



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, August 19, 2021**
Meeting Time: **7:00 pm**

Although qualified members of the public can participate in the meeting by speaking at the physical location during the public hearing, 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 MAY 20, 2021

3. HEARINGS

- A. Z21-08 Owner/Applicant Justin and Sherri Wormstead 5 Ox Bow Lane (Tax Map 39, Lot 70-C), located in the Medium Density Residential (R-12) Zoning District, requests a Variance from Sections 170-12.B to build an addition connecting the existing house and garage with a rear setback of 25.5' where 30' is required.

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, May 20, 2021
Meeting Time: 7:00 pm

1. ATTENDANCE

Members Present: Chris Prior (Chair), Nick Couturier, Rich Onufry (Alternate), Anthony Sillitta, Otis Perry (Vice Chair), James Burdin (Alternate)

Members Absent (Excused): Casey Conley (Alternate), George Reagan

Staff Present: Christopher Parker (Assistant City Manager), Amanda Nolan, Assistant City Planner/Zoning Administrator

The Chair called the meeting to order at 7:00 PM, explained the hearing process and noted in G. Reagan's absence, R. Onufry will vote tonight.

2. APPROVAL OF MEETING MINUTES OF APRIL 15, 2021

Motion: J. Burdin moved to approve the minutes of April 15, 2021 as amended. Seconded by N. Couturier.
Vote: U/A with O. Perry abstaining

3. HEARINGS

A. Z21-07 Owner/Applicant Susan Wilbur, 3 Ox Bow Lane (Tax Map 39, Lot 70-B), located in the Medium Density Residential (R-12) Zoning District, requests a Variance from Sections 170-12.B to convert a detached garage into an accessory dwelling unit with a rear setback of 24' where 30' is required.

Susan Wilbur, 3 Ox Bow Lane presented the case, and reviewed the need for the addition to the home. The accessory dwelling is for her mother to live in. The existing garage will be demolished and the new dwelling will be built in that same space and attached to the home.

Public hearing open

An email was received from an abutter at 5 Ox Bow Ln who is not opposed to the proposal.

C. Parker noted another abutter reached out to the office with the same opinion.

Planning Department recommendation: C. Parker noted staff does not oppose the variance, based upon the lot layout and size, and the fact that the detached garage already exists in the encroachment area, albeit legally. If the Board grants the variance, staff recommends two conditions:

- The encroachment be limited to the area of the existing garage.
- If the addition is an ADU, the permit be granted prior to CO.

Public Hearing was closed.

Motion: O. Perry moved to grant the variance with the staff recommended conditions based upon the representations made by the applicant and the testimony provided. A. Sillitta seconded. Vote: U/A

4. OTHER BUSINESS

Chair Prior welcomed Amanda Nolan, the new Assistant City Planner/Zoning Administrator.

5. ADJOURN

Motion: O. Perry moved to adjourn at 7:13 pm. A. Sillitta seconded. Vote: U/A



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, August 19, 2021
Meeting Time:	7:00 pm

INTENT: The Applicant requests a variance to have a principle structure 25.5' from the rear property line, where 30' is required.

UNITS PROPOSED: NONE

AGENDA ITEM #: 3-A

ZONING DISTRICT: Medium Density Residential (R-12) Zoning District

FILE: Z21-08

APPLICANT/OWNER: Justin and Sherri Wormstead

LOCATION: 5 Oxbow Lane (Tax Map 39, Lot 70-C)

ACREAGE: 0.18 acres (7,666 sf)

EXISTING LAND USE: Single-family dwelling

PROPOSED LAND USE: Single-family dwelling

SURROUNDING LAND USE: Single-family and multi-family

PREVIOUS ZBA ACTION: None

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 located on the north side of Ox Bow Lane, a residential street off Old Rochester Road. The single story home has a detached garage. The owner seeks to build an addition of 445 square feet, that would connect the existing residence to the garage.

The detached garage requires a 10 foot rear setback. It is 22 feet from the rear line. In connecting the structure to the house, the setback becomes 30 feet. The owner wishes to allow the 25.5 foot setback as the addition would provide additional space to the home, while maintaining the existing garage space.

The lot is non-conforming in size (7,666 square feet where 12,000 is required), and has 97.4 feet of frontage where 100 feet is required. Per 170-14 the lot may have reduced side setbacks reducing from 15 feet to 10 feet. All other setbacks would be maintained with the allowed dimensions.

REASON FOR RECOMMENDATION

The R-12 district is a higher density residential district, with a rear setback of 30 feet and a front build to line of 15 – 25 feet. This is intended to allow buildings closer to the street with a larger private – rear yard. The front plane will remain unchanged and match the plan of neighboring homes.

