

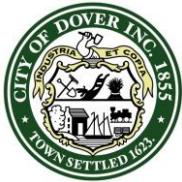
CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - AGENDA

Meeting Type: Executive Session
Meeting Location: Council Chambers, City Hall, 288 Central Avenue, Dover NH 03820
Meeting Date: **Thursday, January 18, 2024**
Meeting Time: **6:30 pm**

The Zoning Board of Adjustment will meet in Executive Session to consult with its legal counsel.

NOTE: This meeting is not open to the public per RSA 91-A:2(I)(b), Consultation with legal counsel.



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, January 18, 2024**
Meeting Time: **7:00 pm**

1. ATTENDANCE

2. APPROVAL OF MEETING MINUTES OF DECEMBER 21, 2023

3. ELECTION OF OFFICERS

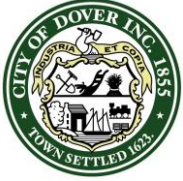
4. HEARINGS

- A. ***ZONE-2023-0050** Applicant: Cleveland, Waters, and Bass (Owner: Paul J. Seaver), 105 Durham Road, Tax Map H, Lot 6-4 located in the Low Density Residential District (R-20), requests a Variance from **Section 170-12.A of the Zoning Ordinance**, to allow for multi-family use for a group home for adults.
- B. ***ZONE-2024-0001** Request for Rehearing for ZONE-2023-0042 Applicant/Owner: Miles Cook, Deepwater Frontiers LLC, Back Road (Tax Map M, Lot 104), located in the Rural Residential (R-40) Zoning District, requests an appeal of a July 13, 2023 administrative decision regarding the placement of a storage container under **Section 170-12(B) of the Zoning Ordinance**. The Zoning Administrator determined that the storage container needs to comply with setback requirements, or be moved to a location that complies with setbacks.

5. OTHER BUSINESS

6. 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, December 21, 2023
Meeting Time: 7:00 pm

1. ATTENDANCE

Members Present: Chris Prior (Chair), Anthony Sillitta, Rich Onufry, and Jackson Brown (Alternate)

Members Absent (Excused): Otis Perry (Vice Chair), Nicholas Couturier, George Reagan (Alternate) and Sarah Tatarczuk (Alternate)

Members Absent (Unexcused): None

Staff Present: Paul Crouser (Zoning Administrator)

The Chair called the meeting to order at 7 PM.

2. APPROVAL OF MEETING MINUTES OF NOVEMBER 16, 2023

Motion: Onufry moved to approve the minutes of November 16, 2023 as amended. Seconded by Sillitta.

Vote: U/A

3. HEARINGS

A. *ZONE-2023-0050 Applicant: Cleveland, Waters, and Bass (Owner: Paul J. Seaver), 105 Durham Road, Tax Map H, Lot 6-4 located in the Low Density Residential District (R-20), requests a Variance from Section 170-12.A of the Zoning Ordinance, to allow for multi-family use for a group home for adults.

Chair Prior noted there has been a request to continue this item to the January 18th meeting.

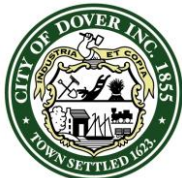
Motion: Brown moved to continue the item to January 18, 2024. Onufry seconded. Vote: U/A

4. OTHER BUSINESS

None

5. ADJOURN

Motion: Sillitta moved to adjourn at 7:04 pm. Onufry 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:	January 18, 2024
Meeting Time:	7:00 pm

INTENT: The Applicant requests a Variance from Section 170-12.(A) of the Zoning Ordinance, to allow for multi-family use for a residential care facility for adults with Intellectual and Developmental Disabilities. The subject zoning district, R-20, prohibits more than four (4) dwelling units per lot. The applicant is seeking to construct a 2,700sq. ft. addition to the existing building, expanding its total dwelling unit count from one (1) to nine (9). This Variance is to allow for the multi-family use and the density would need to be purchased through Transfer of Development Rights after Planning board review and approval.

UNITS PROPOSED: Nine (9) total units.

AGENDA ITEM #: 3-A

ZONING DISTRICT: R-20

FILE: ZONE-2023-0050

APPLICANTS: Cleveland, Waters, and Bass, P.A.

OWNERS: Paul J. Seaver

LOCATION: 105 Durham Road, Tax Map H, Lot 6-4

ACREAGE: 2.19± acres.

EXISTING LAND USE: Residential, Previously also a daycare/office use

PROPOSED LAND USE: Residential

SURROUNDING LAND USE: Residential, School

PREVIOUS ZBA ACTION: None

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

The property subject to this Variance request is located on the northwest side of Durham Road, directly south of the Dover High School's tennis courts, and is 2.19 acres in area, or approximately 95,400 square feet. At present, there is one structure on the property: an existing single-family home with approximately 4,690 sq. ft. of living area. The property was most recently utilized as office space and a daycare center, both of which are permitted uses within the R-20 district. While multi-family use is permitted within the R-20, it is restricted to four (4) dwelling units per parcel. The applicant in this proposal seeks a variance to allow for a multi-family building (larger than 4 units) in order to eventually achieve a proposed 2,700 square foot addition to be attached to the existing building's north-facing side along with renovations to the existing structure to have nine (9) total units if TDR is granted.

The intent behind the sought relief is to provide housing to adults with Intellectual and Developmental Disabilities (IDD) in a single building, in addition to utilizing the existing outdoor space for gardening and recreation.

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, though it bears mentioning that staff has received at least fifteen (15) letters of support for this project, to include at least one of the three direct residential abutters.

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) That all proposed units be rented using the HUD Fair Market 80% Rent Limit, or HUD-restricted Fair Market Rate rents in perpetuity.
- 3) That the property receives and maintains active and applicable licensure with the New Hampshire Department of Health and Human Services' Health Facilities Administration in perpetuity.

ZONE-2023-0050 105 Durham Road



Property Information

Property ID H0006-004000
Location 105 DURHAM RD
Owner SEAVER PAUL J
Land Use
Zoning Code R-20



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 10/30/2023
Data updated Daily

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



PERMIT SNAPSHOT REPORT ZONE-2023-0050 FOR CITY OF DOVER, N.H.

Permit Type Zoning	Project:	App Date: 11/30/2023
Work Class: Variance	District: None	Exp Date: NOT AVAILABLE
Status: In Review	Square Feet: 0.00	Completed: NOT COMPLETED
Valuation: \$0.00	Assigned To: Crouser, Paul	Approval
Description: Variance to allow for a total of nine (9) units on the property where a maximum of four (4) units are permitted by right.		Expire Date:

Parcel: H0006-004000 Main	Address: 105 Durham Rd Main Dover, NH	Zone: R-20(Residential - Low Density)
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Applicant
Thomas Chesnard
Two Capital Plaza 5th Floor 5th
Floor
Concord, NH 03301
Business: (603) 224-7761

Permit Custom Fields

ZoneVariAppealPhDisa No
bility

Number of Variances 1
Requested:

ZoneVariPlanDirections See Attached Directions

ZoneVariPlanSummary allow for a total of nine
(9) units on the property
where a maximum of four
(4) units are permitted by
right.

ZoneVariAppealSect Section 170-12. A, please
see attached.

ZoneVariAppealSectDe 1
tail
OUR PLACE, INC.
105 Durham Road
Dover, NH
Tax Map H, Lot 6-4
APPLICATION FOR
VARIANCE
STATEMENT OF FACTS
AND LAW
This Statement of Facts
and Law is submitted by
Our Place, Inc. (the
"Applicant"), a nonprofit
organization whose
mission is to provide
residential options,
services, and support to
adults
with intellectual
developmental disabilities
("IDD").
Introduction and
Applicable Zoning
Provisions
On June 24, 2023, the
Applicant entered into a
Lease and Option to
Purchase Agreement
(the "Lease Agreement")
with respect to certain
real property identified by
assessing records for
the City of Dover (the
"City") as Tax Map H, Lot
6-4 (the "Property"). The
Property is situated at
105 Durham Road (also
known as Route 108),
which is a fairly busy

road and provides the main path for access between Dover and Durham in this part of Dover. The Property is currently owned by Paul J. Seaver (the "Owner" or "Lessor"). The Applicant received authorization from the Owner to apply for the zoning variance needed for the Applicant's proposed project. 1 The Applicant proposes to reconfigure the interior of the existing building on the Property (the "Building") and to construct an addition to the Building to allow for a total of nine (9) dwelling units on the Property, with eight (8) of the units to serve as housing for adults with IDD and one (1) unit for the use of on-site staff. The Property is located in the Low-Density Residential ("R-20") Zoning District, and as stated in Section 170-7 of the City's Zoning Ordinance (the "Ordinance"), the purpose of the R-20 District is to provide for conventional single-family neighborhoods, where agriculture and farming are promoted, and where some nonresidential uses compatible with single-family homes are permitted, such as churches, schools, and child-care facilities. See Zoning Ordinance, §170-7. The Table of Uses applicable to the R-20 District² lists the permissible uses within this District and permits (among other things) two-family, three-family, and four-family dwellings. See Table of Permitted Uses and Dimensional Regulations for the R-20 District,

Exhibit 2. However, buildings with more than four (4) dwelling units are not permitted in the R-20 District. 1 Attached to this Statement of Facts and Law as Exhibit 1 is the Owner's written authorization—originally included as "Exhibit A" in the Lease Agreement—authorizing the Applicant and its "officers, directors, board members, agents, attorneys, surveyors, engineers, and assigns, to apply (and sign applications) for and receive any and all zoning, planning and other federal, state and local permits, variances, and approvals necessary or desirable in connection with [the Applicant's] proposed use of the Property as a residential facility for persons with developmental disabilities." See Attached Authorization of Property Owner, Exhibit 1. 2 See Section 170-12.A of the Ordinance, stating that the permitted uses within a zoning district are as set forth in the Table of Uses and Dimensional Regulations by District.² Accordingly, the Applicant requests a variance from Section 170-12.A of the Ordinance as it pertains to the permitted uses in the R-20 District to allow the Applicant to have a total of nine (9) dwelling units on the Property where a maximum of four (4) dwelling units are permitted by right. This Statement of Facts and Law is submitted by the Applicant in connection with, and to supplement, its

Application for a Variance (the "Application") to permit an increase in the number of dwelling units permitted on the Property from four (4) to nine (9). Attached hereto are the following exhibits:

- Exhibit 1: Authorization of Property Owner.
- Exhibit 2: Table of Permitted Uses and Dimensional Regulations - R-20 District.
- Exhibit 3(a): Property's Tax Card.
- Exhibit 3(b): City of Dover Neighborhood Plan and Zoning Districts Map.
- Exhibit 4: Preliminary Zoning Site Plan.
- Exhibit 5: Floor Plan of Proposed Project.
- Exhibits 6(a) through 6

PERMIT SNAPSHOT REPORT (ZONE-2023-0050)

What is the parcel zoned?	R-20	ZoneVariAppeal1Public Interest	See Attached Statement of Facts and Law	ZoneVariAppeal2OrdinanceSpirit	See Attached Statement of Facts and Law
ZoneVariAppeal3SubstantialJustice	See Attached Statement of Facts and Law	ZoneVariAppeal4ProertyValue	See Attached Statement of Facts and Law	ZoneVariAppeal5A1UnNecHardship	See Attached Statement of Facts and Law
ZoneVariAppeal5A2NoFairRelate	See Attached Statement of Facts and Law	ZoneVariAppeal5A3ReasonableUse	See Attached Statement of Facts and Law	ZoneVariAppeal5BNoReasonableUse	See Attached Statement of Facts and Law

Attachment File Name	Added On	Added By	Attachment Group	Notes
Signature_Thomas_Chesnard_11/30/2023.jpg	11/30/2023 11:43	Chesnard, Thomas		Uploaded via CSS
Permit Snapshot Report.pdf	11/30/2023 11:43	Service, EnerGov		Attached by IO - ATTACH: Initial Permit Snapshot
2023.12.21_ZoningBoardofAdjustment.Agenda.pdf	12/05/2023 10:05	Blonigen, Rachel		
ZONE-2023-0050 ABUTTER LIST.pdf	12/05/2023 10:25	Blonigen, Rachel		
Support Letter 2023.12.04.pdf	12/05/2023 11:37	Blonigen, Rachel		
ZONE-2023-0050 105 Durham Road.pdf	12/11/2023 16:40	Blonigen, Rachel		Abutter Notice

Note	Created By	Date and Time Created
1. Site drawing is confusing. Asked for clearer boundaries of deck dimensions, setbacks, and deck's positioning relative to the home.	Paul Crouser	12/04/2023 14:05

Invoice No.	Fee	Fee Amount	Amount Paid
INV-00006039	Planning Zoning Variance Application Fee	\$200.00	\$200.00
Total for Invoice INV-00006039		\$200.00	\$200.00
INV-00006075	Planning Certified Mailing to Application Contacts	\$20.00	\$20.00
	Planning Creation / Printing of Abutter Labels	\$30.00	\$30.00
	Planning Certified Mailing to Abutters	\$100.00	\$100.00
	Planning Public Notice in Newspaper	\$120.00	\$120.00
Total for Invoice INV-00006075		\$270.00	\$270.00
Grand Total for Permit		\$470.00	\$470.00

Submittal Name	Status	Received Date	Due Date	Complete Date	Resubmit	Completed
Planning Permit Application Review v.1	Approved	12/01/2023	12/05/2023	12/14/2023	No	Yes
Item Review Name	Department	Assigned User	Status	Assigned Date	Due Date	Completed Date
Zoning Administrator	Planning	Crouser, Paul	Approved	12/01/2023	12/05/2023	12/14/2023

Workflow Step / Action Name	Action Type	Start Date	End Date
Review v.1		12/01/2023 10:11	12/14/2023 14:37
Confirm application complete v.1	Generic Action		12/01/2023 11:06
Planning Permit Application Review v.1	Receive Submittal	12/01/2023 0:00	12/14/2023 14:37
Zoning Board v.1		12/14/2023 14:37	
Zoning Board Agenda v.1	Task	12/14/2023 14:37	12/14/2023 14:39
Invoice for Notices v.1	Task	12/14/2023 14:38	12/14/2023 14:39
Send Notices v.1	Task	12/14/2023 14:39	12/14/2023 14:39
Zoning Administrator Creates Staff Recommendations v.1	Task	12/14/2023 14:39	12/14/2023 14:39
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			
Document Archival v.1	Generic Action		
Internal Notification of Permit Completion v.1	Generic Action		

PERMIT SNAPSHOT REPORT (ZONE-2023-0050)

Create/Link to Records v.1

Create / Link to Permit - Building Major v.1

Create Sub Permit

**OUR PLACE, INC.
105 Durham Road
Dover, NH
Tax Map H, Lot 6-4**

APPLICATION FOR VARIANCE

STATEMENT OF FACTS AND LAW

This Statement of Facts and Law is submitted by Our Place, Inc. (the “Applicant”), a non-profit organization whose mission is to provide residential options, services, and support to adults with intellectual developmental disabilities (“IDD”).

