

CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - AGENDA

Meeting Type: Regular Meeting
Meeting Location: Council Chambers, City Hall, 288 Central Avenue, Dover NH 03820
Meeting Date: **Thursday, February 16, 2023**
Meeting Time: **7:00 pm**

1. ATTENDANCE

2. APPROVAL OF MEETING MINUTES OF JANUARY 19, 2023

3. HEARINGS

- A. *Z23-02/ZONE-2023-0003 Owner: Nicole A. S. & James M. White, Trustees of the Nicole and James Revocable Trust, 10 Birchwood Place (Tax Map 17, Lot 65-B), located in the Medium-Density Residential (R-12) Zoning District requests a Variance of the dimensional requirements from **Section 170-12.B. of the Zoning Ordinance** to allow construction of a new garage 5' from the side property line, where 10' is required.

4. OTHER BUSINESS

5. ADJOURN

*Indicates that if the application is accepted for discussion, the public hearing will be held the same evening. Note that some hearings will be continued from one meeting to another and some may be postponed. Since this is only a partial description of the proposal and may change, persons with questions or wishing to see the plans are invited to visit the Planning Office, Monday through Thursday from 8:30 am to 5:30 pm and Friday 8:30 am to 4:00 pm or email Dover-Planning@dover.nh.gov. You may also view materials at www.dover.nh.gov. Follow us on Twitter @DoverNHPlanning and find us on Facebook at <https://www.facebook.com/DoverNHPlanning>. The public is encouraged to leave comments in advance by emailing Dover-Planning@dover.nh.gov, or mailing written comments to the 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.



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 19, 2023**
Meeting Time: **7:00 pm**

1. ATTENDANCE

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

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

Members Absent (Unexcused): Casey Conley (Alternate)

Staff Present: Natasha Kypfer (Zoning Administrator/Assistant City Planner)

The Chair called the meeting to order at 7 PM.

2. APPROVAL OF MEETING MINUTES OF DECEMBER 15, 2022

Motion: Couturier moved to approve the minutes of December 15, 2022. Seconded by Sillitta. Vote: U/A

3. ELECTION OF OFFICERS

Motion: Sillitta moved to hold the election of officers after the public hearings. Seconded by Onufry. Vote: U/A

The Chair explained the hearing process.

3. HEARINGS

- A.** Z22-13/ZONE-2022-0010 Owner: Golden Oaks Development, LLC 3 Arcola Street (Tax Map 33, Lot 114), located in the Medium-Density Residential (R-12) Zoning District request a Variance of the dimensional requirements from **Section 170-12.B. of the Zoning Ordinance** to allow construction of a two-family dwelling (duplex), 4' from the rear setback, where 30' is required. ***Continued from December 15, 2022 meeting.**

Tom Boisvert, Golden Oak Development, representing 3 Arcola Street presented the case, reviewed the need for the Variance and explained how all of the criteria are met.

Prior to his review of the criteria Mr. Boisvert asked that the additional documentation submitted earlier today be entered into the record, Chair Prior confirmed that Zoning Administrator Kypfer forwarded the materials to the Board electronically.

Public Hearing opened.

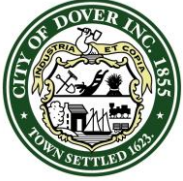
Public Comment:

Mariam Mayhew, 4 Cedarbrook, abutter is opposed to the proposal. She wants more than a four-foot buffer from her property to the proposed structure. She claims the applicant has cut down trees, some of them hers, along the shared property line which she did not agree to.

Seth Miller, 129 Fourth St, is in favor of the project and happy to see new construction on that lot.

Mr. Boisvert addressed public comment:

- Trees- clarified what happened and will add some vegetation in the spring.



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Meeting Date: **Thursday, January 19, 2023**
Meeting Time: **7:00 pm**

Planning Department recommendation: Zoning Administrator Kypfer noted staff supports the granting of the Variance request. The subject property has unique characteristics: it is a long, narrow lot; wetlands and the wetland buffer area constitute a substantial portion of the parcel with a riverine of the Cochecho River running directly across it. The proposal is for a new structure, that is slightly more in adherence to the required rear setback distance (by 1 foot), and it will be positioned entirely outside of the designated wetland area. The intent of the R-12 footnote [7] is met with the revised renderings, meaning that the duplex structure meets the requirement that it be designed to look like a single-family dwelling.