The rear of the lot already contains the detached garage 22 feet from the rear lot line. The applicant could reduce the size of the addition by 4.5 feet to meet the setback requirement.

Alternatively, the applicant could incorporate the 107 square feet of the addition on the other side of what is being proposed, so that it would exist on the side of the home instead of the rear.

Neither option seems reasonable, as it would alter the intent of connection to the detached garage, which already intrudes further into the setback than what is currently proposed. Additionally, no further relief is being sought. In this case, the structure is being designed to blend the new space into the existing massing and will fit in the lot usage today.

STAFF RECOMMENDATION

Staff recommends that the Board open the public hearing and accept testimony, and make findings on each of the five variance criteria.

If the Board grants the variance, staff recommends one condition:

- 1) The encroachment be limited to the proposed area, with no encroachment further than the existing garage.

5 Ox Bow Lane

**Property Information**

Property ID 39070-C00000
Location 5 OX BOW LN
Owner WORMSTEAD JUSTIN T &
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 5/3/2021
Data updated Daily

Print map scale is approximate.
Critical layout or measurement
activities should not be done using
this resource.



City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Revised April 7, 2017]

Office Use Only	Case #:	<u>221-08</u>	Date Received:	<u>RECEIVED Planning Office</u>
	Amount Paid:	<u>\$ 1670</u> <u>9200.00</u>	Time Received:	<u>JUL 28 2021</u> <u>Dover, New Hampshire</u>

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: Justin and Sherri Wormstead Phone # 603-742-6712

Address of Applicant: 5 Oxbow Lane

E-Mail Address: wormsteads@comcast.net

PROPERTY OWNER (if different from applicant): applicant is owner

Address: _____ Phone # _____

E-Mail Address: _____

PROPERTY/PARCEL INFORMATION

Address: 5 Oxbow Lane

Brief Directions: From Indian Brook Road, travel North on Old Rochester Road. Take the 3rd right onto the 2nd entrance of Oxbow Lane. #5 is the third house on the left.

Zoning District: Medium Density Residential R-12, Assessor's Map #: Map Block 39, Lot #: 70-C-0

TYPE OF APPEAL: (Please check one)

- | | |
|--|--|
| ☒ Variance | from Section 170-12.B 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:

Build an addition connecting the house to the detached garage with a rear setback of 25.5' where 30' is required. The purpose is to add additional multi-purpose living space to this small house (912 sq. ft) for our family of four, including space for virtual work/school area, to provide a room on the main floor for our elderly mother to sleep when visits for weeks, so she doesn't have to use the stairs, and general additional living/recreation space.

APPLICATION CHECKLIST (Please check off)

- A. **Application signed** by Applicant and Property Owner (if different from Applicant)
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**
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. ✓
Plan by W.A. Coolidge Company PO Box 1701, Dover NH 03820-1701
- 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). ✓
- E. **10 copies of photos** (suggested but optional) and any **other materials** applicant would like to submit in support of the application. ✓
- 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 # _____ of x \$8.00 = \$ _____
 2. Certified letters fee: # of abutters _____ X \$8.00 = \$ _____
 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)	\$ <u>100.00</u>
\$100.00 SPECIAL EXCEPTION	\$ _____
\$100.00 APPEAL FROM ADMINISTRATIVE DECISION	\$ _____
\$100.00 EQUITABLE WAIVER	\$ _____
 2. Foster's newspaper public notice \$ 100.00
- TOTAL FEE** \$ _____

VARIANCE REQUIREMENTS

THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY

A. Variance Requested

A variance is requested from Section(s) 170-12.B of the Zoning Ordinance to permit:

A rear setback of 25.5', where 30' is required, for an addition connecting the house to the garage. The garage has a setback of 22' to the rear property line.

With the addition, the total lot coverage (house, garage, addition, and shed) would be 22.6% (well below the 30% maximum lot coverage).

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:

With the addition set-back, it will not visually encroach onto Ox Bow Lane and will not impact any public access areas. Granting this variance is in line with the 24' rear setback variance recently granted for the adjacent property, 3 Ox Bow lane (except we are requesting less of a variance, with 25.5' setback). In addition, it will bring the house size and style more in line with most of the houses on both Oxbow Lane and Willard Street, increasing the value of both the property and neighborhood.

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

The garage already extends 22' from the rear property line and the addition would go between the house and garage. The rear adjacent property (12 Willard St.) has an extra large backyard so their garage and house, facing perpendicular (with the side of the garage adjacent to 10 Willard), is well beyond the setbacks (much farther than the required rear setback). As you can see in the photos, the two properties have shrubs and trees to maintain privacy and serve as a sound barrier between the two houses.

