



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - AGENDA

Meeting Type: Regular Meeting
Meeting Location: 2nd Floor - Finance Conference Room
288 Central Avenue, Dover, NH 03820
Meeting Date: **Thursday, May 20, 2010**
Meeting Time: **7:00 pm**

1. ATTENDANCE

2. APPROVAL OF PRIOR MINUTES OF MARCH 18, 2010

3. OLD BUSINESS

- A. Request for motion for rehearing regarding case Z 10-02 Summit Land Development; property owned by 2830 Holdings LLC, located at Dover Point Road/Thornwood Lane; Tax Map K, Lot 19C, zoned R-12/B-3/ETP. The applicant requests a Special Exception from the terms of Article IV, Section 170-12/B-3 Table, to allow a 3,055 sf. convenience store and six (6) bay gas station with associated parking, utilities, stormwater management and landscaping.

4. NEW BUSINESS

- A. *Z 10-04 New Meadows Inc., Lilac Lane, Tax Map H, Lot 35-D, zoned RM-SU/B-4. The applicant requests a use Variance from the terms of Article IV, Section 170-11.D and 170-12.A, to construct three buildings to house 93 cold storage units.
- B. *Z 09-14 Ronald Pfeiffer and Elizabeth Pettiford, (Owner: Leon Chapman) 10 Summer St., Tax Map 12, Lot 22, zoned RM-U, requests a dimensional Variance from the terms of Article IV, Section 170-12.B, to construct an addition. The variance is required to exceed the 40% lot coverage.
- C. *Z 10-05 Fastdogs Realty LLC, 432 Sixth Street, at the southeast corner of Sixth St/County Farm Rd., Tax Map E, Lot 32, zoned ETP, requests a use Variance from the terms of Article IV, Section 170-11.D and 170-12.A, to establish a dog kennel.
- D. *Z 10-06 A - Paolini Brothers Dev., LLC, 54 Dover Point Rd., Map K-1, Lot 20, zoned B-3, requests a dimensional Variance from the terms of Article IV, Section 170-12.B, to subdivide a parcel creating a lot with approximately 100' frontage, where 125' frontage is required.
- E. *Z 10-06 B - Paolini Brothers Dev., LLC, 54 Dover Point Rd., Map K-1, Lot 20, zoned B-3, requests a use and dimensional Variance from the terms of Article IV, Section 170-12.A, to allow the 12 previously approved residential units to be located on the second lot, which will contain approximately 46,000 sq. ft. area, less than the required area.

5. OTHER BOARD BUSINESS

- A. Discussion of Rules of Procedure.

6. ADJOURN

Persons with questions or wishing to see the plans are invited to visit the Planning Office. Plans and applications are available for inspection in the Planning Office, weekdays from 8:00 am to 4:00 pm. You may also view materials at www.dover.nh.gov, a map showing project locations can be found at www.dover.nh.gov/planhome.html.



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820
Meeting Date: **Thursday, March 18, 2010**
Meeting Time: **7:00 pm**

MEMBERS PRESENT: Masi Denison (Chair), William Colbath (Vice Chair), James Kelley, Sam Reid and Chris Prior (Alternate).

MEMBERS ABSENT: Frank Landford and Otis Perry (Alternate).

STAFF PRESENT: Steve Bird (City Planner) and Michelle Beauchamp (Recording Secretary).

OTHERS PRESENT: Marilyn Follansbee, Matt Hoppe, Andrea Hoppe, Christopher Boldt, John Ryan, Chad Kageliery, Jeff Cattle, Jennifer Viarengo, John O'Neill, Pam Simpson, Shawn Kelley, Michael Bolduc, Jennifer Lawson, Jay Delasora, Justice Smith, Kim Hazarvarian

The Chair called the meeting to order at 7:05PM. As an Alternate, C.Prior stood in for F.Landford.

Note: *Audio recording problems.*

1. APPROVAL OF PRIOR MINUTES OF FEBRUARY 18, 2010

S.Reid made the motion to approve the February 18, 2010 minutes. W.Colbath seconded. Vote: Unanimous.

2. OLD BUSINESS

- A. **Z 10-02 Summit Land Development;** property owned by 2830 Holdings LLC, located at Dover Point Road/Thornwood Lane; Tax Map K, Lot 19C, Zoned R-12/B-3/E/TP. The applicant requests a Special Exception from the terms of Article IV, Section 170-12/B-3 Table, to allow a 3,055 sf. convenience store and six (6) bay gas station with associated parking, utilities, stormwater management and landscaping. [Continued from February 18, 2010 ZBA Meeting]

W.Colbath made the motion to bring the item of business off the table. S.Reid seconded. Vote: Unanimous.

The Chair noted that the meeting was continued for improper notification of the site identification poster. She noted that the meeting left off with the public hearing. She asked if there was anyone present that would like to speak who is against the application.

M.Follansbee presented the Board with a petition containing 121 signatures opposed to a gas station/convenience store in the area. She supplied photographs of the proposed location and noted that this proposal would directly affect her property value negatively. She noted that the area will be impacted by traffic. She added that Jack Buckley of Dover Housing Authority is planning a 28 housing unit in this area for senior citizens and does not support this application.

J.Cattle spoke in opposition of the application and was concerned about the traffic impact.

C.Boldt represented Matt and Andrea Hoppe of 26 Dover Point Road. He presented photographs taken from the Hoppe house towards the proposed site. He presented a letter from Barbara



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Shiembob of Keller Williams Coastal Realty which listed several negative characteristics (increased traffic, noise and fumes; extended hours of operation and impact on residential living; transient nature of the customers and the increase risk of violence and crime; and the hazardous and dangerous materials on site and the associated risk and noise). Her letter stated that the proposal would deter potential buyers from even considering adjacent residential properties. He noted that his clients put their house on market but as soon as applicants learned of the proposed site development, the buyer withdrew their offer. He presented a copy of the purchase and sales agreement and withdrawal letter.

C.Boldt noted that the lot for the proposal does not exist in its current configuration presented. He added that it is being piece mealed from properties surrounding it. Specifically from the R-12 District, where is use is not allowed and from the ETP. He noted that by State law, the Special Exception criteria cannot be varied; it is a permitted use when you meet the checklist. This application requires 60,000 square feet from the B-3 District; this project only gets 75,000 square feet by adding it from the R-12 District and ETP District. He believes the application does not meet the criteria for Special Exception. He noted that the ZBA cannot waive or vary the terms of the Special Exception and therefore the application cannot stand on its own feet it and must be denied. He noted that the applicant cannot meet the traffic criteria since they have not completed the traffic study. C.Boldt noted that there is an existing convenience store within 1/2 mile and a gas station in the other direction.

S.Reid made the motion to allow the proponents to respond. C.Prior seconded. Vote: Unanimous.

The Chair noted that the Board received additional letters: Letters in favor of the project (Robert Wunder, Greater Dover Chamber of Commerce & Visitor Center, Rosalyn Andrews, Rosemary August, Tim Dargan, Russell Lyon, Kenneth Plante, Dover Secretarial Services and Andrea Welch) and letters or e-mails in opposition (Jay McLaughlin, Roy & Gail Tanner, Sylvia Fosco, Jack Buckley Victor & Eleanor Strawbridge, Molly Sweeney and Constance Passas)

J.O'Neill, a business owner, noted that he supports a place of convenience for his workers to go get coffee or lunch. He added that Mr. Kageliery has done an outstanding job in Dover and is very considerate of his neighbors.

P.Simpson owns a business in Dover and is a member of the Chamber of Commerce. She supported the project because she believes there is a need for a gas station on Dover Point Road. She added that the projects Mr. Kageliery have done have been great.

S.Kelley noted that he travels everyday along this road. He owns a business in Portsmouth. He believes the population in Dover has changed drastically and putting in a convenience store/gas station would not additionally impact traffic. He added that he is in favor of this project.

M.Bolduc noted that he believes this project would be convenient instead of going through town, which can be challenging at some times during the day.



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J.Lawson travels Dover Point Road about three times a day and noted that there was no place to get a cup of coffee, bite to eat or gas and would rather spend her money at a Dover business than another community.

J.Delasora noted that there have been hundreds of houses built in the area and there is a big need for a gas station/convenience store. He noted that he currently has to go to Newington or into downtown Dover and felt that his commute was traffic for someone else. He added that this was a good situation.

J.Smith noted that she owns a real estate business in downtown Dover and she had no concerns for what this would do to home values. She was in full support of the project. She noted that the majority of the houses in the area are not on Dover Point Road.

C.Kageliery noted that in 1973 the land was zoned commercial and Mrs. Follansbee bought her housing knowing that as did the Hoppe family. He added that the adjacent properties are not impacted. He noted that the two vacant lots between subject property and the abutter are vacant.

C.Boldt noted that the Hoppe property was listed at an abutter.

C.Kageliery clarified that an abutter is not necessarily adjacent. He added that the Hoppe property is a few hundred feet away. It was noted that lot 26 & 19A are zoned R-12.

J.Viarengo noted that lot 19C, the subject property, is zoned R-12, B-3 and ETP. As part of proposal, a site plan and lot line adjustment will be proposed and lot 19A will have a portion added to 19C. She added that 50% of the lot is in the less restrictive zone. She noted that they are before this Board for a special exception on the gasoline and service station.

C.Kageliery noted that he owns lot 26 and lot 19A. He added that a licensed appraiser has noted that the adjacent properties are not negatively affected. He noted that he has attended Technical Review meetings and has incorporated suggested road improvements, which also speaks to traffic. He added that this proposal is allowed by special exception in the business zone and he stated that there are property rights associated with that.

There was a general discussion regarding the Thornwood development which was a concept blend of residential and commercial.

K. Hazarvarian, traffic engineer, noted that he will provide a complete traffic and access report for the Planning Board process. He noted that gas station/convenience does not create destination generators. He added that 2/3 of the traffic will be from Dover Point Road and will not add significant traffic in to the area in general. He stated that the access traffic coming in and out would be a concern and there is an added lane planned.

J.Kelley questioned what would trigger a traffic light. K. Hazarvarian stated a larger development.

W.Colbath questioned how many trips this proposal would generate. K. Hazarvarian noted that there are two types of trips. He noted that the peak hour preliminary calculations are about 200



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trips in a peak hour and he believes most of it would be drawn from passing traffic. He added that the daily number would be 1,000 or 2,000 over the course of the day. He noted that there are about 14,000 trips down Dover Point Road. He added that there will be some relocation of traffic, but the traffic character will not change dramatically.

C.Boldt noted that zoning ordinance was written to include them and be considered an abutter. He stated that there is a creek bed behind the property that is heavily wooded which eventually reaches the Bellamy River. He added that this is a major source of flood water control and you don't want to have the pollution of a gas station adjacent to this.

C.Boldt stated that the applicant does not meet the special exception criteria. He added that they have not produced any evidence that has contradicted the Follansbee letter, the real estate letter and the withdrawn purchase and sales agreement.

There was a discussion regarding the Brian White opinion letter. C.Boldt noted that B.White's letter states that this use will not have any more negative value than any other commercial use. C.Boldt added that it was irrelevant. We have given you a piece of evidence. S.Ried noted that a convenience store is allowed as a matter of property right. C.Boldt agreed that a convenience store would affect his client's property value, because of the lights that are used. C.Boldt noted that because they have a gas station element, it requires a special exception. C.Boldt agreed that a gas station would diminish property values more than a convenience store because of additional lights, pollution, spillage, fumes and noise. J.Kelley noted that most convenience stores have lights and noise. He added that gas stations have sophisticated methods for removing fumes. C.Boldt noted that this is a massive impact. He added that they do not have the square footage (60,000) within the B-3 District and cannot prove there will not be a compromise.

C.Kageliery noted that the use of land for a gasoline and auto service station may only be permitted upon the determination that the property values of adjacent land will not be compromised. He added that adjacent land was contiguous. They were required to be notified as abutters because they were within 200 feet.

J.Ryan noted that the City's definition of gasoline station is an automobile service station, the basic function of which is to provide for the sale of gasoline and oil and routine automobile maintenance. He added that this project does not include service station. He noted that it includes a convenience store which is allowed by property right.

M.Follansbee again noted her opposition to the application.

The Chair asked S.Bird if the Planning Department had an opinion. S.Bird stated that the Planning Department believes the applicant meets the criteria laid out in zoning. He added that there is nothing in zoning which requires all 60,000 to be in a specific district. He noted that a gas station has been allowed by Special Exception ever since the B-3 District was created.

Chair made the motion for a 30 minute recess to review the written evidence. W.Colbath seconded. Vote: Unanimous



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The Chair called the meeting back to order at 8:50PM.

J.Kelley questioned what would be allowed in the R-12 Zone. S.Bird noted a family dwelling, two family dwelling, conversion of existing dwelling to accommodate not more than 2 units, bed and breakfast, office, childcare facility, church, educational institution(post secondary), education institution (K-12), public recreation, public utility and pools. He added Elderly Assisted Care by Special Exception. J.Kelley noted that there is precedent in regards to the 50-feet. W.Colbath noted that ETP does not allow gas stations.

S.Reid made the motion to close the public hearing. J.Kelley seconded. Vote: Unanimous.

The Chair noted that the Board needs to determine if the applicant meets the criteria for a special exception. She added that the Board needs to determine if the applicant meets the 60,000 square feet. It was noted that only a small portion of the pavement goes into the R-12 zone. The Chair noted that a gasoline station is a special use and she believes that the 60,000 square feet is to make sure a gas station is placed in a large commercial area. The Chair noted that the Board needs to address the issue of granting a special exception when there is not enough space in the B-3 zone and move into another zone. J.Kelley questioned if the applicant could have configured smaller pumps to stay within B-3 zone.

S.Reid made the motion to proceed with hearing the request. C.Prior seconded. Vote 4-1, motion passed. (Denison opposed)

The Chair noted that Attorney Ryan feels the applicant does not need a special exception since they are not providing vehicle service. The Board felt that the special exception would be needed for the proposed use.

The Chair read the following general conditions:

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

The Chair noted that she has heard a lot of comments regarding the desirability and non-desirability of the proposed use. J.Kelley noted that he heard comments regarding the convenience as opposed to the need. C.Prior noted that some of the testimony noticed that this was not desirable. S.Reid noted that as a member of the public, that he would find this to be desirable. J.Kelley noted that it would be at the expense of the immediate homeowners. The Chair noted that this may be a case where the public good outweighs private rights. It is our duty to consider the current owner and future owners of the parcels involved.

W.Colbath noted that the devaluation becomes a question. He added that if it were located between the two businesses then it would be simple. He feared that the abutting residential lot



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may come before the Board and ask for a variance because it cannot build a residential property next to a gas station.

C.Prior noted that general development might be tough to take for the abutters. It was noted that the 121 signatures on the petition are folks that live in that general area. He felt that they would use the gas station if it was available to them.

J.Kelley noted that something will happen to that corner lot. The open area in the back will have a negative impact on the immediate lots.

S.Reid noted that the valuation issue is not part of the public convenience or welfare. We have to find that the use of land for gasoline or auto service station will not affect the property value of adjacent land and will not be compromised. He noted that the Hoppe property could be considered adjacent property. He added that Brian White is a well respected real estate appraiser and in his opinion this would not result in devaluation. There was a general discussion regarding Brian White's letter and how each member interpreted the letter.

The Chair noted that she felt the abutters would be less concerned if it was just a convenience store. She believes that the proposed use would affect the value of the homes and she takes the withdrawal of the purchase and sales letter very seriously. She questioned if the devaluation should be a price that should be paid for the public welfare. S.Reid noted that the rescinded offer does not say that the house is not \$295,000. C.Prior noted that an offer is only an offer if it is signed by the seller. The Chair agreed that the copy before them was not signed. A member of the audience noted that it had been signed. The Chair noted that the public hearing is no longer open.

W.Colbath noted that he was not convinced that the square footage had been resolved. He noted that the 60,000 square feet should be in the B-3 zone. He believes that would need a variance because they were asking for more than 50 feet into the other zone. J.Kelley noted that he felt this was a valid point.