Introduction and Applicable Zoning Provisions

On June 24, 2023, the Applicant entered into a Lease and Option to Purchase Agreement (the “Lease Agreement”) with respect to certain real property identified by assessing records for the City of Dover (the “City”) as Tax Map H, Lot 6-4 (the “Property”). The Property is situated at 105 Durham Road (also known as Route 108), which is a fairly busy road and provides the main path for access between Dover and Durham in this part of Dover. The Property is currently owned by Paul J. Seaver (the “Owner” or “Lessor”). The Applicant received authorization from the Owner to apply for the zoning variance needed for the Applicant’s proposed project.¹

The Applicant proposes to reconfigure the interior of the existing building on the Property (the “Building”) and to construct an addition to the Building to allow for a total of nine (9) dwelling units on the Property, with eight (8) of the units to serve as housing for adults with IDD and one (1) unit for the use of on-site staff.

The Property is located in the Low-Density Residential (“R-20”) Zoning District, and as stated in Section 170-7 of the City’s Zoning Ordinance (the “Ordinance”), the purpose of the R-20 District is to provide for conventional single-family neighborhoods, where agriculture and farming are promoted, and where some nonresidential uses compatible with single-family homes are permitted, such as churches, schools, and child-care facilities. *See* Zoning Ordinance, §170-7. The Table of Uses applicable to the R-20 District² lists the permissible uses within this District and permits (among other things) two-family, three-family, and four-family dwellings. *See* Table of Permitted Uses and Dimensional Regulations for the R-20 District, Exhibit 2. However, buildings with more than four (4) dwelling units are not permitted in the R-20 District.

¹ Attached to this Statement of Facts and Law as Exhibit 1 is the Owner’s written authorization—originally included as “Exhibit A” in the Lease Agreement—authorizing the Applicant and its “officers, directors, board members, agents, attorneys, surveyors, engineers, and assigns, to apply (and sign applications) for and receive any and all zoning, planning and other federal, state and local permits, variances, and approvals necessary or desirable in connection with [the Applicant’s] proposed use of the Property as a residential facility for persons with developmental disabilities.” *See* Attached Authorization of Property Owner, Exhibit 1.

² *See* Section 170-12.A of the Ordinance, stating that the permitted uses within a zoning district are as set forth in the Table of Uses and Dimensional Regulations by District.

Accordingly, the Applicant requests a variance from Section 170-12.A of the Ordinance as it pertains to the permitted uses in the R-20 District to allow the Applicant to have a total of nine (9) dwelling units on the Property where a maximum of four (4) dwelling units are permitted by right.

This Statement of Facts and Law is submitted by the Applicant in connection with, and to supplement, its Application for a Variance (the “Application”) to permit an increase in the number of dwelling units permitted on the Property from four (4) to nine (9). Attached hereto are the following exhibits:

- Exhibit 1: Authorization of Property Owner.
- Exhibit 2: Table of Permitted Uses and Dimensional Regulations - R-20 District.
- Exhibit 3(a): Property’s Tax Card.
- Exhibit 3(b): City of Dover Neighborhood Plan and Zoning Districts Map.
- Exhibit 4: Preliminary Zoning Site Plan.
- Exhibit 5: Floor Plan of Proposed Project.
- Exhibits 6(a) through 6(d): Architect’s Images of Exterior of the Proposed Project.
- Exhibits 7(a) through 7(e): Photographs of the Exterior of the Property.

All testimony, statements, representations, evidence, plans, reports, studies and other information submitted or to be submitted by or on behalf of the Applicant in connection with the Application at or prior to the public hearing on the Application are incorporated herein by reference hereto. The Applicant requests that the Zoning Board of Adjustment (“ZBA”) approve this Statement of Facts and Law as the specific findings required pursuant to RSA 676:3, I.

Background and Description of Property and Proposed Project

As mentioned above, the Applicant entered into a Lease Agreement on June 24, 2023, to lease the Property with an option to buy. This Lease Agreement for the Property was the culmination of approximately three (3) years of Applicant searching throughout the Seacoast area to find a property that could meet its particular needs. Specifically, the Applicant sought a property that, among other things:

1. Is large enough for apartments to house approximately twelve (12) people;
2. Has no existing tenants;
3. Has sufficient outdoor space for parking;
4. Has sufficient outdoor space for gardens and recreation activities;
5. Is on a bus route; and
6. Is close to potential employment sites.

The Property is an existing non-conforming lot³ consisting of approximately 2.19 acres located in the R-20 Zoning District and it meets all of the Applicant’s desired criteria listed above.

³ The Property’s lot is non-conforming because (a) it has only 75’ of frontage on Durham Road, where 125’ of frontage is required, and (b) the front build to line maximum is 35’ and the minimum is 20’, but the existing

See Property Tax Card, Exhibit 3(a); *see also* City of Dover Neighborhood Plan and Zoning Districts Map, Exhibit 3(b). In addition, the Property's proximity to Dover High School opens opportunities for the residents of the Property to engage in shared activities such as Unified Sports. There is also easy access to the University of New Hampshire ("UNH") which offers activities for adults with IDD and the potential for partnership with UNH student training programs such as recreation therapy and occupational therapy. All of these are advantages of the Property and improve the ability of the proposed residents to be active and contributing members of the greater Dover community.

At present, the Property is improved by an existing building (the "existing Building"), which was originally built as a two-story, single-family home in 1987. As shown on the Property's Tax Card, the existing Building has been expanded at various times over the years, and it currently consists of approximately 4,700 square feet, including the second floor of the original house. *See* Exhibit 3(a). The existing Building previously housed a daycare center, called the Garrison City Early Childhood Daycare Center. It is the Applicant's understanding that except for the Applicant's use of a portion of the space as an office 2-3 times per week, the existing Building has essentially sat vacant since the Daycare Center ceased operating there in late April 2022.

The Property is larger than many of the other residential properties in the area and has a unique shape, consisting of a long winding narrow portion containing the driveway serving the Property that leads away from Durham Road to a much larger and wider area at the rear of the Property furthest from the road. The larger area at the rear of the Property is where the existing Building is located.

Although the existing Building was originally constructed as a single-family home, it was modified over the years to be used primarily as classrooms and some office space for the daycare center. Because of these modifications and its most recent use as a daycare center, its interior is not laid out like a traditional single or multi-family home and it would be challenging and expensive to revert the existing Building back to its original use and to repurpose the additions which have been constructed over the years for traditional single or multi-family housing. But, the space can easily be reconfigured primarily by adding and/or moving some walls, and adjusting or reconfiguring doorways to accommodate five (5) dwelling units for adults with IDD, and common space for the residents to share.

Specifically, the Applicant proposes to use the first and second floor of the original house portion of the existing Building as two (2) dwelling units, with the remainder of the existing Building being converted into three (3) dwelling units, for a total of five (5) dwelling units utilizing the existing Building.

Building is much more than 35' away from the main road. However, the Table of Uses provides that for expansions to, or renovations of, existing structures, a 20' setback from the street is required, and both the existing Building and the proposed Addition more than meets that requirement, so while the Property is non-conforming as to the build to line, it is in compliance with the requirements of the Table of Uses for expansions for pre-existing non-conforming structures. As shown on the Preliminary Zoning Site Plan (Exhibit 4), due to the unique size, shape, and configuration of the Property, the proposed Addition can be constructed and connected to the existing building without increasing the existing non-conformities.

The Applicant additionally proposes to construct a building addition (the “Addition”) to contain four (4) more dwelling units, to reach the Proposed Project’s goal of nine (9) dwelling units. The Addition will have a total area of approximately 2,700 square feet, and when completed, the Proposed Project will consist of approximately 7,400 square feet of living area. The Applicant has engaged Altus Engineering, Inc. (“Altus”) to assist with the Proposed Project, and Altus has prepared a preliminary Zoning Site Plan (the “Site Plan”) of the Property showing the proposed building site of the Addition, which will connect to the north-facing side of the existing Building. See Preliminary Zoning Site Plan, Exhibit 4.

The Applicant has also engaged Architectural Consulting Services, LLC as the architect to design the layout of the dwelling units and common area proposed to be constructed, and a floor-plan of the Proposed Project is attached hereto as Exhibit 5. As depicted, the existing Building will contain three (3) two-bedroom units, two (2) one-bedroom units, and a common kitchen/dining room and living area where residents can socialize. The proposed addition consists of four (4) additional one (1) bedroom units. Each of the dwelling units will have its own living room, kitchenette, bathroom, and the indicated number of bedrooms. In total, the dwelling units will accommodate twelve (12) people.

In addition to the interior reconfiguration of the existing Building and construction of the proposed Addition, the Applicant proposes exterior architectural features and plantings that will make the Building look far less commercial and soften the transition between the building and parking lot, making the Building fit well with other existing residential and other uses in the R-20 District. The architect has created some images of what the exterior of the proposed project will look like, which are attached hereto as Exhibits 6(a) through 6(d).

The Property already contains a relatively large parking lot, consisting of thirty-two (32) parking spaces, which is more than sufficient to meet the Applicant’s anticipated parking needs as it is likely that none of the adults with IDD who will be residing at the Property will drive. Also, activity levels at the Property will be limited during the day, as the residents will be working or volunteering in the community, many accompanied by staff to serve as job coaches. In the late afternoon and evening, staffing levels will be reduced, as residents will be relaxing and having dinner. One (1) or two (2) staff members will be in the staff dwelling unit overnight.

The Applicant’s mission to provide housing for adults with IDD does not stop at simply putting a roof over their heads. Our Place, Inc. is dedicated to fostering growth and independence through vocational, social and recreational opportunities. As noted above, the proximity to Dover High School and UNH provides many opportunities for the residents and students at both educational institutions. Also, in furtherance of the Applicant’s mission, residents, with the assistance of the staff, will have and maintain flower and vegetable gardens on the Property. Staff will also supervise the residents to do daily chores to keep their apartments, the building, and the surrounding yard neat, clean, and picked up at all times. Residents will be working and volunteering within the community, doing their part to support community activities and keep Dover clean.

In contrast, it is the Applicant’s understanding that when the Building operated as a daycare center, staff members and the parents of approximately eighty (80) children regularly drove to and

from the Property most days of the week. Accordingly, the Proposed Project will result in a significant reduction in traffic flow to and from the Property than when the Property housed a daycare center, lessening the impact on surrounding properties.

As mentioned previously, the Applicant's mission is to provide sustainable supportive housing for adults with IDD.⁴ The Proposed Project is in furtherance of that mission by expanding and modifying the existing Building so it will contain eight (8) dwelling units for up to eleven (11) adults with IDD and one (1) additional dwelling unit to accommodate the needs of overnight on-site staff. In order to have nine (9) dwelling units on the Property, the Applicant requests a variance from the Ordinance as to allow nine (9) dwelling units where four (4) are permitted within the R-20 District.

Variance Standards

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

A variance is contrary to the public interest when it unduly, and to a marked degree, conflicts with the Zoning Ordinance such that it violates the Zoning Ordinance's basic zoning objectives. *Malachy Glen Assocs., Inc. v. Town of Chichester*, 155 N.H. 102, 105 (2007). There are two methods for determining whether a variance would violate a Zoning Ordinance's basic zoning objectives: (1) "whether granting the variance would alter the essential character of the neighborhood" or (2) "whether granting the variance would threaten the public health, safety or welfare." *Harborside Assocs., L.P. v. Parade Residence Hotel, LLC*, 162 N.H. 508, 514 (2011).