Public Hearing was closed.

Onufry stated the applicant meets the criteria, but there is a substantial difference between their request and the current requirements for setback (i.e. 4' when 30' is required).

Chair Prior noted the uniqueness of the lot really restricts placement of the proposed structure and he would support granting the variance.

Tatarczuk agreed with the comments that have been made.

Motion: Couturier moved to GRANT the Variance with the staff recommended condition based upon the representations made by the applicant and the testimony provided. Onufry seconded. Vote: U/A

- A.** Z22-14/ZONE-2022-0011 Owner: AD Dover, LLC, 9 Innovation Way (Tax Map D, Lot 11-10), located in the Innovative Technology (IT) Zoning District request an Equitable Waiver of Dimensional Requirements from **Section 170-12.B. of the Zoning Ordinance** to allow for approval of a structure located approximately 49.7' from the front property lines, where 50' is required.

The applicants have submitted this request due to the discovery of the encroachment along the front property line, which was only identified at the time of submittal of the completed as-built plans to the City, a requirement of the site review application process. The certified Equitable Waiver Plan indicates an encroachment of 0.3 feet (or 3.6 inches, at the max) into the front yard setback.

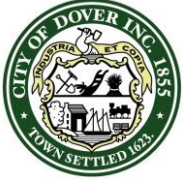
FX Bruton of Bruton and Berube, representing 9 Innovation Way, presented the case, and reviewed the need for the Equitable Waiver. He reached out to the owners of the other building on Innovation Way and they responded that they have no issue with the request. The discrepancy is only about three inches which was discovered with the submittal of the as-built plans. He explained how all of the criteria to grant the equitable waiver are met.

Public Hearing opened.

Public Comment: None

Planning Department recommendation: Zoning Administrator Kypfer noted staff takes no position and does not support or oppose the granting of the Equitable Waiver request. The subject property is located at the rear of Enterprise Park, nearly backing up against the Spaulding Turnpike, in other words, this minor encroachment is not easily visible due to its location, nor is the measurement of < 0.3 feet likely distinguishable to the human eye.

Public Hearing was closed.



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Meeting Time: 7:00 pm

Motion: Sillitta moved to GRANT the Variance as it meets the four criteria required. Couturier seconded. Vote: U/A

3. ELECTION OF OFFICERS

Board members submitted ballots with their vote for Chair and Vice Chair for 2023.

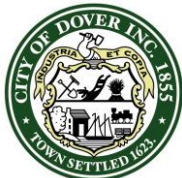
Zoning Administrator Kypfer announced that votes were unanimous in favor of Chris Prior to remain as Chair, Vote: 5-0, U/A. There were three votes for Otis Perry to remain Vice Chair, one blank vote, and one vote for Anthony Sillitta for Vice Chair. Otis Perry will remain Vice Chair, Vote: 3-0-1.

4. OTHER BUSINESS

None

5. ADJOURN

Motion: Couturier moved to adjourn at 7:30 pm. 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:	February 16, 2023
Meeting Time:	7:00 pm

INTENT: The Owners request a Variance from **Section 170-12.B. of the Zoning Ordinance** to allow construction of a new garage 5' from the side property line, where 10' is required.

UNITS PROPOSED: N/A

AGENDA ITEM #: 3-A

ZONING DISTRICT: R-12

FILE: Z23-02/ ZONE-2023-0003

APPLICANT/OWNER: Nicole A. S. & James M. White, Trustees of the Nicole and James Revocable Trust

LOCATION: 10 Birchwood Place (Tax Map 17, Lot 65-B)

ACREAGE: 0.242± acres / 10,542± square feet

EXISTING LAND USE: Residential

PROPOSED LAND USE: Residential

SURROUNDING LAND USE:
Residential

PREVIOUS ZBA ACTION: None

**PLANNING BOARD APPROVAL
REQUIRED:** No

ATTACHMENTS: Application,
Narrative, Plan sketch, Abutters petition

STAFF RECOMMENDATION:
Staff supports the granting of the variance request.

