times for delivery), how the product will be secured on site, and how patient transactions will be facilitated in order to ensure safety. The security plan shall be reviewed and approved by the City of Dover Police Department.
- F. The use of cannabis on the premises is prohibited.
- G. The Alternative Treatment Center shall emit no cannabis related fumes, vapors or odors which can be smelled or otherwise perceived from beyond the LOT LINES of the property where the facility is located.

SELF-SERVICE STORAGE FACILITY shall be allowed if a Conditional Use Permit is granted by the PLANNING BOARD upon a finding that the following criteria are met:

- A. The minimum front SETBACK shall be double the SETBACKS required in the district.
- B. Any storage unit BUILDING visible from the STREET shall be located to be perpendicular to the STREET, with no storage unit doors facing the STREET.
- C. If adjacent to a residential district or a LOT containing a residential use, the facility shall:
 - i. Be limited to a one story STRUCTURE with a height no more than twenty (20) feet.
 - ii. Restrict the hours of operation to 9 am to 9 pm, Monday through Friday, and 10 am to 6 pm on Saturday and Sunday.
 - iii. Not hold auctions or sales of contents of storage containers.
 - iv. Have screening sufficient to block the view of the BUILDINGS from abutting parcels and shall prohibit lighting from shedding onto abutting parcels.
 - v. All setbacks shall be double the setbacks required in the district, not just the front setback.
- D. The architectural design standards of Chapter 153-14L(8)(b) shall be adhered to.

Commercial Manufacturing (CM) District Regulations Summary

ARTICLE II

TERMINOLOGY

170-6. Word Usage and Definitions. [Amended on 9-24-80 by Ord. No. 15-80; Amended on 6-10-87 by Ord. No. 13-87; Amended on 9-14-88 by Ord. No. 15-88; Amended on 11-30-88 by Ord. No. 24-88; Amended on 08-01-90 by Ord. No. 8-90; Amended on 04-03-91 by Ord. No. 01-91; Amended on 09-01-93 by Ord. No. 20-93; Amended on 09-15-93 by Ord. No. 19-93; Amended on 10-20-93 by Ord. No. 28-93; Amended on 08-24-94 by Ord. No. 09-94; Amended on 03-18-98 by Ord. No. 02-98; Amended on 02-17-99 by Ord. No. 25-98; Amended on 01-22-2003 by Ord. No. 35-02; Amended on 03-19-2003 by Ord. No. 05-03; Amended on 03-21-2007 by Ord. No. 01-07; Amended on 12-09-2009 by Ord. No. 2009.09.09-15; Amended on 12-08-2010 by Ord. No. 10-10.27-13; Amended on 02-22-2012 by Ord. No. 2012.01.25; Amended on 11-28-2012 by Ord. No. 2012.11.14-24; Amended on 08-19-2015 by Ord. No. 2015.07.22-017; Amended on 06-22-2016 by Ord. No. 2016.06.08-010; Amended on 08-22-2018 by Ord. No. 2018.08.08-009, Amended on 07-22-2020 by Ord. No. 2020.07.08.006, Amended on 07-22-2020 by Ord. No. 2020.07.08.007.]

- A. For the purposes of this Chapter, the present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular. The word "shall" is mandatory; the word "may" is permissive; the words "used" or "occupies" include the words "intended, designed or arranged to be used or occupied," and certain terms or words shall be interpreted as follows:
- B. Words and terms appearing in CAPITAL LETTERS throughout this Chapter shall have the meanings indicated below. Other Land Use/Planning related words and terms not defined in this Chapter shall rely on the definition(s) contained within *A Planners Dictionary* published and updated by the American Planning Association:

ABANDONED SIGN means any SIGN that does not display a well-maintained message for a consecutive one-hundred eighty (180) day period, and/or the owner of said SIGN cannot be located after reasonable efforts have been made, and/or said SIGN is no longer fully supported by the STRUCTURE designed to support the SIGN for a consecutive one-hundred eighty (180) day period, and/or the SIGN no longer advertises bona fide business and/or products sold for a consecutive one-hundred eighty (180) day period. The Zoning Administrator shall direct the removal of any SIGN which meets this definition.

ABUTTER means:

- (1) The owner of record of a parcel of land located in New Hampshire and adjoins or is directly within two hundred (200) feet (including land across the STREET or waterway) of the proposed site under consideration by the PLANNING BOARD.

