



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, August 17, 2023**
Meeting Time: **7:00 pm**

1. ATTENDANCE

2. APPROVAL OF MEETING MINUTES OF JULY 20, 2023

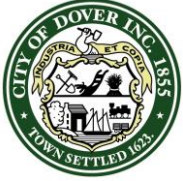
3. HEARINGS

- A. ***ZONE-2023-0037** Owners: Dover Development, LLC, 52 Old Rochester Road (Tax Map 40, Lot 25), located in the Commercial (C) Zoning District requests a Variance from **Section 170-11. of the Zoning Ordinance**, to allow for the residential ratio required under Footnote 3 where 2/3rd is the maximum to be exceeded, 17% commercial/ 83% residential is proposed via three buildings.
- B. ***ZONE-2023-0039** Owners: Goodridge Lyndon E. & Dorothy A. Trustees, The Lyndon E. Goodridge Revocable Trust, The Dorothy A. Goodridge Revocable Trust, 35 Julia Drive (Tax Map M, Lot 4-39), located in the Innovative Technology (IT) Zoning District requests a Variance from **Section 170-12.B. of the Zoning Ordinance**, to allow for a rear setback of 20'±, whereas 50' 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](https://twitter.com/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.



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ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers, City Hall – 288 Central Ave., Dover, NH 03820
Meeting Date: Thursday, July 20, 2023
Meeting Time: 7:00 pm

1. ATTENDANCE

Members Present: Chris Prior (Chair), George Reagan (Alternate), Nicholas Couturier, Rich Onufry

Members Absent (Excused): Otis Perry, Anthony Sillitta, Sarah Tatarczuk

Members Absent (Unexcused): None

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 JUNE 15, 2023

Motion: Onufry moved to approve the minutes of June 15, 2023. Seconded by Reagan. Vote: 2-0-2 with Reagan and Couturier abstaining.

The Chair explained the ZBA hearing process.

3. HEARINGS

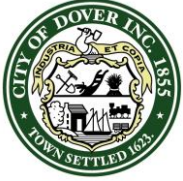
A. ~~*ZONE-2023-0030~~ Owners: Edgar R. & Anne S. Crothers, Applicants: Justine Fallon and Karl Kumli, Cote Drive and Dover Point Road. (Tax Map L, Lot 55-B), located in the Low-Density Residential (R-20) Zoning District requests Variances from ~~Section 170-12.B of the Zoning Ordinance~~, to allow for a rear setback of 20' whereas 30' is required and a front build-to-line of 10' whereas 20' to 35' is required. **CONTINUED FROM JUNE 15, 2023 MEETING- WITHDRAWN**

B. ***ZONE-2023-0035** Owners: Lionel R. Paradis Jr. & Kristina L. Paradis, Applicant: Jared Lusk, 180 Tolend Road. (Tax Map F, Lot 2), located in the Innovative Technology (IT) and Rural Residential (R-40) Zoning Districts request a Variance from **Section 170-22.C.(1).**, to permit the construction of a new, 100' telecommunications tower on the above referenced property, where the construction of new telecommunications towers is only permitted on 15 parcels specified by the Zoning Ordinance.

Attorney Jared Lusk of Nixon Peabody LLP, representing Verizon Wireless, Chip Fredette, Verizon Wireless Site Acquisition Consultant, and Martin Laven, Verizon Wireless Engineering Consultant presented the case, and reviewed their need for the Variance request. The applicant's explain that none of the existing 15 parcels, locations which are permitted within the ordinance for towers, towers allowed will work to deliver reliable wireless telecommunications to the Dover West cell.

Chip Fredette reviewed the existing Verizon Wireless coverage in the region. There are six existing towers that serve Dover. He described and showed their locations and coverage on maps within their PowerPoint presentation. There is a large portion of the area without coverage and Chip works to locate a site where a tower can be added. First, he looks at existing towers, smokestacks, etc. where a co-location is plausible, but there are none available in the location. Next, he looks to local zoning regulations for guidance and in this instance, there is not an allowable parcel available where needed.

Mr. Fredette continues, sharing that the proposed telecommunications tower height is 104'. He described the proposed site location and leased area for the proposed tower; providing details on fencing, landscaping, and access from Tolend Road. The structure is proposed 815' from Tolend Road.



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Chair Prior asks that during the presentation of the criteria the applicant's address the *Telecommunications Act of 1996 (TCA)*, specifically what the ZBA is legally permitted and not permitted to do under the law.

Attorney Lusk addresses the applicable legal standards, noting that the *Telecommunications Act of 1996* limits a municipality from outright denying coverage. He then segues and addresses the five criteria of the Variance request noting: "It is in the best interest of the people of New Hampshire to encourage rapid deployment of the broadest range of quality telecommunications services to the public." He continues, the site was selected to add coverage to a specific area where there is not any. Denying the Variance would in effect deny coverage to those in the Dover West Cell. The site would support current and future customers.

Attorney Lusk continues stating, it will not adversely impact the health and safety of the surrounding area or alter the essential character of the locality. The community relies on this system to operate their lives every day. There will be no increase in traffic, and it will not be noticeable to those in the area. Furthermore, it is not contrary to the public interest, rather, it is the opposite – it is essential.

Attorney Lusk explains the request is not contrary to the spirit of the ordinance. The ordinance states: "...to serve adequate provision of transportation, water, sewer, schools and *other public requirements...*" which applies here. The proposal is modest in its impacts. Furthermore, granting the Variance will do substantial justice, as the significant gap in coverage for this area will be eliminated. The proposed use would not diminish the surrounding properties. Most homes are moving to wireless-only, in fact, he states that when potential buyers do not have reliable service, it impacts the sale, sharing statistics on this topic.

In closing, Attorney Lusk states that the NH Supreme Court ruled the termination of property special conditions are different for a cell tower than routine cases. The court declared when an application to construct a tower is proposed in order to fill a significant gap (as seen here), the suitability of a specific parcel of land should be considered for determining the hardship.

Chip Fredette displayed a map and described and showed where the permitted parcels are located in relation to where the gap in coverage exists. He further explained calculations that were run at various other locations. He explained the various other maps that are in the application packet for the Board.

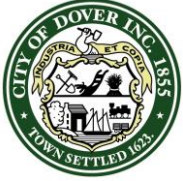
Reagan asked about bandwidth, stress, and number of users. In response, Engineer Martin Laven explained that the number of users and how far they are from the site are factors in determining the demand for power and speed of the network.

Public Hearing opened.

Public Comment:

Adam Henker, 144 Tolend Road, abutter noted he had Verizon Wireless at that location for 10 years and had great service. He left Verizon due to the high cost, not any issues with service. His view from his property will be affected by this proposal, and he is concerned about health and safety. The coverage in that area seems fine and if there are other options for location that would be preferred as he has young children.

Eileen Nadeau, 160 Tolend Road, abutter is opposed to the proposal due to the negative health affects which she previously documented in an email to the Board. She is not on Verizon, but has other phone and wireless service at the location.



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In response, Attorney Lusk addresses the public comment noting the government has set standards relating to health and safety for these facilities. With all of the antennas on this proposed tower, it would be just over 15% of the federal maximum limit. Once they can prove they are below the standard, the Board, by law, is prohibited from considering health affects in their decision. He notes an article which he will provide, via Zoning Administrator Kypfer, that explains a court case concluded property values are not adversely impacted by towers.

Adam Henker, 144 Tolend Road, spoke again and recommended the Board not approve the tower in such a residential location, but rather use two other sites discussed earlier in the applicant's presentation.

Planning Department recommendation: Zoning Administrator Kypfer noted staff does not support or oppose the granting of the Variance request. For past similar applications, the Board indicated a desire to schedule a site walk, balloon test, and to obtain a third-party review of the submitted radiofrequency analysis; the Board may want to consider these options again. Of note: If the Variance to permit this use is granted, Planning Board review and approval will also be required per §170-22.

If the Board grants the Variance, staff recommends the following subsequent condition:

- 1) The applicant shall go before the Planning Board for Site Plan review.

Zoning Administrator Kypfer addressed some clarifying questions asked by the Board, relating to the process of reviewing/updating the permitted locations noted within the Zoning Ordinance, and what the ZBA is allowed to do in relation to the requirements of the law for these towers.

Onufry noted the applicant has done their due diligence.

Prior and Reagan noted the application was very well presented and laid out, and that questions were well-addressed and explained by the applicant.

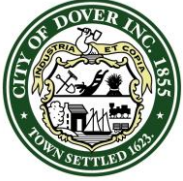
Public Hearing was closed.

Motion: Onufry moved to GRANT the Variance of a 104' telecommunications tower with the staff recommended condition acknowledging all criteria has been met, and state and federal law is upheld. Prior seconded. Vote: U/A, 4-0.

- C. ~~*ZONE-2023-0037~~** Owners: ~~Dover Development, LLC, 52 Old Rochester Road (Tax Map 40, Lot 25), located in the Commercial (C) Zoning District requests a Variance from Section 170-11. of the Zoning Ordinance, to allow for the removal of all existing structures and to construct sixty-four (64) residential units, with two (2), four-story buildings, and to exceed the residential ratio required under Footnote 3 where 2/3rd is the maximum and 13%/87% is proposed.~~ **WITHDRAWN**

Chair Prior noted [Onufry left, as he recused himself from item 3.D.] and there are only three members sitting; the applicant has agreed to proceed.

- D. *ZONE-2023-0038** Owners: Jewett Commercial Park, LLC Applicant: Jeremiah Comeford, 30 Crosby Road Unit 9 (Tax Map G, Lot 31-3), located in the Commercial Manufacturing (CM) Zoning District requests a Special Exception from **Sections 170-12.A. and 170-52.C.(3).** of the Zoning Ordinance, to install an auto service.



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The general Special Exception Requirements set forth in §170-52(C)(3):

- (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 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 specific Special Exception Requirements set forth:

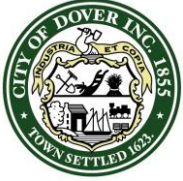
- A. *The use of land for vehicle refueling/ recharging station may only be permitted upon the determination that the property values of adjacent land will not be compromised. Any vehicle refueling/ recharging station which discontinues operations for a period in excess of one hundred eighty (180) days 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. *If petroleum based, 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, inclusive of the canopy and fueling equipment, and any signage for retail or eating or drinking uses.*
- 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.*
- E. *Year-round consistent screening no less than 5 feet in height, shall be provided from the street, or any abutting residential structure to the pumps. The building may act as the screening.*
- F. *Hours of operation shall be limited to 6 am to 9 pm.*
- G. *If a drive-in thru service is proposed, said facility shall be setback either fifty (50) feet from a residential abutting lot or one-hundred (100) feet from the abutting residential structure, whichever is greater, and shall also be screened consistent with Section E above.*

Applicant Jeremiah Comeford, 62 Quaker Lane, presented the case and reviewed the need for the Special Exception request.

The applicant handed out packets of photos to the Board, which show the existing building which is a 1250 sq ft unit with an office, bathroom, and garage space. The proposal is to start an auto garage business within the unit. Added equipment will include a car lift and air compressor for tools. An oil to water separator will be installed to protect the drain from contamination. The location is commercial, and the neighboring businesses include a tree service, landscaping company, and propeller repair shop – all of which have bays in use.

The applicant addresses the Special Exception general and specific criteria, noting the use would be desirable to the public as a service-oriented business. Traffic congestion and pedestrian safety is not an issue as it is an industrial complex with similar uses. Furthermore, no overload to public water drainage or sewer will occur as there is only a one-stall bathroom and slop sink. No refueling will be done on site, but oil changes and coolant changes will occur on site. Waste will be taken away by a contracted company. Finally, the proposed hours of operations are 6 or 7am to 5-8pm, depending on demand. (The restrictions are 6am-9pm per the ordinance.)

Reagan asked if the petroleum aspect is triggering any other requirement.



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Zoning Administrator Kypfer noted the restrictions (Special Exception criteria) listed on the CM zoning table, which also apply to the use of Vehicle Refueling and Recharging Station, explain that the criteria items A-G are slanted a bit towards that use.

The applicant clarified they will not have a gas station, but may need to add fuel to a vehicle. They are not currently planning on working on any electric vehicles.