The variance requested by the Applicant would not alter the essential character of the area where the Property is located. The Property is in a neighborhood consisting of single-family homes as well as some properties with non-residential uses that are compatible with single-family homes, i.e., child-care facilities and schools, namely Dover High School. It is situated on a fairly busy road, Route 108, connecting Dover and Durham. In addition to Dover High School and Dover Middle School, other nearby non-residential uses include Dover Veterinary Hospital, a fire department, a property management company, and will soon include a medical office building.

The existing Building on the Property was previously used as a child daycare facility, which had a high traffic volume with approximately eighty (80) children and their parents going to and from the facility by car most days each week. The traffic impact of the Proposed Project will be less than the prior day care center use, as there will be approximately eleven (11) residents who do not drive vehicles, and a total of approximately fifteen (15) staff members working at the Property on different shifts, who will travel to and from the Property most days. Consequently, the proposed use is more residential and less commercial than the previous day care use. In addition, the Applicant is planning on adding or modifying architectural features of the existing Building and the proposed Addition in order to render the Property more residential in appearance. All of these

⁴ The State of New Hampshire Department of Health and Human Services, Bureau of Developmental Services sets the permissible rate for room and board which can be charged by the Applicant in this setting. Currently that rate is Seven Hundred Ninety-Five Dollars (\$795.00) per month, per person. This is well below market rate in Dover, New Hampshire.

things will cause the Proposed Project to blend in with the surrounding area and will not alter the area's essential character.

Additionally, there is no reason to suspect that the variance, or the proposed use that the Applicant is seeking permission for, will threaten the public health, safety, or welfare of the City and its residents. All renovations and alterations will be performed in accordance with applicable requirements and the building code. Additionally, while the residential load on the property will increase from the non-residential prior day care use, traffic to and from the property will decrease from the prior use, and the residents of the property will lead lives with the assistance of caregiver staff, in which the residents participate in the community and do their part to be good citizens. Overall, despite the fact that there are more dwelling units proposed than would be permitted, because the proposed dwelling units are intended for occupancy by single adults and not by families, the residential load is less than or approximately the same as the residential load that would be permitted if the property were instead occupied by the permitted number of four (4) dwelling units occupied by families.

For all of the forgoing reasons, granting the requested variance would not be contrary to the public interest.

2. *The spirit of the Ordinance is observed by granting the variance.*

The requirement that the variance not be "contrary to the public interest" is "related to the requirement that the variance be consistent with the spirit of the Zoning Ordinance." *Malachy Glen Assocs., Inc.*, 155 N.H. at 105. As stated above, the purpose of the R-20 District is to provide for conventional single-family neighborhoods, where agriculture and farming are promoted, and where some nonresidential uses compatible with single-family homes are permitted, such as churches, schools, and child-care facilities. See Zoning Ordinance, §170-7. In addition, the purpose of the Ordinance is to "promote the health, safety, and the general welfare of Dover's residents by serving to facilitate the adequate provision of transportation, water, sewer, schools, parks and other public requirements; to encourage the maintenance of Dover's economic and aesthetic quality of life; and to encourage the most appropriate use of land throughout the City of Dover." See Zoning Ordinance §170-3.

The Proposed Project, and the use of the Property as a residence for up to eleven (11) adults with IDD, is consistent with the spirit of the Ordinance for several reasons. First, the Proposed Project would convert a property most recently used for a non-residential use with a fairly high traffic flow on a daily basis, into a property containing a residential use and a lower traffic flow, with plans for on-site gardening and other traditional residential recreational activities. Notably, one of the purposes of the R-20 District is to promote agricultural activities, and the planned vegetable and flower gardens are consistent with that objective of the Ordinance. Additionally, the reduction in traffic flow and conversion to a residential use versus a commercial use with a higher traffic flow are consistent with the Ordinance's intention to provide for uses compatible with single-family uses.

The Ordinance also has a stated purpose of promoting the health, safety, and the general welfare of Dover's residents by facilitating the adequate provision of transportation, water, sewer,

schools, parks and other public requirements. See Ordinance at §170-3. The Proposed Project meets these stated purposes. While the Proposed Project contains more than the permitted number of dwelling units, the use of the dwelling units for adults with IDD as proposed at the Property is not traditional housing. The Applicant will have caretaking staff to supervise the resident's occupancy and assist them with ensuring that the Property is kept neat, tidy, and well maintained. Moreover, the Proposed Project is not intended to be, nor is it designed to be, housing for families. Each bedroom within a dwelling unit will accommodate only one (1) adult, which means that the impact on the Property and community in terms of municipal infrastructure, services, and the school system will be less than if the dwelling units were occupied by entire families and therefore should not over-burden the Property's ability to support those occupants, or the municipality's resources. By way of contrast, a four-unit building could contain four (4), three-bedroom apartments or more, which could accommodate a minimum of two (2) adults and two (2) children per apartment, which is a total of at least sixteen (16) people, which would be a permitted use but have a higher impact on the municipal infrastructure, services and school system than the Proposed Project.

For all of the forging reasons, the spirit of the Ordinance is observed by granting the requested variance.

3. *Granting the variance would do substantial justice.*

The "substantial justice" element of a variance analysis is guided by two rules: that any loss to the individual that is not outweighed by a gain to the general public is an injustice, and whether the proposed development is consistent with the area's present use. *Malachy Glen Assocs.*, at 109. In *Malachy Glen Associates*, the New Hampshire Supreme Court "upheld the trial court's conclusion that the proposed storage facility project worked a substantial justice because it "pose[d] no further threat to the wetlands[, ... [was] appropriate for the area [,] and [did] not harm its abutters[;] [therefore,] the general public [would] realize no appreciable gain from denying this variance." *Harborside Assocs., L.P. v. Parade Residence Hotel, LLC*, 162 N.H. 508, 515 (2011) (citing *Malachy Glen Assocs.*, 155 N.H. at 109).

As noted previously, the Proposed Project can be completed without increasing the existing non-conformity of the Property's frontage or non-conformity with regard to the build to line maximums and minimums. These non-conformities are unrelated to the proposed variance, but the Proposed Project will actually serve to mitigate some of the potential negative effects which might arise from the non-conforming frontage. Frontage exists, in part, to provide spacing between properties and to allow for adequate sight lines for vehicles and persons entering and exiting the roadway from the properties which abut it. In this case, as stated previously, the Proposed Project will reduce the traffic traveling to and from the Property and congestion on Durham Road compared to the Property's prior use as a daycare center. Because the traffic to and from the Property will be substantially reduced, the potential negative impact of the non-conforming frontage in terms of safety for those entering or exiting the Property or driving on Durham Road past the Property will be significantly reduced. Also, as to the other existing non-conforming aspect of the Property (the existing Building being situated further back on the Property than permitted by the front build to line requirement), the Dimensional Regulations Table for the R-20 District

states that “[e]xpansions to, or renovations of, existing structures [shall] have a twenty (20) foot setback,” which the proposed location of the Addition more than meets.

As stated above, the Proposed Project is appropriate for the area as it will not alter the character of the neighborhood and will further certain objectives of the Ordinance generally and the R-20 District in particular.

Most significantly, however, is the fact that there truly is no appreciable gain to the general public in denying the variance. Because there is no gain to the public by not granting the requested variance that is greater than the loss suffered by an individual if the variance is not granted, substantial justice will be done by granting the variance.

4. *The values of surrounding property will not be diminished.*

As explained above, the Applicant’s proposal is consistent with the area’s present use and would be converting what was most recently a non-residential use to a residential use that will lead to a reduction in traffic flow. There does not appear to be any reasonable likelihood that the values of the surrounding properties will be diminished to any degree should the variance be granted. If anything, the inclusion of more traditionally residential use, architectural features and plantings rendering the building less-industrial looking will have no impact at all, or would have a positive impact on, the value of surrounding properties.

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

In 2001, the New Hampshire Supreme Court relaxed the unnecessary hardship standard to require only that the zoning restriction interfere with the applicant’s “reasonable use of the property, considering the unique setting of the property in its environment.” *Simplex Techs., Inc. v. Town of Newington*, 145 N.H. 727, 731 (2001). In other words, if the proposed use is reasonable, considering the unique setting of the property, a hardship may still exist to justify a variance even if other reasonable uses exist which would be permitted under the zoning ordinance. *Id.*

Since *Simplex*, the unnecessary hardship standard has been clarified by statute and further Court decisions.⁵ Accordingly, an applicant for a variance need not show that the proposed use is “necessary,” only that it is “reasonable.” See *Harborside Assocs., L.P.*, 162 N.H. at 518-19. “This factor, however, does not require the landowner to show that he or she has been deprived of all beneficial use of the land.” *Harrington v. Town of Warner*, 152 N.H. 74, 80-81 (2005). The question of whether the property can possibly be used differently from what the applicant has proposed is not a material consideration. *Malachy Glen Assocs., Inc.*, 155 N.H. at 108.

⁵ See, e.g., *Rancourt v. City of Manchester*, 149 N.H. 51, 54 (2003) (“Whereas before *Simplex*, hardship existed only when special conditions of the land rendered it uniquely unsuitable for the use for which it was zoned, after *Simplex*, hardship exists when special conditions of the land render the use for which the variance is sought ‘reasonable.’”) (internal citations omitted).

(i) Because of the special conditions of the Property that distinguish it from other properties in the area, (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.

An unnecessary hardship may arise from conditions that are not shared by all lots within the district⁶ and the special characteristics do not have to be detrimental characteristics. A hardship may arise if characteristics of the Property render it unusually suited to a proposed use that is otherwise prohibited by the ordinance. *See Rancourt v. City of Manchester*, 149 N.H. 51, 54 (2003).

For the unnecessary hardship analysis, the special conditions of the property at issue can relate to the land itself and also to the existing structure or building located on the land. An example of special conditions relating to the land itself is shown in the case of *Rancourt v. City of Manchester*. In *Rancourt v. City of Manchester*, the Court concluded that there was evidence of special conditions of the property at issue and pointed to, among other things, that the lot was larger than most of the surrounding lots and that the lot was uniquely configured in that the rear portion of the lot was considerably larger than the front. *Id.* As for conditions related to the building itself, in *Farrar v. City of Keene*, the Court found the size of an existing residence itself to be a relevant factor in determining whether a property was unique in its environment where a variance was sought to convert a large historical single use residence to mixed use of two residences and office space. *See Farrar v. City of Keene*, 158 N.H. 684, 689 (2009).

The Property at issue in the instant case has special conditions related to both the existing Building on the Property *and* to the characteristics of the Property itself. The Property is larger than most of the other residential lots in the area and has a unique shape and configuration. The unique shape and configuration of the Property make it especially suitable for an addition to the existing Building in order to house a total of nine (9) dwelling units within the structure without increasing any of the existing non-conforming characteristics of the Property, or negatively impacting abutters or the character of the area. Even with the Addition, the unique shape and size of the Property allow for additional space to be used for agricultural-adjacent purposes such as gardening as proposed by the Applicant, consistent with the Ordinance's objectives. Further, the unique shape and size of the Property as well as the existing parking lot on the Property, which is not a common feature of residential homes with four (4) or less dwelling units, make it especially suitable for accommodating staff vehicles and facility vehicles as needed for the proposed use.

As to the Building itself, the unique setting and characteristics of the existing Building on the Property make it especially suitable for the proposed use. *See* Photographs of the Exterior of the Property, Exhibits 7(a) through 7(e). The existing Building, as it currently exists, is by no means small. It is a large building in that it has approximately 4,700 square feet in living area, which is large enough so that more than half of the dwelling units the Applicant seeks to have on the Property will be housed in the existing Building, not the Addition.

⁶ *See Cmty. Res. For Just., Inc. v. City of Manchester*, 154 N.H. 748, 752 (2007) ("While the property need not be the only such burdened property, the burden cannot arise as a result of the zoning ordinance's equal burden on *all* property in the district") (internal quotations omitted).

The Zoning Ordinance permits up to four (4) dwelling units on properties within the R-20 Zone. The stated purposes of the Zoning Ordinance are to promote the health, safety, and the general welfare of Dover's residents by facilitating the adequate provision of transportation, water, sewer, schools, parks and other public requirements. See Ordinance at §170-3. As explained above, the proposed use will result in a significant reduction in traffic flow and congestion from the Property's prior use as a daycare center where staff and parents of approximately eighty (80) children regularly drove to and from the Property. Given the proximity of Dover High School, where approximately 1,423 students enrolled for the current school year according to the Dover High School website, and also the proximity of Dover Middle School, any reduction in traffic is beneficial to the community at large.

Accordingly, there are (i) special conditions of the Property which distinguish it from other properties in the area, and (ii) there is no fair and substantial relationship between the general public purposes of the Ordinance provision and its specific application to the Property.

(iii) The proposed use is a reasonable one.