BACKGROUND INFORMATION

The property subject to this Variance request is located on the northeast side of Birchwood Street, which stems south off of Central Avenue. A single-family house, built in 1949, is currently situated on the property. The proposed garage is 26' x 26' (676 sq. ft.) in area, to be built towards the rear of the lot.

REASON FOR RECOMMENDATION

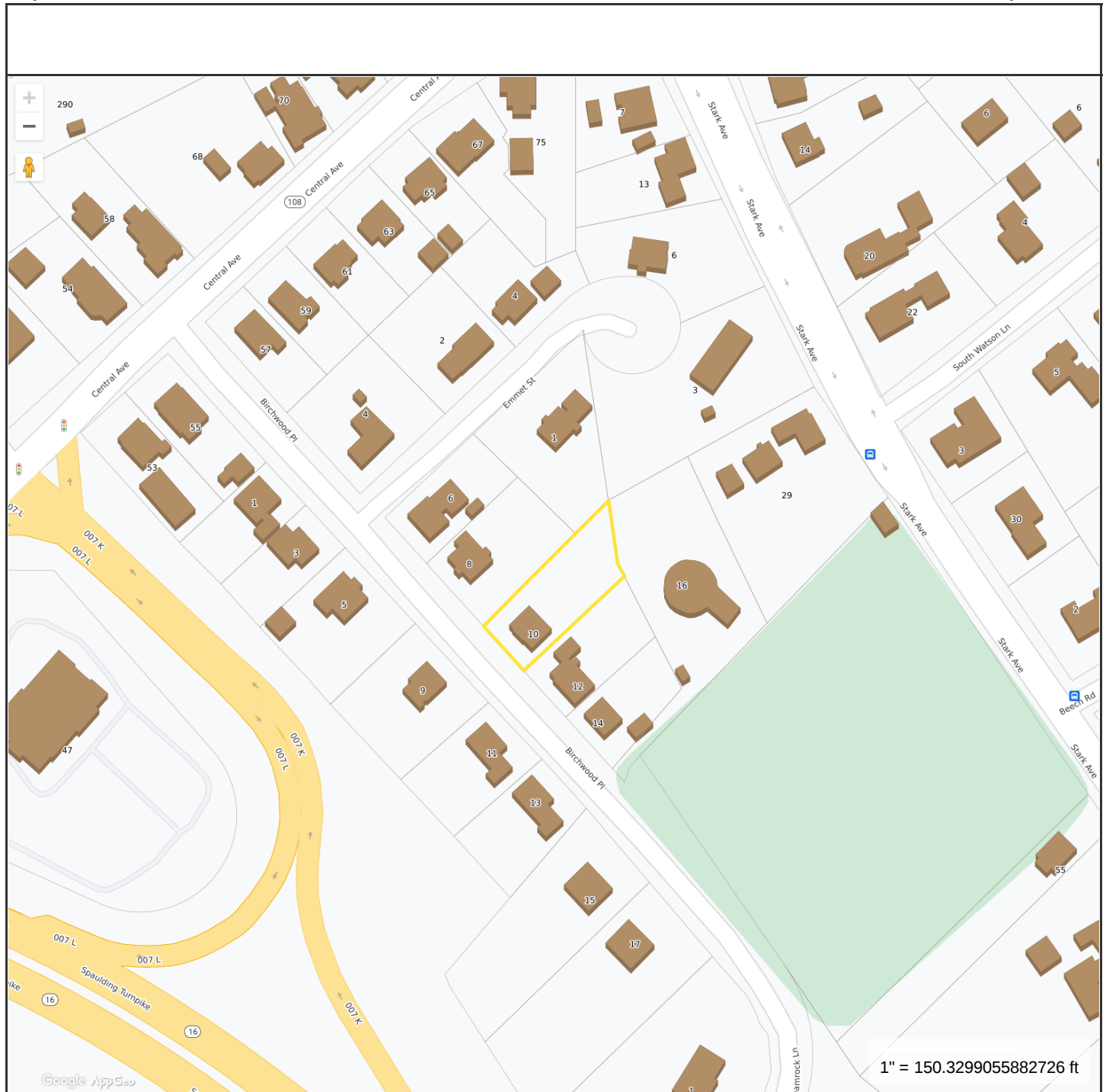
The subject property has unique characteristics: it is a long, narrow lot with an existing driveway that leads to the location where the proposed garage is planned to be placed. As part of their application, the property owners supplied a petition signed by four different abutters, all in support of their Variance application.