Public Hearing opened.

Public Comment:
None

Planning Department recommendation: Zoning Administrator Kypfer noted staff does not support or oppose the granting of the Special Exception request, but that under RSA 674:33, 4(a), the Board may grant a Special Exception if all Special Exception criteria are met. Staff has reviewed the materials submitted and is of the opinion that the above specific criteria, as well as the general criteria per §170-52(C)(3), are in alignment with the requirements. However, the paper submission was lacking detail, and Staff suggested the applicant provide more specifics in their verbal testimony at the public meeting, which he did this evening, along with providing the photographs.

Public Hearing was closed.

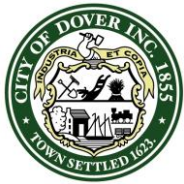
Motion: Couturier moved to GRANT the Special Exception as presented based upon the representations made by the applicant and the testimony provided. Reagan seconded as it meets the special exception requirements. Vote: U/A, 3-0.

4. OTHER BUSINESS

None

5. ADJOURN

Motion: Couturier moved to adjourn at 8:14 pm. Reagan seconded. Vote: U/A, 3-0.



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO

Revised 8/17/2023

Meeting Type:	Regular Meeting
Meeting Location:	Council Chambers, City Hall, 288 Central Ave., Dover, NH 03820
Meeting Date:	August 17, 2023
Meeting Time:	7:00 pm

INTENT: The Owners request a Variance from Section 170-11. of the Zoning Ordinance, to allow for the residential ratio required under Footnote 3 where 2/3rd is the maximum to be exceeded. 17% commercial/ 83% residential is proposed via three buildings. The proposal is to remove all existing structures and construct 48 residential units, with two, three-story buildings.

UNITS PROPOSED: 48 (residential), 1 commercial building

AGENDA ITEM #: 3-A

ZONING DISTRICT: C

FILE: ZONE-2023-0037

APPLICANTS: Francis X. Bruton, David Paolini

OWNERS: Dover Development, LLC

LOCATION: 52 Old Rochester Road (Tax Map 40, Lot 25)

ACREAGE: 1.72± ac / 74,997± sq. ft.

EXISTING LAND USE: Commercial, Office, Residential

PROPOSED LAND USE: HUD-restricted Affordable Housing

SURROUNDING LAND USE: Commercial, Residential

PREVIOUS ZBA ACTION:

- Z85-68, Variance granted for an expansion to retail and the addition of an apartment
- Z17-10, Special Exception granted to permit a multi-family dwelling.
- Z17-11, Variance granted to allow multi-family dwellings, with residential on ground-level.

PLANNING BOARD APPROVAL REQ.:

Yes, for TDR and site review.

ATTACHMENTS: Application, Narrative, Site Plan

STAFF RECOMMENDATION: Staff does not support or oppose the Variance request.

BACKGROUND INFORMATION

This is a new request which differs in its content from the application submitted, and ultimately withdrawn, originally scheduled for the July 20, 2023 ZBA meeting.

The property subject to this Variance request is located on the west side of Old Rochester Road, south of Long Hill Road, and is 1.72 acres in area, or just under 75,000 square feet. Presently there are three structures on the property: an existing apartment and two existing commercial spaces, all of which are proposed to be demolished if the relief is granted. In their place, the applicants intend to construct: forty-eight (48) residential units, with two (2) three-storied buildings (containing 24 residential units each), as well as one (1) two-story commercial building, which would contain office and retail space.

The applicants are requesting relief from the criteria of Footnote 3 on the Commercial Zoning Table, which reads:

[3] Provided the lot contain five thousand (5,000) square feet per dwelling unit. Units are allowed only in mixed use buildings, where no more than 2/3rd of the overall square footage of the building is residential.

Instead, a ratio of: 17% commercial / 83% residential is proposed, which the applicants states in their narrative, allows for the the residential units proposed to be comprised of 100% HUD Fair Market Rent-rated "FMR-rated" units. As well, while the Footnote requires the residential and commercial uses to be in a singular mixed-use building, the applicants propose distinct structures.

REASON FOR RECOMMENDATION

The applicant is seeking to reimagine the entire site, proposing that the commercial components are together and closer to the major roadway, while the residential is situated behind. Previous approvals had residential use in the rear and mixed-use in the front near Old Rochester Road. The applicant recognizes the relief being sought and, therefore, is offering the public benefit of attainable housing units.

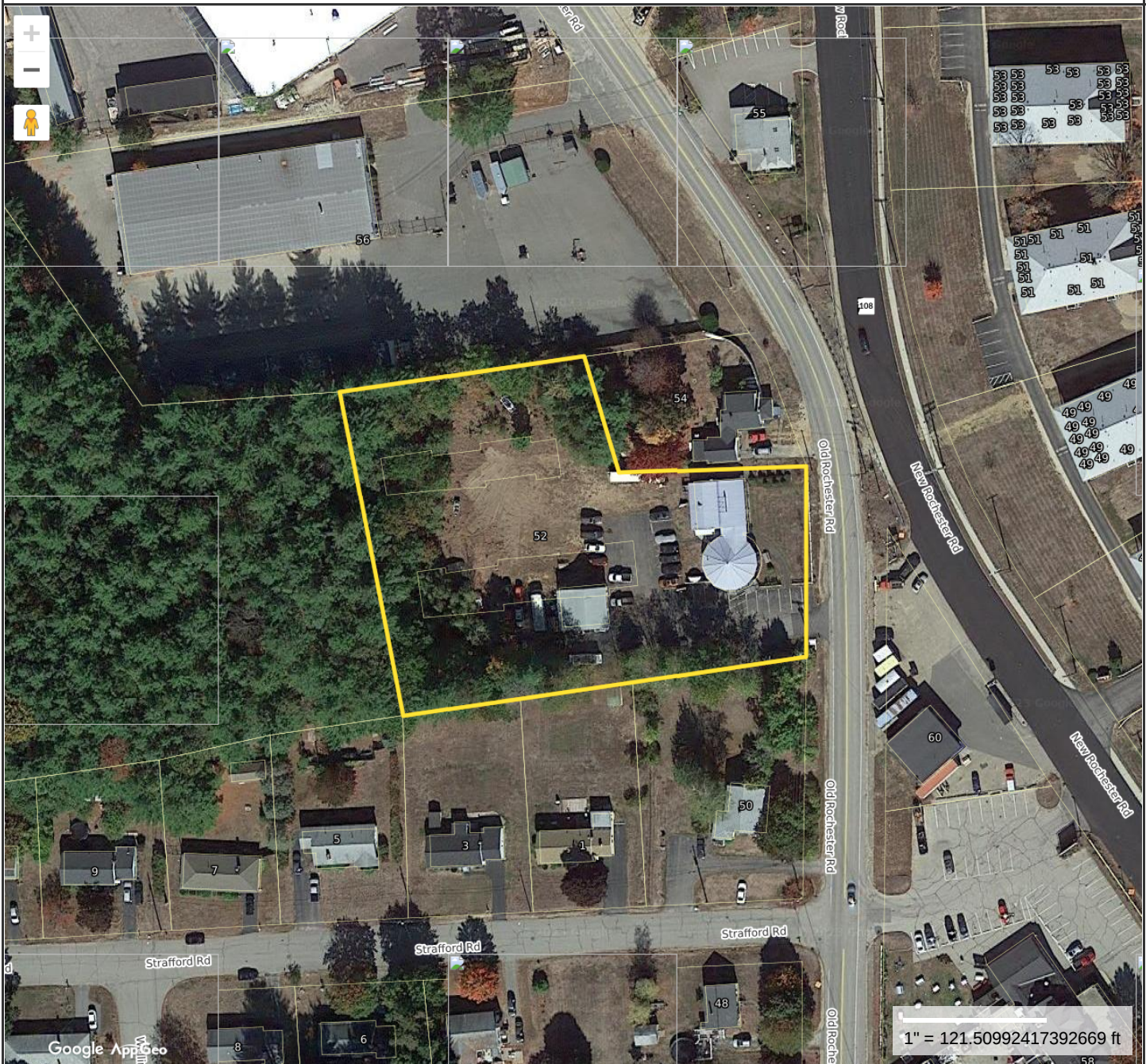
STAFF RECOMMENDATION

Staff recommends that the Board open the public hearing, accept testimony, and make findings on each of the five Variance criteria. Staff does not support or oppose the Variance request.

If the Board grants the Variance, staff recommends the following subsequent condition:

- 1) This approval does not grant additional density, the applicants will need to seek it through the TDR process before the Technical Review Committee and Planning Board.
- 2) The proposal would include units rented using the HUD Fair Market 80% Rent Limit established, or HUD-restricted Fair Market Rate rents, for any additional units.

ZONE-2023-0037 52 OLD ROCHESTER ROAD

**Property Information**

Property ID 40025-000000
Location 52 OLD ROCHESTER RD
Owner DOVER DEVELOPMENT LLC
Land Use 303
Zoning Code C

**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 7/10/2023
Data updated Daily

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



PERMIT SNAPSHOT REPORT ZONE-2023-0037 FOR CITY OF DOVER, N.H.

Permit Type Zoning	Project:	App Date: 06/29/2023
Work Class: Variance	District: None	Exp Date: NOT AVAILABLE
Status: In Review	Square Feet: 0.00	Completed: NOT COMPLETED
Valuation: \$0.00	Assigned To: Blonigen, Rachel	Approval Expire Date:
Description: The Applicant intends to remove all existing structures and desires to construct sixty-four (64) residential units, with two three-storied buildings containing 32 residential units each.		

Parcel: 40025-000000 Main	Address: 52 Old Rochester Rd Main Dover, NH	Zone: C(Non-Residential - Commercial) R-12(Residential - Medium Density)
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Owner David Paolini, Manager Business: (603) 742-2121	Applicant David Paolini, Manager Business: (603) 742-2121	Engineer Berry Surveying & Engineering 335 Second Crown Point Road Barrington, NH 03825 Business: (603) 332-2863 Mobile: (603) 781-3403	Applicant Francis X Bruton 601 Central Ave Dover, NH 03820 Business: (603) 749-4529
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Permit Custom Fields

ZoneVariAppealPhDisa No bility	Number of Variances Requested: 1	ZoneVariPlanDirections west side of New Rochester Rd, after Strafford Rd
ZoneVariPlanSummary The Applicant intends to remove all existing structures and desires to construct sixty-four (64) residential units, with two four-storied buildings containing 32 residential units each.	ZoneVariAppealSect Section 170-11, Footnote 3 Com Zone Table of Uses	ZoneVariAppealSectDe See attached narrative. tail
What is the parcel zoned? C	ZoneVariAppeal1Public Interest See attached narrative.	ZoneVariAppeal2Ordinance Spirit See attached narrative.
ZoneVariAppeal3SubstantialJustice See attached narrative.	ZoneVariAppeal4ProportionalityValue See attached narrative.	ZoneVariAppeal5A1Un See attached narrative.
ZoneVariAppeal5A2No FairRelate See attached narrative.	ZoneVariAppeal5A3ReasonableUse See attached narrative.	ZoneVariAppeal5BNoReasonableUse

Attachment File Name	Added On	Added By	Attachment Group	Notes
22-075 Dover Development Group - electronic.pdf	06/29/2023 11:07	Bruton, Francis		Uploaded via Civic Access
PlanningApplication.OwnerAuthorization - executed.pdf	06/29/2023 11:07	Bruton, Francis		Uploaded via Civic Access
printablemap- electronic.pdf	06/29/2023 11:07	Bruton, Francis		Uploaded via Civic Access
Variance Narrative - electronic.pdf	06/29/2023 11:07	Bruton, Francis		Uploaded via Civic Access
Signature_Francis_Bruton_6/29/2023.jpg	06/29/2023 11:07	Bruton, Francis		Uploaded via CSS
Permit Snapshot Report.pdf	06/29/2023 11:07	Service, EnerGov		Attached by IO - ATTACH: Initial Permit Snapshot
2023.07.20_ZoningBoardofAdjustment Agenda.pdf	07/06/2023 15:31	Blonigen, Rachel		
ZONE-2023-0037 52 Old Rochester Road.pdf	07/06/2023 16:14	Blonigen, Rachel		

Invoice No.	Fee	Fee Amount	Amount Paid
INV-00003979	Planning Zoning Variance Application Fee	\$200.00	\$200.00
Total for Invoice INV-00003979		\$200.00	\$200.00
INV-00004076	Planning Public Notice in Newspaper	\$100.00	\$100.00

PERMIT SNAPSHOT REPORT (ZONE-2023-0037)

Planning Certified Mailing to Abutters	\$96.00	\$96.00
Planning Creation / Printing of Abutter Labels	\$20.00	\$20.00
Planning Certified Mailing to Application Contacts	\$24.00	\$24.00
Total for Invoice INV-00004076	\$240.00	\$240.00

Grand Total for Permit \$440.00 \$440.00

Submittal Name	Status	Received Date	Due Date	Complete Date	Resubmit	Completed
Planning Permit Application Review v.1	Approved	06/29/2023	07/27/2023	06/30/2023	No	Yes
Item Review Name	Department	Assigned User	Status	Assigned Date	Due Date	Completed Date
Zoning Administrator	Planning	Kypfer, Natasha	Approved	06/29/2023	07/27/2023	06/30/2023
Comments: To be heard at the July 20, 2023 ZBA hearing.						

