



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - AGENDA

Meeting Type: Regular Meeting
Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820
Meeting Date: **Thursday, February 17, 2011**
Meeting Time: **7:00 pm**

1. ATTENDANCE

2. APPROVAL OF PRIOR MINUTES OF JANUARY 20, 2011.

3. OLD BUSINESS

4. NEW BUSINESS

- A. * Z 11-03 Edward Heaphy, 19 Leighton Road, Tax Map 8, Lot 25-B, zoned R-20, requests a Variance from the terms of Article II, Section 170-6, Definition of Lot; to build a single family house, while allowing the existing house to remain and be occupied until the new dwelling is completed, upon which time the existing structure shall be demolished.

5. OTHER BOARD BUSINESS

6. ADJOURN

*If the application is accepted for discussion, the **public hearing** will be held that evening.

Persons with questions or wishing to see the plans are invited to visit 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. Follow us on Twitter @DoverNHPlanning and find us on Facebook at www.facebook.com/pages/Dover-NH/City-of-Dover-NH-Planning/446789895351



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, January 20, 2011**
 Meeting Time: **7:00 pm**

1. ATTENDANCE

Members Present: Sam Reid (Chair), William Colbath (Vice Chair), Otis Perry, Jim Kelley, Frank Landford, Jennifer Stone (Alternate), Joshua Cote (Alternate)

Members Not Present: Chris Prior

Staff Present: Christopher Parker (Planning Director), Lisa Ertle (Recording Secretary)

The Chair called the meeting to order at 7 pm.

S.Reid opened the meeting and introduced Board and staff members to the audience, and described the process used to hear cases.

S.Reid asked the Board to hear the New Business prior to election of officers. The Board members concurred.

2. APPROVAL OF PRIOR MINUTES OF DECEMBER 16, 2010.

Motion: O.Perry moved to approve the December 16, 2010, as mailed. J.Kelley seconded. S.Reid noted a correction on the minutes. Vote: Unanimous approval.

3. ELECTION OF OFFICERS

The Chair deferred the Election until after the Public hearing.

4. OLD BUSINESS-NONE

5. NEW BUSINESS

- A. Z 11-02 Gaye H. Dean & Michael D. Dean, 4A Smith Well Road, Tax Map 38, Lot 32 & 32-1, zoned R-12, requests a Variance from the terms of Article IV, Section 170-11 & 12, to allow a minor lot line adjustment between two lots that would create one lot with 51.44 ft. of frontage, where 100 ft. is required.

Attorney Schulte represented the applicants, Gaye and Michael Dean. The Deans own property which fronts on Glenwood Ave and Smith Well Road. The property abuts a second piece of property they own which has a four unit apartment building on it. The parking lot for the apartment building is located on the same lot as their single family home. The Dean's would like to perform a lot line adjustment to place the parking lot on the same lot as the apartment building. This lot line adjustment would take the single family lot from 100 feet of frontage on Glenwood Ave and 50+ feet on Smith Well Rd to just the frontage on Smith Well, which is why the applicant is appearing before the Board.

S.Reid questioned the two setback lines shown on the plan near the garage.

C.Parker explained that one was the principal building setback and the other is the accessory structure setback.

Document Created by, Planning Secretary	DRAFT.2011.01.20_ZoningBoardofAdjustment.Minutes.doc
Document Posted on: January 18, 2011	Page 1 of 3



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The board discussed some elements of the proposal with Attorney Schulte.

Public Hearing Opened-In Favor of the Request-No one spoke.

Public Hearing Opened-In Opposition of the Request-No one spoke.

Gale Issenmann, 102 Horne Street, had concerns regarding the location of the dumpster and yard waste that is not raked up.

C.Parker indicated that should the variance be granted, the applicant will file for a Lot Line Adjustment approval with the Planning Board and those issues can be addressed.

Public Hearing Closed

C.Parker explained that the Planning Department supports the request, as it is will not change any outward appearance, or functionality of the lot. C.Parker explained that no additional density will come out of this change, as the apartment building already exceeds the density. Any change would need zoning board approval.