The proposed use of the Property is particularly reasonable in light of the Property's shape and size, the size and layout of the existing Building itself, and the distance of the Property from the street. As explained above, the unique shape and large size of the Property make it especially suitable for the proposed use, which includes housing nine (9) dwelling units for adults with IDD in a single building, as well using outdoor space for gardening and recreation. Further, the Property's proximity to Dover High School and UNH provides opportunities for education, interaction, and integration for both the residents at the Property and the students at both educational institutions. The size of the existing building itself also makes it especially suitable for the proposed use because it is large enough to contain more than half of the proposed number of dwelling units that the Applicant seeks to have on the Property along with the proposed common areas for use by all of the residents. Finally, due in part to its most recent use as a daycare center, the interior layout of the existing Building is well suited for reconfiguration for use as multiple small dwelling units and some common area, as proposed. Accordingly, the proposed use is undoubtedly a reasonable use, and a denial of this variance would result in unnecessary hardship.

The Applicant reserves the right to amend, modify, and/or supplement this Application at or before the hearing thereon.

EXHIBIT A

AUTHORIZATION OF PROPERTY OWNER

Paul J. Seaver, as the owner of a certain parcel of property located at 105 Durham Road, Dover, New Hampshire 03820, being Parcel H0006-004000 in the City of Dover's records (the "Property"), hereby authorizes Our Place, Inc. ("Our Place") and its officers, directors, board members, agents, attorneys, surveyors, engineers, and assigns, to apply (and sign applications) for and receive any and all zoning, planning and other federal, state and local permits, variances, and approvals necessary or desirable in connection with Our Place's proposed use of the Property as a residential facility for persons with developmental disabilities.

OWNER:

Paul J. Seaver

dotloop verified
06/24/23 11:49 AM EDT
ZUJA-JL8C-D3KF-QWVC

Date

Paul J. Seaver

Low Density Residential (R-20) District

Amended: 12-08-10 by Ord. No. 2010-10.27-13, 11-28-12 by Ord. No. 2012-11.14-24, 08-19-2015 by Ord. No. O-2015.07.22-017



Permitted Uses

- ACCESSORY DWELLING UNIT
- ADULT DAY CARE [5]
- ASSEMBLY HALL
- Bank [5]
- Beauty and Barber Shop [5]
- BED and BREAKFAST
- CHILD CARE FACILITY
- CHILD CARE HOME
- CONSERVATION LOT
- Conversion of Existing Dwelling to Accommodate not more than 2 units [6]
- Dwelling, 2 Family [7]
- Dwelling, 3 To 4 family [7]
- DWELLING, SINGLE FAMILY
- EDUCATIONAL INSTITUTION, K-12
- FARM [8]
- FARM ANIMALS FOR FAMILY USE, for non-commercial purposes, on lots containing a one or two family dwelling [9]
- OFFICE [10] [5]
- PERSONAL SERVICE ESTABLISHMENT [5]
- PUBLIC RECREATION
- Public Utility [11]
- Retail Sale of Agricultural or Farm Products Raised on Site
- ROADSIDE FARM STAND [12]
- Theater [5]
- Veterinary Office, Animal Hospital or KENNEL [13]

Dimensional Regulations [1] [2]

LOT	
Minimum LOT Size [3]	20,000 sf
Maximum LOT COVERAGE	30%
Minimum FRONTAGE	125 ft
PRINCIPAL BUILDING	
Front BUILD TO LINE	20 ft min, 35 ft max*
Abut a Street BUILD TO LINE	20 ft min, 35 ft max*
Side SETBACK	20 ft
Rear SETBACK	30 ft
OUTBUILDING/ACCESSORY USE	
Front SETBACK	No closer than the principal BUILDING or 35 feet whichever is less
Abut a Street SETBACK	No closer than the principal BUILDING or 35 feet whichever is less
Side SETBACK	10 ft
Rear SETBACK	10 ft
HEIGHT OF BUILDING	
PRINCIPAL BUILDING	35 ft max
OUTBUILDING	35 ft max

*Expansions to, or renovations of, existing structures have a twenty (20) foot setback.

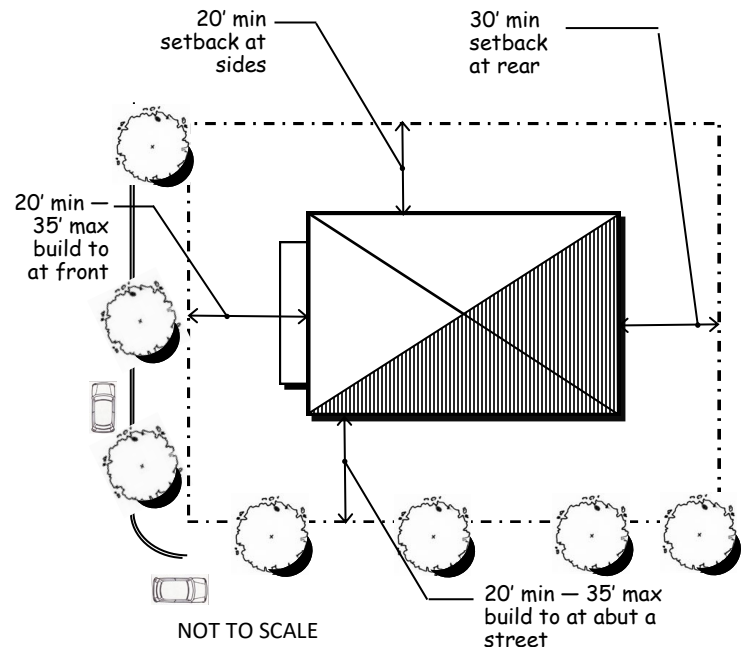
Uses Permitted by Special Exception

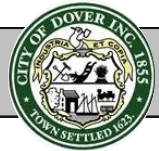
- ASSISTED LIVING FACILITY
- CONGREGATE CARE FACILITY
- CONTINUING CARE COMMUNITY FACILITY
- EDUCATIONAL INSTITUTION, POST SECONDARY
- ELDERLY ASSISTED CARE HOME
- Helicopter Take Offs & Landings
- NURSING HOME

Sign Regulations

Size	R-20 District
Total signs permitted	1
Total area permitted	16 sf (CUSTOMARY HOME OCCUPATION SIGN 2 sf max, development identification SIGN 20 sf max)
Type	
FREESTANDING	permitted (10 ft SETBACK required)
PROJECTING	permitted
WALL/ Awning	not permitted
Temporary	not permitted

Principal Building Placement





Footnotes

- [1] In the case of an Open Space Subdivision, in accordance with Article IV of Chapter 157 of the Code of Dover, the dimensional requirements shall be as specified in 157-21 of the Code of the City of Dover, 1983.
- [2] Refer to 170-13, 170-14 and 170-27D for exceptions to lot size, frontage and setback requirements.
- [3] All land containing wetlands shall not be counted in determining the gross land area of a lot for the purposes of minimum lot size or minimum density requirements for residential uses. The minimum non-wetland portion of any newly created lot shall be contiguous. For the purposes of this calculation, wetlands shall include areas that meet the definition of wetland in the NH Code of Administrative Rules – Wt. 101.87 and the 1987 Federal Manual For Identifying Jurisdictional Wetlands. Wetland buffers shall only be allowed to count for 40 percent of the minimum lot size required.
- [4] Refer to Chapter 157, Subdivision of Land, Article IV for the minimum lot size for a major Subdivision. Any major subdivision in an R-20 district, must follow the procedures for an OSS if the original lot meets the minimum lot size required.
- [5] Use is allowed as a commercial component to an Open Space Subdivision. (See 155.22 section 7).
- [6] Any dwelling unit may be converted, provided that the lot shall contain at least four thousand (4,000) square feet per dwelling unit and a minimum floor area of five hundred (500) square feet per dwelling unit.

2 family dwellings shall be designed to look like single family dwellings (i.e. the 2 family dwelling should not look like it was designed to occupy more than one family). At a minimum, this shall mean that only one entrance shall be visible from a public street, and only one driveway shall exist with no on street parking required for residents.
- [7] 2 family dwellings are permitted on lots with a density of fifteen thousand (15,000) square feet per dwelling unit. The structures shall be designed to look like single family dwellings (i.e. the 2 family dwelling should not look like it was designed to occupy more than one family). At a minimum, this shall mean that only one entrance shall be visible from a public street, and only one driveway shall exist with no on street parking required for residents. Single family density shall be used for TDR. If 2 family density is used, a two family unit shall be built.
- [8] FARM ANIMALS permitted, provided that the tract upon which such animals are kept shall support a minimum land area of one hundred thousand (100,000) square feet. In no instance shall the shelters and pens or runs used to contain said animals be closer than one hundred (100) feet from any property boundary.
- [9] Use is allowed on the portion of the lot that is behind the principal structure, provided the following standards are met: Chickens: No more than six (6) chickens and no roosters, with three (3) square feet of chicken coop and twenty (20) square feet of a fenced enclosure yard per chicken; all coops and enclosures shall be twenty (20) feet from any property line. Sheep or goats: one animal per 10,000 square feet of lot area, with a maximum of six (6) animals; ten (10) square feet of shelter and thirty (30) square feet of a fenced enclosure yard per animal; all shelters and enclosures shall be thirty (30) feet from any property line.
- [10] Permitted only if operated as a customary home occupation.
- [11] The utility facility shall be appropriately fenced to protect the public. Landscaping materials shall be required to provide a visual screen from any structures and storage within.
- [12] ROADSIDE FARM STANDS shall be set back a minimum of twenty (20) feet from all abutting vehicular rights-of-way. The area of any BUILDING associated with the ROADSIDE FARM STAND shall not be greater than two hundred (200) square feet in area, and shall be considered an accessory structure if a residence is also located on the property. The total of the display area and BUILDING area shall not exceed six hundred (600) square feet. Off-street parking shall be provided in the amount of one (1) off-street parking

space per 250 sq. ft. of display and BUILDING area, and all required parking spaces shall have safe access to and from a public street. A certificate of use issued by the Zoning Administrator and a driveway permit shall be required in all cases.

- [13] Veterinary Office, Animal Hospital uses are allowed as a commercial component to an Open Space Subdivision. (See 155.22 section 7) [Added 1-22-2003 by Ord. No. 35]. Shelters and runs used to house and/or contain animals shall be no closer than one hundred (100) feet from any property line and must support a minimum tract size of one hundred thousand (100,000) square feet.

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

ASSISTED LIVING FACILITY:

- A. The facility shall be serviced by municipal sewer.
- B. The density per unit requirement is 5,000 square feet of lot area in the R-20 District.
- C. Parking lots and service areas are screened from abutting residential uses.
- D. The facility shall obtain a license from the State of New Hampshire.

CONGREGATE CARE FACILITY:

CONGREGATE CARE FACILITY is allowed as a Special Exception in accordance with the density and provisions stated below:

- A. In the R-20 District at one unit per 5,000 sq. ft. of land;
- B. Provided that parking and service areas are screened from abutting residential uses.

CONTINUING CARE COMMUNITY FACILITY:

- A. The facility shall be serviced by municipal sewer.
- B. The density per unit requirement is 5,000 square feet of lot area in the R-20 District.
- C. Parking lots and service areas are screened from abutting residential uses.
- D. The facility shall obtain a license from the State of New Hampshire.

ELDERLY ASSISTED CARE HOME : ELDERLY ASSISTED CARE HOME is allowed by Special Exception in accordance with the densities and provisions stated below:

- A. ELDERLY ASSISTED CARE HOME is larger than 6 bedrooms shall meet the following density requirements: In the R-20 District at a density of one bedroom per 5,000 sq. ft.
- B. Provided that parking and service areas are screened from abutting residential uses.
- C. Notwithstanding the above requirements, the maximum number of bedrooms and residents allowed in a facility may be increased provided the increase is found not to be detrimental to the surrounding properties and conforms with parking standards in Chapter 170-44 (OFF STREET PARKING). Furthermore, any increase to an existing structure must be contained within or contiguous to the original structure.

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

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

NURSING HOME: NURSING HOME is allowed as a Special Exception in accordance with the density and provisions stated below:

- A. In the R-20 District at one unit per 5,000 sq. ft. of land;
- B. Provided that parking and service areas are screened from abutting residential uses.