- (2) For the purposes of receiving testimony only, and not for purposes of notification, the term "ABUTTER" shall include any person or entity who is able to demonstrate that his land will be directly affected by the proposal under consideration.
- (3) In the case of an abutting property being under a condominium or other collective form of ownership, the term "ABUTTER" means the officers of the collective or association, as defined in RSA 356-B: 3, XXIII. Additionally, the individual owners of units within the association, which are located within two hundred (200) feet of the common property line shall be notified only by first class mail.
- (4) For purposes of notification and receiving testimony, ABUTTER means all affected towns and the regional planning commission in the case of a development having regional impact, as determined by the PLANNING BOARD.
- (5) For purposes of notification, ABUTTER ownership information for LOTs located in Dover, shall be obtained through the City's Tax Assessment Office.

ACCESSORY DWELLING UNIT means a secondary DWELLING UNIT (a) attached and subordinate to a SINGLE FAMILY DWELLING or (b) constructed above a detached garage that is accessory and subordinate to a SINGLE FAMILY DWELLING. See Section 170-24 for the ACCESSORY DWELLING UNIT regulations.

ACCESSORY STRUCTURE means a STRUCTURE with a minimum FLOOR AREA of one hundred (100) square feet which exists on the same LOT and within the same zoning district as the PRINCIPAL BUILDING and which shall be customarily incident and subordinate to the PRINCIPAL BUILDING subject to the provisions of Chapter 170-10 E.

ACCESSORY USE means a use existing on the same LOT and within the same zoning district as the principal use which shall be customarily incident and subordinate to the principal use, subject, however, to the provisions of 170-10 E.

ADULT BOOKSTORE AND/OR VIDEO STORE means a place of business that devotes more than fifteen percent (15%) of the total display, shelf, rack, table, stand or FLOOR AREA, for the display and sale of the following: [Added]

- (1) Books, magazines, periodicals or other printed matter or photographs, films, motion pictures, video cassettes, slides, tapes, records, CD-ROMS or other

ZONING

- B. The Building Inspector shall not approve an application or issue a BUILDING permit or CERTIFICATE OF OCCUPANCY for any purpose, except in compliance with the provisions of this Chapter.

170-48 – 170-150. Reserved. [Removed on 12-09-2009 by Ord. No. 2009.09.09-15]

170-51. Violations and Penalties. [Amended on 9-24-80 by Ord. No. 15-80.]

The administration and enforcement of this ordinance shall be in any manner authorized by State statute, including but not limited to, RSA 31:39-d, 676:14, 676:15, 676:17, 676:17-a, and 676:17-b.

170-52. ZONING BOARD OF ADJUSTMENT. [Amended on 9-24-80 by Ord. No. 15-80; Amended on 6-10-87 by Ord. No. 13-87; Amended on 08-01-90 by Ord. No.8-90; Amended on 11-28-2012 by Ord. No. 2012.11.14-24.]

- A. Purpose. The purpose of the ZONING BOARD OF ADJUSTMENT is to hear and decide appeals of any person(s) who are aggrieved by the administration, enforcement and application of this Chapter.
- B. Authority. The ZONING BOARD OF ADJUSTMENT shall be duly constituted and shall have such duties and powers as specified under RSA 673:3 and 674:33 and this Chapter as set forth herein.
- C. Powers and duties.
- (1) Powers. The ZONING BOARD OF ADJUSTMENT shall have the following powers:
- (a) To hear and decide appeals where it is alleged there is error in any order, requirements, decision or determination made in the enforcement of this Chapter (interpretation of ordinance).
- (b) To hear and decide special exceptions to the terms of this Chapter upon which the ZONING BOARD OF ADJUSTMENT is required to pass under this Chapter (special exception).
- (c) To authorize, upon appeal in specific cases, such variance from the terms of this Chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this Chapter will result in unnecessary hardship and so that the spirit of this Chapter shall be observed and substantial justice done (variance).