Motion: O.Perry motioned to grant the variance. J.Kelley seconded. Vote: 4-1 (Frank Landford opposed)

Findings of Fact:

1. Did the Applicant provide proof that demonstrates the variance will not be contrary to the public interest? Yes. Per applicant's application and presentation.
2. Did the Applicant provide proof that demonstrates how a variance observes the spirit of the ordinance? Yes. Per applicant's application and presentation.
3. Did the Applicant provide proof that demonstrates how a variance will result in substantial justice? Yes. Per applicant's application and presentation.
4. Did the Applicant provide proof that demonstrates the variance will not diminish the values of surrounding properties? Yes. Per applicant's application and presentation.
5. 5A. The Applicant was to provide proof that literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. (i) Did the Applicant demonstrate that special conditions of the property exist that distinguish it from other properties in the area? Yes. Per applicant's application and presentation. (ii) Did the Applicant demonstrate that no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property? Yes. Per applicant's application and presentation. (iii) Did the applicant demonstrate that the proposed use is a reasonable one? Yes. Per applicant's application and presentation.

Document Created by, Planning Secretary	DRAFT.2011.01.20_ZoningBoardofAdjustment.Minutes.doc
Document Posted on: January 18, 2011	Page 2 of 3



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B. Election of Officers

O.Perry made the motion to nominate S.Reid as Chair, W.Colbath as Vice Chair, J.Kelley seconded motion.

F.Landford made motion to close nominations. J. Kelley seconded.

Election occurred: Slate as presented was elected

6. OTHER BOARD BUSINESS

A. Review Zoning change recommendations from staff.

New copies of the zoning code were distributed to Board members. C.Parker reviewed the changes to the zoning code, which the City Council recently ratified. C.Parker went through each amendment, by section and explained the change, as well as the intention behind the change.

7. ADJOURN

Motion: O.Perry motioned to adjourn the meeting at 7:40 pm. W.Colbath seconded. Vote: Unanimous approval.

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Document Created by, Planning Secretary	DRAFT.2011.01.20_ZoningBoardofAdjustment.Minutes.doc
Document Posted on: January 18, 2011	Page 3 of 3



CITY OF DOVER

ZONING BOARD - STAFF MEMO FILE #Z11-03

Application Type: Use Variance
 Applicant(s): Edward Heaphy
 Owner(s): Edward Heaphy
 Location: 19 Leighton Road (Assessor's Map 8, Lot 25-B)

INTENT: To obtain a Variance to allow building a single family dwelling, while allowing the existing house to remain and be occupied until the new dwelling is completed, upon which time the existing dwelling will be demolished where only one principal dwelling per lot is required.

LOTS/UNITS PROPOSED: 0 Lots

AGENDA ITEM #: 4-A

ZONING DISTRICT: R-20 Low Density Residential

EXISTING LAND USE: Single Family

PROPOSED LAND USE: 2 Single Family dwellings on temporary basis

SURROUNDING LAND USE: Single family

PREVIOUS ZBA ACTION: None

PB APPROVAL REQUIRED: No

ATTACHMENT: application

APPLICATION IS COMPLETE: Yes

NOTICES AS REQUIRED: Yes

STAFF RECOMMENDATION:
 The Planning Department supports the request.



Summary of Request and Background

The applicant's property is located on Leighton Road off Dover Point Road on Dover Point. The property contains a single family residential building. The applicant wishes to build a replacement single family structure, but leave the existing one as a dwelling for the family until the new one is ready to move in to, then demolish the existing. In order to do this a variance is necessary, as two principal structures on one lot in this low density residential district is not allowed, even on a temporary basis (which is not addressed in the ordinance).

Reason for Staff Recommendation

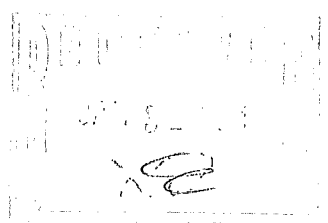
The requested action is consistent with the Master Plan which guides development in the City of Dover.