Workflow Step / Action Name	Action Type	Start Date	End Date
Review v.1		06/29/2023 15:34	06/30/2023 11:04
Confirm application complete v.1	Generic Action		06/29/2023 15:34
Planning Permit Application Review v.1	Receive Submittal	06/29/2023 0:00	06/30/2023 11:04
Zoning Board v.1		07/06/2023 12:31	
Zoning Board Agenda v.1	Task	07/06/2023 12:31	07/06/2023 12:32
Invoice for Notices v.1	Task	07/06/2023 12:32	07/06/2023 16:46
Send Notices v.1	Task	07/06/2023 16:46	07/06/2023 16:46
Zoning Administrator Creates Staff Recommendations v.1	Task		
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		

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

OF COUNSEL
JAMES H. SCHULTE

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www.brutonlaw.com

July 31, 2023

VIA HAND DELIVERED

Donna Benton, AICP
Director of Planning and Community Development
City of Dover, NH
288 Central Avenue
Dover, NH 03820-4169

**RE: Dover Development, LLC
52 Old Rochester Road, Dover, NH
Map 40, Lot 25**

Dear Ms. Benton:

As you are aware, Dover Development, LLC recently requested that its application relative to the above referenced property be continued to the Board's meeting of August 17th. In anticipation of this upcoming hearing and our additional review of the programing required, the Dover Development, LLC respectfully requests to revise the proposed project and narrative as set forth herein.

Specifically, in the previously submitted Application, Dover Development, LLC seeks approval to construct sixty-four (64) residential units, with two (2) four-storied buildings containing 32 residential units each, plus a two-stories commercial building. However, Dover Development, LLC is reducing its request, and seeks approval to construct two (2) three-storied buildings containing 24 residential units each, for a total of 48 residential units, and not the 64 originally proposed. The commercial building will remain a two-storied building, as originally proposed.

By reducing the number of proposed residential units, the proposed Residential Ratio will be changed to 17% commercial / 83% residential, as opposed to the 13% commercial / 87% residential that was identified in the narrative submitted with the application. The new ratio would be comprised of 35,736 sq. ft. of residential space, 7,354 sq. ft of commercial space, for a total of 43,090 sq. ft.

In light of this change, we are enclosing a revised narrative as well as a revised plan showing the proposed project as set forth herein.

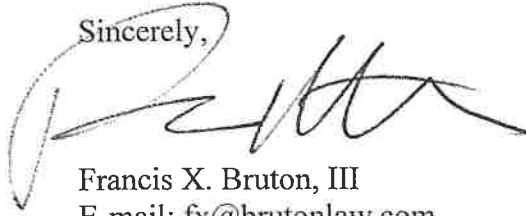
Donna Benton, AICP
Director of Planning and Community Development
City of Dover, NH

- 2 -

July 31, 2013

Should there be any questions regarding the above, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read 'FX Bruton', with a large, stylized initial 'F'.

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

FXB/mas
Enclosure

cc: Dover Development, LLC
Berry Surveying & Engineering

Dover Development, LLC

Variance Application

52 Old Rochester Road
Dover, New Hampshire

INTRODUCTION

The property subject to this application is located at 52 Old Rochester Road and is depicted on the City's Tax Maps at Map 40, Lot 25. The property consists of two (2) existing commercial spaces, totaling approximately 3,200 sq. ft. of commercial space and one (1) existing apartment, totaling approximately 1,500 sq. ft. of residential space. The entire size of the parcel is approximately 1.723 acres and is located in the Commercial (C) zoning district.

The Applicant, Dover Development, LLC, is the owner of the property. The Applicant intends to remove all existing structures and desires to construct forty-eight (48) residential units, with two three-storied buildings containing twenty-four (24) residential units each. These two buildings would be located within the rear portion of this "pork-chop" shaped lot. In addition, a two-story commercial building is proposed, containing office and retail space, along the Old Rochester Road frontage (the building footprints and façades are depicted on the attached plans).

Within the Commercial Zone, multi-family dwellings are permitted, subject to "Footnote 3." Footnote 3 provides that up to 2/3 of a mixed-use building may be residential (hereinafter referred to as the "Residential Ratio"). Thus, up to 1/3 of a mixed-use building must be commercial space. The commercial space is not required to be on the first floor of a building. Footnote 3 also requires 5,000 SF of land within the lot. Thus, as the lot is comprised of 74,997 SF, the density for residential units is 14 units (3 SF feet shy of 15 permitted units).

The residential units proposed will be comprised of 100% HUD rate affordable housing using the HUD Fair Market 80% Rent Limit (hereinafter referred to as "HUD Rate"). The affordability aspect of this project has been discussed with the Planning Department, and it is understood that the Department is in favor of supporting the grant of the TDR units.

The Applicant believes that the number of units proposed is necessary for the project to be sustainable. The Applicant has purposely designed the project in a way that would permit the above-referenced 14 units, where this number of units would satisfy the "Residential Ratio" of 2/3-1/3 requirement of Footnote 3. Specifically, if the project is limited to 14 residential units, the commercial space would equal 7,354 gross SF [2 floors at 3,677 SF per floor] or 38%, and the residential would equal 11,912 SF (2 floors at 5,956 SF per floor], or 62% of total gross SF. All the uses could be in one mixed use building. The foregoing, however, would result in the units being market rate units. In this instance, the Applicant is proposing 100% of the units be HUD Rate affordable housing. Thus, the Residential Ratio of Footnote 3 cannot be met (the proposed Residential Ratio would be 17% commercial / 83% residential) [35,736 sq. ft. residential, 7,354 sq. ft. commercial, for a total of 43,090 sq. ft.]. Given the layout of the lot, separating the commercial space from the residential space into separate buildings seems more feasible so that the commercial can be accessed and visible along the Old Rochester Road frontage, and the residential uses can be located more into the rear of the lot. The need for a variance from the terms

of Footnote 3 is solely driven by the Applicants desire to provide a significant (64 units), and much needed, stock of HUD Rate affordable housing.

The request for increased density solely due to the desire to provide for HUD Rate affordable housing, and the need to exceed the Residential Ratio, is consistent with existing incentives with Dover's Zoning Ordinance geared at promoting HUD Rate affordable housing stock. For instance, within the Residential-Commercial Mixed Use (RCM) Zone, there is no density requirement for HUD Rate affordable housing. Additionally, within the Central Business District (CBD), buildings are granted an additional story within the building over what is permitted if the units are restricted to the HUD Rate affordable housing rules.

The parcel is unique with respect to its size and shape when compared to all of the abutting parcels (see attached map, which shows previously approved building footprints). Specifically, the lot is quite large when considering the residential uses located nearby and configured as a "porkchop" lot, with the first 150 +/- feet of the lot forming the narrow "neck" of the pork chop with the property widening to almost double in width after the neck. The shape of the lot makes the lot conducive to locating only residential units within the "wide" rear portion of the lot, and locating the commercial space within the building proposed along the frontage of Old Rochester Road. However, given the distance from the frontage and roadway, and to provide safe traffic flow for the residential units located in rear building, the Applicant seeks a variance from Footnote 3 that requires the residential and commercial uses to be in a singular mixed-use building. Keeping in mind that there is not a per se "first floor commercial" rule, this request seems reasonable given the odd shape and location of the lot. Considering the reasons set forth herein, the Applicant requests a variance from Section 170-11, which requires conformity to Footnote 3 of the Commercial Zone Table of Uses.

The Applicant believes that its request for a variance is reasonable, and can be supported by the following evidence:

APPLICANT'S REQUEST FOR VARIANCE **FACTS SUPPORTING THIS REQUEST**

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

The Applicant respectfully submits that the proposed use as set forth above represents a reasonable use of the property in question. The proposed use is not only reasonable, given the surrounding uses, but will accomplish the mixed-use provision within the Commercial Zone, providing needed office space in the area and affordable housing. The net result is that the "mixed use" concept intended in the Commercial Zone is maintained. Introducing a commercial component to the rear buildings in this instance would interfere with the proposed residential uses by creating issues of safety with respect to cars having to utilize the internal driveways within the property to access any potential commercial use within the rear buildings. With the grant of the variance, the proposed new uses will be a mix of residential and commercial uses and will not be contrary to the public interest as the new uses will not alter the essential character of the locality. Quite the opposite, the grant of the variance will allow the Applicant to maintain the essential

residential character of the rear portion of the property, while adding and maintaining the existing commercial used already on the property.

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

The Applicant respectfully submits that if the variance is granted, the spirit of the ordinance would be observed because the variance would permit uses which are suitable for the property considering the existing uses of the property, the shape of the property, and given the surrounding uses of properties. The grant of the variance would result in an encouragement of the most appropriate use of the land, as the "mixed-use" concept within the Commercial Zone would be obtained. By granting the variance the intent of the ordinance will be sustained as it relates to residential uses, as the future residents within the property will enjoy a peaceful and safe environment within the property without the threat of business and/or commercial uses being introduced to a portion of the property. 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 objective. In this instance, the grant the variance would promote the public health, safety, and general welfare by protecting the anticipated residents and will promote the mixed use aspect of the Commercial Zone within the property. In addition, as illustrated above, granting relief from Footnote 3 is consistent with allow density bonuses, such as in the RCM and CBD Zones, for HUD Rate affordable housing.

3. Granting the variance would do substantial justice because:

This test requires a balancing of the benefit to the Applicant versus the burden to public. In this instance, there would be no burden to the public whatsoever in terms of allowing the Applicant to construct residential uses in the rear building on the property. Conversely, the burden to the Applicant would be significant, as commercial space within the rear buildings would be un-rentable and would increase safety risks to potential residents in the new proposed structures. Accordingly, the benefit to the Applicant would exceed the burden to the public, thus, resulting in substantial justice being done.

4. Explain how the proposal would not diminish the surrounding property values:

It is respectfully submitted that all the surrounding property values have a value associated with them which is premised upon the existence of the existing buildings located on the Applicant's property. In this instance, the property is in an area where commercial units exist along the frontage area of lots, with a mixture of residential uses. In addition, the property is, and would be, heavily buffered along the property line that is adjacent to single-family home uses. The grant of the variance will maintain a consistent residential use with respect to the property in the rear, while adding commercial units in an appropriate location within the proposed building along Old Rochester Road. The additional units will utilize private parking areas that will be contained within the rear portion of the parcel. There are no negative aspects with respect to the Applicant's proposal, and there are no activities proposed by the Applicant that would have any negative affect upon the value of the surrounding properties.