Residential Property Record Card - Dover, New Hampshire

Property Location:

105 Durham Rd

Parcel ID: H0006-004000

Map Block No. H-6-4-0

Class: R

Use: 140 Card 1 of 1

Current Owner	Previous Owner History			Miscellaneous		Assessment Information		
Seaver Paul J 105 Durham Rd Dover Nh 03820	Name	Deed	Date	Deed Info: 5100/273-03/22/2023		Assessed Value:	*	Prior
	Seaver Paul J &	4847/620	12/21/2020	Zoning: R-20		Land:	200,300	200,300
	Seaver Paul J &	1283/773		Neighborhood: 100		Building:	595,400	554,100
				Living Units: 1		Total:	795,700	754,400
				Street/Road: Public		Assessed Information:		
						Value:	795,700	
Notes	Entrance Information							
	Date	Time	ID	Activ	Entrance Code	Source		
	01/10/2012	C	BL		Entry Gained	Owner		
	01/03/2012	C	BL		Ext. Insp.			
	02/03/2009	R	TC		Entry Gained	Owner		
						Estimates		
						MRA:	Effective DOV: 4/1/2023	
						Weighted:	Value Flag: COST VALUE	
						Market:		

Sales History				
Book/Page	Date	Price	Type	Validity
5100/273	03/21/2023		2	39
4847/621	12/21/2020		2	46

Permit Information				
Date	Permit #	Price	Purpose	% Comp.
12/31/2003	03-652	25,000	Fgr=daycr Cntr	100
02/05/2003	03-25	113,000	Addition	100

Land Information					
Type	Size	Grade	Influence Factor 1, 2 and %	Value	
Primary	A	1 0	Access	-5	180,500
Residual	A	1.186 0		0	19,800
Total Acres for this Parcel		2.186	Total Land Value		200,300

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



Inspection witness by: _____

Dwelling Information

Style: Colonial

Condo Style:

Exterior Walls: Alum/Vinyl

Story Height: 2.0

Attic: None

Interior/Exterior: Same

Basement: Full

Bsmt Garage: 0

Rec Room size: 0 0

FBLA size: 0 0

Unfinished Area: 0

WB Fireplace: Stacks 0 Openings 0

MTL Fireplace: Stacks 0 Openings 0

Heating Type: Central A/C

Fuel: Oil

Heating System: Steam/Hot Wa

Year Built: 1987

Eff. Yr Built: 0

Ground Flr Area: 952

Tot Living Area: 4690

Basement Area: 0

Grade: C+

Condition: Average

CDU: AV

Building Notes:
ADJACENT TO HIGH SCHOOL

Low 1st 2nd 3rd Tot

Rooms: 0 0 0 0 11

Bedrooms: 0 0 0 0 1

Full Baths: 0 0 0 0 2

Half Baths: 0 0 0 0 5

Add'l Fixtures: 0 0 0 0 5

Replacement Costs

Base Price: 294,550

Additions: 371,500

Unfinished Area: 0

Basement: 0

Attic: 0

Plumbing: 44,420

Heating A/C Adj.: 11,770

FBLA: 0

Rec Room: 0

Fire Place: 0

Basement Garage: 0

Exterior Trim: 0

Subtotal: 722,240

Grade Factor: 1.08

C & D Factor: 0.00

Total RCN: 780,020

Percent Good: 0.82

Eco Depr: 0

Func Depr: -5

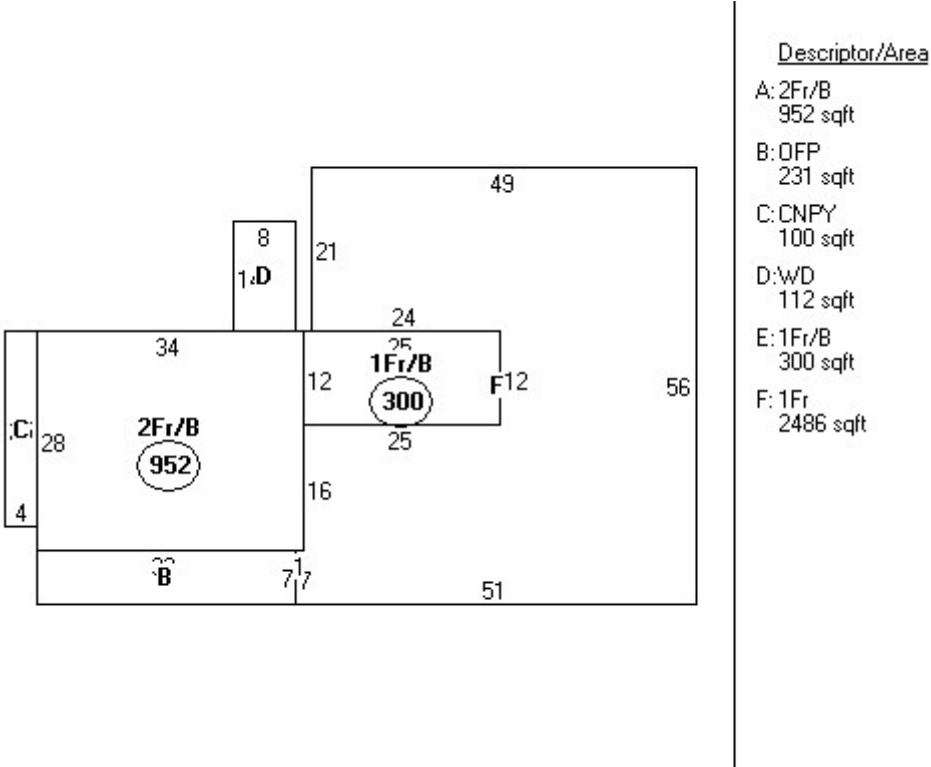
Under Constcn %: 0

Market Adj.: 0.00

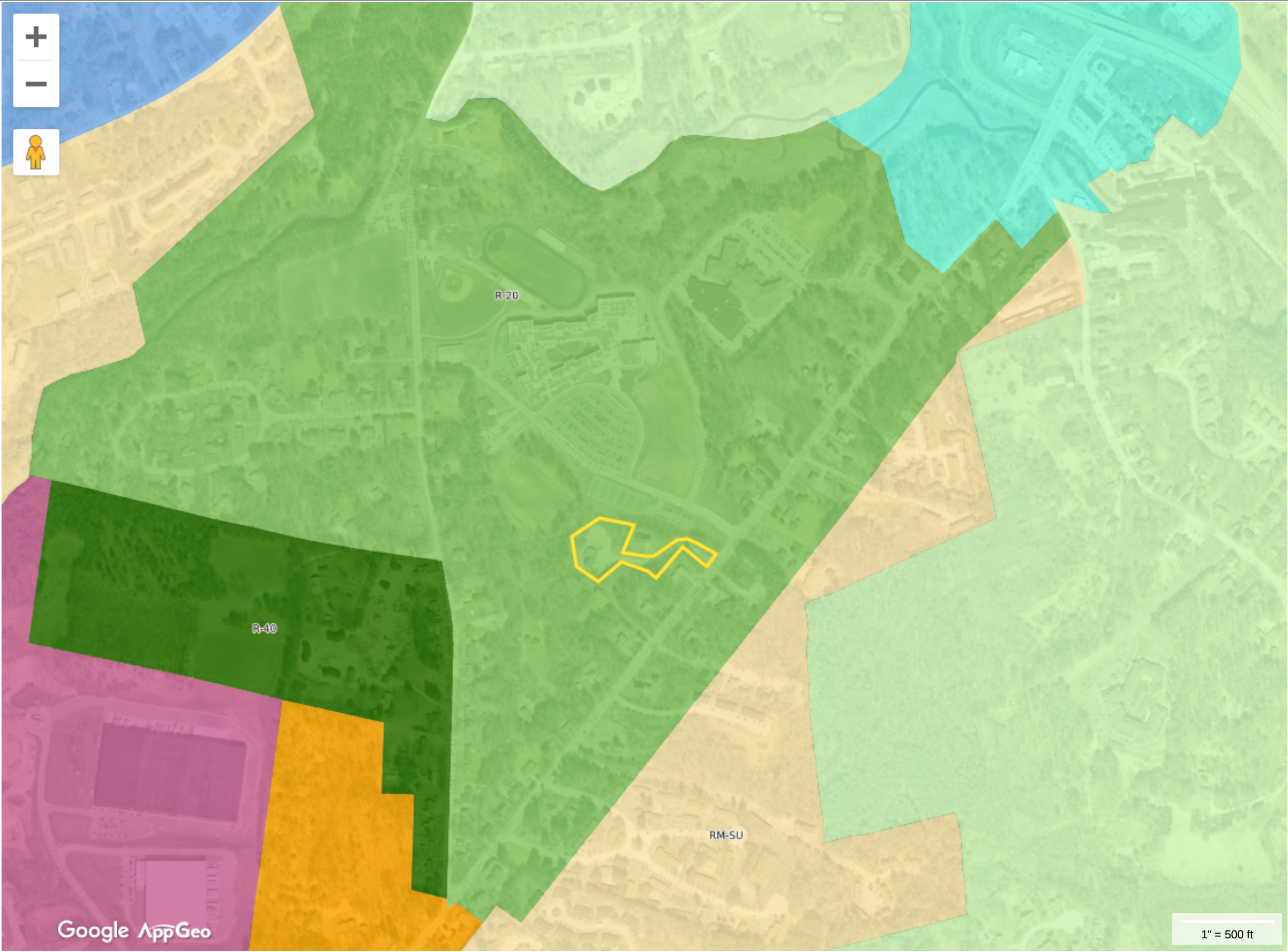
Total RCNLD: 595,400

Addition Information

Low	1st	2nd	3rd	Area	Points
	11			231	16700
	32			100	2500
	31			112	3700
50	10			300	46300
	10			2486	302300



Neighborhood Plan / Zoning Districts



Property Information
Property ID H0006-004000
Location 105 DURHAM RD
Owner SEAYER PAUL J
Land Use 140
Zoning Code R-20



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 10/30/2023
Data updated Daily

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

- Zoning Districts**
- R-40 Rural Residential
 - R-20 Low-Density Residential
 - R-12 Medium-Density Residential
 - HR Heritage Residential
 - RM-SU Suburban Density Residential
 - RM-U Urban Density Residential
 - C Commercial
 - IT Innovative Technology
 - CM Commercial Manufacturing
 - CBD Central Business District
 - G Gateway

ZONE-2023-0050 105 DURHAM ROAD

Property ID	Location	Owner 1	Owner 2	Owner Address 1	City	State	Zip
H0004-H00000	113 DURHAM RD	WHITE HEIDI B		113 DURHAM RD	DOVER	NH	03820
H0006-000000	103 DURHAM RD	YORKSHIRE PROPERTIES LLC		36 DOVER RD	DURHAM	NH	03824
H0006-002000	145 DURHAM RD	WEEDEN JUANITA & JAMES & LYNDES K TRUSTE	145 DURHAM ROAD REVOCABLE TRUST	145 DURHAM RD	DOVER	NH	03820
H0006-003000	123 DURHAM RD	BERGGREN ALVAR III &	BERGGREN JAIME	123 DURHAM RD	DOVER	NH	03820
H0006-V00000	129 DURHAM RD	HANSCOM LESLIE C		129 DURHAM ROAD	DOVER	NH	03820
H0006-X00000	119 DURHAM RD	MORENZ LUKE		119 DURHAM RD	DOVER	NH	03820
H0012-000000	25 ALUMNI DR	CITY OF DOVER		288 CENTRAL AVE	DOVER	NH	03820
I0014-000000	86 DURHAM RD	KNOX RICHARD &	KNOX KATHLEEN	86 DURHAM RD	DOVER	NH	03820
I0014-A00000	96 DURHAM RD	SPYRIDAKIS LEE K TRUSTEE	SPYRIDAKIS LEE K REVOCABLE TRUST OF 2018	40 GOVERNOR SAWYER LANE	DOVER	NH	03820
I0014-B00000	102 DURHAM RD	SPACK PAUL E &	SPACK JOANN	102 DURHAM ROAD	DOVER	NH	03820
I0015-000000	110 DURHAM RD	DOMINGUEZ FRANKIE &	NORELLI DANIEL THOMPSON	110 DURHAM ROAD	DOVER	NH	03820
H0006-004000	105 DURHAM RD	SEAVER PAUL J		105 DURHAM RD	DOVER	NH	03820
		CLEVELAND, WATERS AND BASS	THOMAS CHESNARD	2 CAPITAL PLAZA 5TH FLOOR	CONCORI	NH	03301