STAFF RECOMMENDATION

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

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

- 1) The encroachment be limited to the proposed area of the side property line, with no further encroachment granted without a new application



Property Information

Property ID 17065-B00000
Location 10 BIRCHWOOD PL
Owner WHITE NICOLE A S & JAMES M TRUSTEES
Land Use 101
Zoning Code R-12



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 12/16/2022
 Data updated Daily

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

Z23-02/ZONE-2023-0003

10 BIRCHWOOD PLACE

Property ID	Location	Owner 1	Owner 2	Owner Address 1	City	State	Zip
17050-000000	STARK AV	ROMAN CATHOLIC BISHOP	C/O ST. MARY'S PARISH	153 ASH ST	MANCHESTER	NH	03104
17051-000000	29 STARK AV	MURPHY ELINOR J TRUSTEE	MURPHY ELINOR REVOCABLE TRUST	29 STARK AVE	DOVER	NH	03820
17052-000000	16 BIRCHWOOD PL	TARMEY JOHN A III &	NYE AMANDA E	16 BIRCHWOOD PL	DOVER	NH	03820
17053-000000	6 EMMET RD	BITOV GADI &	BITOV CAROL	6 EMMET RD	DOVER	NH	03820
17053-A00000	3 EMMET RD	TALBOT ARTHUR F &	TALBOT BRENDA S	3 EMMET RD	DOVER	NH	03820
17062-000000	4 BIRCHWOOD PL	CLAUSSEN MAUREEN		4 BIRCHWOOD PL	DOVER	NH	03820
17063-000000	6 BIRCHWOOD PL	MORGAN WILLIAM F		6 BIRCHWOOD PL	DOVER	NH	03820
17064-000000	8 BIRCHWOOD PL	VACHON LINDA M		8 BIRCHWOOD PL	DOVER	NH	03820
17065-000000	4 EMMET RD	KENISON KERIE	TRACY MAUREEN	4 EMMET RD	DOVER	NH	03820
17065-A00000	12 BIRCHWOOD PL	BAUMAN BENJAMIN RYAN		12 BIRCHWOOD PL	DOVER	NH	03820
17065-C00000	1 EMMET RD	EBAUGH KEVIN &	EBAUGH ELIZABETHM	1 EMMET RD	DOVER	NH	03820
17065-D00000	2 EMMET RD	HAWKINS GILBERT &	HAWKINS ELLEN	2 EMMET RD	DOVER	NH	03820
17066-000000	14 BIRCHWOOD PL	TARLING BRIAN E &	CORCORAN DEVIN B	14 BIRCHWOOD PL	DOVER	NH	03820
17070-000000	3 BIRCHWOOD PL	ARNOLD ROBERT JW	EVANS NANCY	POST BOX 1489	WELLS	ME	04090
17071-000000	5 BIRCHWOOD PL	GAGNE SANDRA D		5 BIRCHWOOD PL	DOVER	NH	03820
17073-000000	9 BIRCHWOOD PL	BAHALKEH ESMAEIL		9 BIRCHWOOD PLACE	DOVER	NH	03820
17074-000000	11 BIRCHWOOD PL	THOMPSON THERESA B		9 BLUEBERRY HILL RD	GROVELAND	MA	01834
17075-000000	13 BIRCHWOOD PL	KIZIRIAN TARA A		13 BIRCHWOOD PL	DOVER	NH	03820
17076-A00002	15 BIRCHWOOD PL	CARR JEFFREY B &	CARR RICHARD A	15 BIRCHWOOD PL	DOVER	NH	03820
17065-B00000	10 BIRCHWOOD PL	WHITE NICOLE A S & JAMES M TRUSTEES	WHITE NICOLE & JAMES REVOCABLE TRUSTS OF	10 BIRCHWOOD PL	DOVER	NH	03820

James and Nicole White
10 Birchwood Place
Dover, NH 03820
(603)498-1573

January 26, 2023

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

Dear Zoning Board Members:

My wife, Nicole, and I are requesting a variance to the Side Setback (10 feet) to install a 26'x26' garage. We are in a Medium Density Residential (R-12) District.