DOVER CODE

- (d) To hear and decide requests for equitable waivers from the dimensional terms of this Chapter upon where a STRUCTURE has been found to be in violation of said dimensional requirement.
- (2) Interpretation of Chapter.
 - (a) On appeal from an order or decision made by any officer or board of the City, the ZONING BOARD OF ADJUSTMENT shall have the power to decide any of the following questions:
 - (i) Determination of the meaning of any provision of the text of this Chapter.
 - (ii) Determination of the exact location of any district boundary shown on the Zoning Map. ****
 - (iii) ZONING BOARD OF ADJUSTMENT shall hear and decide appeals de novo and review on appeal any order, requirement, decision or determination made in the enforcement or application of this Chapter. Upon such appeal, the ZONING BOARD OF ADJUSTMENT may, in accordance with the provisions of this Chapter, reverse or affirm, wholly or partly, or may modify any such order, requirement or decision, as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.
- (3) Special exceptions. ZONING BOARD OF ADJUSTMENT shall have the power to hear and decide on application for special exceptions. In applying a special exception, the APPLICANT need not demonstrate hardship, since the basis for the action is of general benefit to the city as a whole. In granting a special exception, the ZONING BOARD OF ADJUSTMENT, with due regard to the nature and condition of all adjacent STRUCTURES and uses and the district within which the same is located, shall find all of the following general conditions to be fulfilled:
 - (a) The requested use is essential or desirable to the public convenience or welfare.
 - (b) The requested use will not create undue traffic congestion, or unduly impair pedestrian safety.
 - (c) The requested use will not overload any public water, drainage or sewerage system or any other municipal system to such an extent that the requested use

**** Said Zoning Map is on file in the office of the City Clerk, where it may be examined during regular business hours.

ZONING

or any developed use in the immediate area or in any other area of the City will be unduly subjected to hazards affecting health, safety or the general welfare.

- (d) Any special exception which has not been acted upon in accordance with the approval of the ZONING BOARD OF ADJUSTMENT within four (4) years of the date of said approval shall be considered null and void.

(4) Variances.

- (a) The ZONING BOARD OF ADJUSTMENT may authorize a variance from the terms of this Chapter for:

- (i) A particular use.
- (ii) A parcel of land.
- (iii) An existing/proposed BUILDING.

- (b) Said variance shall only be granted where unusual difficulty or special hardship would be imposed by the literal application and rigorous enforcement of this Chapter.

- (c) In granting variances, the ZONING BOARD OF ADJUSTMENT, if it deems it proper to the carrying out of the intent and purpose of this Chapter, may impose such reasonable and additional stipulations and conditions as will, in its judgment, better fulfill the purpose of the Chapter.

- (d) Any variance which has not been acted upon in accordance with the approval of the ZONING BOARD OF ADJUSTMENT within four (4) years of the date of said approval shall be considered null and void.

- (5) Other requirements. The granting of any appeal by the ZONING BOARD OF ADJUSTMENT shall not exempt the APPLICANT from any provision of this Chapter not specifically ruled upon by the ZONING BOARD OF ADJUSTMENT or specifically set forth as excepted in this particular case from a provision of this Chapter. It shall be unlawful for any owner or person to reconstruct, convert or ALTER a STRUCTURE or change the use, increase the intensity of use or extend or displace the use of any BUILDING, other STRUCTURE or LOT or change any required limitations or special conditions imposed by the ZONING BOARD OF ADJUSTMENT in authorizing a special exception or variance without appealing to the ZONING BOARD OF ADJUSTMENT as a new case, over which the ZONING BOARD OF ADJUSTMENT shall have complete administrative power to deny, approve or modify.

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DOVER CODE

- (6) Public Hearing. The ZONING BOARD OF ADJUSTMENT shall fix a reasonable time for the hearing of an appeal in accordance to its By-Laws; and before any hearing is given either on an appeal or an application for variance or special exception of this Chapter, notice shall be given to all ABUTTERS of any portion of the LOT in question. Notice shall be given to ABUTTERS by Verified Mail, and also placed in a newspaper of general circulation, not less than five (5) days before the date fixed for the hearing of the appeal. The costs of any notice shall be paid by the appellant or APPLICANT to the Department of Planning and Community Development

D. Appeal from the decision of the ZONING BOARD OF ADJUSTMENT.

- (1) Rehearing. Within thirty (30) days after any order or decision of the ZONING BOARD OF ADJUSTMENT, any party to the action or proceedings or any person directly affected thereby may apply for a rehearing in respect to any matter determined in the action or proceeding or covered or included in the order, specifying in the motion for rehearing the grounds therefor; and the ZONING BOARD OF ADJUSTMENT may grant such rehearing if, in its opinion, good reason therefor is said in such motion.
- (2) Appeal to Superior Court. No appeal from any order or decision of the ZONING BOARD OF ADJUSTMENT shall be taken unless the appellant shall have made application for rehearing as provided above, and when such application shall have been made, no ground set forth herein shall be urged, relied on or given any consideration by the Court, unless the Court for good cause shown shall allow the appellant to specify additional grounds. Within thirty (30) days after the application for a rehearing is denied or, if the application is granted, then within thirty (30) days of the decision on such rehearing, the APPLICANT may appeal by petition to the Superior Court.