The Chair noted that the Board heard from the traffic engineer and did not hear from the parties in opposition regarding a negative traffic impact. J.Kelley noted that there would be a negative traffic impact when turning in and out of the station. He noted that someone would need to cut across two lanes of traffic when turning left. The Chair noted that the applicant has been through the Technical Review Committee. W.Colbath noted that he has not seen a traffic report. It was noted that the professional opinion is that it would not be a problem.

The Chair noted the following criteria:

- The use of land for a gasoline and auto service station may only be permitted upon the determination that the property values of adjacent land will not be compromised.
- The minimum lot size shall be 60,000 square feet, the minimum lot width shall be 150 feet, 25% of the subject parcel shall be open/green space, the total permitted sign area shall not exceed 100 square feet.



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The Chair restated the general conditions and noted that the Board would need to take into consideration the testimony received.

W.Colbath noted that he has a problem with the ETP minimum lot size requirement. He added that if the City wanted the ETP to have gas stations, it would have gas stations as an allowable use. He noted that the proposal could be desirable, but it may not be essential. He added that going 50 feet into the ETP would be ok, but this Board does not have the authority under special exception to grant this, it would require a variance. C.Prior noted that the language does not state that all of the area needs to be in B-3. He added that the proposed lot is larger than 60,000 sq ft. W.Colbath noted that a gas station is allowed in B-3 and shall have 60,000 sq ft. He feels a variance would be needed to use the land in the other zones. He restated that this would need a variance.

J.Kelley noted that he would be concerned about the value of the other properties. He added that he felt the two real estate agents note that the properties would be compromised.

W.Colbath made the motion to deny the Special Exception. J.Kelley seconded. Vote: 3-2 (Colbath, Kelley, Denison in favor)(Reid,Prior opposed).

The Chair noted that the applicant has right to appeal the decision in 30 days.

The Chair called for a 5 minute recess.

3. OTHER BOARD BUSINESS

Review draft Zoning Board of Adjustment Application Form and Finding of Facts Form.

S.Bird discussed the proposed changes to the application form. It was noted that some changes are based on State law. It was noted that the "Findings of Fact" form would also reflect these changes.

W.Colbath made the motion to approve the changes. S.Reid seconded Vote: Unanimous

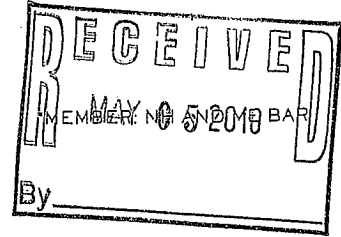
It was requested that the Rules of Procedure be added to the next agenda.

4. ADJOURN

S.Reid made the motion to adjourn at 10:30 PM. J.Kelley seconded. Vote: Unanimous

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DANIEL R. HARTLEY*



April 16, 2010

HAND DELIVERED

City of Dover
Zoning Board of Adjustment
288 Central Avenue
Dover, NH 03810

Re: Case #Z 10-02
Application of Summit Land Development / Dover Point Road / Thornwood
Lane

Dear Mr. Chairman and Members of the Board:

Enclosed herewith you will find the Applicant's Motion for Rehearing with regard
to the above referenced case for filing with your office.

Very truly yours,

John J. Ryan

JJR:bs
Enclosures
Cc: Christopher Boldt, Esq.

STATE OF NEW HAMPSHIRE

CITY OF DOVER, ZONING BOARD OF ADJUSTMENT
CASE #Z 10-02

Application of Summit Land Development Property
Owned by 2830 Holdings, LLC
Dover Point Road/Thornwood Lane
For a Special Exception

APPLICANT'S MOTION FOR REHEARING

Now comes the Applicants, Summit Land Development/2830 Holdings, LLC and pursuant to RSA 677:2 hereby files this Motion for Rehearing, and says as follows:

1. On March 18, 2010, Board held a hearing on the Application for Special Exception filed by the Applicants. The Board denied the Application for a vote of 3-2.
2. For the reasons listed below, the Applicant requests that this Board grant this Motion for Rehearing and hold a subsequent hearing.
3. Special Exception Not Required.

The initial issue, presented to the Board by the Applicants' Attorney in a letter dated March 18, 2010 and included in the Record, is whether a Special Exception is required for the Applicants' convenience store/gas pump dispensing facility.

A. Convenience Stores are a permitted use under "Retail" in the B-3 Zone. "Gas Service Stations" require a Special Exception. (Under Zoning Ordinance §170-23 "the use of land for a gasoline and auto service station may only be permitted . . ."). The term "automobile service station" is defined under §170-6 as "a place of business which offers as a service the repair of automobiles", such 'auto service' place shall not be construed to be a gasoline station." A "gasoline station" is defined under

§170-6 as "an automobile service station, the basic function of which is to provide for the sale of gasoline and routine automobile maintenance."

Thus, the Zoning Ordinance makes a clear distinction between those types of facilities that only offer the sale of gasoline and oil, and those facilities which include or are solely dedicated to the offering of repair to automobiles (i.e. with bays, lifts, mechanics and auto repair equipment). A Special Exception is required only where such repair facilities are present.

Therefore, in this case since no repair of automobiles is included as part of the convenience store gas pump dispensing facility, and the use is only "retail", no Special Exception is required.

4. 60,000 Square Foot Issue

A. Part of the "Special Exception Criteria" includes the following provision:

"B. The minimum lot size shall be 60,000 square feet . . ."

During the March 18, 2010 meeting the Chairman determined that the Board needed to decide whether the Application met the criteria for a Special Exception regarding the 60,000 square foot requirement. The Board voted 4-1 that the 60,000 square foot requirement had been met and that the Board would proceed with the hearing.

B. Later, one of the members who voted in favor of the finding that the 60,000 square foot requirement had been met (Mr. Colbath), voted in favor of denying the Special Exception on the basis that the 60,000 square foot requirement had not

been met. This vote was contrary to the Board's earlier finding and was an inappropriate basis for denying the Special Exception.

C. The portion of the Applicant's property that lies within the B-3 Zoning consists of 45,000 square feet. All of the facilities associated with the convenience store/gas pumps are located in the B-3 Zone. The Ordinance prescribing the 60,000 square foot requirement does not say that all of the 60,000 square feet must be within the B-3 Zone.

D. In an earlier case, Z-98-20 Portland Avenue/Oak Street, this Board granted a Special Exception where the proposed facility had 48,000 square feet in the B-3 Zoning and 15,000 square feet in the R-12 Zone. Thus, as a matter of precedent and interpretation of the Ordinance, any vote by any member of the Board denying the Applicant's Special Exception, was contrary to the Board's previous interpretation and decision regarding the 60,000 square foot requirement.

E. According to the Planning Department, the City has consistently interpreted the 60,000 square foot requirement as being satisfied regardless of whether the property was split by zone lines. At the March 18th hearing the City Planner confirmed that the subject lot met all zoning criteria including lot size requirement. The Applicant requests that the Board make a specific finding that the Special Exception cannot be denied on the basis that the Applicant's lot does not have 60,000 square feet in the B-3 Zone.

5. A. The convenience store/gas pumps facility is essential to the public convenience or welfare.

The minutes of the March 18, 2010 meeting do not contain any finding by the Board as to whether the public convenience or welfare would be served by the Applicant's proposal.

B. At the hearing seven (7) individuals spoke in favor of the Application. The Board also received 14 letters from citizens, including the Chamber of Commerce and Dover Economic Development Office, all in favor of the Project based on the need for such a facility in this area of Dover.

C. There is no current availability to the traveling public or in the area, of a convenience store/gas pump facility. Such a facility is clearly desirable to the public convenience.

The Applicant requests that this Board make a specific finding that the gasoline pumps component of the proposed use is desirable to the public convenience.

6. A. The gasoline pumps component of the proposed use will not create undue traffic congestion or unduly impair pedestrian safety.

The minutes of the March 18, 2010 meeting do not contain any finding by the Board as to whether the proposed use will or will not create any undue traffic congestion.

B. The Applicant's traffic engineer testified that the traffic character will not change dramatically. Members of the Board noted that the traffic study had not been completed as yet.

Included herewith, as *Exhibit A*, is a copy of the completed traffic study. In part it concludes that the gas pumps aspect of the facility will not create undue traffic congestion.

The traffic trip counts for the convenience store only, reveal that the total number of trips would be 2,467 over a 24 hour period. With the addition of the gas pumps the traffic count increases by 307 total trips (150 cars coming in and out), over a 24 hour period. During the peak a.m. hour the addition of the gas pumps adds only 7 additional trips (4 in / 3 out). During the peak p.m. hour the addition of the gas pumps produces 79 additional trips (40 in / 39 out). Therefore it is obvious that the addition of the gas pumps (which is the use triggering the Special Exception) produces a minimal traffic increase.

The Applicant requests that the Board make a specific finding that the gasoline dispensing pumps of themselves will not create any undue traffic congestion.

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

The minutes of the March 18, 2010 meeting do not contain any finding by the Board with regard to the above.

B. The Applicant submitted correspondence from the City Engineer, dated 1/28/2010, in which the City Engineer stated that municipal water and sewer is available to the above mentioned lot and that there is also adequate supply and capacity in the water and sewer systems for the proposed site development. Furthermore, all stormwater will be handled on site and will not drain into the City's stormwater system.

The Applicant requests that the Board make a specific finding that the gasoline dispensing pumps will not impact the City's infrastructure water, sewer or drainage facilities.

8. A. The use of the Applicant's land for 12 gasoline dispensing pumps (Vehicle Fueling Positions) will not compromise the property values of adjacent land.

The minutes of the March 18, 2010 meeting do not contain any finding by the Board with regard to the impact of the 12 gasoline dispensing pumps on the values of adjacent properties.

B. Initially, it is important for the Board to determine what is meant by the term "adjacent". That term is not defined in the Ordinance. The dictionary definition of "adjacent" is "adjoining, contiguous, abutting or attached." The principal objectors to the Application were the Hoppe's land and Mrs. Follansbee. The Hoppe's are two lots distant from the proposed use and 250 feet away from any gasoline dispensing equipment. Mrs. Follansbee lives across the street, and up the road, approximately 450 feet away from any gas dispensing equipment. As a matter of law, neither of those objectors is "adjacent" to the Applicant's property, and were not entitled to be notified as part of this Special Exception, and therefore have no "standing" to object to the Special Exception (See ZBA Notice requirements which only include direct abutters or persons having properties directly across the street). The Applicant requests that the Board make a specific finding that those persons do not own "adjacent" properties.

C. The issue in this case is not whether the convenience store/gas pumps compromise adjacent property values, but only whether the gas pumps

themselves compromise adjacent property values. The Applicant submitted an appraisal by a qualified real estate appraiser who concluded that the construction of the proposed gasoline/convenience store facility on the subject property "would not result in a diminution in value for the residential property located on or off of Dover Point Road." Included herein as *Exhibit B-1* is a copy of Mr. White's Supplemental Appraisal which concludes that the Hoppe property and the Follansbee property values will not be compromised by the gas dispensing pump aspects of the Applicant's proposed use.

The Minutes of the March 18, 2010 meeting contain Attorney Boldt's comments on "the massive impact" that the Shell and Citgo stations on the corner of Central Avenue and Locust Street were having on the values of surrounding homes. The Applicant has obtained from the City of Dover Assessor's Office the assessed value of the 17 properties in this corridor, up to the Profile gas/service station at 102 Central Avenue (see attached reference maps – *Exhibit B-3 and B-4*).

A comparison of the 14 residential properties on Dover Point Road bounded by the existing B-3 Zones with the 17 residential properties on Central Avenue (3 on Locust Street) reveals no impact of the gas businesses on those residences. See attached *Exhibit B-2*.

These three gas facilities on Central Avenue are within ¼ mile of each other – it is "Gasoline Alley". There are 3 traffic lights in that stretch of road and a major road intersection. There is a turnpike on/off ramp. The traffic count is nearly 20,000 cars per day. There is a large fast food facility.

Given this evidence, it is readily apparent that the presence of gasoline businesses has no negative effect on the residential property values. In fact, given the

other existing features of the corridor, as noted above, it would appear that the heavier traffic and commercial presence has elevated values of surrounding residential properties.

D. The Realtor's Reports submitted by the Hoppe's and Mrs. McFadyen are defective and carry no weight for the following reasons:

McFadyen:

- She is not a qualified Real Estate Appraiser;
- She combines the convenience store with the gasoline dispensing pumps;
- She makes no finding that the existence or use of gasoline dispensing pumps would cause any negative impact on the values of the Hoppe property;
- There will be no "beeps" with respect to the gasoline pumps as pneumatic annunciators will not be used;
- She cites "conversations while pumping gas". The nearest gas pump to the Follansbee house is over 450 feet distant, across a heavily trafficked highway. The Hoppe home is 260 feet distant from the gas pumps. Any such conversations could not be heard from such distances. Included as *Exhibit C* is a copy of the Site Plans to be submitted to the Planning Board. The Zoning Board did not have the benefit of reviewing our site development plans, as they are normally only submitted to the Planning Board, as part of the Site Review process. These plans show the lighting, fencing,

landscaping and other features and demonstrate the buffering of the project from the surrounding properties.

- She cites "delivery vehicle noise". The delivery points at the site are either behind the store or at the further southern side of the property. Those points are 600 feet away from the Follansbee house and 450 feet distance from the Hoppe house. Any such delivery noise would be barely discernable or non-existent at the Follansbee or Hoppe properties. In addition, it should be noted that a COAST Bus Stop, Route #2, is located approximately 300 feet away from the Follansbee property. This bus stops at least 20 times per day. There is no record of Mrs. Follansbee complaining about the noise volume of diesel bus traffic which is closer than the gasoline pumps which would be located at the Applicant's property.

- The Hoppe's paid \$279,000 for their property. It is currently assessed at \$255,000. The Hoppe property is impacted by a municipal sewer easement, a private sewer easement, a shared driveway, and a current traffic count of 15,000 cars per day. A major commercial development is planned adjacent to their backyard. All of the above impacts were present when the Hoppe's purchased their property. The Hoppe's submitted a photograph taken from their home, across two vacant lots and the lot where the proposed facility would be located. We have had an architect produce a rendering depicting the perspective of the facility,

shielded by a fence, using the same photographic perspective as the Hoppe photograph (See *Exhibit D*). This rendering shows the roof line of the store and only the top of the gas canopy will be visible from the Hoppe property. All automobile lighting will be buffered by the privacy fence. Please note the floor elevation is approximately 4 feet below the grade of Dover Point Road.

Shiembob:

- She is not a qualified Real Estate Appraiser;
- She combines the convenience store with the gasoline dispensing pumps;
- There is no finding that the existence or use of gasoline dispensing pumps would cause any negative impact on the values of any property;
- She cites "traffic". Other permitted uses would generate additional traffic. The Applicant's proposed use would only add approximately 300 cars per day over an 24 hour period.
- She cites "traffic noise". There are already 15,000 cars per day traveling on the Dover Point Road at this location. The additional traffic outlined in Paragraph 6 B will not make any difference with respect to traffic noise levels.
- She cites "fumes". No fumes will be present offsite. Included as *Exhibit E* and *Exhibit E-1* are copies of the Stantec and Allen &

Major Environmental Reports, which clearly prove that no such "fumes" or other environmental impact will occur.

- Hours, etc. Hours of operation will conform to Zoning Ordinance requirements. In addition, there will be fencing at the site shielding the Hoppe residence. The eventual further development of the two vacant lots between the site and the Hoppe house will further shield the Hoppe property;
- She cites transient nature of clientele and potential violence. The opposite is the case. Dover Point Road is a commuter route with the same people largely using the roadway. No proof of the potential for violence was put forth by anyone at the March 18, 2010 hearing.

E. Also included are Photo-Optic Plans *Exhibit F-1* (the proposed development plan), and *Exhibit F-2* (the convenience store without the gas canopy). Both optic plans comply with City of Dover Code. It is obvious that the impact of site lighting on surrounding properties is non-existent.

Furthermore, we also obtained from the City of Dover Planning Department a copy of a photo optic plan for a gas/convenience store recently built at 52 Central Avenue in Dover (See *Exhibit F-3*). This plan show maximum lighting level multiples higher than what we are proposing. There is a residence directly across the street, approximately 120 feet distant from the gas canopy. On our project, the Hoppe house is more than twice that distance, with a fence buffering the light. (See also *Exhibit F-4 – Explanatory Statement*). With respect to lighting, it should also be noted

that the Board granted a variance for property adjacent to Follansbee in June of 2005 for a 3 story multi-unit congregate care facility (45,000 square feet), which included lighting and Ms. Follansbee supported that project. The lighting for the proposed convenience store/gas dispensing facility will have no more affect on the Follansbee property than would have resulted from the congregate care facility.