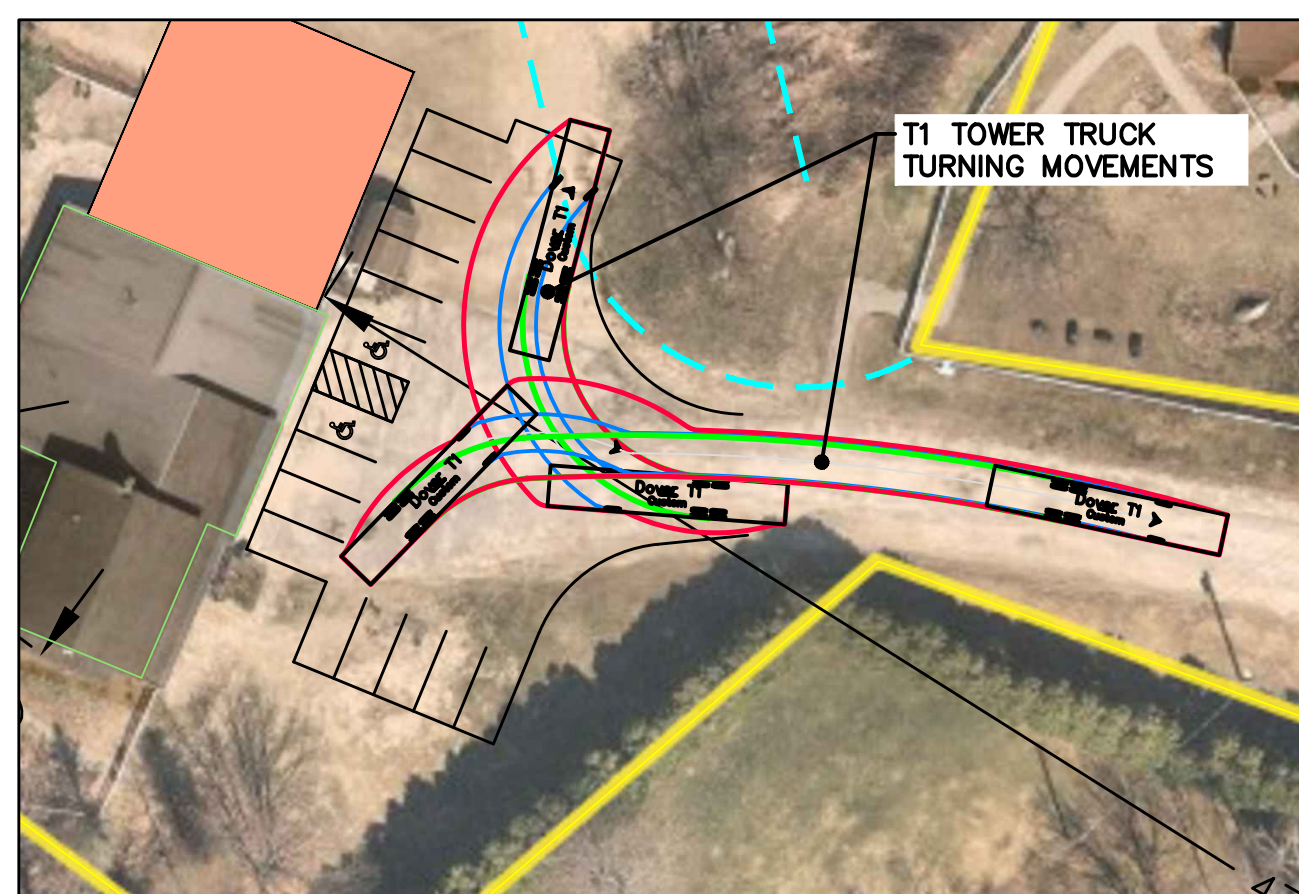












NOTES

- | 4. <u>DIMENSIONAL REQUIREMENTS:</u> | <u>REQUIREMENT</u> | <u>PROVIDED</u> |
|-------------------------------------|--------------------|-----------------|
| MINIMUM LOT SIZE | 20,000 SF | 95,400 SF |
| MAXIMUM LOT COVERAGE | 30% | 25%± |
| MINIMUM FRONTAGE | 125 FT | 75 FT* |

* EXISTING NON-CONFORMING LOT

5. WETLANDS:
WETLANDS WERE MAPPED BY MARK WEST, CERTIFIED NH WETLANDS SCIENTIST. THE WETLAND LINES AND BUFFER ARE BASED ON FIELD MEASUREMENTS AND WILL BE VERIFIED WITH FIELD SURVEYS FOR SITE PLAN REVIEW.

USE:

CURRENT: CHILD DAY CARE
PROPOSED: ADULT GROUP HOUSING **

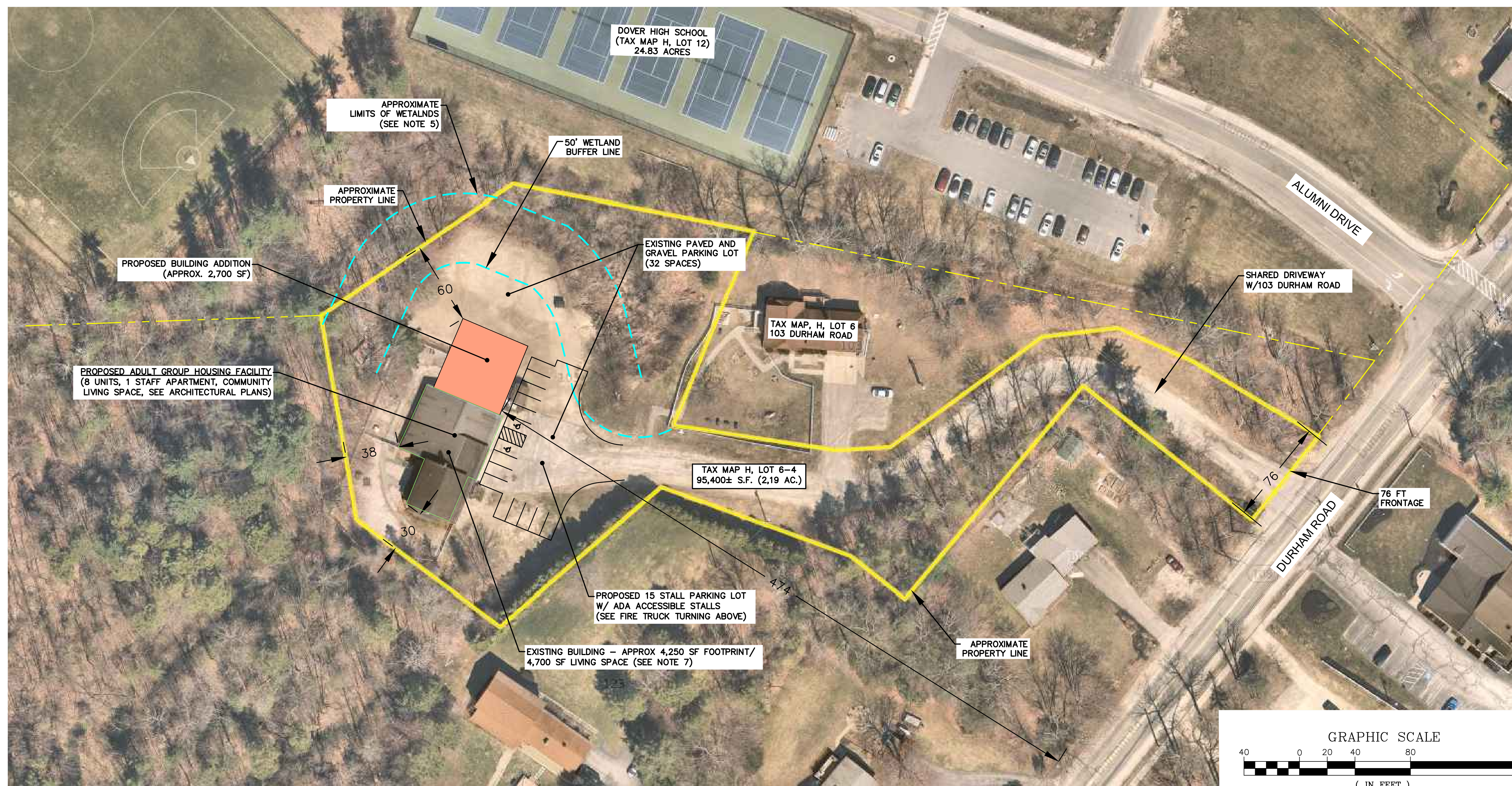
THE PROPOSED PROJECT WILL CONSTRUCT A BUILDING ADDITION AND CONVERT THE EXISTING APARTMENTS AND DAY CARE TO PROVIDE EIGHT (8) DWELLING UNITS IN A GROUP HOUSING FACILITY, WITH COMMUNITY SPACES, AND AN APARTMENT FOR A AN ON-SITE CARE STAFF MEMBER.

**** GROUP HOUSING FACILITIES FOR ADULTS UNDER AGE 62 YEARS OF AGE ARE NOT DEFINED AS AB ALLOWED USE IN THE R-20 DISTRICT AND A VARIANCE IS REQUESTED TO ALLOW THE PROPOSED USE.**

7. BUILDING DIMENSIONS ARE BASED CITY TAX RECORDS AND FIELD MEASUREMENTS AND WILL BE VERIFIED WITH FIELD SURVEYS FOR THE SITE PLAN APPLICATION.

PARKING:

EXISTING = 32 SPACES
PROPOSED = 15 SPACES



ENGINEER:



ALTUS
ENGINEERING, INC.

133 COURT STREET PORTSMOUTH, NH 03801
(603) 433-2335 www.ALTUS-ENG.com

ISSUED FOR:

ZONING BAORD

ISSUE DATE:

November 28, 2023

REVISIONS

REVISIONS			
NO.	DESCRIPTION	BY	DATE
0	ZBA SUBMITTAL	CDB	11/28/23

DRAWN BY: _____ CDB

APPROVED BY: EDW

DRAWING FILE: 4952-SITE.DWG

SCALE:

22"x34" 1" = 40'
11"x17" 1" = 80'

OWNER:

Paul J. Seaver
105 Durham Road
Dover, NH 03820

APPLICANT:

Our Place, Inc.
P.O. Box 65
Dover, NH 03821-0065

PROJECT:

OUR PLACE
SITE DEVELOPMENT

TAX MAP H, LOT 6-4
105 DURHAM ROAD
DOVER, NH 03820

TITLE:

ZONING SITE PLAN

SHEET NUMBER:

Z-1



2 SECOND FLOOR PLAN
SCALE 3/16" = 1'-0"

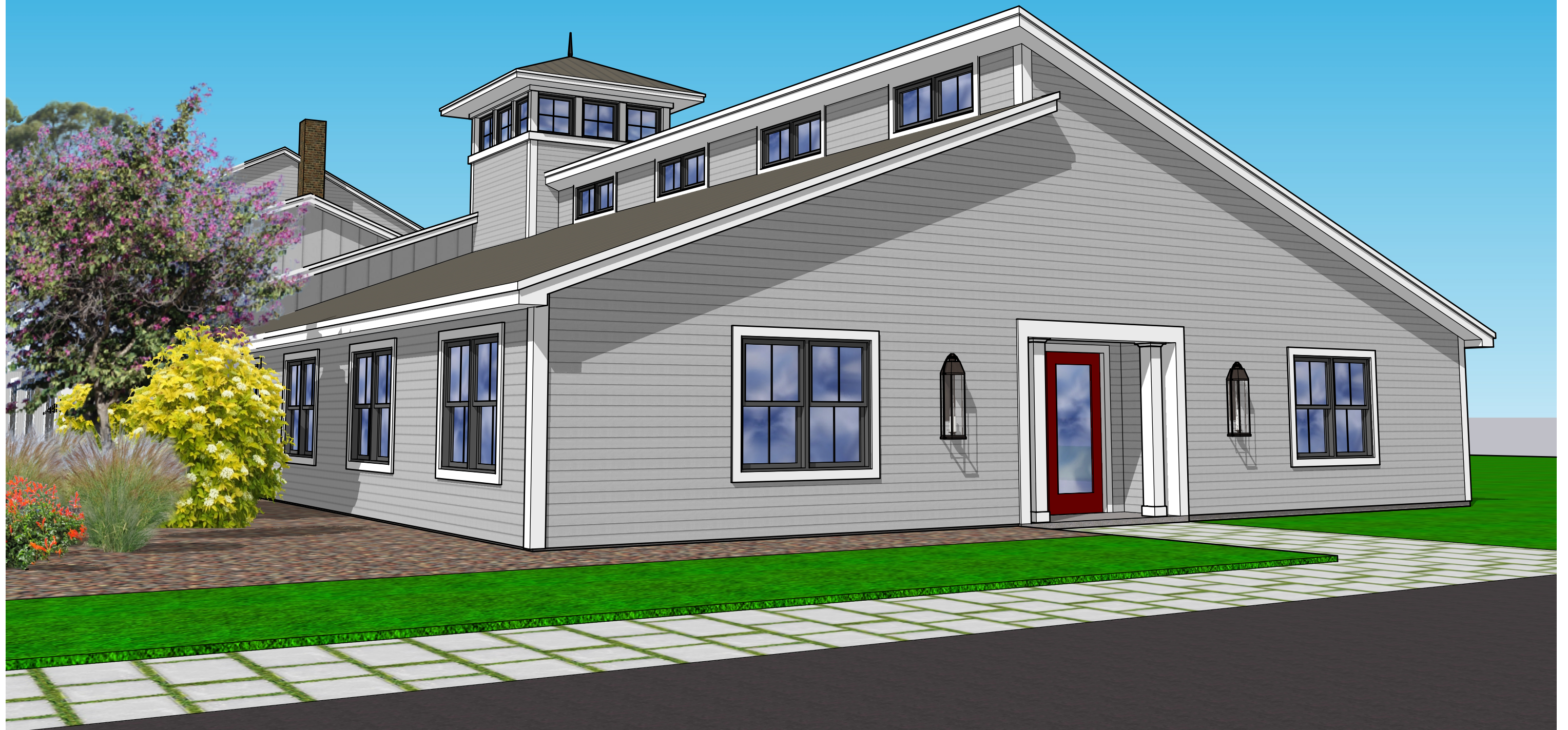
1 FIRST FLOOR PLAN
SCALE 3/16" = 1'-0"

MAIN HOUSE - 2 UNITS PLUS STAFF OFFICE
DAYCARE BLOCK (2) 2 BR & (1) 1 BR
TOTAL EXISTING CONSTRUCTION = 4,250 SF
ADDITION - 4 STUDIOS / 1 BR
TOTAL ADDITION NEW CONSTRUCTION = 2,700 SF



Architectural Consulting Services
Design Renovation Planning







Architectural Consulting Services
Design Renovation Planning

RECEIVED
Planning Office

DEC 07 2023

Dover, New Hampshire

Dover Zoning Board of Adjustment, Chris Prior, Chairman

c/o Dover Planning Department at City Hall

288 Central Avenue, Dover, NH 03820

On December 21, 2023 the DBA will take up a subject of the utmost importance: whether to grant a variance to Our Place to build 5 additional units at 105 Durham Road. This expansion will enable this project to become a viable supportive housing facility for adults with intellectual developmental disabilities (IDD)

As parents age, they reach the point where they no longer can provide care and support for their adult offspring with IDD. Our Place, with its concept of independent living blended with consolidated services and financial efficiency is the answer to this statewide dilemma.