3. Granting the variance would do substantial justice because:

This would be in line with the variance granted for 3 Ox Box and would provide critical living space to our small house, especially for our 76 year-old mother to sleep when she visits for weeks at a time (safely so she doesn't have to use the stairs) and a flexible area for virtual work/school space during these times of COVID. We have a single income, so it is not feasible to move to a larger house in the current real estate market.

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

This addition would be between the garage and house, bringing the property more in line with most of the other houses on both Ox Bow Lane and Willard Street and would add value to the house and neighborhood.

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:

The limited lot size prevent building the addition elsewhere. The side of the house towards the front has the oil tank access and mini-split pump unit, so it would be an unnecessary hardship to place the addition forward and it would be more visually pleasing from the street view to have the addition set back.

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:

The existing garage has a setback of 22' and the garage along with the shrubs and trees on the rear property line provide sound and visual barriers to the rear adjacent house and yard at 12 Willard Street. 12 Willard Street has a double long backyard, so the rear of our house and the proposed addition faces only the back half of their large yard (does not face their house). Their house and garage is much farther away than the required rear setback.

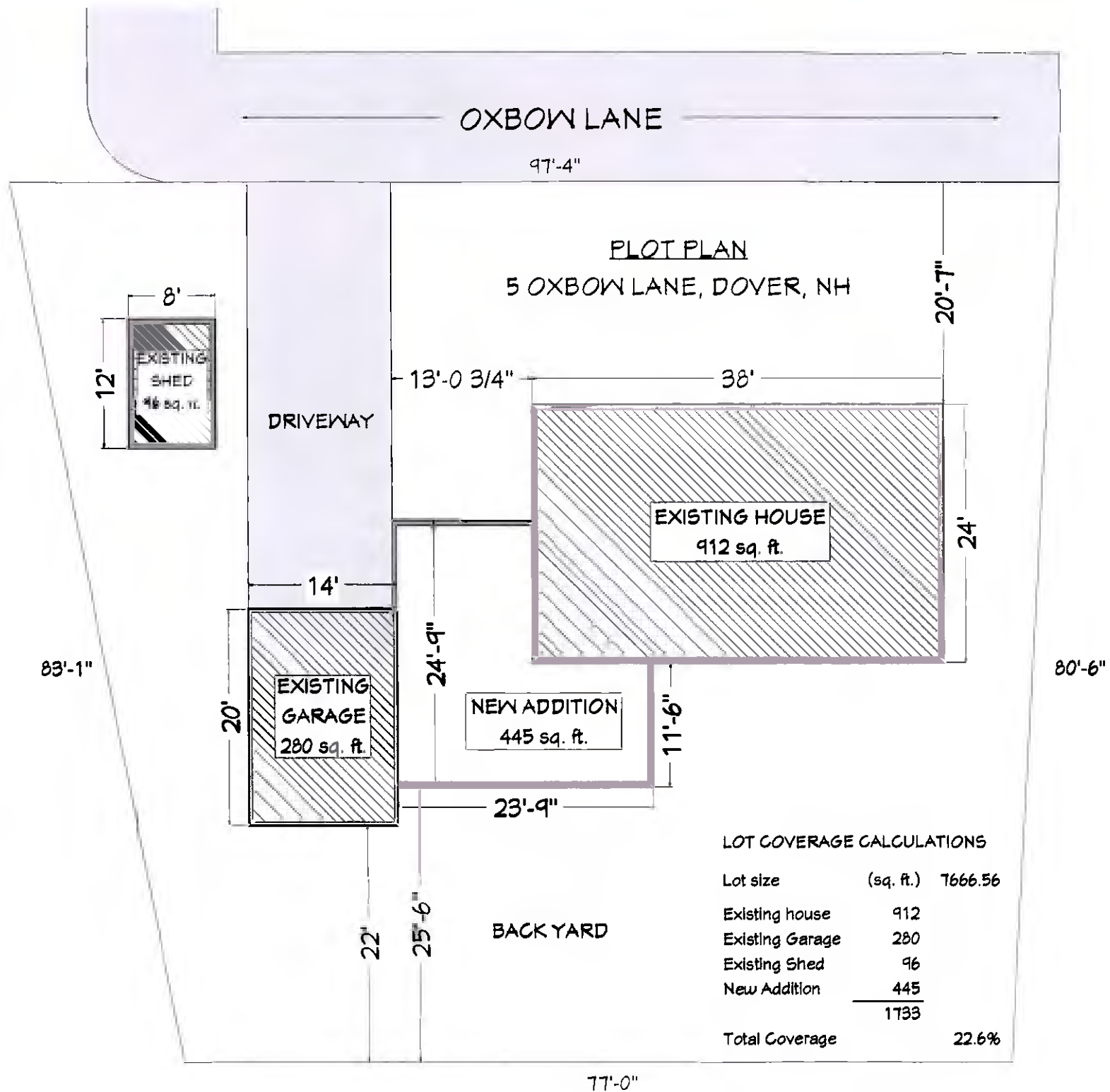
and

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

The proposed addition adds value to the neighborhood, brings the property more in line visually and in size with other houses on Ox Bow Lane and Willard Street, and is consistent with the variance recently granted for 3 Ox Bow Lane.