170-53. Amendment Procedure. [Amended on 12-09-2009 by Ord. No. 2009.09.09-15]

- A. Power to Amend. In accordance with RSA 674:16, the City Council may, from time to time, amend the provisions of this Chapter.
- B. Initiation of Amendments. Amendments may be initiated by the City Council, the PLANNING BOARD, or by petition from one or more property owners in Dover or citizens of Dover.
- C. Procedure for Consideration of a Proposed Amendment.
 - (1) Amendments Initiated by the PLANNING BOARD. The PLANNING BOARD may, upon its own initiative, from time to time, consider amendments to this

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Professional Designations:

Member, Appraisal Institute (**MAI**) – Awarded by the Appraisal Institute. MAI #9104
Senior Residential Appraiser (**SRA**)

Employment:

1989 to Present	White Appraisal – Dover, NH President – Senior Appraiser Owner of White Appraisal, a commercial and residential real estate appraisal firm. Complete appraisals on all types of commercial and residential properties. Consulting.
1988	Finlay Appraisal Services – Portsmouth, NH Senior Vice President/Chief Operations Officer Oversaw the operation of four appraisal offices. Completed commercial and residential appraisals on all types of properties.
1985	Finlay Appraisal Services – Portsmouth, NH and Appraisal Services Manager – South Portland, ME. Completed commercial and residential appraisals on all types of properties.

Education:

Mitchell College
Associate of Arts, Liberal Studies, 1979

University of Southern Maine
Bachelors of Science, Business Admin., 1984
Bus 022 Real Estate Law
Bus 023 Real Estate Practice
Bus 025 Real Estate Valuation

American Institute of Real Estate Appraisers
1A-1 Real Estate Appraisal Principles, 1985
1A-2 Basic Valuation Procedures, 1985
1B-A Cap. Theory and Technique (A), 1985
1B-B Cap. Theory and Technique (B), 1985
2-3 Standards of Pro. Practice, 1985
Exam #7 Industrial Valuation, 1986

Society of Real Estate Appraisers
101 Intro. To Appraising Real Property, 1986
102 Applied Residential Property Val., 1987
201 Prin. Of Income Property Appraising, 1985
202 Applied Income Property Valuation, 1985

Education (Continued):**Recent Appraisal Institute Classes:**

Residential & Commercial Valuation of Solar – 2017
Online Data Verification Methods - 2019
USPAP Update – 2019

Recent Seminars:

Excel Can Do That - 2017
Mixed Use Properties - Income Capitalization Approach - 2017
Paragon - Appraisal Essentials for Appraisers – 2017
Current Use - 2018
Real Estate Damages Overview - 2018
Understanding and Using Public Data - 2018
Appraising Energy Efficient Residential Properties – 2018
Commercial Real Estate Roundtable – 2019
Appraiser Essentials with CRS and Green Fields – 2019
Land Development & Residential Building Costs – 2019
Myths in Appraiser Liability - 2019
Appraising in Uncertain Times – 2019
Market Trends in NH Real Estate – 2020
Appraising Commercial Property during a Pandemic – 2020
Appraising Residential Property during a Pandemic – 2020

Appointments:

Board of Directors – New Hampshire Chapter of the Appraisal
Institute - 1991 to 1993; 2000 to 2010, 2015-2018 & 2020
Vice President - New Hampshire Chapter of the Appraisal Institute – 2011-2012 & 2019
President – New Hampshire Chapter of the Appraisal Institute – 2013 & 2014

Experience:

Review Chairperson – New Hampshire Chapter of the Appraisal
Institute – 1994 to 2010

Licenses:

N.H. Certified General Appraiser #NHCG -52, Expires 4/30/2021

Partial List of Clients:**Banks:**

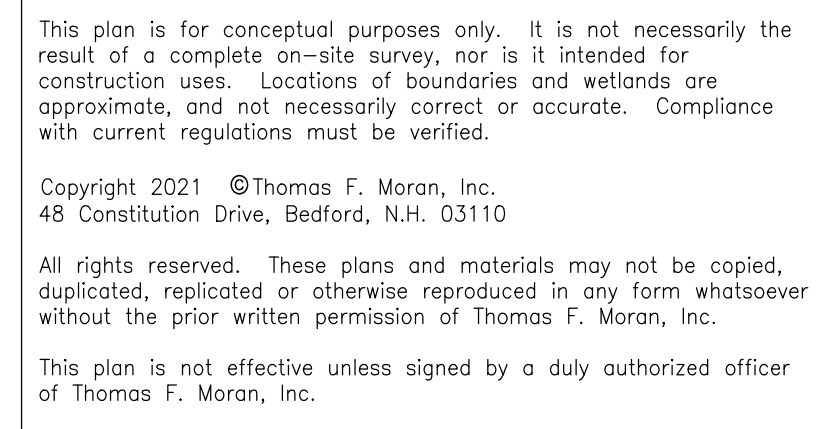
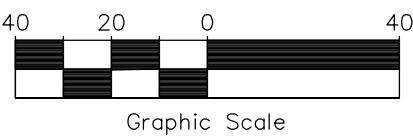
Androscoggin Bank
Granite Bank
First Seacoast Bank
Sovereign Bank
Eastern Bank
Century Bank
TD Bank
Kennebunk Savings Bank
Northeast Federal Credit Union
Profile Bank
Peoples United Bank
Key Bank
Cambridge Bank & Trust
Provident Bank

Attorneys:

John Colliander
Karyn Forbes
Michael Donahue
Richard Krans
Simone Massy
Samuel Reid
Daniel Schwartz
Robert Shaines
William Shaheen
Steve Soloman
Gerald Giles
Ralph Woodman
Gayle Braley
Fred Forman

Others:

City of Dover
Town of Durham
University of New Hampshire
Wentworth-Douglass
The Homemakers
Strafford Health Alliance
Goss International
Chad Kageleiry
Gary Levy
Stan Robbins
Daniel Philbrick
Keith Frizzell
Chuck Cressy
John Proulx

[illegible]

1. DOVER, NH GIS.
2. PLAN OF LOT DOROTHY CALDERWOOD, DOVER NEW HAMPSHIRE. BY G.L. DAVIS & ASSOC. CIVIL ENGINEERS, DATED JAN. 1967. FILE NUMBER 108-41.
3. RIGHT-OF-WAY PLANS, STATE PROJECT NO. 10023A. SHEETS 11, 12, & 14.

CURRENT ZONING IS *COMMERCIAL MANUFACTURING (CM) ZONING DISTRICT.			
*FORMERLY NAMED: RURAL RESTRICTED INDUSTRIAL		DISTRICT (1-2)	
MIN. LOT SIZE:	REQUIRED	20,000 SF	PROVIDED
MIN. LOT FRONTAGE:		100'	EXISTING
MIN. BUILDING SETBACKS:			EXISTING
FRONT	35'		71'
SIDE	10'		65'
REAR	10'		NA
MAX. BUILDING HEIGHT:	50'		<55'
MAX. LOT COVERAGE:	50%		36.5±%

USE: VEHICLE REFUELING/CHARGING STATION: PERMITTED BY SPECIAL EXCEPTION

2. PARKING CALCULATIONS: (9'X18'X24')
 REQUIRED: RETAIL (1 SP/275 SF)(5,538 SF) = 20 SPACES

PROPOSED: *29 SPACES
 *CONDITIONAL USE PERMIT REQUIRED FOR INCREASE NUMBER OF PARKING SPACES (153-14 D.(5)). OF THE SITE PLAN REGULATIONS

3. BOUNDARY INFORMATION SHOWN HEREON IS BASED ON GIS INFORMATION.

4. EXAMINATION OF THE FLOOD INSURANCE RATE MAP FOR THE CITY OF DOVER, NEW HAMPSHIRE, COMMUNITY PANEL NUMBER 33017C0320E, EFFECTIVE DATE: 9-30-2015, INDICATES THAT THE SUBJECT PARCEL IS NOT LOCATED WITHIN A FLOOD HAZARD AREA.

5. A TRAFFIC ANALYSIS WILL NEED TO BE DONE TO THE SATISFACTION OF THE NHDOT; THE STUDY WILL NEED TO MITIGATE TRAFFIC IMPACTS FROM THE DEVELOPMENT.

6. WETLAND ANALYSIS WILL REQUIRE AN APPLICATION TO NHDES WETLANDS BUREAU AND A VARIANCE FROM THE TOWN ZONING BOARD OF ADJUSTMENTS. OBTAINING THESE PERMITS WILL DEPEND ON THE WETLAND FUNCTION AND VALUES, AND SENSITIVITY OF THE PROJECT.