This variance will identify Dover as a city of solutions in this field, amplifying our city's already stellar status for innovation and out-of-the-box solutions.

I urge you to grant this variance and enable Our Place to take the next steps in this most worthwhile and essential endeavor.

Very truly yours,



Terry Picard, 192 Silver Street, Dover

Dec 4, 2023

From: Judith Cole <judithvilescole@gmail.com>

Sent: Thursday, November 30, 2023 6:40:44 AM

To: Zoning Board - All

Subject: Our Place NH application

Security Notice: External sender. Use caution with hyperlinks or attachments.

Dear Mr. Prior,

I am writing concerning Our Place NH, an organization working to provide alternative housing for adults with intellectual disabilities in the Dover area. As a Dover resident with an adult son with Down syndrome, I see the huge need for this. Our Place has a lease-to-buy agreement on a property at 105 Durham Road that they hope to purchase, and they need to add five more units to the property to make it viable for this purpose.

In my 70's, I am one of many parents in this area providing a home for an adult son or daughter who is unable to live on their own, and I worry about where my son will live when I am unable to care for him. The Our Place model provides a safe home with the needed oversight and support for its residents in a community of peers. It is sustained financially by the resident's Medicaid and Social Security funding. It's a home that they can count on long term, in contrast to Enhanced Family Care which depends on the host family's ability and desire to continue the arrangement. And it provides appropriate support for individuals as a home from which they can engage in social, work, and volunteer activities in the local community. Our Place will benefit Dover.

Please support this vital endeavor and approve Our Place's request for a variance to adapt this property.

Sincerely,

Judy Cole
4 Cross St
Dover NH
Judithvilescole@gmail.com

From: Bill Davis <bdavisnj@gmail.com>
Sent: Thursday, November 30, 2023 2:50 PM
To: Zoning Board - All <ZoningBoard-All@doover.nh.gov>
Subject: Our Place NH zoning application

Security Notice: External sender. Use caution with hyperlinks or attachments.

To: Dover Zoning Board of Adjustment
Chris Prior, Chair <ZoningBoard-All@doover.nh.gov>
Re: Our Place NH application

Dear Mr. Prior,

Our Place NH has a lease-to-buy agreement on a property at 105 Durham Road that they hope to purchase in order to provide sustainable supportive housing for adults with intellectual developmental disabilities (IDD). I am totally in favor of their request which would support a population that often gets overlooked and encourage you to approve this request.

They are seeking a variance to add five more units to the property

Some of the reasons why it remains critical that Dover support this type of housing are:

At one time the State of New Hampshire had a state institution that housed adults with IDD but it was closed in 1991.

Since 1991 the Bureau of Developmental Services has provided Medicaid funding to families so that they could keep their children at home instead of putting them in institutional care. This works well in some cases, until the parents become too old to care for their adult children, which is happening to many families now, as the parents begin to age and need care themselves.

Our Place NH has a list of over 60 families that are interested in placing their adult children in their first home, and the list keeps growing.

According to census data from 2021 presented in Kentucky University's State of the States in Intellectual and Developmental Disabilities, NH has nearly 2700 individuals with IDD. 73% are living with a family caregiver and 27% of those are over the age of 60. That means 531 adults with IDD are going to need housing in New Hampshire in the next few decades.

There are some Area Agencies that provide support to families and have some group homes, but they are usually for people with severe behavioral or medical needs. The only other alternative is Enhanced Family Care which resembles adult foster care which tends to be short-lived as well as being very difficult to oversee.

Unlike foster care for children, which ends at age 18, the need for foster care for adults with IDD can be 30 years or more.

Studies have shown that Adults with IDD who are able to move away from their parents and establish themselves in an independent living situation, with proper support in place, thrive and do much better

than their peers who do not live in a community setting.

Sincerely yours,

Bill Davis
177 Mount Vernon St.
Dover, NH 03820

bdavisnj@gmail.com

609-529-0235

From: peread@comcast.net <peread@comcast.net>
Sent: Thursday, November 30, 2023 2:08 PM
To: Zoning Board - All <ZoningBoard-All@dover.nh.gov>
Subject: Our House NH support for zoning variance

Security Notice: External sender. Use caution with hyperlinks or attachments.

**To: Dover Zoning Board of Adjustment
Chairman Chris Prior
Dover Planning Department
City Hall
288 Central Ave.
Dover, NH 03820
<ZoningBoard-All@dover.nh.gov>**

RE: Our Place NH variance request

Dear Mr. Prior and Board of Adjustment members,

This letter is to convey our support for your approval of a variance request by
OUR HOUSE NH at 105 Durham Road, Dover.

In our opinion, the planned use of this property to provide a residential home for
adults with

intellectual development disabilities (IDD) will present no disruption to abutters.

In addition, the enlargement of the building which requires a variance is
necessary in order for Our House NH

to be able to effectively provide a home to meet an unmet need for foster care of
adults with IDD.

Yours Truly,

Philip and Susan Read

7 Browning Drive, Dover

Dear Mr. Prior,

Our Place NH has a lease-to-buy agreement on a property at 105 Durham Road that they hope to purchase in order to provide sustainable supportive housing for adults with intellectual developmental disabilities (IDD). I am totally in favor of their request which would support a population that often gets overlooked and encourage you to approve this request.

They are seeking a variance to add five more units to the property. Our daughter is one of the adults with an intellectual disability that needs this housing. She is one of over 2500 adults in New Hampshire that needs supportive housing to live a safe, happy and meaningful life. Erin is a 29 year old who has Asperger Syndrome. She works part time at the Greater Seacoast YMCA. She receives service from COAST to get to and from our home to the YMCA, doctor's appointments and recreational activities. You will see Erin in Dover at community events, shopping, enjoying restaurants, and visiting Miles at Jewelry Creations. She is very happy in Dover!

For now, Erin lives at home with us, however is eager to get out on her own and live in the Dover. We are excited for her to be more independent, but know that she will always need a safe and supportive community that can give her the help she needs, and to make her feel part of a smaller group. Her hope is to have a small apartment with nearby support staff available 24 hours a day.

Most parents don't have to consider what happens next for their adult children to live a happy and safe life in their community. We do. Please help us to make Dover a leader in developing supportive living communities for adults with intellectual disabilities.

Sincerely,
Manya Jennings
149 Garrison Road
Dover, NH

From: Mike Bennett <mike@frostbennett.com>
Sent: Saturday, December 2, 2023 3:08 PM
To: Zoning Board - All <ZoningBoard-All@doover.nh.gov>
Subject: Letter in Support of OurPlace--105 Durham Road

Security Notice: External sender. Use caution with hyperlinks or attachments.

Dear Mr. Prior,

Our Place NH has a lease-to-buy agreement on a property at 105 Durham Road that they hope to purchase in order to provide sustainable supportive housing for adults with intellectual developmental disabilities (IDD). I am totally in favor of their request which would support a population that often gets overlooked and encourage you to approve this request.

They are seeking a variance to add five more units to the property. Some of the reasons why it remains critical that Dover support this type of housing are:

- Our Place NH has a list of over 60 families, including ours, that are interested in placing their adult children in their first home, and the list keeps growing.
- Unlike foster care for children, which ends at age 18, the need for foster care for adults with IDD can be 30 years or more. We know that one day, we will be too old to properly care for our son at home.
- Studies have shown that Adults with IDD who are able to move away from their parents and establish themselves in an independent living situation, with proper support in place, thrive and do much better than their peers who do not live in a community setting. We want this for our son.

This is a great project and 105 Durham Road is an excellent location. We hope you will grant this variance. Thank you for your consideration.

Sincerely,

Rev. Michael S. Bennett
Rev. Susan M. Frost
(and John Frost Bennett)
10 Grandview Drive
Dover, NH 03820
603-617-7079
mike@frostbennett.com

From: Abie Berggren <abietrained@yahoo.com>
Sent: Monday, December 4, 2023 11:26 AM
To: Zoning Board - All <ZoningBoard-All@doover.nh.gov>
Subject: Our Place NH Application

Security Notice: External sender. Use caution with hyperlinks or attachments.

Dear Mr. Prior,

As a direct abutter, I'm aware that *Our Place NH* has a lease-to-buy agreement on a property at 105 Durham Road that they hope to purchase in order to provide sustainable supportive housing for adults with intellectual developmental disabilities (IDD). They are seeking a variance to add five more units to the property. I am totally in favor of their request which would support a population that often gets overlooked and encourage you to approve this request.

There are many reasons why it remains critical that Dover support this type of housing; some of them are:

- At one time the State of New Hampshire had a state institution that housed adults with IDD but it was closed in 1991. Since 1991 the Bureau of Developmental Services has provided Medicaid funding to families so that they could keep their children at home instead of putting them in institutional care. This works well in some cases, until the parents become too old to care for their adult children, which is happening to many families now, as the parents begin to age and need care themselves.
- Our Place NH has a list of over 60 families that are interested in placing their adult children in their first home, and the list keeps growing.
- According to census data from 2021 presented in Kentucky University's [State of the States in Intellectual and Developmental Disabilities](#), NH has nearly 2700 individuals with IDD. 73% are living with a family caregiver and 27% of those are over the age of 60. That means 531 adults with IDD are going to need housing in New Hampshire in the next few decades.
- There are some Area Agencies that provide support to families and have some group homes, but they are usually for people with severe behavioral or medical needs. The only other alternative is Enhanced Family Care which resembles adult foster care which tends to be short-lived as well as being very difficult to oversee.
- Unlike foster care for children, which ends at age 18, the need for foster care for adults with IDD can be 30 years or more.
- Studies have shown that Adults with IDD who are able to move away from their parents and establish themselves in an independent living situation, with proper support in place, thrive and do much better than their peers who do not live in a community setting.

I am in complete support of Our Place NH's request for a variance and its purpose. My mother passed away this summer and my younger brother has come to live with my family and I. Brian, age 45, has severe developmental disabilities and requires 24/7 care, so I have an understanding for the need as well as the time and effort required by the aging parents for the care of their developmentally disabled children/adults.

Sincerely yours,

Abie Berggren
123 Durham Rd
Dover, NH 03820

From: Deb Taylor <director@zebra-crossings.org>
Sent: Monday, December 4, 2023 12:48 PM
To: Zoning Board - All <ZoningBoard-All@dover.nh.gov>
Cc: lmcintosh@ourplacenh.org
Subject: Our Place NH Variance for Five Additional Units

Security Notice: External sender. Use caution with hyperlinks or attachments.

To: Dover Zoning Board of Adjustment, Chris Prior, Chair

Re: Our Place NH Application

Dear Mr. Prior,

I have recently become aware of Our Place NH's application for a variance for five additional units at 105 Durham Road, a location where Our Place NH has a lease-to-buy agreement for the prospective purchase of the property. **I support the award of this variance**, as I support Our Place's mission of providing sustainable, supportive housing for adults with intellectual and developmental disabilities.

I am a Dover resident and serve as the Chairperson of the Dover based non-profit organization Zebra Crossings. The work of Zebra Crossings (providing empowerment programs for people with chronic medical conditions) overlaps with the mission of Our Place NH, so I understand first hand how vital their work is, and how sorely needed housing for people with intellectual and developmental disabilities is.

Again, I urge that a variance for the five unit addition be granted to Our Place NH.

Thank you for the good work you do for the city of Dover.

Sincerely yours,
Tim Guen
2 Jacqueline Drive
Dover NH 03820
Director@Zebra-Crossings.org

From: Peggy Mace <peggy.mace@comcast.net>
Sent: Monday, December 4, 2023 4:58 PM
To: Zoning Board - All <ZoningBoard-All@doover.nh.gov>
Subject: Our Place NH Application

Security Notice: External sender. Use caution with hyperlinks or attachments.

Dear Mr. Prior,

Our Place NH has a lease-to-buy agreement on a property at 105 Durham Road that they hope to purchase and renovate to provide sustainable, supportive housing for adults with intellectual developmental disabilities (IDD). I am emphatically in favor of their request, which would support a population that often gets overlooked, and respectfully urge you to approve this variance.

They are seeking a variance to add five more units to the property. In order for this to be a viable and sustainable project, they would need to add these five extra units.