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:





The addition would connect the rear side of the house to the garage (where you can see the fence in the photo above) and extend slightly past where the current deck is (see photo below).

The shrubs in our yard and trees and shrubs in the adjacent yard to the rear show how the privacy would be maintained between the two properties (12 Willard has a double large backyard).



Z21-08 5 Ox Bow Lane

Property ID	Location	Owner 1	Owner 2	Owner Address 1	City	State	Zip
39069-B00000	6 WILLARD RD	CHAPMAN RICHARD S &	CHAPMAN KIM E	6 WILLARD ROAD	DOVER	NH	03820
39069-C00000	8 WILLARD RD	CICCOTELLI LISA MARIE CARVER		8 WILLARD RD	DOVER	NH	03820
39069-D00000	10 WILLARD RD	MUNSON KATHERINE A	MUNSON THOMAS P	60 MIDDLE RD #203A	DOVER	NH	03820-4146
39069-G00000	4 WILLARD RD	LEMCKE MARY D &	STAMPONE DANIEL P	4 WILLARD RD	DOVER	NH	03820
39069-H00000	12 WILLARD RD	JELLEY ROBERT		12 WILLARD RD	DOVER	NH	03820
39069-I00000	1 WILLARD RD	RONDA THOMAS &	DEV AMANDA MARIE	1 WILLARD ROAD	DOVER	NH	03820
39069-J00000	3 WILLARD RD	CAYER KAAREN	CAYER KENNETH J	3 WILLARD ROAD	DOVER	NH	03820
39069-K00000	5 WILLARD RD	HARRISON ALAN F TRUSTEE	HARRISON VERONICA M TRUSTEE	5 WILLARD ROAD	DOVER	NH	03820
39070-000000	9 OX BOW LN	LOVEJOY CINDY LEE		9 OX BOW LN	DOVER	NH	03820
39070-A00000	1 OX BOW LN	O MALLEY MARK &	O MALLEY KAREN	1 OX BOW LN	DOVER	NH	03820
39070-B00000	3 OX BOW LN	WILBUR SUSAN L		3 OX BOW LN	DOVER	NH	03820-2126
39070-D00000	12 OX BOW LN	CUNNINGHAM REGINA A &	CUNNINGHAM DAVA A	12 OX BOW LN	DOVER	NH	03820
39070-E00000	10 OX BOW LN	MARQUARDT EDWARD R & LORRAINE M TRUSTEES	MARQUARDT FAMILY REVOCABLE TRUST 202	10 OXBOW LN	DOVER	NH	03820
39070-F00000	8 OX BOW LN	DOW PHYLLIS J	DOW JOSEPH F	8 OX BOW LANE	DOVER	NH	03820
40033-000000	31 OLD ROCHESTER RD	CHENEY MARION & HARRY C TRUSTEES	MCHC TRUST	31 OLD ROCHESTER RD	DOVER	NH	03820
40035-000000	48 NEW ROCHESTER RD	MACINNIS FAMILY IRREVOCABLE TRUST	MACINNIS BRIAN E TRUSTEE	48 NEW ROCHESTER RD	DOVER	NH	03820
40045-000000	14 WILLARD RD	FREDETTE ALEXANDER R & STINE S &	FREDETTE RONALD	14 WILLARD RD	DOVER	NH	03820
39070-C00000	5 OX BOW LN	WORMSTEAD JUSTIN T &	WORMSTEAD SHERRI J	5 OX BOW LN	DOVER	NH	03820
		W.A. COOLIDGE COMPANY	WAYNE A COOLIDGE	P.O.BOX 1701	DOVER	NH	03820

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.

 Sherru Wormstead
Signature of Applicant*

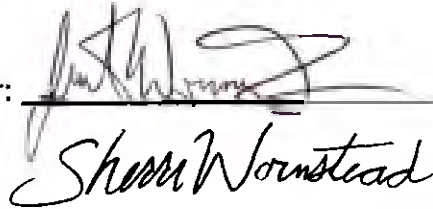
 Sherru Wormstead
Signature of Owner*

*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:


Sherru Wormstead

Date: 7-28-2021