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 property is large enough, and much larger than those within the general surrounding area, to sustain the use of the property as it currently exists, and to allow, without any negative affect, additional residential and commercial uses within the property. It would be a detriment and hardship, in this context, to require commercial units within buildings I the rear of the lot, particularly considering the existing and proposed commercial uses and those proposed along Old Rochester Road. Requiring such a use would be inappropriate given the surrounding uses and given the concerns of safety the Applicant would have in terms of introducing a commercial traffic flow throughout portion of the property where residential uses will be located within the rear building. The unique shape of the lot promotes a residential use, but not a commercial use within the rear buildings. Likewise, the relief from the Residential Ratio will permit much needed affordable housing stock, all consistent with similar density bonuses that are promoted within the Dover Zoning Ordinance. By allowing the variance, the Applicant would be able to proceed with orderly development of the project in a way that protects the health, safety, and general welfare not only of the potential residents within the proposed rear buildings, but also for the public who will access the commercial units in the front of the lot. In addition, the lot size is unique and will easily support a deviation from the Residential Ratio. The final amount of the units permitted will undergo further scrutiny from the Dover Planning Board when it considers the request for the additional TDR units.

(ii) 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:

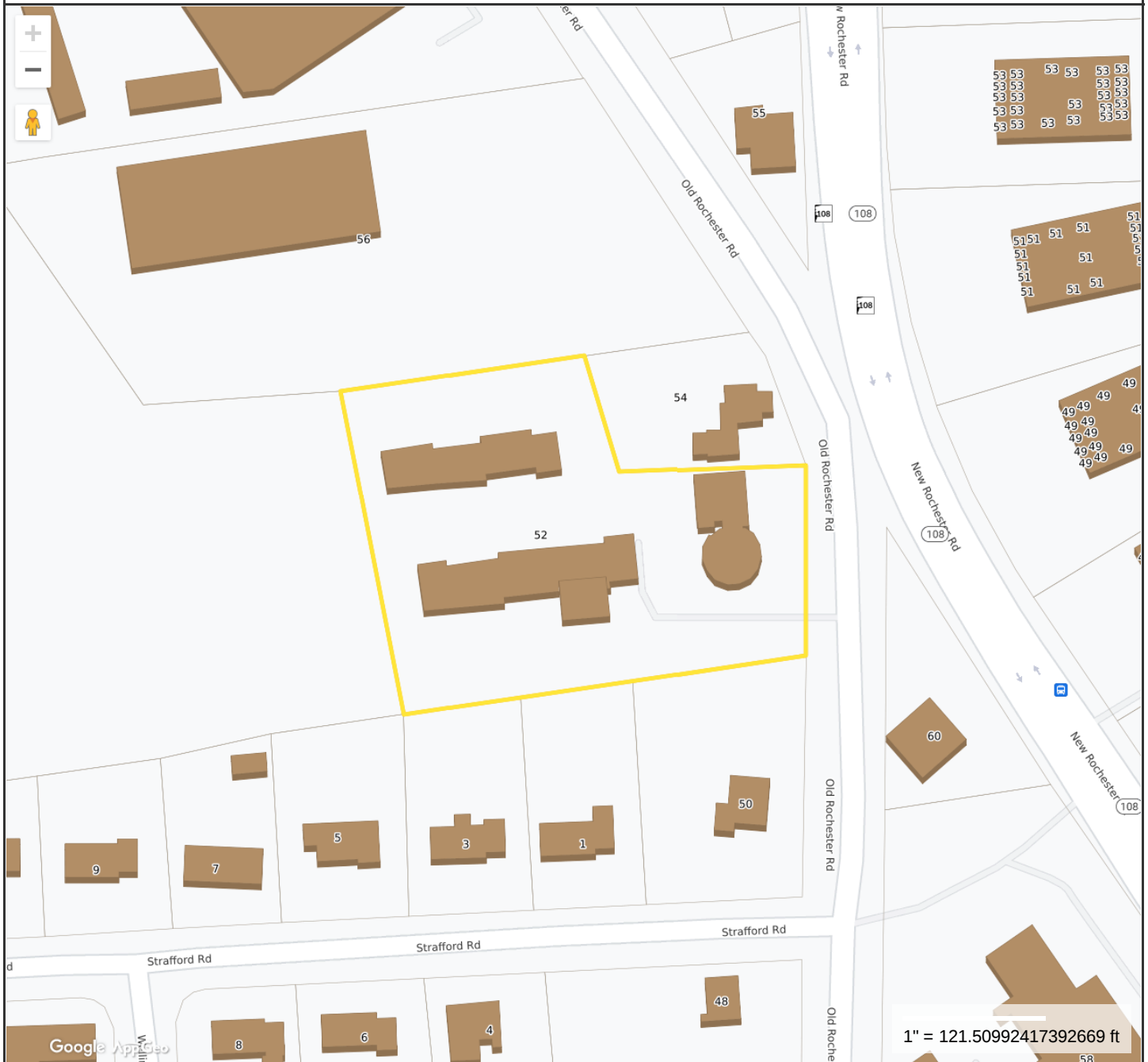
The general purpose of the ordinance is to promote orderly development and to protect the health, safety, and general welfare of the public. Clearly, the purpose of the zoning ordinance is to promote density bonuses for HUD Rate affordable housing. As demonstrated, relief from the Residential Ratio provides a path for the Applicant to provide significant affordable housing in the area. In this instance, the Applicant seeks to increase the existing commercial uses located on the property away from the proposed residential uses, while providing a residential, but in an area that will provide promote safety. Requiring commercial uses in rear buildings or restricting this project to the Residential Ratio will not advance the general purposes of the ordinance but will in fact frustrate the intent of the zoning ordinance.

Considering the above, the Applicant respectfully submits that requiring commercial and residential use in the same building for this parcel and restricting the uses to comply with the Residential Ratio is unnecessary in light of the general public purposes

of the zoning ordinance. Thus, there is no relationship between the general public purpose of the ordinance and the specific application of the zoning requirement to this parcel, given the unique characteristics of the property, which include its size, its shape and its existing and proposed residential and commercial uses.

(iii) The proposed use is a reasonable one:

The Applicant submits that the proposed use is reasonable as it provides for the Applicant to expand the use of the property in a manner that is consistent with the existing commercial uses and surrounding area when significant multi-family uses exist in the local neighborhood. The use is reasonable because it provides for additional affordable housing for those within the City, while permitting separation of the residential and commercial uses which addresses the safety aspects of the project for those that will reside within the residential portion of the buildings. Further, it would be unreasonable to expect a business to be in the rear portion of the lot, so far from the main thoroughfare and flow of commercial activity along Old Rochester Road.



Property Information

Property ID 40025-A00000
Location 52 OLD ROCHESTER RD
Owner DOVER DEVELOPMENT LLC
Land Use 390
Zoning Code C



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 7/10/2023
 Data updated Daily

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

Property ID	Location	Owner 1	Owner 2	Owner Address 1	City	State	Zip
40018-C00000	51 NEW ROCHESTER RD	WINCHESTER ARMS LLC		176 CHURCH ST	LOWELL	MA	01852
40018-D00000	49 NEW ROCHESTER RD	WINCHESTER ARMS LLC		176 CHURCH ST	LOWELL	MA	01852
40018-E00000	47 NEW ROCHESTER RD	WINCHESTER ARMS LLC		176 CHURCH ST	LOWELL	MA	01852
40019-000000	55 OLD ROCHESTER RD	STEWART JUDY N		55 OLD ROCHESTER RD	DOVER	NH	03820
40023-000000	56 OLD ROCHESTER RD	BRET ENTERPRISES LLC		131 BACK RD	DOVER	NH	03820
40024-000000	54 OLD ROCHESTER RD	MOCLOCK MARK W		54 OLD ROCHESTER RD	DOVER	NH	03820
40043-000000	58 NEW ROCHESTER RD	STRAFFORD FARMS RESTAURANT INC		58 NEW ROCHESTER ROAD	DOVER	NH	03820
40044-000000	60 NEW ROCHESTER RD	GSED PROPERTIES LLC		9 ROBIN LANE	PEPPERELL	MA	01463
D0009-000000	50 OLD ROCHESTER RD	BRILLARD RICKY A & MARY S REV LIV TRUST	BRILLARD RICKY A AND MARY S TRUSTEES	167 VARNEY RD	DOVER	NH	03820
D0009-D00000	7 STRAFFORD RD	JONES DANIEL		7 STRAFFORD RD	DOVER	NH	03820-2013
D0009-E00000	9 STRAFFORD RD	TRASK TOD A		10 IONA AVE	DOVER	NH	03820
D0009-G00000	5 STRAFFORD RD	WATKINS HANNELORE E	WATKINS CHARLES A	5 STRAFFORD ROAD	DOVER	NH	03820
D0010-A00000	32 LONG HILL RD	CITY OF DOVER		288 CENTRAL AVE	DOVER	NH	03820
D0010-P00000	3 STRAFFORD RD	KELLEHER DANIEL T TRUSTEE	KELLEHER D AND L REV TRUST	3 STRAFFORD RD	DOVER	NH	03820
D0010-T00000	1 STRAFFORD RD	GAGNON MARK A 52% & RONALD J 30% &	GAGNON TIFFANY 6% & WILLIAM 6% & JACK 6%	1 STRAFFORD RD	DOVER	NH	03820
40025-000000	52 OLD ROCHESTER RD	DOVER DEVELOPMENT LLC		242 CENTRAL AV	DOVER	NH	03820
		BERRY SURVEYING AND ENGINEERING	CHRIS BERRY	335 SECOND CROWN POINT ROAD	BARRINGTON	NH	03825
		BRUTON & BERUBE, PLLC	FRANCIS BRUTON	601 CENTRAL AVENUE	DOVER	NH	03820

TRANSFER OF DEVELOPMENT RIGHTS REQUEST:

THE PURCHASE OF TDR UNITS THAT ARE TO BE HUD RESTRICTED RENTAL RATES
REDUCTION OF THE PERIMETER BUFFER
OTHER TO BE DETERMINED

WAIVER REQUEST:

TO BE DETERMINED

CONDITIONAL USE PERMITS:

WETLANDS BUFFER IMPACT: NONE

PARKING REQUIREMENTS:

- CHAPTER 153-14D RESIDENTIAL USE IN A NON-CBD ZONE
130 SPACES PER UNIT x 48 UNITS = 92 MAX. SPACES
- CO-LOCATED RESIDENTIAL AND COMMERCIAL USES
- 5 EV SPACES ARE REQUIRED (5 PROVIDED)
- 5 BIKE SPACES REQUIRED. (21 PROVIDED)

TOTAL PROVIDED = 87 SPACES
RATIO OF 1.8 SPACES PER UNIT

- 4 ADA SPACES REQUIRED. 1 VAN ACCESSIBLE REQUIRED (5 VAN ACCESSIBLE ADA SPACES PROVIDED)

SNOW STORAGE CALCULATION:

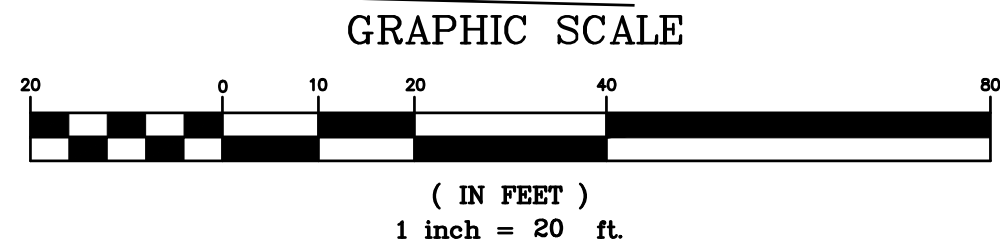
- STORAGE CALCULATION (6:1 RATIO USED)
 - PAVED AREA = 30,649 Sq.Ft. / 6 = 5,109 Sq.Ft.
 - 5,167 Sq.Ft. PROVIDED FOR TEMPORARY SNOW STORAGE
- SNOW TO BE REMOVED TO AN APPROVED OFF-SITE LOCATION

NOTES:

- OWNER: DOVER DEVELOPMENT, LLC
242 CENTRAL AVE
DOVER, NH 03820
- TAX MAP 40, LOT 25
- S.C.R.D. BOOK 5013, PAGE 283
- LOT AREA: 74,997 Sq. Ft., 1.72 Ac.
- ZONING: C - COMMERCIAL
SETBACKS
FRONT ~ 30'
SIDE ~ 12'
REAR ~ 15'
MIN. LOT SIZE: 20,000'
MIN. FRONTAGE: 125'
MAX. LOT COVERAGE: 50%
- THE INTENT OF THIS PLAN IS TO SHOW THE SITE PLAN FOR THE PROPOSED DEVELOPMENT, BLAZER DRIVE.
- I HEREBY CERTIFY THAT, TO THE BEST OF MY KNOWLEDGE AND BELIEF, THIS PROPERTY DOES NOT FALL WITHIN THE FLOOD PLAIN FLOOD HAZARD REF. FEMA, COMMUNITY #330145, MAP 33017C0310E, DATED: SEPTEMBER 30, 2015.
- VERTICAL DATUM BASED ON NAVD88 ELEVATIONS. HORIZONTAL DATUM BASED ON NAD83 STATE PLANE. COORDINATES GATHERED USING CARLSON BRX7 SURVEY GRADE GPS RECEIVERS.
- THE BOUNDARY LINES SHOWN ON THIS PLAN ARE THE RESULT OF A CLOSED TRAVERSE PERFORMED BY THIS OFFICE IN SUMMER 2022 WITH AN ERROR OF CLOSURE BETTER THAN 1 PART IN 10,000.
- LIST ANY VARIANCES OR SPECIAL EXCEPTIONS GRANTED BY THE ZONING BOARD OF ADJUSTMENT OR CONDITIONAL USE PERMITS GRANTED BY THE PLANNING BOARD FOR THE PROPOSED USE OR STRUCTURE:
COMMERCIAL DISTRICT: FOOTNOTE #3:
- WETLANDS WERE DELINEATED BY DEIDRA BENJAMIN, CERTIFIED WETLANDS SCIENTIST, IN ACCORDANCE WITH CHAPTER 170-27.1 OF THE ZONING ORDINANCE, IN JUNE OF 2022. NO WETLANDS WERE FOUND ON SITE.
- AS-BUILT PLANS OF THE SITE PLAN SHALL BE SUBMITTED ON PAPER AND IN DIGITAL FORMAT AUTOCAD DWG, AUTOCAD DXF OR ESRI FORMAT TO THE CITY OF DOVER ENGINEER'S OFFICE UPON COMPLETION OF PROJECT. AS-BUILTS ARE REQUIRED REGARDLESS OF OWNERSHIP OF ROAD. AS-BUILT PLANS SHALL BE PREPARED AND CERTIFIED CORRECT BY A L.L.S. OR P.E. DIGITAL FILES SHALL BE GEO-REFERENCED TO NEW HAMPSHIRE STATE PLANE COORDINATES NAD83 AND SHALL BE EXPRESSED IN FEET.
- THE INSTALLATION OF ELECTRIC POWER, CABLE TELEVISION AND TELEPHONE LINES SHALL BE UNDERGROUND THROUGHOUT THE SITE FOR WHICH DEVELOPMENT IS PROPOSED.
- THE SUBJECT PARCEL IS SERVED BY MUNICIPAL WATER AND SEWER.
- ALL CONSTRUCTION SHALL CONFORM WITH THE STATE OF NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION (NHDOT) "STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION" DATED 2016, AND WITH THE CITY OF DOVER COMMUNITY SERVICES REGULATION AND STANDARD SPECIFICATION FOR CONSTRUCTION. THE MORE STRINGENT SPECIFICATION SHALL APPLY.
- ALL EROSION CONTROL NOTES SHALL INCLUDE PROVISIONS FOR CONSTRUCTION SEQUENCING, TEMPORARY EROSION CONTROL MEASURES, AND PERMANENT STANDARDS SUCH AS LOAM SPREAD RATE FOR DISTURBED AREAS, RATES OF LIME, TYPE AND RATES FOR FERTILIZER, AND SEED AND MULCH MIXTURE WITH RATES OF APPLICATION.
- ALL TREATMENT SWALES TO BE CONSTRUCTED SHALL HAVE SOD BOTTOMS.
- A LETTER OF CREDIT FOR THE COST OF RE-VEGETATING ALL DISTURBED AREAS ON THE SITE SHALL BE SUBMITTED, AND THE APPROVED CONSTRUCTION SIGN INSTALLED PRIOR TO ANY EARTH DISTURBING ACTIVITY OCCURS. THE PROPOSED PROJECT WILL CONSIST OF ONE PHASE AND WILL DISTURB 22,364 Sq.Ft. 0.51 Ac.
- A PRE-CONSTRUCTION CONFERENCE WITH THE DEVELOPER, THE DESIGN ENGINEER, THE EARTHWORK CONTRACTOR AND THE CITY ENGINEER SHALL OCCUR PRIOR TO ANY EARTH DISTURBING ACTIVITY.
- SITE CONSTRUCTION HOURS SHALL BE LIMITED TO MONDAY-FRIDAY 7 AM-6 PM, SATURDAY 7 AM-6 PM, NO SUNDAY HOURS OR FEDERAL HOLIDAYS. HOURS OF CONSTRUCTION MUST BE DOCUMENTED ON A SITE CONSTRUCTION SIGN ALONG WITH THE CONTACT INFORMATION FOR THE GENERAL CONTRACTOR. SAID SIGNAGE MUST BE LOCATED AND APPROVED BY THE CITY ENGINEER OR ASSISTANT CITY MANAGER.
- BUILDING ADDRESSES SHALL BE ASSIGNED BY THE BUILDING OFFICIAL AT THE TIME OF ISSUANCE OF A BUILDING PERMIT.
- THE PROPOSED USE IS A COMMERCIAL BUILDING AT THE FRONT OF THE SITE, AND TWO RESIDENTIAL BUILDINGS CONTAINING 24 UNITS EACH AT THE REAR OF THE SITE.
- THE FOLLOWING FEDERAL AND STATE PERMITS OR UTILITY ORDERS HAVE BEEN ISSUED FOR THE SUBJECT PROPERTY:
NHDES SEWER DISCHARGE PERMIT XXXXXX
EVERSOURCE WORK ORDER NUMBER XXXXXX
- COMMERCIAL VEHICLE ROUTE DURING CONSTRUCTION SHALL CONFORM TO DOVER CITY CODE OR BE COORDINATED WITH THE COMMUNITY SERVICES DIRECTOR.
- ANY RETAINING WALL TALLER THAN FOUR FEET (4') REQUIRES ISSUANCE OF A BUILDING PERMIT FROM INSPECTION SERVICES.
- ANY FENCE TALLER THAN SEVEN FEET (7') REQUIRES THE ISSUANCE OF A BUILDING PERMIT FROM INSPECTION SERVICES.
- APPLICANT SHALL COMPLETE LAND USE DEVELOPMENT TRACKING FORM, MOST RECENTLY REVISED VERSION, UTILIZING THE ONLINE POLLUTION TRACKING AND ACCOUNTING PILOT PROJECT (PTAPP) PORTAL.
[HTTPS://WWW.UNH.EDU/UNHSC/PTAPP](https://www.unh.edu/unhsc/ptapp)

NOTES CONTINUED:

- THE OWNER OF RECORD SHALL RECORD AT THE REGISTRY OF DEEDS DOCUMENTATION SUFFICIENT TO PROVIDE NOTICE TO ALL PERSONS/ENTITIES THAT MAY ACQUIRE ANY PROPERTY SUBJECT TO THE REQUIREMENTS AND RESPONSIBILITIES DESCRIBED IN THE APPROVED STORMWATER MANAGEMENT PLAN. THE NOTICE SHALL COMPLY WITH THE APPLICABLE REQUIREMENTS FOR RECORDING CONTAINED IN RSA 477 AND 478. THE NOTICE NEED NOT SET FORTH THE REQUIREMENTS AT LENGTH, SO LONG AS IT IS SUFFICIENT TO PROVIDE NOTICE TO PROSPECTIVE PURCHASERS TO THE REQUIREMENTS FOR MAINTENANCE AND REPORTING.
- FIRE DEPARTMENT ACCESS SHALL BE INSTALLED AND MAINTAINED TO SUPPORT THE IMPOSED LOADS OF FIRE APPARATUS IN ALL WEATHER CONDITIONS AT ALL TIMES.
- EXTERIOR LIGHTING SHALL BE CUT-OFF TYPE FIXTURES PER CHAPTER 45, ARTICLE I, SECTION 45-2 OF THE CODE OF THE CITY OF DOVER.
- A SECURITY SYSTEM SHALL BE INSTALLED AS REQUIRED BY CHAPTER 45, ARTICLE I, SECTION 45-2 OF THE CODE OF THE CITY OF DOVER.
- APPROVED BACKFLOW PREVENTERS SHALL BE PROVIDED FOR BOTH FIRE AND DOMESTIC WATER LINES.
- THE PROPOSED STRUCTURE SHALL BE SERVED BY A SPRINKLER SYSTEM AS REQUIRED BY CHAPTER 81-30 OF THE CODE OF THE CITY OF DOVER AND THE ADOPTED STATE OF NH BUILDING AND FIRE CODES.
- SPRINKLER CONNECTIONS MUST BE FLUSHED IN ACCORDANCE WITH NFPA 24 AND A CONTRACTOR'S MATERIAL AND TEST CERTIFICATE FOR UNDERGROUND PIPING FORM MUST BE COMPLETED AND APPROVED BY INSPECTION SERVICES PRIOR TO CONNECTION OF THE BACKFLOW DEVICE.
- FIRE DEPARTMENT CONNECTION(S) SHALL BE LOCATED ON THE STREET SIDE OF THE BUILDING PER NFPA 13. ACCESS TO THE FDC SHALL MAINTAIN A CLEAR AND UNOBSTRUCTED PATH AT ALL TIMES.
- THE SITE LAYOUT IS DESIGNED IN COMPLIANCE WITH APPLICABLE ACCESSIBILITY REGULATIONS. THE PROPOSED STRUCTURE WILL BE ALSO BE DESIGNED IN ACCORDANCE WITH APPLICABLE ACCESSIBILITY REGULATIONS. (I.E. IBC, ANSI-117.1) AND NH RSA 155-A:5.
- EXISTING BUILDING AREA: 4,552 Sq. Ft. (6.1%)
EXISTING PAVED IMPERVIOUS AREA: 13,357 Sq. Ft. (17.8%)
TOTAL EXISTING IMPERVIOUS COVER IS 17,909 Sq. Ft. (23.9%)
PROPOSED BUILDING AREA: 16,253 Sq. Ft. (21.7%)
PROPOSED PAVED IMPERVIOUS AREA: 15,408 Sq. Ft. (20.5%)
PROPOSED CONCRETE SIDEWALK: 4,821 Sq. Ft. (6.4%)
TOTAL PROPOSED IMPERVIOUS COVER IS 36,482 Sq. Ft. (48.6%)
- THE LOCATIONS OF EXISTING UNDERGROUND UTILITIES ARE SHOWN IN AN APPROXIMATE WAY ONLY AND HAVE NOT BEEN INDEPENDENTLY VERIFIED BY THE OWNER OR ITS REPRESENTATIVE. THE CONTRACTOR SHALL DETERMINE THE EXACT LOCATION OF ALL EXISTING UTILITIES BEFORE COMMENCING WORK AND AGREES TO BE FULLY RESPONSIBLE FOR ANY AND ALL DAMAGES WHICH MIGHT BE OCCASIONED BY THE CONTRACTOR'S FAILURE TO LOCATE EXACTLY AND TO PRESERVE ANY AND ALL UNDERGROUND UTILITIES CALL "DIG-SAFE" 1-888-DIGSAFE (344-7233) AT LEAST 72 HOURS BEFORE COMMENCING CONSTRUCTION.