Also included is a Flood Analysis which proves that contrary to Attorney Boldt's assertion, the proposed facility is not located in a flood zone, and the creek bed at the rear of the property is not a major source of flood water control (See Exhibit G).

Finally, we note that the "P&S Agreement" submitted by the Hoppe's was not a contract, but merely an offer and that the so-called withdrawal came 20 hours later, written at the request of the Seller! That letter contains factual errors:

- The project was not before the Planning Board;
- A Variance was not requested;
- No "gas station" was being proposed;
- The "gas station" was not to be located on a "vacant lot next to the Hoppe's";
- The Hoppe's submitted the P&S documentation in an effort to demonstrate that a diminution of the value of their property would occur. No such result could be proven unless there were an actual sale at below market value, which did not occur.

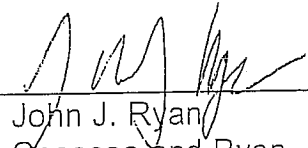
The Applicant requests that the Board make a specific finding that the existence and use of the gasoline dispensing pumps will not compromise the values of any adjacent or surrounding properties.

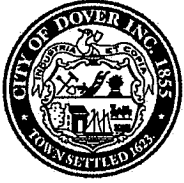
9. For the above reasons, the Applicant respectfully requests that this Board grant a rehearing in this matter and take a view of the subject property.

Respectfully submitted,
SUMMIT LAND DEVELOPMENT &
2830 HOLDINGS, LLC
By their Attorneys
CASASSA AND RYAN

Dated: April 16, 2010

By: _____


John J. Ryan
Casassa and Ryan
459 Lafayette Road
Hampton, NH 03842
(603) 926-6336



City of Dover

Zoning Board – Staff Memo File: Z10-04

APPLICATION TYPE:	USE VARIANCE
APPLICANT:	NEW MEADOWS, INC.
OWNER:	NEW MEADOWS, INC.
LOCATION:	LILAC LANE OFF KNOX MARSH ROAD (TAX MAP H, LOT 35D)

INTENT: TO OBTAIN A VARIANCE TO ALLOW RELIEF FROM THE TABLE OF USES IN THE RM-SU ZONE, WHERE A PERSONAL USE ESTABLISHMENT IS NOT ALLOWED IN THE RM-SU ZONE, TO SPECIFICALLY ALLOW THE CONSTRUCTION AND OPERATION OF STORAGE UNITS ON PARCEL IN SAID ZONE.

LOTS/UNITS PROPOSED: THREE STORAGE BUILDINGS W/93 UNITS

AGENDA ITEM #: 4 A.

ZONING DISTRICT: RM-SU & B-4

EXISTING LAND USE:
MULTI-FAMILY HOUSING

PROPOSED LAND USE:
ADDING PERSONAL SERVICE ESTABLISHMENT

SURROUNDING LAND USE:
SINGLE & MULTI-FAMILY HOUSES,
COMMERCIAL AND INDUSTRIAL

ZONING HISTORY:
ZONED RM IN 1979, B-4 IN 2006

PREVIOUS ZBA ACTION:
NONE.

ATTACHMENTS:
APPLICATION, SITE PLANS, NARRATIVE.

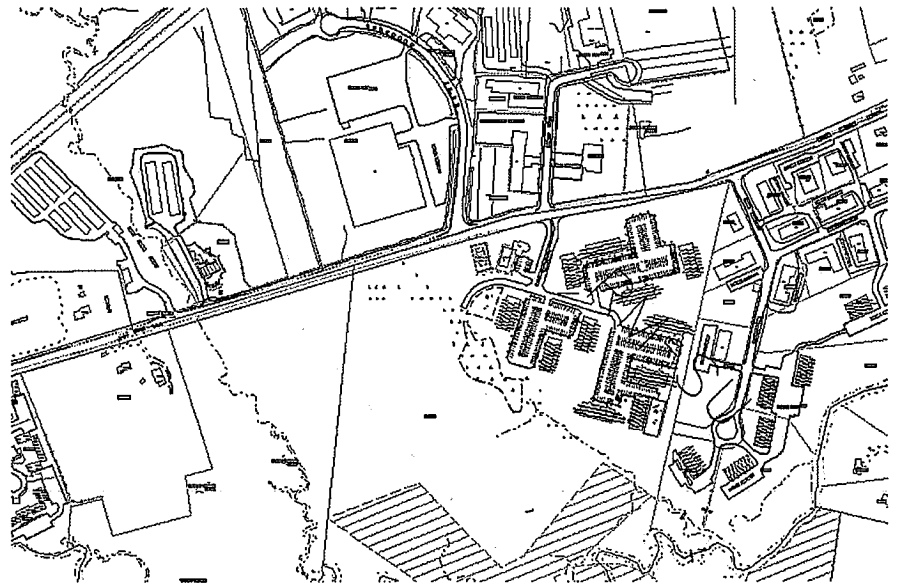
PB APPROVAL REQUIRED:
YES

PLANNING DEPARTMENT RECOMENDATION:

SUPPORTS VARIANCE WITH COMMENT

PROPOSED CONDITIONS OF APPROVAL:

APPLICANT SHALL GO THROUGH THE TRC AND SITE REVIEW PROCESS BEFORE THE PLANNING BOARD, MEETING ALL SITE REVIEW REGULATIONS PERTINENT.



- A. The applicant has submitted an application to allow for the construction of three storage buildings which contain 93 separate units with attendant aisles and parking with 9 spaces; the bulk of which is within the B-4 district. This portion of the project is allowed by right, however the portions of the buildings that are sited approximately within 50 ft. of the zone boundary are not allowed and are the subject of this variance along with the 48 space parking area contained wholly within the RM-SU district. Staff agrees with the narrative reasons given for substantial justice, public interest, no diminution in value of surrounding properties, and spirit and intent. Staff, however, offer the following with regard to hardship. The zoning boundary between B-4 and RM-SU appears to have been arbitrarily placed, with little regard for either parcel boundaries or natural features, thus hampering reasonable employment of the B-4 portion given the



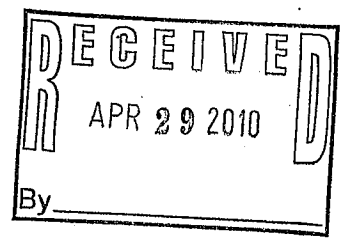
City of Dover

Zoning Board – Staff Memo File: Z10-04

APPLICATION TYPE:	USE VARIANCE
APPLICANT:	NEW MEADOWS, INC.
OWNER:	NEW MEADOWS, INC.
LOCATION:	LILAC LANE OFF KNOX MARSH ROAD (TAX MAP H, LOT 35D)

large acreage of land available. The Planning Department supports the variance request with a comment. The use is allowed by right in the B-4 zone portion of the lot, however, PSNH power line rights of way and wetland/conservation district buffers limit siting opportunities in this area of the parcel. Please note that the area adjacent to the highway has an approved site plan for another commercial use and cannot be used for siting the storage use. The 48 space parking area contained wholly in the RM-SU seems excessive for the needs of a storage facility business. If this parking area is for storage, then adequate screening must be employed to limit views of stored vehicles and boats from the residential units.

CASE # 210-04 DATE RECEIVED 4/29/10
 AMOUNT PAID \$ 243.10 TIME RECEIVED _____
 CK # 5760



CITY OF DOVER
 ZONING BOARD OF ADJUSTMENT
 APPLICATION

I. APPLICANT New Meadows, Inc. PHONE #: 742-3131
 ADDRESS Knox Marsh Road Dover, NH 1 Lilac Lane
 PROPERTY OWNER New Meadows, Inc.
 ADDRESS 1 Lilac Lane Dover, NH
 PROPERTY LOCATION off Knox Marsh Rd - Lilac Lane
 BRIEF DIRECTIONS off
 ZONE RM-54 ASSESSOR'S MAP H LOT #(S) 35-2

TYPE OF APPEAL: (Please check off one)

- | | | |
|--|--------------------|-------------------|
| <input checked="" type="checkbox"/> VARIANCE | ARTICLE <u>170</u> | SECTION <u>11</u> |
| <input type="checkbox"/> SPECIAL EXCEPTION | ARTICLE _____ | SECTION _____ |
| <input type="checkbox"/> ADMINISTRATIVE DECISION | ARTICLE _____ | SECTION _____ |
| <input type="checkbox"/> EQUITABLE WAIVER | ARTICLE _____ | SECTION _____ |

Describe briefly your plans for this property: to build 3 ~~old~~ buildings to
house 93 cold storage units, 18,500 sq/feet
combined

II. REQUIREMENTS SUBMITTED: (Please check off)

- A. Plot plan drawn in accordance with a boundary line survey to scale not less than 1" = 40', (12 copies). They need to include the lot dimensions including area in square feet, and also the size and location of existing and proposed buildings if applicable, including setbacks.
- B. List of abutters including addresses and map and lot number of parcels who adjoin or are directly across the street or stream from property.
- C. Application fee of:
- | | |
|---|---------------|
| \$100.00 VARIANCE | \$ <u>100</u> |
| \$100.00 SPECIAL EXCEPTION | \$ _____ |
| \$25.00 APPEAL FROM ADMINISTRATIVE DECISION | \$ _____ |
| \$100.00 EQUITABLE WAIVER | \$ _____ |
- D. Certified letters fee:
- | | |
|---------------------------------------|-----------------|
| # of abutters <u>13</u> X \$5.54 = | \$ <u>72.02</u> |
| Applicant & Owner <u>2</u> X \$5.54 = | \$ <u>11.08</u> |
| Foster's ad _____ | \$ <u>60.00</u> |
- TOTAL \$ 243.10

SPECIAL EXCEPTION REQUIREMENTS

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

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


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

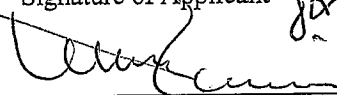
APPEAL FROM AN ADMINISTRATIVE DECISION

1. Explain why you feel that the Administrative Official made an error in applying or interpreting the zoning ordinance in a particular case.

IV. As applicant of standing of this request, I certify that the information herein is complete and accurate.

<p>IMPORTANT</p> <p>PROPERTY IDENTIFICATION SIGN MUST BE POSTED ON THE PROPERTY FOR THE 10 DAYS PRIOR TO HEARING.</p> <p>FAILURE TO POST MAY RESULT IN APPLICATION NOT BEING ACCEPTED</p>
--


Signature of Applicant* *for New Meadows, Inc*


Signature of Owner* *for New Meadows, Inc*

*Both Signatures Required

210-04

List of Abutters

James P. Griffin
PO Box 907
Portsmouth, NH 03802
(Map H, Lot 62)

Tyco, Inc.
PO Box 907
Portsmouth, NH 03802
(Map H, Lot 60)

Caliwash, LLC
217 Knox Marsh Rd
Dover, N.H. 03820
(Map H, Lot 36B)

Public Service Co of NH
PO Box 320
Manchester, NH 03105
(Map H, Lot 36C)

Cobalt Properties NH Corp
190 Commerce Way
Portsmouth, NH 03801
(Map H, Lot 35C-2A)

W. Conveys Properties
17 Evans Lane
Dover, NH 03820
(Map H, Lot 35C-1)

Sam's Supermarket, Inc
PO Box 1080
Portland, ME 04104
(Map H, Lot 34)

MSM Brothers, Inc
510 Madhu's Way
Dover, NH 03820
(Map H, Lot 41R)

Crosshik Housing Assoc
PO Box 250
New Ipswich, NH 03071
(Map H, Lot 41B)

Old Madhu's Lane, Inc
PO Box 250
Dover, NH 03820
(Map H, Lot 40)

Stone Direct of Dover, LLC

c/o Optivest Properties
24901 Dana Point Harbor Dr.
Suite 230

Dana Point, CA 92829
(Map #, Lot 36-B7)

Optivest Properties
24901 Dana Point Harbor Dr.
Suite 230
Dana Pt, CA
92829

E. Jerry Caschetti + Gail Cappuccelli

218 Knox Marsh Rd
Dover, NH 03820
(Map #, Lot 40B)

City of Dover
288 Centre Ave
Dover NH 03820
(Map #, Lot 63)

New Meadows Inc.
1 Lilac Lane
Dover NH 03820

**ATTACHMENT TO NEW MEADOWS, INC. APPLICATION TO DOVER ZONING
BOARD OF ADJUSTMENT FOR VARIANCE**

Revised Narrative:

Applicant is the owner of an existing multi-family/condominium development consisting of 280 units on 77.20 acres. The lot in questions is 1.46 acres, barely 1.9% of the total area. Additional condominium units have been approved on an adjacent lot but further construction has been prevented by unresolved legal issues arising out of Applicant's former counsel's failure to properly register the condominiums with the State of New Hampshire.

This, in turn, has impacted Applicant's plans to develop the lot, which is subject to this variance request. It has been previously approved for a retail/office use, but the inability to complete the approved condominiums has had a negative effect on the viability of this project. As a result, the lot in question remains undeveloped, benefiting neither the Applicant, the residents of the existing residential units, nor the City in terms of tax revenue.

Applicant's proposal is for construction of three (3) buildings for a total of 93 self-storage units, a combined total of 18,500 sq. ft. (which is less area than the presently approved retail/office building). The self-storage units would be offered in the first instance to present tenants at New Meadows and the Applicant contemplates that demand would be sufficient to fill all of the storage units. Only in the unlikely event that tenants did not fully occupy the units would they be offered for rental to the general public.

In a very real sense, this should be considered as an *accessory use* to the existing residential units, similar to the laundry, tennis courts, and other common amenities. The residential buildings at the New Meadows have no basements, no garages, so that storage space on site is extremely limited. The proposed on-site self storage units would be a real benefit for tenants who have little or no storage space available, improve the quality of the tenants' living space, and likely limit to a large extent items presently stored outside the buildings or on the decks. It would make the buildings safer, and improve the appearance of the property.

1. Hardship:

Applicant proposes to construct three **(3) self-storage buildings** on a lot that is primarily within a B-4 zone and partially within an RM-SU zone. A self-storage building is permitted within a B-4 zone, but it is not specifically permitted within an RM-SU zone. For the reasons set forth herein, it would be both fair and reasonable for the Zoning Board of Adjustment to grant a variance because of the unique hardship in the present case.

The B-4 zone allows for a number of commercial/retail uses and a self-storage facility is consistent with the permitted uses in this zone. In fact, there is an existing self-storage facility on an abutting lot, which Applicant believes is within the same B-4 zone. Although RM-SU is basically a residential district, as noted in this narrative, a self-storage facility at this location would amount to an **accessory use** to the Applicant's existing residential units.

The main hardship presented in this case is the arbitrary way that the RM-SU zoning line comes through the subject parcel, which comes across the lot at an unusual angle, putting a majority of the parcel in the B-4 zone, and arbitrarily putting a small portion of the lot in the RM-SU zone. While the zoning ordinance contemplates that zoning districts should normally follow boundary lines if possible, the RM-SU line comes through this lot at a funny angle for no obvious reason. Because of this, all but fifty (50) feet of the proposed self-storage buildings fall within the B-4 zone where they are a permitted use, and the remaining fifty (50) feet fall within the RM-SU zone. The subject parcel is further impacted by a *conservation easements*, which further restricts the use of this lot.

Thus, the proposed use is totally compatible with the permitted uses within B-4 and the services generally available to a large residential development within the RM-SU zone. Applicant's potential use of the lot, even though approved for retail/office, is severely limited because of existing market conditions and the ongoing prohibition of future condominium development of the adjoining lot (through no fault of the Applicant).

In the absence of the requested variance, the subject lot is likely to remain in an undeveloped state for any purpose for the foreseeable future.

2. Substantial Justice:

Granting the requested variance will allow Applicant a reasonable use of its Property, presently an unproductive lot, provide a substantial benefit to tenants of the existing residential development, and create revenue-producing property for the city.