Our property is located on Birchwood Place, approximately 500 feet southwest of the intersection of Central Avenue and Birchwood Place. The property is a small lot, approximately 0.24 acres. Please see Enclosure No. 1 which is an overhead photo from the City of Dover map at the web site <https://www.dover.nh.gov/services/online-services/maps-prcs/>.

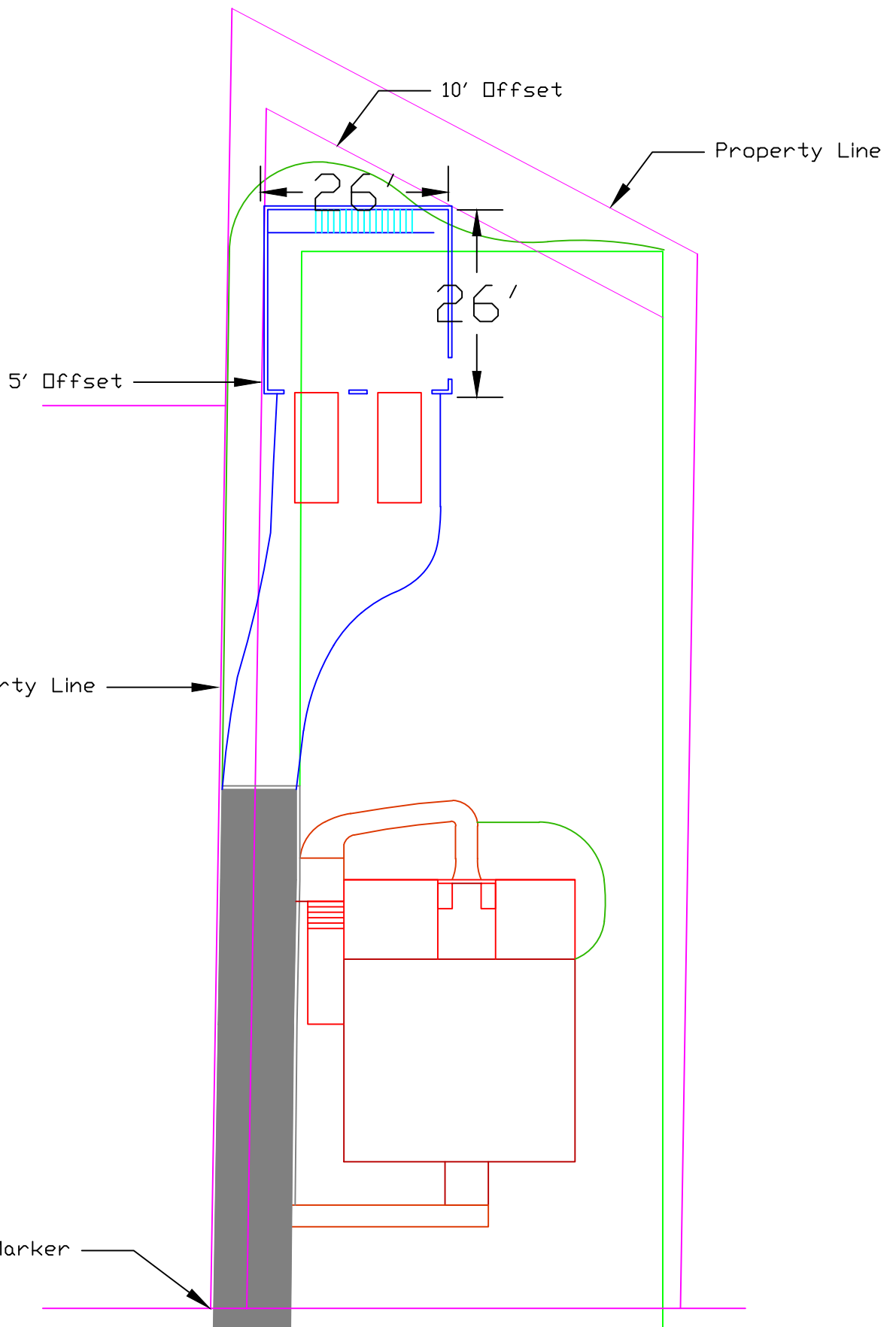
Our property is small and narrow, with the principal building, our home, situated at the street end of our property. In order to maximize the use of our back yard, we are requesting to have the garage built in the rear of our property with an offset from the northwest side property line of five feet (5'). A plan of our property showing the approximate property lines, proposed location of the garage and proposed offsets is attached.