APPROVED DOVER

DESCRIPTION	DATE	REVISION

SITE PLAN
LAND OF
DOVER DEVELOPMENT, LLC
52 OLD ROCHESTER ROAD
DOVER, N.H.
TAX MAP 40, LOT 25

BERRY SURVEYING & ENGINEERING
335 SECOND CROWN POINT ROAD
BARRINGTON, NH 03825 (603)332-2863
SCALE : 1 IN. EQUALS 20 FT.
DATE : APRIL 26, 2023
FILE NO. : DB 2022 - 075

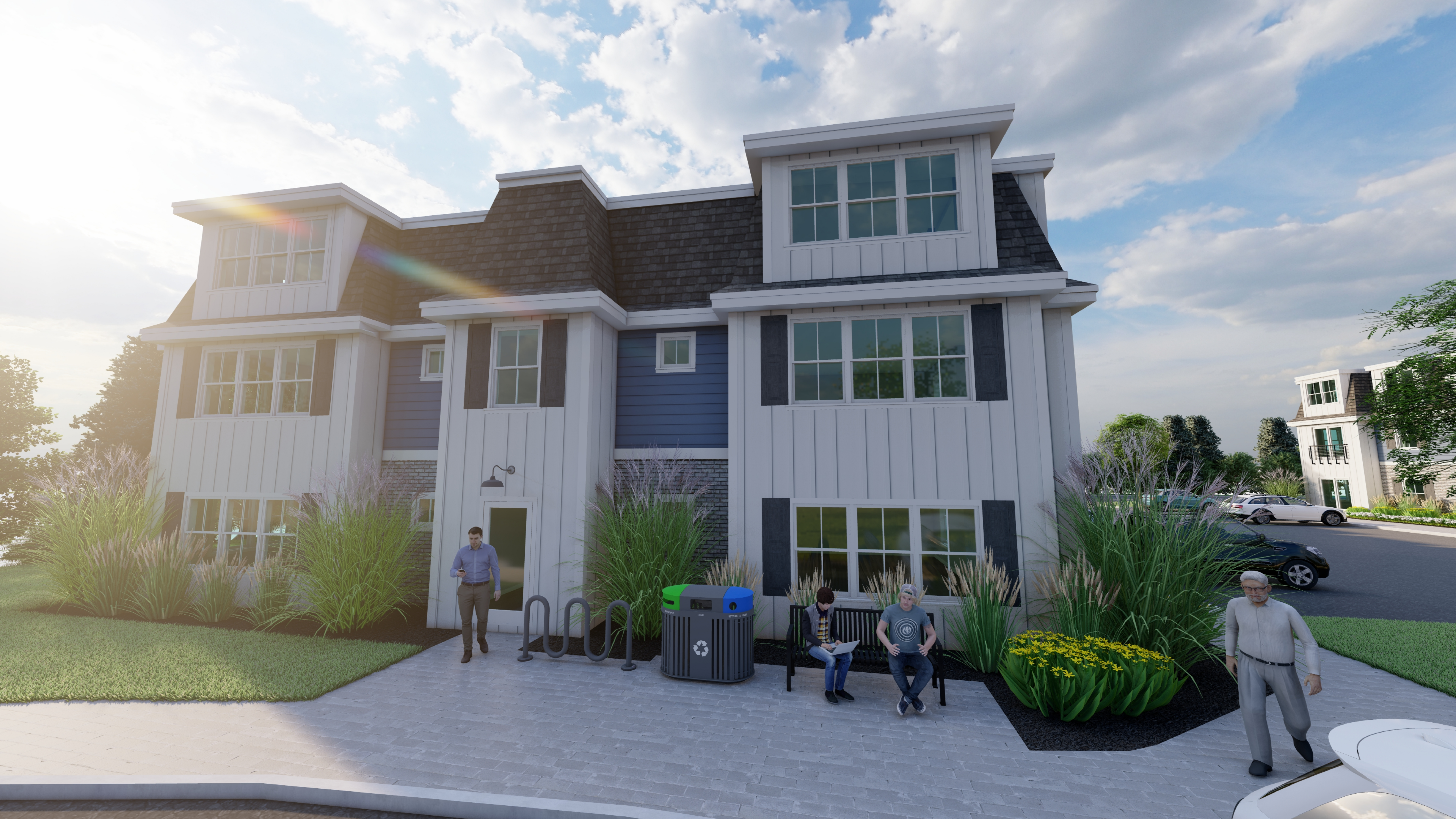
KENNETH A. BERRY
No. 14243
LICENSED PROFESSIONAL ENGINEER

SHEET 5 OF 34





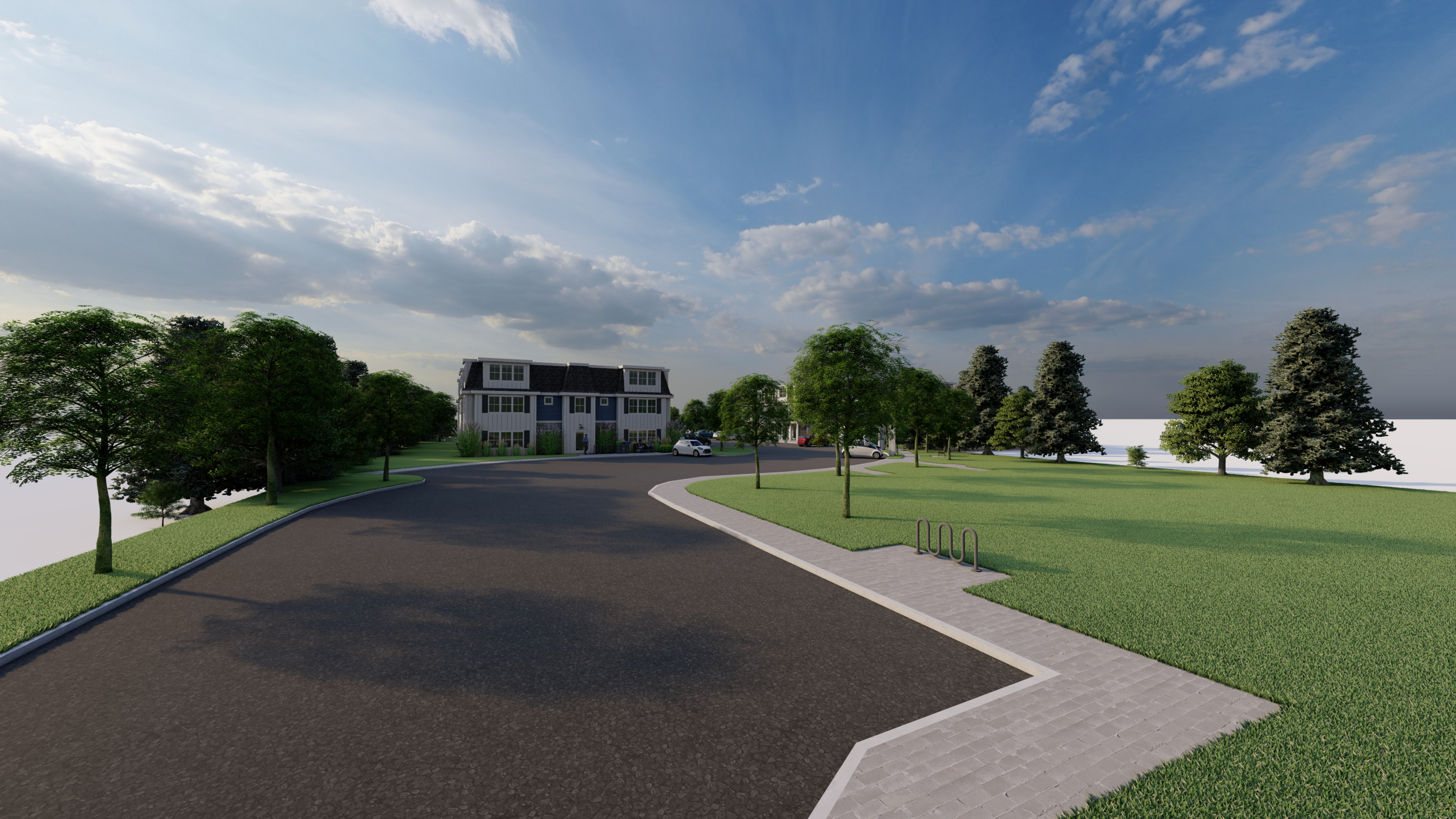


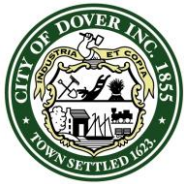












CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO

Revised 8/17/2023

Meeting Type:	Regular Meeting
Meeting Location:	Council Chambers, City Hall, 288 Central Ave., Dover, NH 03820
Meeting Date:	August 17, 2023
Meeting Time:	7:00 pm

INTENT: The Owners request a Variance from Section 170-11. of the Zoning Ordinance, to allow for the residential ratio required under Footnote 3 where 2/3rd is the maximum to be exceeded. 17% commercial/ 83% residential is proposed via three buildings. The proposal is to remove all existing structures and construct 48 residential units, with two, three-story buildings.

UNITS PROPOSED: 48 (residential), 1 commercial building

AGENDA ITEM #: 3-A

ZONING DISTRICT: C

FILE: ZONE-2023-0037

APPLICANTS: Francis X. Bruton, David Paolini

OWNERS: Dover Development, LLC

LOCATION: 52 Old Rochester Road (Tax Map 40, Lot 25)

ACREAGE: 1.72± ac / 74,997± sq. ft.

EXISTING LAND USE: Commercial, Office, Residential

PROPOSED LAND USE: HUD-restricted Affordable Housing

SURROUNDING LAND USE: Commercial, Residential

PREVIOUS ZBA ACTION:

- Z85-68, Variance granted for an expansion to retail and the addition of an apartment
- Z17-10, Special Exception granted to permit a multi-family dwelling.
- Z17-11, Variance granted to allow multi-family dwellings, with residential on ground-level.

PLANNING BOARD APPROVAL REQ.:

Yes, for TDR and site review.

ATTACHMENTS: Application, Narrative, Site Plan

STAFF RECOMMENDATION: Staff does not support or oppose the Variance request.

BACKGROUND INFORMATION

This is a new request which differs in its content from the application submitted, and ultimately withdrawn, originally scheduled for the July 20, 2023 ZBA meeting.

The property subject to this Variance request is located on the west side of Old Rochester Road, south of Long Hill Road, and is 1.72 acres in area, or just under 75,000 square feet. Presently there are three structures on the property: an existing apartment and two existing commercial spaces, all of which are proposed to be demolished if the relief is granted. In their place, the applicants intend to construct: forty-eight (48) residential units, with two (2) three-storied buildings (containing 24 residential units each), as well as one (1) two-story commercial building, which would contain office and retail space.

The applicants are requesting relief from the criteria of Footnote 3 on the Commercial Zoning Table, which reads:

[3] Provided the lot contain five thousand (5,000) square feet per dwelling unit. Units are allowed only in mixed use buildings, where no more than 2/3rd of the overall square footage of the building is residential.

Instead, a ratio of: 17% commercial / 83% residential is proposed, which the applicants states in their narrative, allows for: "The residential units proposed will be comprised of 100% HUD rate affordable housing using the HUD Fair Market 80% Rent Limit..." As well, while the Footnote requires the residential and commercial uses to be in a singular mixed-use building, the applicants propose distinct structures.

REASON FOR RECOMMENDATION

The applicant is seeking to reimagine the entire site, proposing that the commercial components are together and closer to the major roadway, while the residential is situated behind. Previous approvals had residential use in the rear and mixed-use in the front near Old Rochester Road. The applicant recognizes the relief being sought and, therefore, is offering the public benefit of attainable housing units.