3. Spirit and intent of ordinance:

The B-4 zone is a commercial/retail district. The proposed use is totally consistent with the intent of the ordinance in that regard and consistent with existing commercial/retail uses in the immediate area. Within the RM-SU zone, the use should be considered akin to an accessory use for the existing residential units similar to detached garages, individual sheds/outbuildings, or a freestanding building dedicated to communal storage, all of which Applicant believes would be allowed within the RM-SU zone.

4. Property values:

As noted, the lot in question is well within the overall property of the Applicant and not likely to impact in any way surrounding properties. The purpose of the self-storage units is to complement the existing residential units and enhance the marketability and livability of the existing residential development.

5. Public interest:

Applicant feels the proposed variance would be neutral in terms of public interest. The storage facility would be located well back from Knox Marsh Road – perhaps not even visible from that point. If, as anticipated, the units will be utilized by existing tenants within the development, there will be no traffic generated outside the development itself. What is presently an empty lot will be made more attractive and improve the streetscape along Lilac Lane, increase the value of the property, and generate additional tax revenues.



City of Dover

Zoning Board – Staff Memo File: Z09-14

APPLICATION TYPE: DIMENSIONAL VARIANCE–PERCENT LOT COVERAGE
 APPLICANT: RONALD PFEIFFER & ELIZABETH PETTIFORD PFEIFFER
 OWNER: LEON CHAPMAN (AS OF DATE OF MEMO)
 LOCATION: 10 SUMMER STREET (TAX MAP 12, LOT 22)

INTENT: TO OBTAIN A VARIANCE TO ALLOW RELIEF FROM THE REQUIREMENT FOR A MAXIMUM OF 40% LOT COVERAGE BY BUILDINGS, WHERE 42% BUILDING IS BEING PROPOSED FOR THE WADLEIGH HOUSE, AN ASSISTED CARE HOME.

SUPPORTS VARIANCE

PROPOSED CONDITIONS OF APPROVAL:
NONE.

LOTS/UNITS PROPOSED: N/A

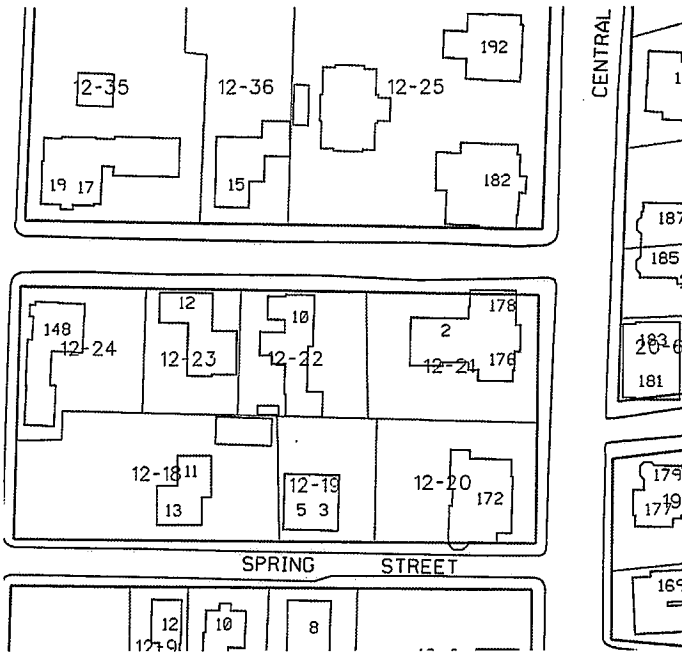
AGENDA ITEM #: 4 B.

ZONING DISTRICT: RM-U

EXISTING LAND USE:
ELDERLY ASSISTED LIVING

PROPOSED LAND USE:
REMAINS THE SAME

SURROUNDING LAND USE:
SINGLE & MULTI-FAMILY HOUSES,
INSTITUTIONAL



ZONING HISTORY:
ZONED RM IN 1979

PREVIOUS ZBA ACTION:
SAME VARIANCE GRANTED IN 2003;
STATUS: LAPSED.

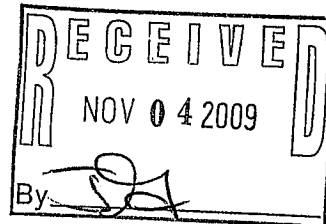
ATTACHMENTS:
APPLICATION, RENDERING, ADDITION
PLANS, NARRATIVE.

PB APPROVAL REQUIRED:
No

**PLANNING DEPARTMENT
RECOMENDATION:**

A. The applicant has submitted an application to allow for the construction of a 754 square foot, one storey addition to their main structure of the historic Wadleigh House. The lot coverage requested exceeds the maximum in the ordinance by approximately 2% (42%). Staff agrees with the narrative reasons given for hardship, substantial justice, public interest, no diminution in value of surrounding properties, and spirit and intent. The Planning Department supports the variance request because the strict adherence to the requirements of the ordinance in this case by a needed continuation of the use of the site as an elderly assisted living home that does not appear to be overbearing to the abutters from what is already present.

CASE # 209-14 DATE RECEIVED _____
 AMOUNT PAID \$ 204.32 TIME RECEIVED _____



Resubmitted
 May 5, 2010

**CITY OF DOVER
 ZONING BOARD OF ADJUSTMENT
 APPLICATION**

I. APPLICANT Ronald Pfeiffer + Elizabeth Pettiford PHONE #: 603-743-6559
 ADDRESS 72 Belknap St., Dover, N.H., 03820
 PROPERTY OWNER Leon Chapman
 ADDRESS 121 Belknap St., Dover, N.H., 03820
 PROPERTY LOCATION 10 Summer St., Dover, N.H., 03820
 BRIEF DIRECTIONS Turning up Summer St. off Central Ave it is the first house on your left.
 ZONE Rm-U ASSESSOR'S MAP 12 LOT #(S) 22

TYPE OF APPEAL: (Please check off one)

<input checked="" type="checkbox"/> VARIANCE	ARTICLE <u>V</u>	SECTION <u>170-16</u>
<input type="checkbox"/> SPECIAL EXCEPTION	ARTICLE _____	SECTION _____
<input type="checkbox"/> ADMINISTRATIVE DECISION	ARTICLE _____	SECTION _____
<input type="checkbox"/> EQUITABLE WAIVER	ARTICLE _____	SECTION _____

Describe briefly your plans for this property: Intent is to build an addition on the front of the house to provide extra space for residents in an elder care home

II. REQUIREMENTS SUBMITTED: (Please check off)

- A. Plot plan drawn in accordance with a boundary line survey to scale not less than 1" = 40', (12 copies). They need to include the lot dimensions including area in square feet, and also the size and location of existing and proposed buildings if applicable, including setbacks. _____
- B. List of abutters including addresses and map and lot number of parcels who adjoin or are directly across the street or stream from property. _____
- C. Application fee of:

\$100.00 VARIANCE	\$ <u>100.00</u>
\$100.00 SPECIAL EXCEPTION	\$ _____
\$25.00 APPEAL FROM ADMINISTRATIVE DECISION	\$ _____
\$100.00 EQUITABLE WAIVER	\$ _____
- D. Certified letters fee:

# of abutters <u>0</u> X \$5.54 =	\$ <u>33.24</u>
Applicant & Owner <u>2</u> X \$5.54 =	\$ <u>11.08</u>
Foster's ad	\$ <u>60.00</u>

TOTAL \$ 204.32

SPECIAL EXCEPTION REQUIREMENTS

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

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

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

APPEAL FROM AN ADMINISTRATIVE DECISION

1. Explain why you feel that the Administrative Official made an error in applying or interpreting the zoning ordinance in a particular case.

IV. As applicant of standing of this request, I certify that the information herein is complete and accurate.

<p>IMPORTANT</p> <p>PROPERTY IDENTIFICATION SIGN MUST BE POSTED ON THE PROPERTY FOR THE 10 DAYS PRIOR TO HEARING.</p> <p>FAILURE TO POST MAY RESULT IN APPLICATION NOT BEING ACCEPTED</p>
--

Elyson Peters & Donald Steiner
Signature of Applicant*

Leon P. Chapman
Signature of Owner*

*Both Signatures Required

November 4, 2009

TO: DOVER ZONING BOARD

**TOPIC: VARIANCE REQUEST FOR PREVIOUSLY APPROVED
VARIANCE**

**PRESENTATION: UPDATED FORM OF MARCH 2003 MEETING
WITH THE ZONING BOARD**

Dear Board Members,

Please note that this presentation is a revised version of our originally granted variance request of March 2003. The approved addition was not completed by the current owner of the Wadleigh House Assisted Care Home and the time limitation was lapsed. We are in the process of buying the property back, having sold it in 2005, and wish to complete the addition.

VARIANCE REQUEST:

Building plans for proposed front sitting room necessitate our utilizing approximately 42% of our lot size, 2% more than is generally allowed in TH RM-U Zone. We would like to point out that the front sitting room, as it opens to the sunny side of the house, would be of tremendous health benefit to our residents and is being specifically designed to help alleviate some of their emotional and physical complaints. With this increased expansion of the room the residents will benefit from exercise programs and activities that will enhance their mobility and give them greater flexibility of muscles and joints.

The drawings depicting this work show how being granted the extra 2% lot coverage will allow us to create a more architecturally flowing design pattern as is demonstrated by our architect Phil Kendrick, a gentleman well known for his love of and flair for historic preservation work. We request that the shed in the back of the home be left as is. We were asked to remove it when our request to put the addition on was granted in 2003. We store equipment there which would take up valuable interior space, and removing it will not bring us below the 40% requirement anyhow as it is only a small shed.

Kindly consider that the sitting room can't go in the attached carriage house upper level as many residents have difficulty ambulating and that it does not impinge on setbacks.

MAIN POINTS

- 1). Wadleigh House currently and historically has primarily served and employed Dover residents. It serves a vital niche in the medical community.
- 2). Homes within the community such as ours are threatened and deserving of the support and flexibility they require. If schools, hospitals and related human service institutions are not put in jeopardy, why should homes like this be when they serve a population that is in such desperate need of housing?
- 3). An overview of Central Avenue from Silver Street to Spring Street and the streets running parallel with and perpendicular to Summer Street and intersecting with Locust and Belknap Street clearly demonstrates that over 60% of the population live in multi-family or apartment complexes with a minimal amount of green space. Approximately 40% of the buildings are either apartments or multi-family dwellings, and it might well be said that if in some cases buildings do not nearly cover the lot cars do.

REASONS FOR OUR REQUEST

We have operated Wadleigh House since April 1996. We provide 24 hour care for people who lack the capacity to care for themselves, and whose families find it impossible to do so. Many of our employees and residents either reside or had resided in Dover. This strong interest from the community has been a pattern since we opened, and speaks to the fact that many people want the choice to be able to reside within familiar surroundings in their elderly years, and not be forced into living in the outskirts of town.

We also utilize volunteers such as UNH students, Dover High School, and Dover Middle School, which helps them to meet their educational requirements.

We are requesting permission to put on our addition for numerous reasons, not the least of which is to help insure our ability to function, and survive economically, and be able to provide the quality of care our residents expect, and deserve, which is a matter of great concern to us.

About four years ago the only other homelike elder care facility in Dover was forced to close, primarily for financial reasons. A nurse employed by the Wadleigh House recently closed her two nearby homes for the same reason, and several others have closed for similar reasons throughout the state.

Part of the reason such places can not survive financially is the drastic under funding such homes receive when people are on the state assistance program. Another is the across the board skyrocketing cost of insurance which has taken place since 9/11, and has no apparent end in sight. Still another reason is that sometimes these homes are unable to function as they need to due to unrealistic zoning laws which make this work unduly difficult.

OUR REQUEST IN RELATION TO THE ELDERCARE CRISIS

To my husband and I the crisis is a daily reality. We have turned away perhaps 150-200 referrals in the past seven years. Families are desperate to find suitable housing for their medically impaired elders at risk, and this situation will worsen dramatically in the not too distant future.

Data from the office of state Planning Project states that the over 65 population of Stafford County will rise from 12,971 in the year 2000 to 17,978 in the year 2015, an increase of approximately 39%.

By the year 2030 there will be about 66 million people over the age of 65 in America which is two and one half times the number there were in 1980. Even more prophetic and alarming is the following statement by the DHHS. "There is the possibility of a combination of high life expectancy with increased disability ratios. These assumptions result in a massive increase in the projected number of moderately or severely disabled persons by 2040. Where, and under what hastily thought out conditions are these people going to live? Another question is are towns going to have the foresight and vision required of them to think this problem through clearly enough in advance to be able to come up with workable, realistic, and humane solutions?"

We feel that the new Dover Zoning Law, which came about as a result of work done by the Quality of Life subcommittee of the Planning Board, some of whose member visited our home, and asked many well thought out questions, is a step in the right direction. It unquestionably is a feather in the cap of the town of Dover, and we feel a positive response to our request would be beneficial to not only ourselves, and our residents, but serve as encouragement for others who might like to create such a home in town where many elderly would prefer to live if the choice were available to them.

Another issue we are trying to address is the need for more bedrooms. Most, but not all people prefer their own bedrooms, and might have that option available were we to add more rooms.

More downstairs bedrooms, particularly when a medical emergency arises which makes it impossible for a person to negotiate even one step, would prove invaluable to us, and help keep some people in the home longer. Our addition will allow us that option.

PARKING

Parking issues were dealt with at the Planning Board meeting held on March 11, 2003. No resident in the past 7 years has owned or operated a car. Families most always take residents out to eat etc. or visit with them at the home for short periods of time.

EFFECT ON PUBLIC WATER, DRAINAGE AND SEWAGE, ETC.

Unlike most people who bathe or shower daily, the elderly generally shower only once or twice a week. They sponge bathe daily, sometimes with the assistance of a staff member. Laundry is done on a daily basis, but the amount of clothes being washed is minimal. We believe in purchasing energy efficient washers and dryers. As elders do not need a lot of green space, we don't have a large lawn that requires watering.

VARIANCE

The addition that we propose would result in approximately 42% of our lot being covered. We appreciate that the zoning ordinance requires a maximum of 40% coverage. We believe that the newly drafted special exception ordinance for elderly assisted care is sufficiently broad to permit this relatively small increase. We also believe that the ordinance allows the Zoning Board to take a broad overview of the property so long as the requested use is desirable to the public convenience and welfare, will not create undue traffic congestion, will not overload municipal systems and will not be detrimental to surrounding properties. We believe that we have addressed all of those standards. We do not believe that the ordinance would have been written in such a way that the Board had total flexibility in determining the number of bedrooms and residents while tying the owner's hands to rigid dimension tables.

In regard to other variance and related requirements we feel that our proposed use would not diminish surrounding property values, but would rather enhance the property value as the addition is pleasing to the eye. Our requested use is desirable and beneficial to the public by helping to meet the increasing demand for elderly housing. Our request would do substantial justice by meeting a clearly defined and growing need. Our proposed use would not be contrary to the spirit of the zoning ordinance which permits special exception flexibility for elder housing.

The most difficult standard in any variance request is the finding that special conditions exist such that the literal enforcement of the zoning ordinance would result in unnecessary hardship. In the case of Simplex Technologies, Inc. v. Town of Newington, 145 N.H. 727, 2001 and affirmed in the recent decision of Rancourt v. City of Manchester, N.H. (decided January 10, 2003), the New Hampshire Supreme Court stated that the prior definitions of hardship and those contained within your application were too restrictive. The Court stated that this restrictive approach was ``inconsistent with our earlier articulations of unnecessary hardship...(was) inconsistent with the notion that zoning ordinances must be consistent with the character of the neighborhoods they regulate...(and) inconsistent with our constitutional analysis concerning zoning laws.'' To safeguard the constitutional rights of land owners, zoning ordinances ``must be reasonable, not arbitrary, and must rest upon some ground of difference having a fair and substantial relation to the object of the regulation.'' Simplex 145 N.H. 731.

As the court explained in the Rancourt case, the focus has changed from a negative approach... (I have been denied all reasonable use of my property), to the positive... (what I seek to do is a reasonable use given the unique setting of my property in its environment). Our property is uniquely situated. It is in an area of large homes, but relatively small lots. Ours too is a large home on a relatively small lot. It is currently being used for elderly assisted living. The zoning ordinance was recently amended to allow flexibility in housing the elderly, appreciating that their needs are often different from the general population. What we seek to do is a reasonable use given the physical environment of the property and the social environment which recognizes the need for increased assisted elderly housing.