Some of the reasons why it remains critical that Dover support this type of housing are:

- Currently, the Bureau of Developmental Services provides Medicaid funding to families so that they can keep their children at home instead of putting them in institutional care. This is often not a sustainable solution for adults with disabilities as their parents age and are unable to continue the level of care and support needed for their adult children.
- Our Place NH has a list of over 60 families that are interested in placing their adult children in their first home, and the list keeps growing.
- According to census data from 2021 presented in Kentucky University's [State of the States in Intellectual and Developmental Disabilities](#), NH has nearly 2700 individuals with IDD. 73% are living with a family caregiver and 27% of those are over the age of 60. That means 531 adults with IDD are going to need housing in New Hampshire in the next few decades. It is imperative that future planning for housing, across the State of NH, addresses this critical need for supportive housing solutions for some of our most vulnerable population.
- Studies have shown that adults with IDD who are able to move out of their family home and establish themselves in an appropriately supported independent living situation, thrive and do much better than their peers who do not live in a community setting.

I personally have a passionate interest in the work that Our Place NH is doing to provide housing solutions for adults with developmental disabilities. Two of my three adult children, Caleb and Lily, ages 24 and 20, have a diagnosis of Down syndrome and live at home with me. Their Dad passed away from cancer six years ago, which left me a single parent trying to meet the needs of two adults with very active lives. Both Caleb and Lily work, participate in Special Olympics, and attend a variety of social activities within the community on a weekly basis. Neither of them drive and they both require a

certain level of support with daily life skills. It is a full-time job to support them in keeping their job, maintaining their friendships and social life, and ensuring they live fully and inclusively within the community they grew up in. This also ensures they also don't live a life of loneliness and isolation or without purpose. I alone cannot sustain this level of support for them long-term as I age. Knowing Caleb and Lily could be part of a supported community with their peers gives me hope and a sense of security for their future.

Making a priority of individuals with IDD, and their desire to fully participate and live as independently as possible within their communities, will also build better and more inclusive communities. We desperately need models for housing to help these adults with IDD reach this goal and achieve their full potential. Our Place NH is right on target to achieve this objective, which is why I respectfully urge you to approve their request for a variance so this project can move forward.

Thank you for reading and your time and consideration.

Kindly,
Peggy Mace
93 Glen Hill Road
Dover, NH
peggy.mace@comcast.net

December 4, 2023

Chris Prior, Chair
Zoning Board of Adjustment
% Dover Planning Department
City Hall
288 Central Avenue
Dover, NH 03820

RE: 105 Durham Road

I'm writing to express my whole hearted support for the variance requested by Our Place NH for 105 Durham Road.

Housing opportunities in Dover and the greater Seacoast are limited at best. Imagine how difficult it is to find suitable housing if you are an adult with development disabilities but able to live independently with support. Then, imagine you are that adult's parent worried about what will happen to your son or daughter when you are no longer able to care for them.

Fortunately, Our Place NH has located a rare property which is a perfect place to provide sustainable supportive housing for this very underserved population. Despite a willing seller and a welcoming community as demonstrated by the generous donations of Dover residents, this worthy project is not financially feasible without granting the requested variance.

This project serves the public interest and, due to its private location, will not impact surrounding property values. It meets the spirit of the zoning ordinance by enabling housing for all.

I urge you to grant this variance request. Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Mary Beth Rudolph".

Mary Beth Rudolph
9 Magnolia Drive
Dover, NH 03820

Dover Zoning Board of Adjustment, Chris Prior, Chairman

288 Central Avenue, Dover, NH 03820

Dec 13, 2023

Dear Chris,

Imagine you are a 75 year-old parent and caregiver to 40 year-old adult children (men) with intellectual developmental disabilities (IDD). Soon you will be unable to provide this care. There is no place for them to go...

Enter Our PLace, the independent-living, service-consolidating, financially-efficient dwelling concept established to take the place of loving parents in a supportive environment.

Our Place is a proven model and we need dozens such places throughout New Hampshire. Dover stands at the pinnacle of leadership in many areas, and this will be yet another. Our Place is a much needed solution for the responsible care of adults with IDD.

On December 21 the ZBA will consider granting a variance so Our Place can build the five additional units it needs at 105 Durham Road to deliver for our community. You hold the key to this solution. Please approve this variance.

Very truly yours,



Terry Picard, 192 Silver Street, Dover

RECEIVED
Planning Office

DEC 18 2023

Dover, New Hampshire

From: astrid767@gmail.com <astrid767@gmail.com>

Sent: Wednesday, November 29, 2023 7:08:03 PM

To: Zoning Board - All

Subject: Our Place NH Application

Security Notice: External sender. Use caution with hyperlinks or attachments.

Dear Mr. Prior,

Our Place NH has a lease-to-buy agreement on a property at 105 Durham Road that they hope to purchase to provide sustainable supportive housing for adults with intellectual developmental disabilities (IDD). I am completely in favor of their request which would support a population that often gets overlooked and encourage you to approve this request.

Our Place is seeking a variance to add five more units to the property, which would meet an essential need. I have worked for many years with families who have a child with an IDD. I have witnessed their love for their children impacted by their concern for their futures. As the parents are getting older, they are uncertain about their child's future, health, and wellbeing. It is agonizing to watch their despair yet here they are taking action to become self-sufficient.

Our Place is providing a solution that serves these individuals, their families, and the community. Of all zoning adjustments that have been made and can be made in Dover, I see this as one of the most essential ones for the zoning board to consider as it truly impacts a human need.

Sincerely,
Astrid Wielens & Bridget Stearns
16 Back Road
Dover, NH
Email: astrid767@gmail.com

To: Dover Zoning Board of Adjustment

Chris Prior, Chair <ZoningBoard-All@doover.nh.gov>

Re: Our Place NH application

Dear Mr. Prior,

Our Place NH has a lease-to-buy agreement on a property at 105 Durham Road that they hope to purchase in order to provide sustainable supportive housing for adults with intellectual developmental disabilities (IDD). I am totally in favor of their request which would support a population that often gets overlooked and encourage you to approve this request.

They are seeking a variance to add five more units to the property

Some of the reasons why it remains critical that Dover support this type of housing are:

- At one time the State of New Hampshire had a state institution that housed adults with IDD but it was closed in 1991.
- Since 1991 the Bureau of Developmental Services has provided Medicaid funding to families so that they could keep their children at home instead of putting them in institutional care. This works well in some cases, until the parents become too old to care for their adult children, which is happening to many families now, as the parents begin to age and need care themselves.
- Our Place NH has a list of over 60 families that are interested in placing their adult children in their first home, and the list keeps growing.
- According to census data from 2021 presented in Kentucky University's [State of the States in Intellectual and Developmental Disabilities](#), NH has nearly 2700 individuals with IDD. 73% are living with a family caregiver and 27% of those are over the age of 60. That means 531 adults with IDD are going to need housing in New Hampshire in the next few decades.
- There are some Area Agencies that provide support to families and have some group homes, but they are usually for people with severe behavioral or medical needs. The only other alternative is Enhanced Family Care which resembles adult foster care which tends to be short-lived as well as being very difficult to oversee.

- Unlike foster care for children, which ends at age 18, the need for foster care for adults with IDD can be 30 years or more.
- Studies have shown that Adults with IDD who are able to move away from their parents and establish themselves in an independent living situation, with proper support in place, thrive and do much better than their peers who do not live in a community setting.

In closing I would also add that it would be a great credit to the City of Dover if such a valued facility were located here and it would speak very eloquently to our care and concern for those in our community who very much need our support in order to thrive.

Sincerely yours,

Jeannie F. Goodwin

196 Mast Road

Dover NH

jgmusic@comcast.net

November 30, 2023

To: Dover Zoning Board of Adjustment
Chris Prior, Chairman (ZoningBoard-All@Dover.NH.gov)

RE: Our Place NH Application, 105 Durham Road, Dover, NH

Dear Mr. Prior,

Our Place NH has achieved site control at 105 Durham Road, which property they plan to purchase and redevelop in order to provide sustainable supportive housing for adults with intellectual developmental disabilities (IDD). I am writing in support of Our Place NH's zoning variance application which would enable them to build an additional five units on the property. This variance is critical in order for the economics of the planned project to work.

I have personally viewed the 105 Durham Road property and I believe that it is exceptionally well located and would create much needed housing for adults with IDD. I further believe that there is a need for such housing in NH as there are very few workable, sustainable options for housing adults with IDD, especially when their parents become too old to shoulder this burden, as is happening now in many instances.

There has been no NH state institutional housing for adults with IDD since the facility closed in 1991- 32 years ago. Studies have shown that adults with IDD who are able to move away from their parents and live independently, with support in place, thrive and do much better than those not living in a community setting. The need is underscored by the fact that prior to commencing development – or even closing on this site – Our Place NH has a waiting list of over 60 families.

I believe that this location will create very minimal impact on abutting properties, especially with it being adjacent to Dover High School, a far more impactful use. I whole heartedly support Our Place NH's mission and would ask for favorable consideration of this zoning variance request to help this vision become a reality for individuals in need.

Sincerely,

Stephen S. Lawrence
19 Wentworth Terrace Dover, NH
Slaw530196@gmail.com



**Bernstein, Shur,
Sawyer & Nelson, P.A.**
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VIA EMAIL

December 15, 2023

City of Dover ZBA
288 Central Avenue
Dover, NH 03820-4169

Re: ZONE-202300049 – Back Road (Tax Map M, Lot 104)

Dear Administrator Clark:

Enclosed for filing on behalf of Deepwater Frontiers LLC and Miles Cook is our Motion for Rehearing.

Please contact me if you need further information or have any questions.

A. Eli Leino
Associate Attorney
603-665-8859
eleino@bernsteinshur.com

Sincerely,

A handwritten signature in blue ink, appearing to read "A. Eli Leino".

A. Eli Leino



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A. Eli Leino
Associate Attorney
603-665-8859
eleino@bernsteinshur.com

Re. Request for Rehearing – Case ZONE-2023-0049

Dear Chairman Prior and Members of the Board:

This office represents Deepwater Frontiers, LLC (the “Applicant”), owner of property situated on Back Road, Tax Map M, Lot 104 (the “Property”). The Applicant recently submitted a variance application to this Board in connection with the existing accessory storage container located on the Property. Specifically, the Applicant requested a Variance from Section 170-12(B) of the Zoning Ordinance, to allow the storage container to remain on the parcel within the setback temporarily due to the unique natures of the property. (Case ZONE-2023-0049).

The Applicant appeared before the Board on November 16, 2023, where the variance was denied by a vote of 4-1. For the reasons set forth herein, the Applicant submits that the Board erred when it purported to deny the Applicant’s variance and requests that the Board grant the within Motion for Rehearing and reconsider its decision. The Applicant submits that it met each of the five variance criteria and that the variance request should have been granted. The Board may grant a rehearing if in its opinion good reason is stated in this request. See RSA 677:2.

In determining hardship, the Board relied on “necessity” based on the Applicant’s potential willingness to sell the storage container. Under prior law, a showing of hardship required that “the deprivation resulting from application of the ordinance must be so great as to effectively prevent the owner from making any reasonable use of the land.” See Governor’s Island Club, Inc., v. Town of Gilford, 124 N.H. 126, 130 (1983). That is no longer the case, however, under current New Hampshire law.

In 2001, the New Hampshire Supreme Court relaxed the unnecessary hardship standard to require only that the zoning restriction interfere with the applicant’s “reasonable use of the property,

considering the unique setting of the property in its environment.” Simplex Techs., Inc. v. Town of Newington, 145 N.H. 727, 731 (2001). Since Simplex, the standard has been further clarified such that an applicant for a variance need not show that the proposed use is “necessary,” only that it is “reasonable.” See Harborside Assocs., L.P. v. Parade Residence Hotel, LLC, 162 N.H. 508, 518-19 (2011). For example, in Harborside, the applicant, a hotel, sought a variance to allow large marquee signs that were not otherwise permitted by the local zoning ordinance. Id. The local zoning board, however, determined that such large signs were not strictly necessary and denied the variance. See id. As the Board found, “the hotel could operate just fine with small marquee signs (or, indeed, without any marquee signs at all).” Id. The New Hampshire Supreme Court rejected that reasoning and overturned the denial, finding that the applicant “merely had to show that its proposed signs were a ‘reasonable use’ of the property, given its special conditions” and expressly held that whether the signs were “necessary” was not relevant. Id.

In the present matter, the Board placed significant emphasis on the Applicant’s potential willingness to sell the container to demonstrate the request was merely a desire and not a necessity. This analysis does not comport with the modern variance standard and should be reconsidered by the Board.

With regard to the proposal for a temporary variance, the Board’s analysis was overly narrow. While it is correct that variances generally run with the land, the Board has broad discretion to impose reasonable conditions. See RSA 676:3. As such, the Board should reconsider granting the variance with time limits or renewal language imposed as a condition of approval.

Finally, the record makes clear that the Applicant met the five variance criteria, particularly with regard to alteration of the essential characteristics of the neighborhood, spirit of the ordinance, and diminution of the values of surrounding properties.

For the reasons set forth above, the Applicant submits that the Board erred when it purported to deny the variances. The Board should grant this Motion for Rehearing to retest the merits of the Applicant’s requests against the proper legal standard contained in RSA 674:33. Accordingly, the Applicant requests that the Board (1) reconsider its decisions; (2) grant the within Motion for Rehearing; and (3) schedule and hold a public rehearing where the Board tests the merits of the Applicant’s requests against the proper legal standard.

Sincerely,



A. Eli Leino