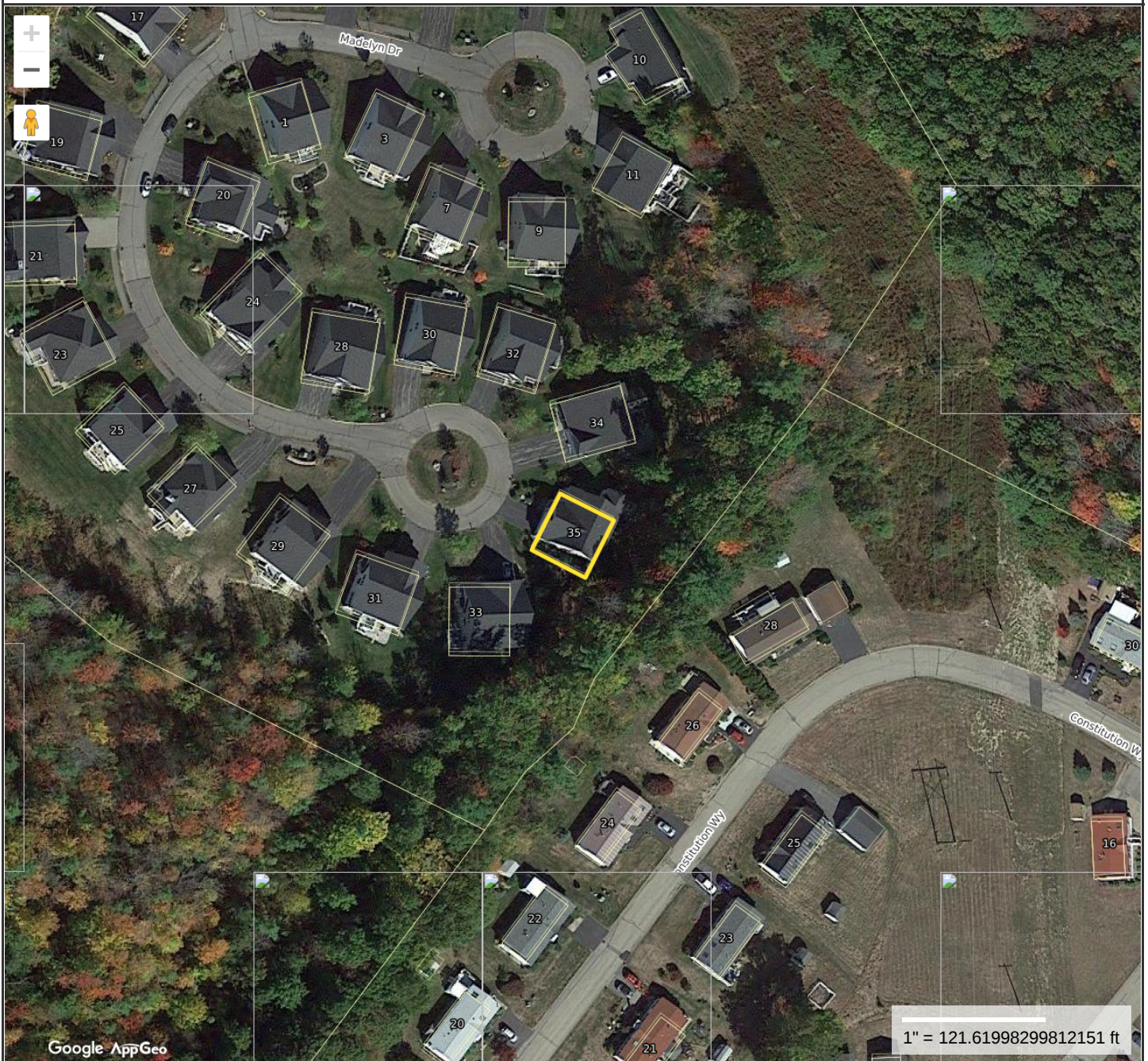
STAFF RECOMMENDATION

Staff recommends that the Board open the public hearing, accept testimony, and make findings on each of the five Variance criteria. Staff does not support or oppose the Variance request.

If the Board grants the Variance, staff recommends the following subsequent condition:

- 1) This approval does not grant additional density, the applicants will need to seek it through the TDR process before the Technical Review Committee and Planning Board.
- 2) The proposal would include units rented using the HUD Fair Market 80% Rent Limit, or HUD-restricted Fair Market Rate rents, for any additional units.

ZONE-2023-0039 35 JULIA DRIVE

**Property Information**

Property ID M0004-000039
Location 35 JULIA DR
Owner GOODRIDGE LYNDON E & DOROTHY A TRUSTEES
Land Use 102
Zoning Code IT

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

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Geometry updated 7/10/2023
Data updated Daily

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PERMIT SNAPSHOT REPORT ZONE-2023-0039 FOR CITY OF DOVER, N.H.

Permit Type Zoning	Project:	App Date: 07/19/2023
Work Class: Variance	District: None	Exp Date: NOT AVAILABLE
Status: In Review	Square Feet: 0.00	Completed: NOT COMPLETED
Valuation: \$0.00	Assigned To: Kypfer, Natasha	Approval
Description: Replace current patio with a deck.		Expire Date:

Parcel: M0004-000000 Main	Address: 35 Julia Dr Dover, 03820	Zone: IT(Non-Residential - Innovative Technology)
	35 Julia Drive Dr Main Dover, NH 03820	R-40(Residential - Rural)

Applicant
Dorothy A Goodridge
35 Julia Drive
Dover, NH 03820
Home: (603) 740-8616
Mobile: (603) 781-1944

Permit Custom Fields

ZoneVariAppealPhDisa No bility	Number of Variances 1 Requested:	ZoneVariPlanDirectionsDover Pt. Rd to Pointe Place. Right on Julia Drive
ZoneVariPlanSummary Replace the current patio with a deck.	ZoneVariAppealSect 674:33	ZoneVariAppealSectDe A deck, on level with our tail home, will replace the current patio. The deck will be 16'X18', the same size as the current patio area. It will be built by a licensed carpenter, Donald Penney, firemanpenney@gmail.co m.
What is the parcel IT zoned?	ZoneVariAppeal1PublicThe deck will be in the Interest back of our house and facing the woods. Because of the angle of our house and our neighbors' houses, no one will be able to see our new deck.	ZoneVariAppeal2OrdinFrom the edge of our deck anceSpirit we have more than 50' into the woods meeting both the requirement and the spirit of the ordinance.
ZoneVariAppeal3Subst It would do substantial antialJustice justice for my husband and me because we would be able to enjoy our outdoor space without having to walk down stairs. We are 79 and 83 and the current builder grade stairs we currently have are shallow and potentially hazardous.	ZoneVariAppeal4PropeThe new deck will rtyValue improve the appearance of our back yard and provide a safer, more welcoming environment and improving the surrounding property.	ZoneVariAppeal5A1Un Since we live in a NecHardship community of single family condominiums where all of the homes and properties are similar, our property does not have distinguishing features from the surrounding properties. The biggest difference is that most of the properties have decks and we have a patio.
ZoneVariAppeal5A2No The purpose of the FairRelate ordinance is the honor necessary setbacks between property lines. The back of our home is private, abuts the woods, and would not infringe on	the setbacks. The project has been approved by the Thornwood Commons HOA because it meets all of the necessary requirements.	ZoneVariAppeal5A3Re As senior citizens, it is asonableUse reasonable to ask to build a deck on level with our home. It is safer for us, and will improve the appearance of our yard.

PERMIT SNAPSHOT REPORT (ZONE-2023-0039)

ZoneVariAppeal5BNoR
easonableUse

Attachment File Name	Added On	Added By	Attachment Group	Notes
Permit Snapshot Report.pdf	07/19/2023 17:18	Service, EnerGov		Attached by IO - ATTACH: Initial Permit Snapshot
Signature_Dorothy_Goodridge_7/19/2023.jpg	07/19/2023 17:18	Goodridge, Dorothy		Uploaded via CSS

Invoice No.	Fee	Fee Amount	Amount Paid
INV-00004311	Planning Zoning Variance Application Fee	\$200.00	\$200.00
Total for Invoice INV-00004311		\$200.00	\$200.00
NOT INVOICED	Planning Certified Mailing to Application Contacts	\$8.00	\$0.00
	Planning Creation / Printing of Abutter Labels	\$10.00	\$0.00
	Planning Public Notice in Newspaper	\$120.00	\$0.00
	Planning Certified Mailing to Abutters	\$70.00	\$0.00
Total for Invoice NOT INVOICED		\$208.00	\$0.00
Grand Total for Permit		\$408.00	\$200.00

Submittal Name	Status	Received Date	Due Date	Complete Date	Resubmit	Completed
Planning Permit Application Review v.1	In Review	08/08/2023	08/11/2023		No	No
Item Review Name	Department	Assigned User	Status	Assigned Date	Due Date	Completed Date
Zoning Administrator	Planning	Kypfer, Natasha	In Review	08/08/2023	08/11/2023	

Workflow Step / Action Name	Action Type	Start Date	End Date
Review v.1		08/08/2023 9:31	
Confirm application complete v.1	Generic Action		08/08/2023 9:31
Planning Permit Application Review v.1	Receive Submittal	08/08/2023 0:00	
Zoning Board v.1			
Zoning Board Agenda v.1	Task		
Invoice for Notices v.1	Task		
Send Notices v.1	Task		
Zoning Administrator Creates Staff Recommendations v.1	Task		
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		

Additional Materials:

35 Julia Drive



978-509-8824

[Date] 5/10/2023

[Unit Owner Name(s)]
[Street Address]
Dover, NH 03820

Lyndon & Dorothy Goodridge

Dear [Unit Owner Name(s)],

Lyndon & Dorothy Goodridge

The Thornwood Commons Board of Directors approved your application for the [project details] on [date of Board approval]. [Provide details if approval is subject to any condition(s) being met.] You may proceed with your project as approved.

Build Deck Back of house 16x20' white vinyl Balusters stairs off side of Deck to ground.

A copy of your application is attached. As is required by our Architectural Rules, once your project is complete you must notify the Board within thirty days to schedule a final inspection. If the conditions of the original application are met, the Board will grant a Final Approval.

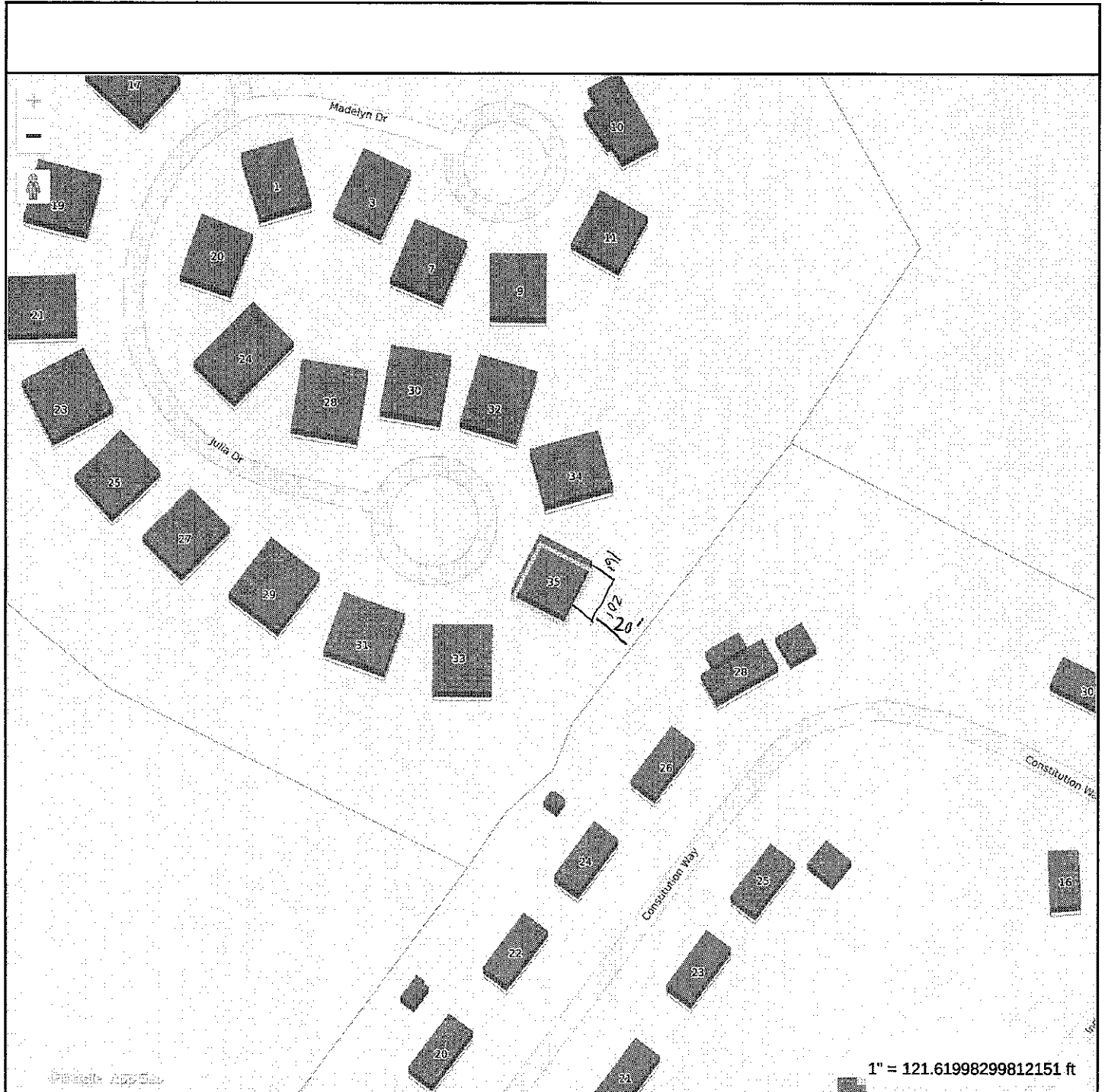
Please notify the Board if you have any questions or if you need further assistance.