We would like to thank you for the time you have spent considering our proposal, we regard it as a necessary and reasonable request based upon years of experience and will be happy to answer any further questions you might have.

We invite anyone who is interested to either visit our home or call with any questions you might have.

Sincerely,

Elizabeth Pettiford-Pfeiffer

Elizabeth Pettiford-Pfeiffer

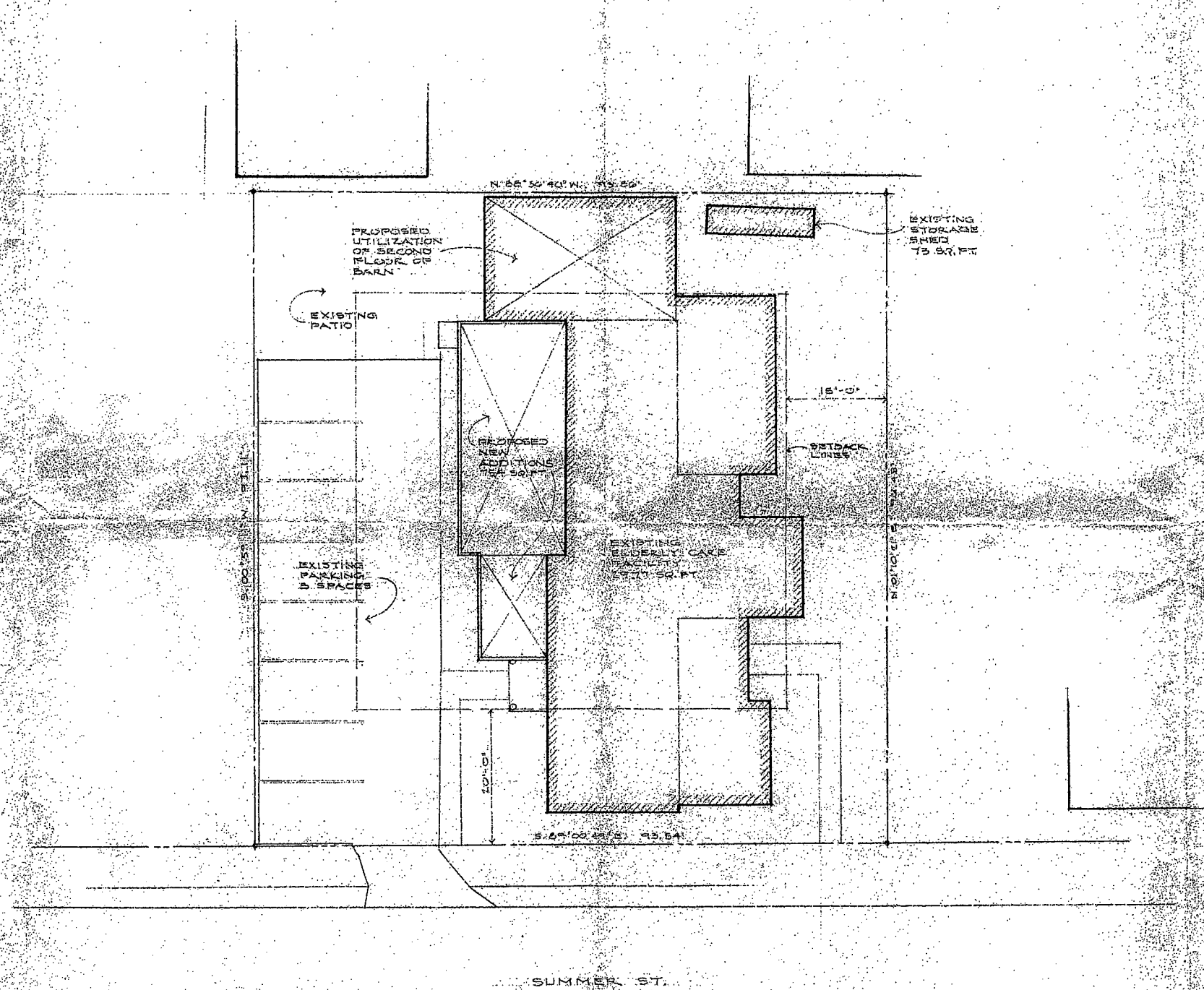
Ronald Pfeiffer

Ronald Pfeiffer



WADLEIGH HOUSE, 10 SUMMER ST., DOVER, NH 3/19/03

NOTE:
 THIS IS NOT A CERTIFIED PLOT PLAN.
 THIS IS FOR GENERAL SITE PLANNING
 REFERENCE ONLY TO INDICATE INTENDED
 DEVELOPMENT, BUILDING SETBACKS, ETC.
 SURVEY SOURCE:
 CIVIL CONSULTANTS, SOUTH BERWICK, ME
 FILE NUMBER 92-502, DATED 10/5/10
 DED. EX. 1027, PG. 450



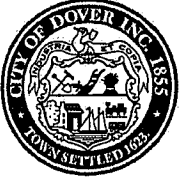
SITE PLAN OF WADLEIGH HOUSE
 SCALE: 1" = 10'-0"
 TAX MAP 12, LOT 22
 LOT AREA: 9,068 SQ. FT.
 PROPOSED LOT COVERAGE: 3,804 SQ. FT.

PHILIP H. KENDRICK, R.A.
 ARCHITECTURE & PLANNING
 100 W. MAIN ST., SUITE 101
 SOUTH BERWICK, ME 04988
 TEL: 603.883.4411
 FAX: 603.883.4412
 WWW.PHKENDRICK.COM

PROPOSED ADDITIONS & ALTERATIONS TO
WADLEIGH HOUSE
 10 WADLEIGH ST.
 SOUTH BERWICK, ME
 FOR LIZ PENTIFORD & RON PENTIFORD

PROJECT NO.
02-22

Philip Kendrick



CITY OF DOVER

ZONING BOARD – STAFF MEMO FILE: 10-05

Application Type: Use Variance
 Applicant: Fastdogs Realty, LLC
 Owner: Tuck Realty Corp.
 Location: 432 Sixth St. corner Sixth & County Farm (Assessor's Map E, Lot 32)

INTENT: To obtain a Variance to allow a kennel and personal service establishment (Pet Grooming), accessory retail and residential use on the property.

LOTS/UNITS PROPOSED: 0 lots

AGENDA ITEM #: 4-C

ZONING DISTRICT: ETP

EXISTING LAND USE:

Vacant-former Single Family home with farm out-buildings

PROPOSED LAND USE:

Dog Grooming Service

SURROUNDING LAND USE:

Single family houses, vacant land, cat hospital and industrial/office

ZONING HISTORY:

Zoned ETP in 1987

PREVIOUS ZBA ACTION:

none

ATTACHMENTS:

Application, narratives

PB APPROVAL REQUIRED:

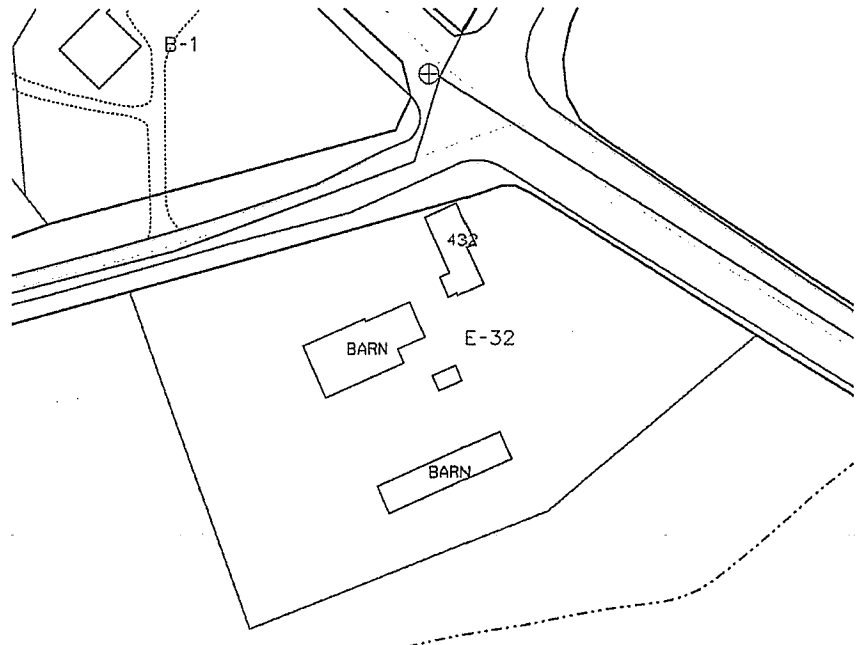
No, possibly TRC

PLANNING DEPARTMENT RECOMENDATION:

Supports Variance

PROPOSED CONDITIONS OF APPROVAL:

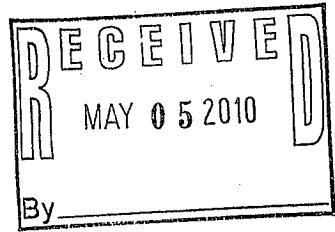
The Department asks that the Board add a condition of approval that the applicant appear before the Technical Review Committee to review parking and access issues.



The Planning Department supports the variance request because it agrees with the Variance Need and Variance Justification sections of the narrative memo dated May 5, 2010 from Attorney Wyskiel.

The preservation, reuse and rehabilitation of the existing house and farm structures is an important aspect of this proposal.

The Planning Department's primary concern is in regards to parking and driveway access of the parcel, and recommends the plan go to TRC review.



CASE # 210-05 DATE RECEIVED May 5, 2010
 AMOUNT PAID \$ 204.32 TIME RECEIVED _____
CK 40291

**CITY OF DOVER
 ZONING BOARD OF ADJUSTMENT
 APPLICATION**

I. APPLICANT Fastdogs Realty, LLC PHONE #: (603) 591-2378
 ADDRESS c/o Anne Nichols, 23 Browning Drive, Dover, NH 03820
 PROPERTY OWNER Tuck Realty Corporation
 ADDRESS 136 High Street, Exeter, NH 03833
 PROPERTY LOCATION (SE) corner of Sixth Street and County Farm Road
 BRIEF DIRECTIONS _____

ZONE _____ EPT _____ ASSESSOR'S MAP _____ E _____ LOT #(S) 32

TYPE OF APPEAL: (Please check off one)

<input checked="" type="checkbox"/> VARIANCE	ARTICLE <u>IV</u>	SECTION <u>170-11, D</u>
<input type="checkbox"/> SPECIAL EXCEPTION	ARTICLE _____	SECTION _____
<input type="checkbox"/> ADMINISTRATIVE DECISION	ARTICLE _____	SECTION _____
<input type="checkbox"/> EQUITABLE WAIVER	ARTICLE _____	SECTION _____

Describe briefly your plans for this property:

See attached letter by Wyskiel, Boc, Tillinghast & Bolduc, P.A.
by Christopher A. Wyskiel
561 Central Avenue
Dover, NH 03820
(603) 742-5222

II. REQUIREMENTS SUBMITTED: (Please check off)

- A. Plot plan drawn in accordance with a boundary line survey to scale not less than 1" = 40', (12 copies). They need to include the lot dimensions including area in square feet, and also the size and location of existing and proposed buildings if applicable, including setbacks. X
- B. List of abutters including addresses and map and lot number of parcels who adjoin or are directly across the street or stream from property. X
- C. Application fee of:

\$100.00 VARIANCE	\$ <u>100.00</u>
\$100.00 SPECIAL EXCEPTION	\$ _____
\$25.00 APPEAL FROM ADMINISTRATIVE DECISION	\$ _____
\$100.00 EQUITABLE WAIVER	\$ _____
- D. Certified letters fee:

# of abutters <u>6</u> * X \$5.54 =	\$ <u>33.24</u>
Applicant & Owner <u>2</u> X \$5.54 =	\$ <u>11.08</u>
Foster's ad	\$ <u>60.00</u>

TOTAL \$ 204.32

*5 abutters/1 to be sent 2 mailings - see attached Abutter List

SPECIAL EXCEPTION REQUIREMENTS

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

N/A

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

N/A

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

N/A

APPEAL FROM AN ADMINISTRATIVE DECISION

1. Explain why you feel that the Administrative Official made an error in applying or interpreting the zoning ordinance in a particular case.

N/A

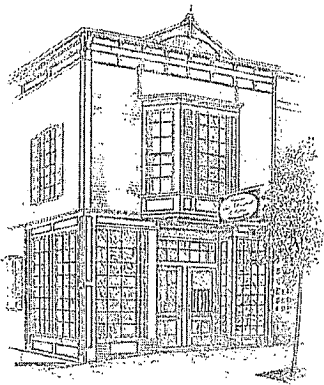
IV. As applicant of standing of this request, I certify that the information herein is complete and accurate.

IMPORTANT
PROPERTY IDENTIFICATION SIGN MUST BE POSTED ON THE PROPERTY FOR THE 10 DAYS PRIOR TO HEARING.
FAILURE TO POST MAY RESULT IN APPLICATION NOT BEING ACCEPTED

FASTDOGS REALTY, LLC
By: [Signature] member
Signature of Applicant*

See signed authorization
Signature of Owner*

*Both Signatures Required



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

*Christopher A. Wyskiel
William E. Boc
**D. Lance Tillinghast
*Michael J. Bolduc
Thomas G. Ferrini
*William R. Phipps
Stephan P. Parks
***Bain D. Testa

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

May 5, 2010

Zoning Board of Adjustment
Dover City Hall
288 Central Avenue
Dover, NH 03820 - 4169

Re: Use Variance Request by Fastdogs Realty, LLC
For property owned by Tuck Realty Corporation
Dover Tax Map E Lot 32
Corner of County Farm Road and Sixth Street

Ladies and Gentlemen:

This office represents Fastdogs Realty, LLC ("**Fastdogs**"), as the prospective purchaser of property owned by Tuck Realty Corporation ("**Tuck**"). With Tuck's authorization (see Exhibit 1) Fastdogs has filed an application for a use variance (from Zoning Article IV, Section 170-11, D) to develop and use the property as a kennel, with typical accessory uses, including but not limited to, day time dog daycare services, grooming, limited retail, and specifically for this site, an accessory residential use to house the staff member(s) who will remain on site evenings, to assure twenty-four (24) hour employee coverage for boarding operations. Such a use is not allowed in the Executive Technology Park District ("**ETP**") in which the property is located.

By this letter, and listed exhibits, Fastdogs supplements its application to explain its proposed development and use of the property and how it meets all conditions to approve the variance request.

Exhibits

- Exhibit 1 Owner's Authorization
- Exhibit 2 Survey of Site (reduced copy of Strafford County Registry of Deeds Plan 63-65)
- Exhibit 3 Concept Plan for proposed development (Note: Developed by Blue Sky Animal Care Architecture without specific site engineering, complete traffic engineering input, etc.)
- Exhibit 4 Portion of Dover Zoning Map showing site and surroundings zoning districts
- Exhibit 4(a) Permitted Uses - other zoning requirements for EPT District
- Exhibit 4(b) Permitted Uses - other zoning requirements for the R-40 District
- Exhibit 4(c) Permitted Uses - other zoning requirements for the I-4 District
- Exhibit 4(d) Permitted Uses - other zoning requirements for the B-4 District
- Exhibit 5 May 5, 2010 Memo from TEPP, LLC (Preliminary Trip Generation Analysis)
- Exhibit 6 To be submitted: Letter from Mariner Realty re: no adverse impact on abutting property values

Background

As the Exhibit 1 Property Owner Authorization evidences Tuck and Fastdogs have entered into a Purchase & Sales Agreement by which Fastdogs will purchase the property if it can obtain Dover ZBA and Planning Board approvals for its intended development and use of the property. The Exhibit 2 survey shows the location, dimensions and two (2) acre size of Tuck's property. It is presently improved with a residential home and barn. A title search evidences that the property was once a part of a larger (over twenty (20) acres) parcel subdivided in different ways over time. The 2-acre subdivision creating the property's present configuration and separate ownership was approved by the Dover Planning Board in October, 2001.

The property's residential use has been abandoned for approximately two (2) years. Tuck acquired the property at an August, 2008 foreclosure sale. The property is currently vacant and has been for a long time.