7. TESTING FOR SUITABLE AREAS FOR SEPTIC SYSTEMS AND WELLS WILL BE REQUIRED TO CONFIRM THAT SERVICES CAN BE PROVIDED ON SITE, AND/OR AVAILABLE MUNICIPAL SEWER AND WATER CAPACITY WILL NEED TO BE VERIFIED DURING THE DESIGN PROCESS.

8. SITE DEVELOPMENT MAY REQUIRE RETAINING WALLS FOR GRADE CHANGES.

9. EASEMENTS, RIGHTS, AND RESTRICTIONS SHOWN ARE THOSE WHICH IDENTIFIED BASED ON DATA USED IN CONCEPTUAL DESIGN. OTHER RIGHTS, EASEMENTS, OR RESTRICTIONS MAY EXIST WHICH DEED RESEARCH AND A TITLE EXAMINATION OF SUBJECT PARCEL(S) WOULD DETERMINE.

10. THE LOCATION OF ANY UTILITY INFORMATION SHOWN ON THIS PLAN IS APPROXIMATE. TFMORAN INC. MAKES NO CLAIM TO THE ACCURACY OR COMPLETENESS OF UTILITIES SHOWN. PRIOR TO ANY EXCAVATION ON THE SITE THE CONTRACTOR SHALL CONTACT DIG SAFE AT 1-888-344-7233.

11. A COMPLETE EXISTING CONDITIONS SURVEY AND SITE DESIGN CONSIDERATIONS MAY IMPACT SQUARE FOOTAGE, BUILDING ENVELOPE AND SITE LAYOUT.

12. INFORMATION DEPICTED ON THIS PLAN IS NOT A RESULT OF A SURVEY CONDUCTED BY TFMORAN INC. THIS PLAN IS SOLELY FOR CONCEPTUAL PURPOSES.

>20% SLOPE, >CONTIGUOUS 2,000 S.F. - TFM SURVEY (12/23/2020)	
>20% SLOPE, <CONTIGUOUS 2,000 S.F. - TFM SURVEY (12/23/2020)	
>20% SLOPE - TFM SURVEY (1/5/2021)	
>20% SLOPE - USGS LIDAR	

TAX MAP: H0032-000000

CONCEPTUAL SITE PLAN 'A' - SETBACK EXHIBIT

45 KNOX MARSH ROAD

DOVER, NH

OWNED BY

GLORIA MICHAUD

PREPARED FOR

COLBEA

SCALE: 1"=40'

JANUARY 18, 2011

	Civil Engineers Structural Engineers Traffic Engineers Land Surveyors Landscape Architects Scientists			48 Constitution Drive Bedford, NH 03110 Phone (603) 472-4488 Fax (603) 472-9747 www.tfmoran.com	
	47123.10	OR CK	MSK CR	FB CADFILE	— 45 KNOX MARSH RD

Z21-05 45 Knox Marsh Road

Property ID	Location	Owner 1	Owner 2	Owner Address 1	City	State	Zip
H0018-001000	2 8 TRESTLE WY	PROLIM DEVELOPMENT CORP		114 OLD GAGE HILL RD	PELHAM	NH	03076
H0021-000000	29 WEST KNOX MARSH RD	CRITTENDEN JOHN B		35 BUNKER LANE	MADBURY	NH	03823
H0022-A00000	17 LITTLEWORTH RD	MCKENNA MARTIN J JR & MARLENE A TRUSTEES	MCKENNA MARTIN JR AND MARLENE REVOCABLE	17 LITTLEWORTH RD	DOVER	NH	03820
H0023-001000	9 A CHANDLER WY	SHERPA LAKPA		9 A CHANDLER WAY	DOVER	NH	03820
H0032-A00001	55 KNOX MARSH RD	SHERWOOD ROBERT E & MARILYN A TRUSTEES	SHERWOOD ROBERT & MARILYN FAMILY REVOCAB	11 LISA BETH CIRCLE	DOVER	NH	03820
H0032-A00002	10 LITTLEWORTH RD	GONYOU PROPERTIES LLC		1862 NECTAR RD	THE VILLAGES	FL	32163-2136
H0032-000000	45 KNOX MARSH RD	MICHAUD GLORIA		45 KNOX MARSH ROAD	DOVER	NH	03820
		COLBEA ENTERPRISES LLC		7 STARLINE WAY	CRANSTON	RI	02921
		BRUTON & BERUBE, PLLC	FRANCIS X. BRUTON III	601 CENTRAL AVENUE	DOVER	NH	03820
		TF MORAN, INC		48 CONSTITUTION DRIVE	BEDFORD	NH	03110