Regards,

Gail Dickson

[Board Member Name]
On Behalf of the
Thornwood Commons Board of Directors

Enclosure

**Property Information**

Property ID M0004-000039
Location 35 JULIA DR
Owner GOODRIDGE LYNDON E & DOROTHY A TRUSTEES
Land Use 102
Zoning Code IT



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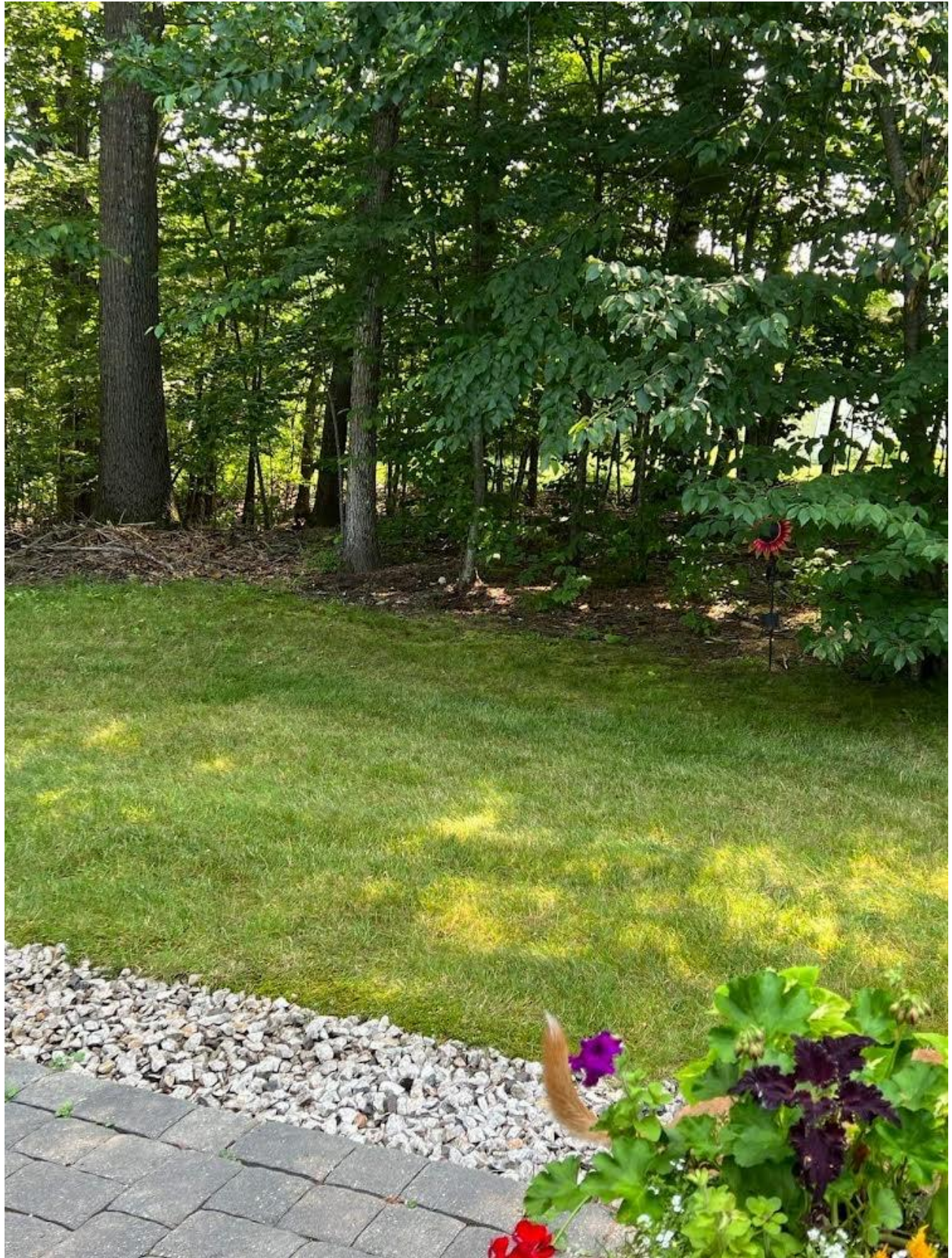
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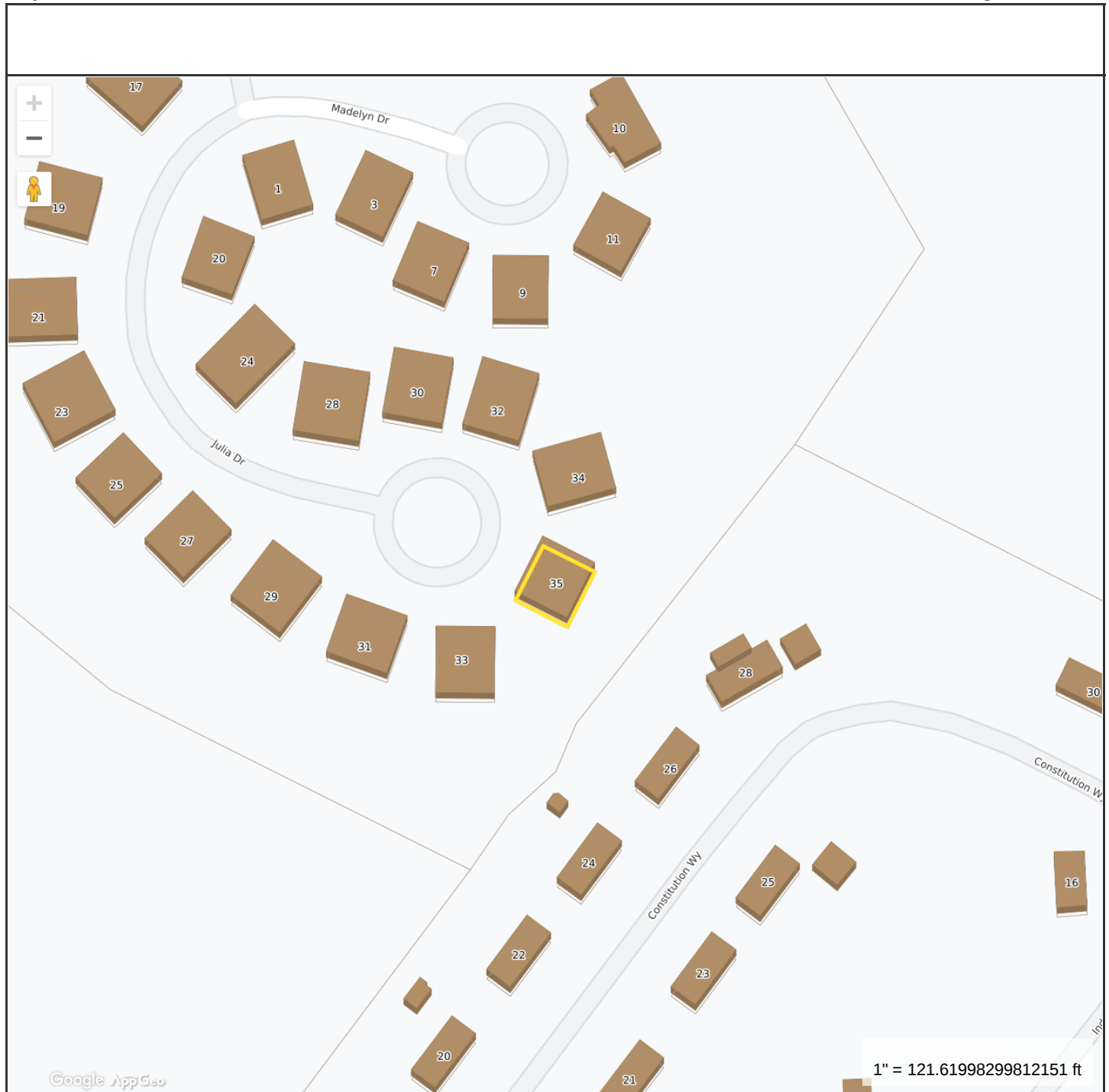
Geometry updated 12/16/2022
Data updated Daily

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Property Information

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Location 35 JULIA DR
Owner GOODRIDGE LYNDON E & DOROTHY A TRUSTEES
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ZONE-2023-0039

35 JULIA DRIVE

Property ID	Location	Owner 1	Owner 2	Owner Address 1	City	State	Zip	State Class
K0021-000000	CONSTITUTION WY	DOVERBROOK LLC		56 BRIANT DR	SUDBURY	MA	01776-1380	386
K0021-000012	24 CONSTITUTION WY	BECHTOLD RICHARD H TRUSTEE	BECHTOLD RICHARD FAMILY TRUST	24 CONSTITUTION WY	DOVER	NH	03820	103
K0021-000013	26 CONSTITUTION WY	COPELAND WILLIAM E &	COPELAND PATRICIA A	26 CONSTITUTION WY	DOVER	NH	03820	103
K0021-000014	28 CONSTITUTION WY	HUNTER BENJAMIN C &	HUNTER FAYE N	28 CONSTITUTION WY	DOVER	NH	03820	103
M0004-000000	MIDDLE RD	THORNWOOD COMMONS UNIT OWNERS' ASSOCIAT	C/O GREAT NORTH PROPERTY MANAGEMENT	3 HOLLAND WAY	EXETER	NH	03833	911
M0004-000029	9 MADELYN DR	DECKER MARK W & VIRGINIA JANE TRUSTEES	DECKER FAMILY REVOCABLE TRUST	9 MADELYN DR	DOVER	NH	03820	102
M0004-000035	28 JULIA DR	CASTRO STEVEN P TRUSTEE	THE CASTRO FAMILY REVOCABLE TRUST	28 JULIA DR	DOVER	NH	03820	102
M0004-000036	30 JULIA DR	ENGSTROM JOHN & ALICE A CO-TRUSTEES	THE JOHN B & ALICE A ENGSTROM REVOCABLE	30 JULIA DR	DOVER	NH	03820	102
M0004-000037	32 JULIA DR	PEABODY JAMES R & ANN TRUSTEES	PEABODY FAMILY REVOCABLE TRUST	32 JULIA DR	DOVER	NH	03820	102
M0004-000038	34 JULIA DR	COLGAN JOHN M &	COLGAN MICHELLE A	34 JULIA DR	DOVER	NH	03820	102
M0004-000040	33 JULIA DR	DUNLAVEY ROBERT J & SUZAN M TRUSTEES	DUNLAVEY ROBERT AND SUZAN REVOCABLE LIVI	33 JULIA DR	DOVER	NH	03820	102
M0004-000041	31 JULIA DR	WOOD JANICE E		31 JULIA DR	DOVER	NH	03820	102
M0004-000042	29 JULIA DR	BARSTOW THOMAS R & PATRICIA C TRUSTEES	BARSTOW THOMAS AND PATRICIA TRUSTS	29 JULIA DR	DOVER	NH	03820	102
M0004-0000PN	MIDDLE RD	THORNWOOD COMMONS LLC	C/O GREAT NORTH PROPERTY MANAGEMENT	3 HOLLAND WAY	EXETER	NH	03833	911
M0005-000000	161 MIDDLE RD	WENTWORTH SHARON	WENTWORTH MARK	161 MIDDLE RD	DOVER	NH	03820	101
M0004-000039	35 JULIA DR	GOODRIDGE LYNDON E & DOROTHY A TRUSTEES	THE LYNDON E GOODRIDGE REVOCABLE TRUST O	35 JULIA DR	DOVER	NH	03820	102