Fastdogs is a NH limited liability company which currently owns property at 430 Dover Point Road which it rents to K9 Kaos, LLC ("K9"), a related New Hampshire limited liability company which runs the kennel/dog daycare facility at 430 Dover Point Road.

The State of New Hampshire requires acquisition of Fastdogs' Dover Point property for intended improvements to the Little Bay bridges from Dover Point to Newington. Fastdogs and K9 seek an alternative property to relocate their business, preferring to remain within the City of Dover.

Fastdogs has assembled a team of professionals to assist it with its relocation, including this firm, its commercial realtor (to find a site), an independent realtor (for the Exhibit 6 opinion to be submitted), an architect, site and civil engineers, and a traffic engineer. A review of its current operations is relevant to understanding its use variance request for its proposed site development and operations.

430 Dover Point Road is an approximate one (1) acre site, with a building providing approximately 3,000 square feet of internal usable space for daycare, grooming and limited retail operations. An additional 2,000 square feet of barn storage and approximately 14,000 square feet of fenced in dog daycare yards exist together with an additional approximate 4,000 square foot of usable outdoor space (fenced in). There are only six (6) parking spaces on site. Currently no over night boarding services are offered.

Fastdogs' proposed development of the Tuck property, for use by K9, is shown conceptually by Exhibit 3. The intent is to build an approximate 9,200 square foot addition to the existing barn which will be renovated, along with the existing house, to provide kennel and accessory uses, including an accessory residential use to accommodate live-in staff to cover evening kennel/boarding services. The existing barn is approximately 3,200 square feet, not including approximately 2,000 feet of lower level basement area, which will be renovated sufficient to accommodate storage. The house is approximately 2,500 square feet in size. It exists as an unevenly sized duplex, with the residential section to be preserved taking up almost 2,000 square feet. It is planned to use approximately 500 square feet of the house for office or, break room, or accessory kennel use.

The sloping topography will accommodate a lower building, and upper building (adjoining the barn). The lower building will have one floor. Adjoining fenced in dog run/play areas will accommodate enclosed dog day care spaces enhancing services offered to K9's clients. Separate parking lots will accommodate staff, including on-site employee house residents (access from Sixth Street) and clientele (with access from County Farm Road to better cycle traffic to the Sixth Street/County Farm Road/Production Drive intersection). As traffic engineering is not complete, and site engineering work not yet commenced, the concept of two clientele parking lot entrances has not been specifically designed.

Following ZBA approval of Fastdogs' use variance, a Site Plan application will be presented to the Planning Board, including a Conditional Use Permit for parking designed to appropriately accommodate the intended use. Because traffic engineering has not been completed, nor site engineering begun in earnest, the concept plan represented by Exhibit 4 may change both before and during Planning Board presentation. It is not applicant's intent for the variance request to be specifically limited to the Exhibit 3 concept plan.

K9's day care operations are designed for approximately the same capacity at the new site. Some increase day care use is anticipated by boarding dogs, but this will generate no additional traffic trips or parking needs (for those dogs staying multiple days being offered exercise and play time services with day care dogs). Day care operations are currently a Monday through Friday operation, averaging sixty-four (64) dogs per day, with limited use, averaging fourteen (14) dogs on Saturdays. Day care is closed on Sundays. Relocation to the new site will enable Fastdogs and K9 to enclose substantial portions of what is now operated as a primarily outdoor operations. Additional indoor space will accommodate traditional overnight kennel boarding services whose trip generation and parking needs as an industry practice (as well as by operator control - setting different drop-off and pick up times) will not increase peak hour traffic or parking needs. The site will be designed for the capacity of fifty (50) overnight boarding dogs. Industry standards evidence a typical fifty percent (50%) occupancy/vacancy rate.

K9's current six (6) parking spaces at its Dover Point property work most of the time for its day care operations. Admittedly, during the traffic counts done for Exhibit 5 attached, there were two (2) times when there was insufficient parking. The conceptually designed fifteen (15) space client parking and sixteen (16) space staff parking lots are anticipated to be more than adequate for parking needs and traffic control. Both issues will be more specifically addressed during Planning Board Site Plan Review.

Variance Need

Exhibit 4 is a copy of a portion of Dover's zoning map, showing the proposed site being within the EPT zone, and surrounded by the R-40, and I-4 zones (with the B-4 zone close by on Sixth Street). Exhibits 4(a) through 4(d) show the permitted uses for all four districts.

Kennels, and their typical accessory uses, including, but not limited to, daily dog care, limited retail (food, grooming and other pet supplies) and an accessory residence (to accommodate overnight staff) are not allowed in the EPT district. Section 170-11D of the zoning ordinance states that "a use not listed in the Table of Use and Dimensional Regulations By District shall not be permitted in the district". The use variance requested at the outset of this letter is thus necessary for Fastdogs and K-9 to proceed with its purchase and proposed development and use of this site.

Such kennel uses are permitted across County Farm Road and across Sixth Street in the surrounding R40, I-4 and B-4 districts. Child care uses are permitted in all four (4) districts and the relevance of that is discussed below.

Variance Justification

It is entirely reasonable and legal to grant the requested variance.

1. Special conditions exist and literal enforcement of the ordinance would result in the unnecessary hardship.

The proposed use is reasonable. That kennels are not listed among the permitted uses encouraged for the EPT district is consistent with the general development purposes of the district. Section 149-14.1 of Dover's Site Review regulations declares the purpose of the ETP district. The zone provides an area for large scale, high technology, research, professional office and clean manufacturer uses needing large sites and high esthetics standards. Tuck's property's chain of title long ago rendered its desirability for ETP type development unlikely. It is only two (2) acres in size. It is already developed with a house and a barn. It would be economic waste to tear both structures down. Tearing down the barn would be contrary to declared purposes of Dover's Architecture Design Guidelines to preserve and enhance rural landscape and features integral to maintaining the character and identity of our community.

Application of the kennel prohibition to this two (2) acre corner site, given its unique rural setting, and unique architectural features, interferes with the reasonable proposed use for the site. No fair and substantial relationship exists between the general purposes sought to be achieved by ETP zoning and the specific restriction precluding kennels as applied to this two (2) acre site. Allowing the variance would not injure the public or private rights of others.

2. Granting the variance will result in substantial justice.

Allowing the variance would in fact encourage a much needed facelift to the property, and a substantial investment in Dover's tax base. It would return this abandoned and under utilized site to the community by providing a viable and needed service.

The development proposed for the site is appropriate for the City generally, and in this specific area of the City in particular. It has easy access to main thoroughfares, including Indian Brook Drive and the Spaulding Turnpike, providing a convenience to clientele. It is on the way to many people's homes or work. The developed uses will be naturally screened by distance, vegetation and change in topography from abutting development. The site's development and use will bother no one.

3. Granting the variance is consistent with the spirit and intent of the ordinance.

That kennels and accessory dog day care, staff live-in residential uses, etc. are appropriate for the general area as evidenced by their being allowed in the abutting R-40, I-4 and B-4 zones. By simply crossing the street (to EPT), however, the same use is prohibited. It was prohibited to encourage the type of development Dover has enjoyed by the growth of large businesses and their business campuses, such as Liberty Mutual and Measured Progress. The two (2) acre Tuck property does not invite such development. It's having stood vacant and unsold for so long is testament to that.

Granting the variance will allow redevelopment in this site that would generate less traffic and less parking needs than a similarly sized, zoning ordinance allowed, child care facility. See Exhibit 5. Specific parking and traffic designs can be ironed out in the Planning Board's site review process. Exhibit 5 evidences, however, that traffic or parking concerns for kennel uses could not have been the reason for prohibiting kennels in the ETP zone.

The Tuck property is at the very edge of the ETP zone. It is within the spirit and intent of the ordinance generally to grant this variance and allow this reasonable use.

4. Granting the variance will not result in a diminution in value of surrounding properties.

The applicant has consulted with Richard Whitney, broker for Mariner Realty in Durham, New Hampshire, to confirm this argument. Separate submission(s) from Mariner Realty will be provided before the hearing.

The property owner and applicant believe that granting the variance, to facilitate the property's rehabilitation and subsequent use, will be a general upgrade of and enhancement to the neighborhood, having a positive effect on surrounding properties.

5. Granting the variance will not be contrary to the public interest.

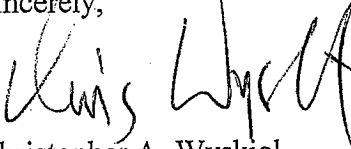
All of the statements previously made support this variance test. Furthermore, the State of New Hampshire's need to complete condemnation proceedings against Fastdogs' property and K9's current operations at 430 Dover Point Road means that this valuable taxable property, business and community service, will be lost to Dover if the applicant cannot relocate to an alternative Dover site.

The Tuck property is entirely reasonable and appropriate for Fastdogs acquisition and redevelopment, and K9's intended use. It is in the public's interest, particularly all citizens of the City of Dover, to retain this viable business and encourage its limited growth by granting this variance.

For all of the above reasons, to be further explained and discussed at hearing, Tuck and Fastdogs request that the ZBA grant the requested use variance.

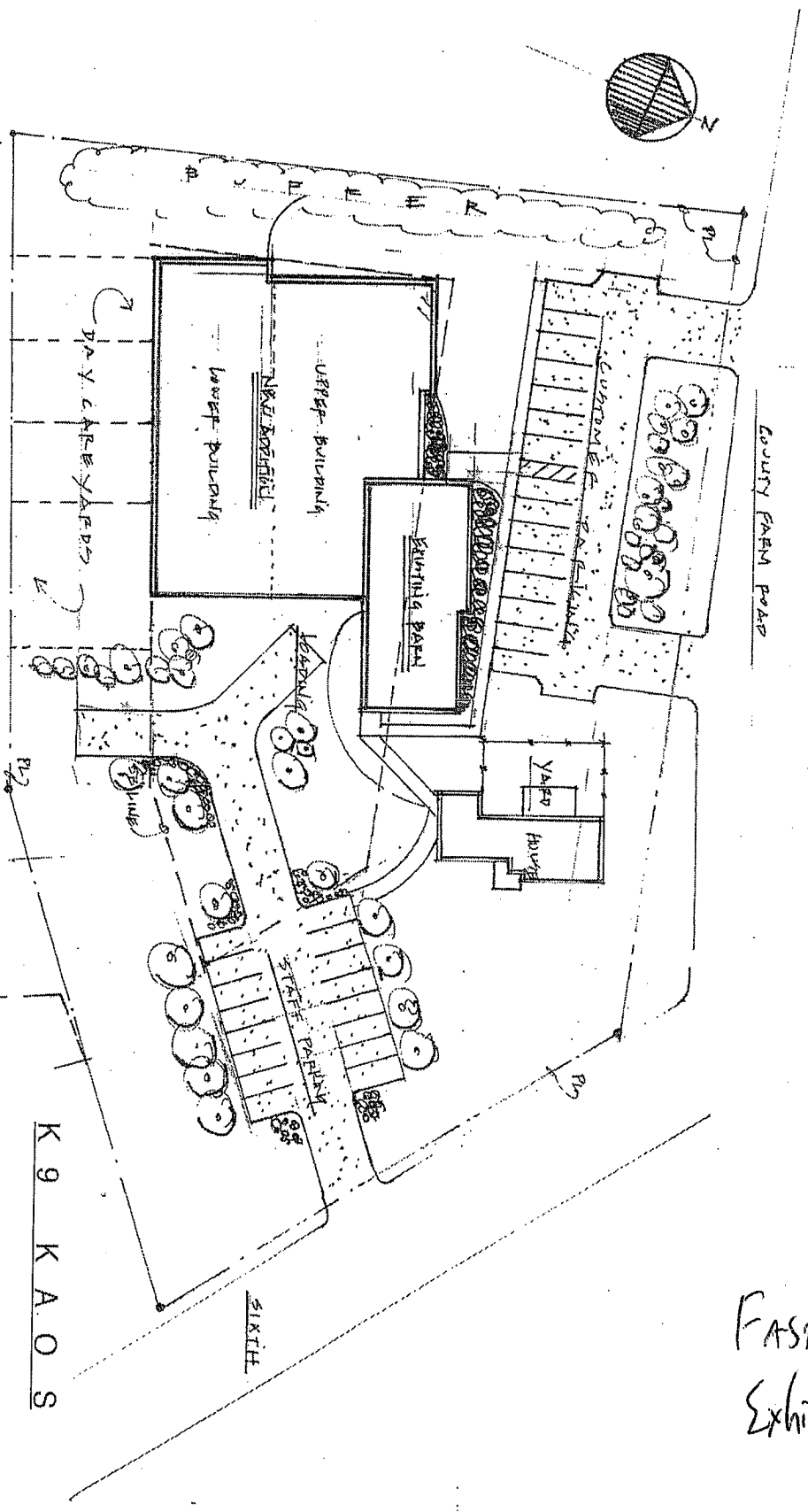
Respectfully submitted.

Sincerely,



Christopher A. Wyskiel

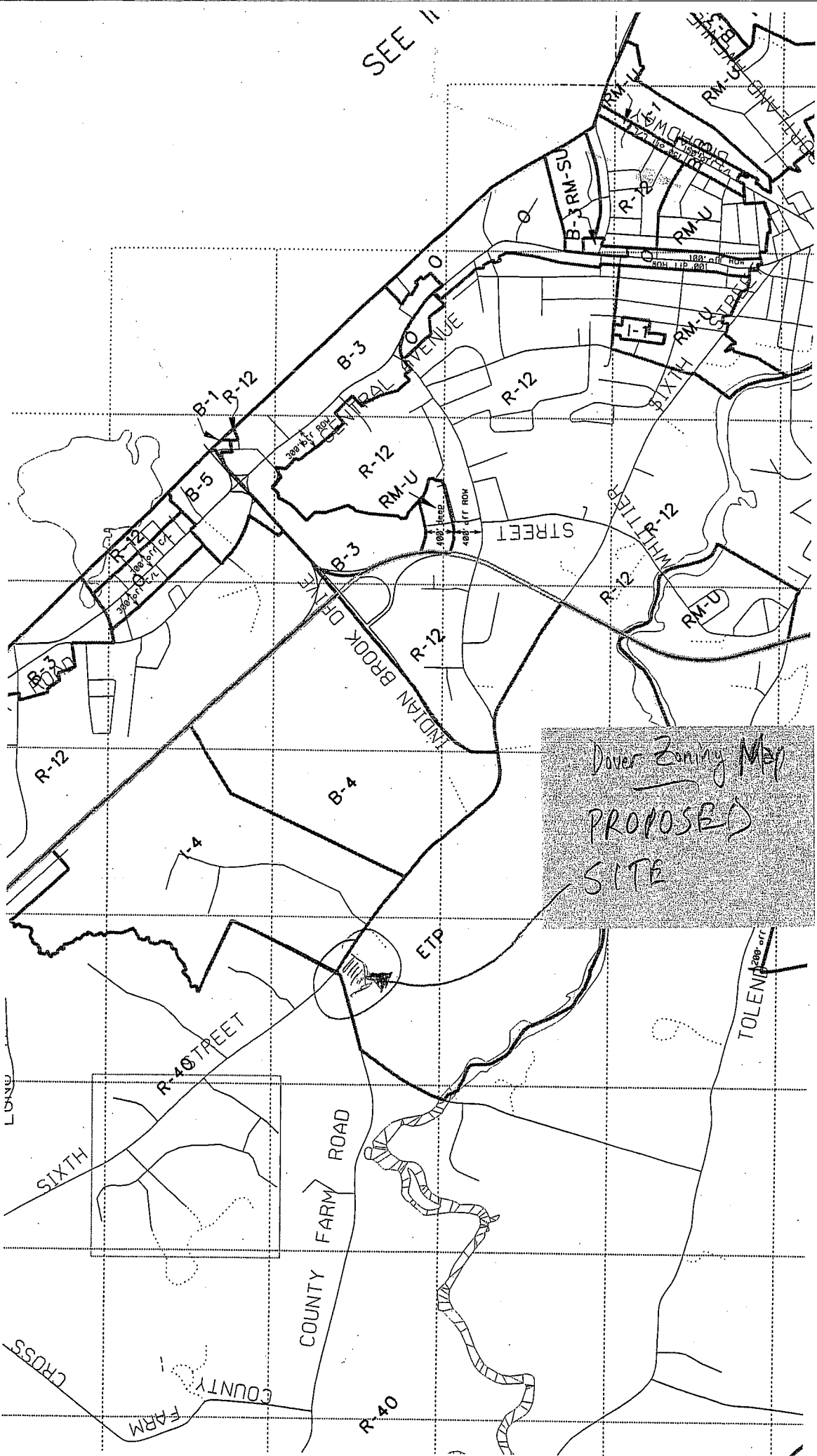
CAW:las
Enclosures



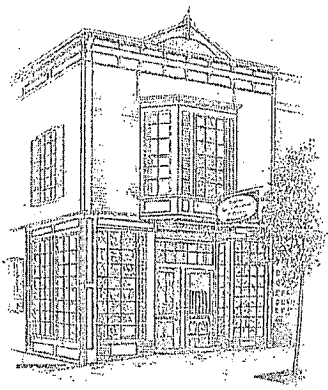
Fast Dogs
Exhibit 3

Concept Plan for Sixth Street and County Farm Road
 Tax Map E / Lot #3271, Dover, New Hampshire
 Scale: 1" = 40'
 5 May 2010
 Blue Sky Animal Care Architecture
 Beverly, MA 01915

SEE II



FAST DUGS
Exhibit 4



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

*Christopher A. Wyskiel
William E. Boc
**D. Lance Tillinghast
*Michael J. Bolduc
Thomas G. Ferrini
*William R. Phipps
Stephan P. Parks
***Bain D. Testa

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

May 10, 2010

Zoning Board of Adjustment
Dover City Hall
288 Central Avenue
Dover, NH 03820 - 4169

Re: Use Variance Request by Fastdogs Realty, LLC
For property owned by Tuck Realty Corporation
Dover Tax Map E Lot 32
Corner of County Farm Road and Sixth Street

Ladies and Gentlemen:

This office represents Fastdogs Realty, LLC ("**Fastdogs**"), which filed a use variance application last Wednesday, May 5, 2010. My letter, also dated May 5th, referred to an Exhibit 6 to be submitted.