Although I am requesting the garage be located five (5) feet from the side property line, there is a large, wooded area between the abutters' property lines and their houses. The four abutters immediately surrounding our property all support our request. A petition regarding this request, signed by these abutters, is attached.

Thank you in advance for your consideration.



James White



Property of
Nicole and James White
10 Birchwood Place
Dover, NH
Scale: 1"=20'

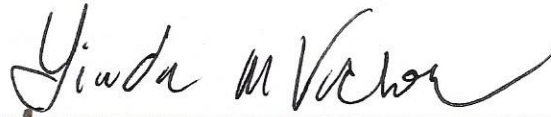
**For the Variance of
James and Nicole White
10 Birchwood Place
Dover, NH 03820**

Petition

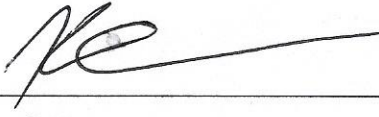
We are aware of the White's desire to build a 26'x26' garage on their property located at 10 Birchwood Place. We have reviewed the site plan showing the desired location of the garage, situated with an offset of five (5) feet from the side and rear property lines. It is our understanding that the White's require a variance to locate the garage at that location, with the zoning ordinance requiring a ten (10) foot offset from the property lines.

As abutters, we take no exception to the proposed garage location or the White's request for the variance to accomplish this.

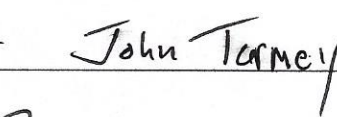
Linda Vachon
8 Birchwood Place



Kevin & Elizabeth Ebaugh
1 Emmet Street

John Tarmey & Amanda Nye
16 Birchwood Place

Benjamin Bauman
12 Birchwood Place





PERMIT SNAPSHOT REPORT ZONE-2023-0003 FOR CITY OF DOVER, N.H.

Permit Type Zoning	Project:	App Date: 01/26/2023
Work Class: Variance	District: None	Exp Date: NOT AVAILABLE
Status: Fees Due	Square Feet: 0.00	Completed: NOT COMPLETED
Valuation: \$0.00	Assigned To: Glidden, Jean	Approval
Description: Construct new garage with five (5) foot offset from the side and rear property line.		Expire Date:

Parcel: 17065-B00000 Main	Address: 10 Birchwood Pl Dover, 03820	Zone: R-12(Residential - Medium Density)
	10 Birchwood Place Main Dover, NH 03820	

Applicant
James White
10 Birchwood Place
Dover, NH 03820
Mobile: (603) 498-1573

Permit Custom Fields

ZoneVariAppealPhDisa No bility	Number of Variances 1 Requested:	ZoneVariPlanDirections Approximately 300 feet east Route 108
ZoneVariPlanSummary See Attached	ZoneVariAppealSect 170-12.B	ZoneVariAppealSectDe See Attached tail
What is the parcel R-12 zoned?	ZoneVariAppeal1Public Waiving the terms of the Interest ordinance would actually benefit the public and the neighborhood. Constructing the garage where requested would provide a safe yard and play area for my grandchildren and provide a balance of maximizing the use and enjoyment of my property. Although approving the variance would allow the garage to be placed within five (5) feet of the side property line, there is still a large, wooded area between the property lines and the abutting buildings.	ZoneVariAppeal2Ordin I understand and anceSpirit appreciate the need for ordinances. However, every situation and piece of property is different and sometimes there needs to be an approved variance to take into consideration and accommodate unique situations such as this request. My property is very narrow and the placement of the garage five (5) feet from the side property line would increase the available landscaped area of the back yard, would not be located any closer to the rear abutter's house and there is a wooded area along the side property line.
ZoneVariAppeal3Subst Placing the garage would antialJustice enhance the usability of our back yard.	ZoneVariAppeal4Prope The professionally rtyValue constructed garage will be aesthetically pleasing and blend into the surrounding area. The value of the surrounding properties will be affected in the same manner whether the variance is granted or not. idiosyncrasies. The layout of my property is very	ZoneVariAppeal5A1Un The property is very NecHardship narrow compared to other properties surrounding our property. The dimension of the width of our lot is approximately sixty-five (65) feet. Allowing the variance will increase the size of the useable landscaped area. narrow. My concerns are providing a safe yard and
ZoneVariAppeal5A2No Every piece of property is FairRelate unique and has its own		

PERMIT SNAPSHOT REPORT (ZONE-2023-0003)

play area for my grandchildren, a well maintained landscaped area and not infringing on my neighbors.