Enclosed as Exhibit 6 is Mariner Realty broker/owner, Richard Whitney's, letter with two (2) pages of attached photographs. Thank you.

Sincerely,

Christopher A. Wyskiel

CAW:las
Enclosures



MARINER REALTY

54 Main Street ♦ Durham, NH 03824

Christopher Wyskiel
Wyskiel, Boc, Tillinghast & Bolduc
561 Central Ave.
Dover, NH 03820

Dear Attorney Wyskiel

At your request I have visited the 432 Sixth Street site, which consists of a 1900s colonial style house with detached barn. The property is located on a 2-acre lot in the ETP zone, which has a 3-acre minimum lot size requirement. In the ETP zone an animal kennel facility is not a permitted use. The purpose of my visit was to determine if conversion of this property to a facility for kennel use would have any detrimental effect on the surrounding properties.

The subject property is surrounded on two sides by a vacant 10-acre lot in the ETP zone, which is overgrown in brush and trees. Sixth Street, and County Farm Road border the other two sides of the property. The zoning districts across the streets from the subject property are the R-40 zone, the B-4 zone, and the I-4 zone. In each of these three adjacent zoning districts a kennel would be a permitted use.

It is my opinion that granting a variance to allow a kennel type of use at this location in the ETP zone would not have any detrimental effect on the abutting properties.

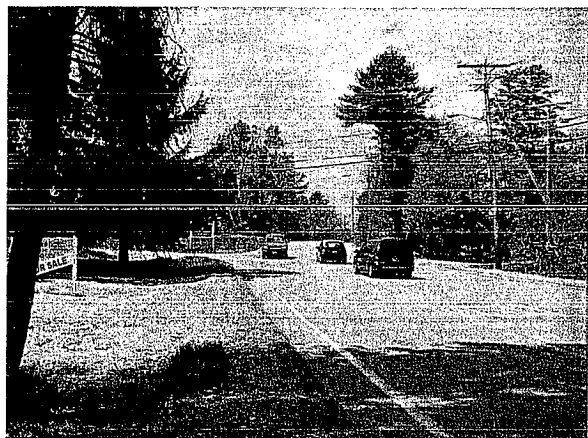
Sincerely

Richard Whitney
Broker/Owner
Mariner Realty

Subject Property
432 Sixth Street, Dover NH



Sixth Street looking south



Sixth Street looking north

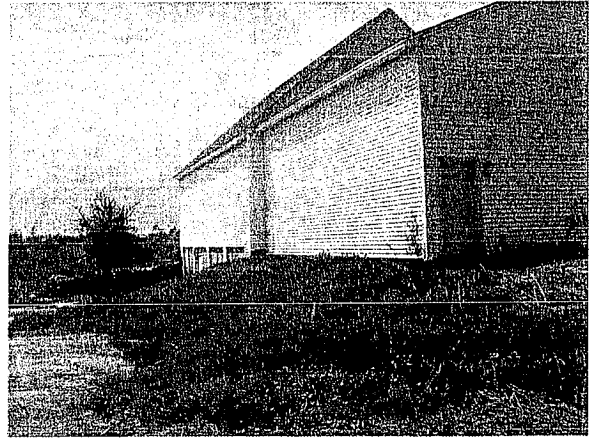


County Farm Road



Sixth St. County Farm intersection

Barn and vacant land to west



Vacant abutting 10-Acre property





CITY OF DOVER

ZONING BOARD – STAFF MEMO FILE: Z10-6A

Application Type: Dimensional Variance
Applicant: Paolini Brothers Development, LLC
Owner: Paolini Brothers Development, LLC
Location: 54 Dover Point Road (Tax Map K, Lot 20)

INTENT: To obtain a Variance to allow relief from the requirement for 125 ft. City Street frontage for a proposed 2 lot subdivision where one lot will have the required 125 ft., and the second will have 100 ft. frontage.

LOTS/UNITS PROPOSED: 1 new lot

AGENDA ITEM #: 4-D

ZONING DISTRICT: B-3/R-12

EXISTING LAND USE:

vacant with approved site plan for mixed use.

PROPOSED LAND USE:

mixed use

SURROUNDING LAND USE:

Single family houses, manufactured housing development, commercial, cemetery

ZONING HISTORY:

Zoned B-3 & R-12 in 1979

PREVIOUS ZBA ACTION:

Special Exception to allow residential in B-3 zone granted.

ATTACHMENTS:

Application, narrative, plan

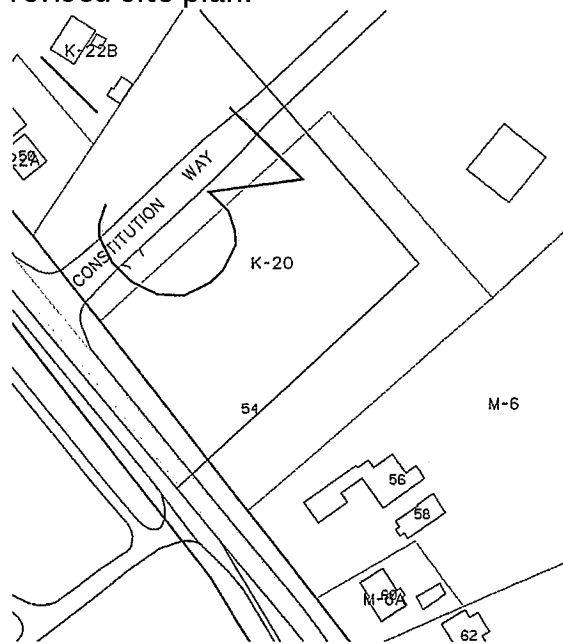
PB APPROVAL REQUIRED:

Current Site Review approval with need for re-review-Yes

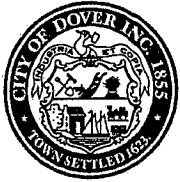
PLANNING DEPARTMENT RECOMENDATION:
Supports Variance

PROPOSED CONDITIONS OF APPROVAL:

The Department asks that the Board add a condition of approval that the applicant return to the TRC and Planning Board with both the subdivision and the revised site plan.



The applicant has submitted an application to allow for the subdivision of one lot from the main lot where one of the two would have sub-standard frontage. Since the development on the new two lot parcel is not substantially changing with regard to access and accessibility for emergency services, this request would not seem to violate the spirit or intent of the ordinance. There will be a need for deeded access easement for commercial users to access the commercial component across the lot which contains the residential component. The Planning Department supports the variance request because the strict adherence to the requirements of the ordinance in this case where approved development (and therefore, total frontage) is not changing despite the subdivision, becomes the hardship.



CITY OF DOVER

ZONING BOARD – STAFF MEMO FILE: Z10-6B

Application Type: Use Variance
 Applicant: Paolini Brothers Development, LLC
 Owner: Paolini Brothers Development, LLC
 Location: 54 Dover Point Road (Tax Map K, Lot 20)

INTENT: To obtain a Variance to allow relief from the requirement for the construction of two dwelling units not on the second floor of a new structure and for a reduction in the density requirement of 5000 sq. ft. per unit on the proposed second lot in an already approved development. (Dependent on 6A being approved).

LOTS/UNITS PROPOSED: 1 new lot, same number of units as approved.

AGENDA ITEM #: 4-E

ZONING DISTRICT: B-3/R-12

EXISTING LAND USE:
vacant with approved site plan for mixed use.

PROPOSED LAND USE:
mixed use

SURROUNDING LAND USE:
Single family houses, manufactured housing development, commercial, cemetery

ZONING HISTORY:
Zoned B-3 & R-12 in 1979

PREVIOUS ZBA ACTION:
Special Exception to allow residential in B-3 zone granted.

ATTACHMENTS:

Application, narrative, plan

PB APPROVAL REQUIRED:

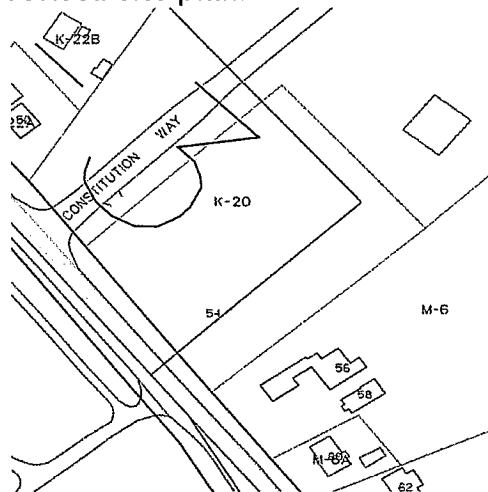
Current Site Review approval with need for re-review-Yes

PLANNING DEPARTMENT RECOMENDATION:

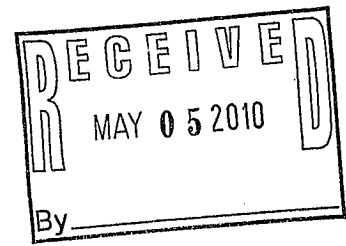
Supports Variance

PROPOSED CONDITIONS OF APPROVAL:

The Department asks that the Board add a condition of approval that the applicant returns to the TRC and Planning Board with both the subdivision and the revised site plan.



The applicant has submitted an application to allow for moving already approved residential units to a separate, new lot while also moving the two third floor residential units to the new lot as townhouses. Additionally, the area of the new lot will not support the density required by the ordinance of 5000 sq. ft. area per unit. Since the development on the new two lot parcel is not substantially changing with regard to the total number of units, this request would not seem to violate the spirit or intent of the ordinance. Planning staff supports the variance request because the strict adherence to the requirements of the ordinance in this case where approved development (and therefore, total unit numbers) is not changing despite the subdivision, becomes the hardship.



CASE # Z10-06A-B DATE RECEIVED _____
AMOUNT PAID \$ 282.16 TIME RECEIVED _____

**CITY OF DOVER
ZONING BOARD OF ADJUSTMENT
APPLICATION**

I. APPLICANT Paolini Brothers Development, LLC PHONE #: 781-1636
ADDRESS 15 Briarwood, Dover, NH 03820
PROPERTY OWNER Paolini Brothers Development, LLC
ADDRESS _____
PROPERTY LOCATION 54 Dover Point Road
BRIEF DIRECTIONS At the corner of Constitution Way and Dover Point Road
ZONE B-3 ASSESSOR'S MAP K-1 LOT #(S) 20

TYPE OF APPEAL: (Please check off one)

VARIANCE ARTICLE IV SECTION 170-12
 SPECIAL EXCEPTION ARTICLE _____ SECTION _____
 ADMINISTRATIVE DECISION ARTICLE _____ SECTION _____
 EQUITABLE WAIVER ARTICLE _____ SECTION _____

Describe briefly your plans for this property: The applicant has received permission to construct 12 residential units and an office building on this site. The applicant wishes to subdivide the property into two lots in order to separate the commercial use from the residential use. The residential lot will have 100 feet of frontage, requiring a frontage variance. Two residences will be relocated from the commercial lot to the residential lot, requiring a variance for the number of units on that lot.

II. REQUIREMENTS SUBMITTED: (Please check off)

- A. Plot plan drawn in accordance with a boundary line survey to scale not less than 1" = 40', (12 copies). They need to include the lot dimensions including area in square feet, and also the size and location of existing and proposed buildings if applicable, including setbacks. X
- B. List of abutters including addresses and map and lot number of parcels who adjoin or are directly across the street or stream from property. X
- C. Application fee of:

\$100.00 VARIANCE	\$ <u>200.00</u>
\$100.00 SPECIAL EXCEPTION	\$ _____
\$25.00 APPEAL FROM ADMINISTRATIVE DECISION	\$ _____
\$100.00 EQUITABLE WAIVER	\$ _____
- D. Certified letters fee:

# of abutters <u>3</u> X \$5.54 =	\$ <u>16.62</u>
Applicant & Owner <u>1</u> X \$5.54 =	\$ <u>5.54</u>
Foster's ad	\$ <u>60.00</u>

TOTAL \$ 282.16

DIMENSIONAL/AREA VARIANCE REQUIREMENTS:

1. Provide proof that special conditions exist and that literal enforcement of the ordinance would result in an unnecessary hardship. Demonstrate that an area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property; and that the benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, without the area variance.

The applicant owns a parcel of land located at 54 Dover Point Road for which it has received a special exception to allow residential use within the B-3 zone, and for which it has received site review approval for the construction of twelve residential units and an office building containing approximately 6,400 square feet of space on two floors. The applicant seeks a dimensional variance to allow the property to be subdivided so that the commercial use is located on one lot which will be fully conforming while the residential uses will be located on the second lot, which will have only 100 feet of frontage where 125 feet is required. The applicant is also seeking a use variance to allow the twelve residential units to be located on the second lot which will contain approximately 46,000 square feet. The overall use of the property will not change. The property will contain the same amount of residential use and the same amount of office space. However, due to recent changes in national residential financing requirements, it is extremely difficult for residential unit owners to obtain mortgage financing if the lot on which the residence is located also contains a commercial building.

The special conditions of the land are that while Dover zoning ordinances and site review ordinances allow the uses and the configuration of the property which were previously approved by both the Zoning Board of Adjustment and the Planning Board, residential financing requirements have changed so that it is now necessary to separate the residential use from the commercial use and to have each type of use on its own lot. The property has 225 feet of frontage on Dover Point Road, most of which is in the B-3 zone, where the ordinance requires 125 feet of frontage for each lot. The commercial lot will have 125 feet of frontage while the residential lot will have 100 feet of frontage. Neither of the abutting lots has sufficient frontage to allow the applicant to obtain additional frontage from an abutter.

2. Provide proof that demonstrates how granting the variance will result in substantial justice.

The applicant's development plan for this property has already been approved by the Zoning Board of Adjustment and the Planning Board. The overall use of the property and the density of that use will not change if the frontage variance is granted. The driveway will be located in the same place, and will be located on the residential lot. The property line for the commercial lot will follow the sideline of the driveway, and the commercial lot will have an access easement for the use of the driveway. The existence of a new internal lot line will not affect the use or appearance of the property.

3. Provide proof that demonstrates how a variance would be consistent with the spirit and intent of the ordinance.

The purpose of street frontage is to ensure that there is adequate spacing between buildings and to ensure that structures have adequate vehicular access. The proposed division of this property into two lots will not change the design of the driveway or parking which has already been approved. The buildings will be properly spaced. Granting the variance will not change the nature or intensity of the use, which has already been approved by the ZBA and the Planning Board.

4. Provide proof that demonstrates that the variance will not result in a diminution in value of surrounding properties.

The use and density of use for this property has already been approved by the ZBA and the Planning Board. Except for moving two of the residences from the third floor of the commercial building onto the residential lot, the configuration of the property will not change and the nature and extent of the previously approved use will not change. The impact on surrounding properties will be the same as has been previously approved.

5. Provide proof that demonstrates the variance will not be contrary to the public interest.

The use proposed by the applicant is permitted in this zone and is therefore presumed to be reasonable. Further, the use has already been approved by the ZBA and the Planning Board. That use will not change if the frontage variance is granted. The existence of an internal lot line will not have any effect on the appearance, configuration, or use of the property, but will allow the purchasers of the residential units to obtain mortgage financing.

USE VARIANCE REQUIREMENTS: (PLEASE TYPE OR PRINT IN INK)

1. Provide proof that special conditions exist and that literal enforcement of the ordinance would result in unnecessary hardship. Demonstrate that:

I.) the ordinance interferes with the reasonable use of the property, considering the unique setting of the property in its environment:

The applicant owns a parcel of land located at 54 Dover Point Road for which it has received a special exception to allow residential use within the B-3 zone, and for which it has received site review approval for the construction of twelve residential units and an office building containing approximately 6,400 square feet of space on two floors. The amount of previously approved residential use was determined based on the size of the entire parcel. The applicant is seeking a use variance to allow the twelve residential units to be located on the second lot which will contain approximately 46,000 square feet. Based on the area of 46,000 square feet, the residential lot standing alone would permit only 9 residential units. If the variance is granted, the overall use of the property will not change but the commercial lot will have no residential use and the residential lot will have no commercial use. The property overall will contain the same amount of residential use and the same amount of office space. However, due to recent changes in national residential financing requirements, it is extremely difficult for residential unit owners to obtain mortgage financing if the lot on which the residence is located also contains a commercial building.

The special conditions of the land are that while Dover zoning ordinances and site review ordinances allow the uses and the configuration of the property which were previously approved by both the Zoning Board of Adjustment and the Planning Board, residential financing requirements have changed so that it is now necessary to separate the residential use from the commercial use and to have each type of use on its own lot. The property overall has more than 68,000 square feet of area, which would allow the construction of 13 residential units. The proposed use of the residential lot for 12 townhouse units will be within the amount allowable for the entire site, and is the same as was previously approved. The two new townhouse units would have the same style and appearance as the other ten units which were previously approved.

ii.) no fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific restriction on the property:

The general purposes of the zoning ordinance are to control the density of use on property. The proposed subdivision of the site into two parcels will not change the overall usage or density of use on the site. Although the residential lot will have more units than would be permitted if the lot was pre-existing, that is offset by eliminating the residential use on the commercial lot. Allowing the two

residential units previously approved for the commercial portion of the site to be relocated onto the residential lot will not change the overall use of the site.

iii.) the variance would not injure the public or private rights of others:

The overall use of the site will not change, and that use has already been determined to be consistent with the neighborhood. The existence of an internal lot line to separate the commercial use from the residential use will have no impact on the neighborhood or the public or private rights of others.

2. Provide proof that demonstrates how granting of the variance will result in substantial justice.

The applicant's development plan for this property has already been approved by the Zoning Board of Adjustment and the Planning Board. The overall use of the property and the density of that use will not change if the applicant is permitted to relocate two residential units from the commercial portion of the site onto the residential portion of the site.

3. Provide proof that demonstrates how a variance would be consistent with the spirit and intent of the ordinance.

The overall density of use of the site will not change, but granting this use variance will allow the separation of the commercial use from the residential use, and to have each use located on its own lot. The proposed division of this property into two lots and to relocate two residential units from the commercial portion of the site onto the residential portion of the site will not change the overall use or density of the site, which has already been approved by the ZBA and the Planning Board.

4. Provide proof that demonstrates the variance will not result in a diminution in value of surrounding properties.

The use and density of use for this property has already been approved by the ZBA and the Planning Board. Except for moving two of the residences from the third floor of the commercial building onto the residential lot, the configuration of the property will not change and the nature and extent of the previously approved use will not change. The impact on surrounding properties will be the same as has been previously approved.

5. Provide proof that demonstrates the variance would not be contrary to the public interest.

The standards applicable to this criteria are essentially the same as whether the use would be consistent with the spirit and intent of the ordinance. The use proposed by the applicant is permitted in this zone and is therefore presumed to be reasonable. Further, the use has already been approved by the ZBA and the Planning Board. That density of that use will not change if these variances are granted. The existence of an internal lot line will not have any effect on the appearance, configuration, or use of the property, but will allow the purchasers of the residential units to obtain mortgage financing.

SPECIAL EXCEPTION REQUIREMENTS

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

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

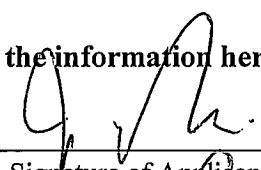
3. Describe how the requested use would not overload any public water, drainage or sewerage system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the City will be unduly subjected to hazards affecting health, safety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

APPEAL FROM AN ADMINISTRATIVE DECISION

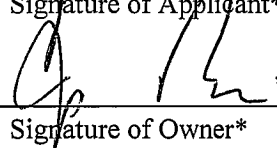
1. Explain why you feel that the Administrative Official made an error in applying or interpreting the zoning ordinance in a particular case.

IV. As applicant of standing of this request, I certify that the information herein is complete and accurate.

<p>IMPORTANT</p> <p>PROPERTY IDENTIFICATION SIGN MUST BE POSTED ON THE PROPERTY FOR THE 10 DAYS PRIOR TO HEARING.</p> <p>FAILURE TO POST MAY RESULT IN APPLICATION NOT BEING ACCEPTED</p>
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Signature of Applicant*



Signature of Owner*

*Both Signatures Required

LIST OF ABUTTERS

Map K, Lot 21	Doverbrook LLC 78 Wayland Circle Exeter, NH 03833
Map K, Lot 39	The Roman Catholic Bishop of Manchester 150 Central Avenue Dover, NH 03820
Map M, Lot 6	Kevin Cooper, Jr. 56 Dover Point Road Dover, NH 03820

Applicants

Map K, Lot K-20	Paolini Brothers Development, LLC 15 Briarwood Dover, NH 03820
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PARKING CALCULATIONS:
 GENERAL OFFICE BUILDING 6,460 Sq.Ft.
 1 SPACE FOR EVERY 325 Sq.Ft.,
 19.88 SPACES REQUIRED
 PROFESSIONAL OR MEDICAL OFFICE 6,460 Sq.Ft.
 1 SPACE FOR EVERY 250 Sq.Ft.,
 26 SPACES REQUIRED
 38 SPACES PROVIDED

PROPOSED 12 RESIDENTIAL UNITS
 2 SPACES REQUIRED FOR EVERY UNIT
 24 SPACES FOR RESIDENTIAL PROVIDED

2 ACCESSIBLE SPACES ARE PROVIDED BOTH ARE VAN ACCESSIBLE

PARKING SPACES #23 & 24 ARE RETAINED FOR RESIDENTIAL UNIT #11 ONLY. SIGNAGE TO INDICATE THIS IS ON PLAN.
 PARKING SPACES #25 & 26 ARE RETAINED FOR RESIDENTIAL UNIT #12 ONLY. SIGNAGE TO INDICATE THIS IS ON PLAN.

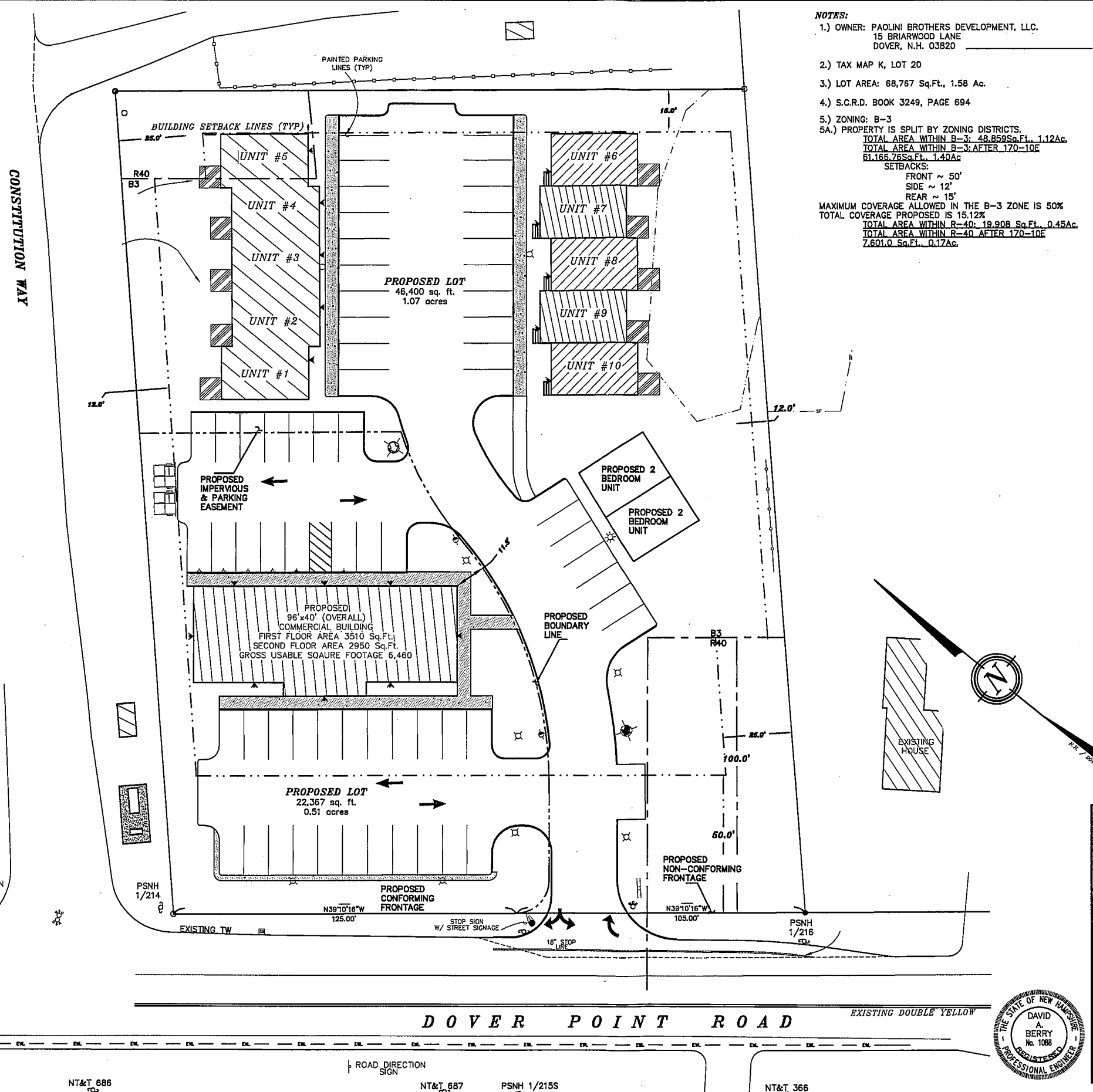
PARKING LOT "A" IS FOR OFFICE BUILDING EXCLUSIVELY.
 PARKING LOT "B" IS FOR MIXED USE AS NOTED
 PARKING LOT "C" IS FOR MIXED USE OVERFLOW.

RESIDENTIAL DENSITY CALCULATIONS
 B-3 ZONE: MULTIFAMILY ALLOWED BY SPECIAL EXCEPTION PROVIDED THAT THERE EXISTS 5,000sq.ft., PER PROPOSED UNIT.
 TOTAL AREA WITHIN B-3 ZONE = 61,166.76
 $61,166.76 / 5,000.00 = 12.23$ UNITS
 12 UNITS PROPOSED
 170-15A OPEN SPACE:
 EACH UNIT WILL HAVE TWO BEDROOMS
 TOTAL OF 24 BEDROOMS
 $100sq.ft. \times 24 \text{ BEDROOMS} = 2,400sq.ft.$
 REQUIRED OPEN SPACE

LEGEND:

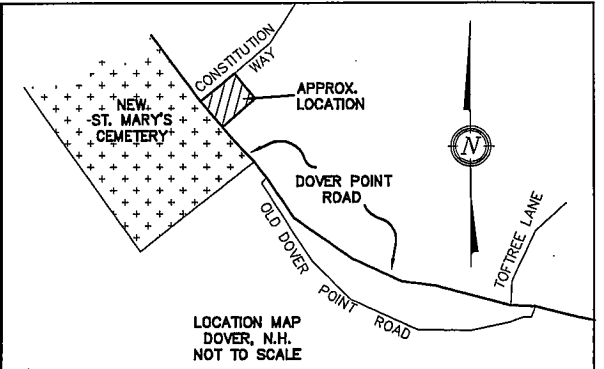
- EXISTING UTILITY POLE
- EXISTING WATER SHUT OFF
- EXISTING WATER CURB STOP
- EXISTING GAS VALVE
- EXISTING HYDRANT
- ROAD SIGN (AS MARKED)
- EXISTING CATCH BASIN
- BUILDING SETBACK LINE
- ZONING BOUNDARY LINE
- PROPOSED CENTERLINE
- ACCESSIBLE SIGNAGE (ARROW INDICATES SIGN FACEMENT.) TO READ "ACCESSIBLE PARKING TO THE REAR OF THE BUILDING"
- SIGN WITH ARROW POINTING TO PARKING LOT "B"
- SIGNAGE INDICATING ACCESSIBLE PARKING ONLY.
- SIGNAGE INDICATING RESIDENTIAL UNIT PARKING ONLY.
- SIGNAGE INDICATING "FIRE LANE NO PARKING"

SOILS DATA:
 WdA ~ WINDSOR LOAMY SAND, 0-3% SLOPES
 SHEET 28 OF STRAFFORD COUNTY SOIL SURVEY
 SEE SEPARATE SHEET



NOTES:

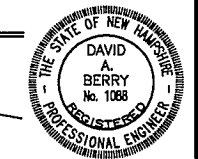
- OWNER: PAOLINI BROTHERS DEVELOPMENT, LLC.
 15 BRIARWOOD LANE
 DOVER, N.H. 03820
- TAX MAP K, LOT 20
- LOT AREA: 68,767 Sq.Ft., 1.58 Ac.
- S.C.R.D. BOOK 3249, PAGE 694
- ZONING: B-3
- PROPERTY IS SPLIT BY ZONING DISTRICTS.
 TOTAL AREA WITHIN B-3: 48,859 Sq.Ft., 1.12Ac.
 TOTAL AREA WITHIN B-3 AFTER 170-10E
 61,166.76 Sq.Ft., 1.40Ac.
 SETBACKS:
 FRONT ~ 50'
 SIDE ~ 12'
 REAR ~ 15'
 MAXIMUM COVERAGE ALLOWED IN THE B-3 ZONE IS 50%
 TOTAL COVERAGE PROPOSED IS 15.12%
 TOTAL AREA WITHIN R-40: 19,908 Sq.Ft., 0.45Ac.
 TOTAL AREA WITHIN R-40 AFTER 170-10E
 7,601.0 Sq.Ft., 0.17Ac.



GRAPHIC SCALE
 (IN FEET)
 1 inch = 20 ft.

SITE & SUBDIVISION PLAN

REVISION	DATE	DESCRIPTION
PROPOSED SITE & SUBDIVISION PLAN (ZBA) FOR PAOLINI BROTHERS DEVELOPMENT, LLC. DOVER POINT ROAD DOVER, N.H. TAX MAP K, LOT 20		
BERRY SURVEYING & ENGINEERING 148 SECOND CROWN POINT RD. BARRINGTON, N.H. 332-2863		
SCALE : 1 IN. EQUALS 20 FT.		
DATE : MAY 4, 2010		
FILE NO. : DB 2006 - 057		



DAVID A. BERRY
 No. 1088
 PROFESSIONAL ENGINEER