ZoneVariAppeal5A3ReasonableUse
Approving the requested variance and allowing the garage to be placed as indicated in the attached property drawing, would allow maximum use and enjoyment of my backyard.

ZoneVariAppeal5BNoReasonableUse

If the request for the variance is approved, only the side of the garage would be within five (5) feet and of the side property line. However, along the side of the garage there would still be approximately 45-50' of wooded area between the property line and the landscaped area around the abutter's house, which is how it currently exists.

Attachment File Name	Added On	Added By	Attachment Group	Notes
Dover House-Offset Plan.pdf	01/26/2023 9:57	White, James		Uploaded via CSS
Enclosure 1.pdf	01/26/2023 9:57	White, James		Uploaded via CSS
Intro Letter.pdf	01/26/2023 9:57	White, James		Uploaded via CSS
Petition-Signed.pdf	01/26/2023 9:57	White, James		Uploaded via CSS
Signature_James_White_1/26/2023.jpg	01/26/2023 9:57	White, James		Uploaded via CSS
Permit Snapshot Report.pdf	01/26/2023 9:57	Service, EnerGov		Attached by IO - ATTACH: Initial Permit Snapshot

Invoice No.	Fee	Fee Amount	Amount Paid
INV-00002174	Planning Zoning Variance Application Fee	\$200.00	\$200.00
Total for Invoice INV-00002174		\$200.00	\$200.00
INV-00002233	Planning Creation / Printing of Abutter Labels	\$10.00	\$0.00
	Planning Public Notice in Newspaper	\$100.00	\$0.00
	Planning Certified Mailing to Application Contacts	\$8.00	\$0.00
	Planning Certified Mailing to Abutters	\$152.00	\$0.00
Total for Invoice INV-00002233		\$270.00	\$0.00
Grand Total for Permit		\$470.00	\$200.00

Submittal Name	Status	Received Date	Due Date	Complete Date	Resubmit	Completed
Planning Permit Application Review v.1	Approved	01/31/2023	02/03/2023	02/02/2023	No	Yes

Item Review Name	Department	Assigned User	Status	Assigned Date	Due Date	Completed Date
Zoning Administrator	Planning	Kypfer, Natasha	Approved	01/31/2023	02/03/2023	02/02/2023
Comments: Application complete, item scheduled for 2/16/2023 ZBA hearing.						

Workflow Step / Action Name	Action Type	Start Date	End Date
Review v.1		01/31/2023 0:00	02/02/2023 9:57
Confirm application complete v.1	Generic Action		01/31/2023 7:37
Planning Permit Application Review v.1	Receive Submittal	01/31/2023 0:00	02/02/2023 9:57
Zoning Board v.1		02/02/2023 0:00	
Zoning Board Agenda v.1	Task	02/02/2023 0:00	02/02/2023 9:59
Invoice for Notices v.1	Task	02/02/2023 0:00	02/02/2023 9:59

PERMIT SNAPSHOT REPORT (ZONE-2023-0003)

Send Notices v.1	Task	02/02/2023	0:00	02/02/2023	10:00
Zoning Administrator Creates Staff Recommendations v.1	Task	02/02/2023	0:00	02/02/2023	10:00
Distribute Zoning Board Materials v.1	Task				
Zoning Board Hearing v.1	Hold Hearing				
Zoning Board Decision v.1	Permit Activity				
NOD Sent to Applicant v.1	Create Report				
Final Plan v.1					
Plans uploaded to Treeno v.1	Generic Action				
Property Info Group v.1	Generic Action				
Create/Link to Records v.1					
Create / Link to Permit - Building Complex v.1	Create Sub Permit				