This request will eliminate the need for temporary housing for the family, and makes sense so long as the demolition of the older structure has a date specific stipulated. The residential lot will be in keeping with the neighborhood because it is temporary, and will not create a liability or nuisance for the neighborhood. The spirit and intent of the zoning ordinance will be retained, as the lot will remain single family (low density) once the older structure is demolished. The ordinance creates the hardship because there is no language specifically allowing this temporary condition to happen even though it makes sense.

Recommendation

The Planning Department recommends the Zoning Board accept the application, hold the public hearing. If the Board approves the variance, staff suggests adding an end date before demolition based on the applicant's advice.

CASE # 211-03 DATE RECEIVED _____
 AMOUNT PAID \$ 216.00 TIME RECEIVED _____



CK # 1781
 \$8.00 cash rec'd on 2/3/11

CITY OF DOVER
ZONING BOARD OF ADJUSTMENT
APPLICATION

I. APPLICANT Edward Heaphy PHONE #: 742-0300
 ADDRESS 9 Heaphy Ln, Dover, NH
 PROPERTY OWNER SAME
 ADDRESS SAME
 PROPERTY LOCATION 19 Leighton Rd., Dover, NH
 BRIEF DIRECTIONS Dover Point Rd. South, 1st right after Newick's (Leighton Rd.), Lot is on right before Heaphy Ln.
 ZONE R-20 ASSESSOR'S MAP 8 LOT #(S) 25-B

TYPE OF APPEAL: (Please check off one)

- | | | |
|--|-------------------|--------------------------------------|
| <input checked="" type="checkbox"/> VARIANCE | ARTICLE <u>II</u> | SECTION <u>170-6, Defin. of Lot.</u> |
| <input type="checkbox"/> VARIANCE (Physical Disability - RSA 674:33-V) | ARTICLE _____ | SECTION _____ |
| <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:

We intend to build a single family house and upon completion of the proposed house, demolish the existing structure.

II. REQUIREMENTS SUBMITTED: (Please check off)

- A. Plot plan drawn in accordance with a boundary line survey to scale not less than 1" = 40', (9 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>6</u> X \$8.00 = | \$ <u>48</u> |
| Applicant & Owner <u>1</u> X \$8.00 = | \$ <u>8</u> |
| Foster's newspaper public notice <u>add 1 abutter</u> | \$ <u>60.00</u> |
| TOTAL | \$ <u>216.</u> |
- 8.00 new total \$56.00

III. **NARRATIVE:** Complete the section pertaining to your request for a variance. Keep your answers brief and be prepared to explain them in detail at the meeting. The burden of proof is on the applicant. If you need more space use an additional sheet of paper

VARIANCE REQUIREMENTS: (PLEASE TYPE OR PRINT IN INK)

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

The variance will not be contrary to the public interest because the proposed house will provide an enormous improvement in aesthetics for both the lot and the area immediately surrounding the lot.

2. Provide proof that demonstrates how a variance observes the spirit of the ordinance.

The variance request is temporary in nature. When construction is complete, the lot will be in compliance with the ordinance.

3. Provide proof that demonstrates how a variance will result in substantial justice.

The variance will result in substantial justice by allowing my daughter, son-in-law and grandchildren to live in the existing house until construction of their new house is complete, sparing them the burden of finding and moving into another residence.

4. Provide proof that demonstrates the variance will not diminish the values of surrounding properties.

By constructing a new house and demolishing the existing structure, we will be improving the value of our property, which will certainly not diminish the value of surrounding properties.

5A. Provide proof that literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Unnecessary hardship standards are:

(i) Special conditions of the property that distinguish it from other properties in the area; and

(ii) no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and

(iii) the proposed use is a reasonable one.

OR

5B. If the criteria in subparagraph 5A above are not established, provide proof that an unnecessary hardship exists if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it. *I already have a building on my lot and wish to construct a new house. Strict conformance with the ordinance would force me to immediately demolish the existing structure and displace my daughter, son-in-law and grandchildren, placing an enormous hardship on them. I would like to construct the new home and have it ready for occupancy before demolishing the existing structure.*

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.

THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS

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

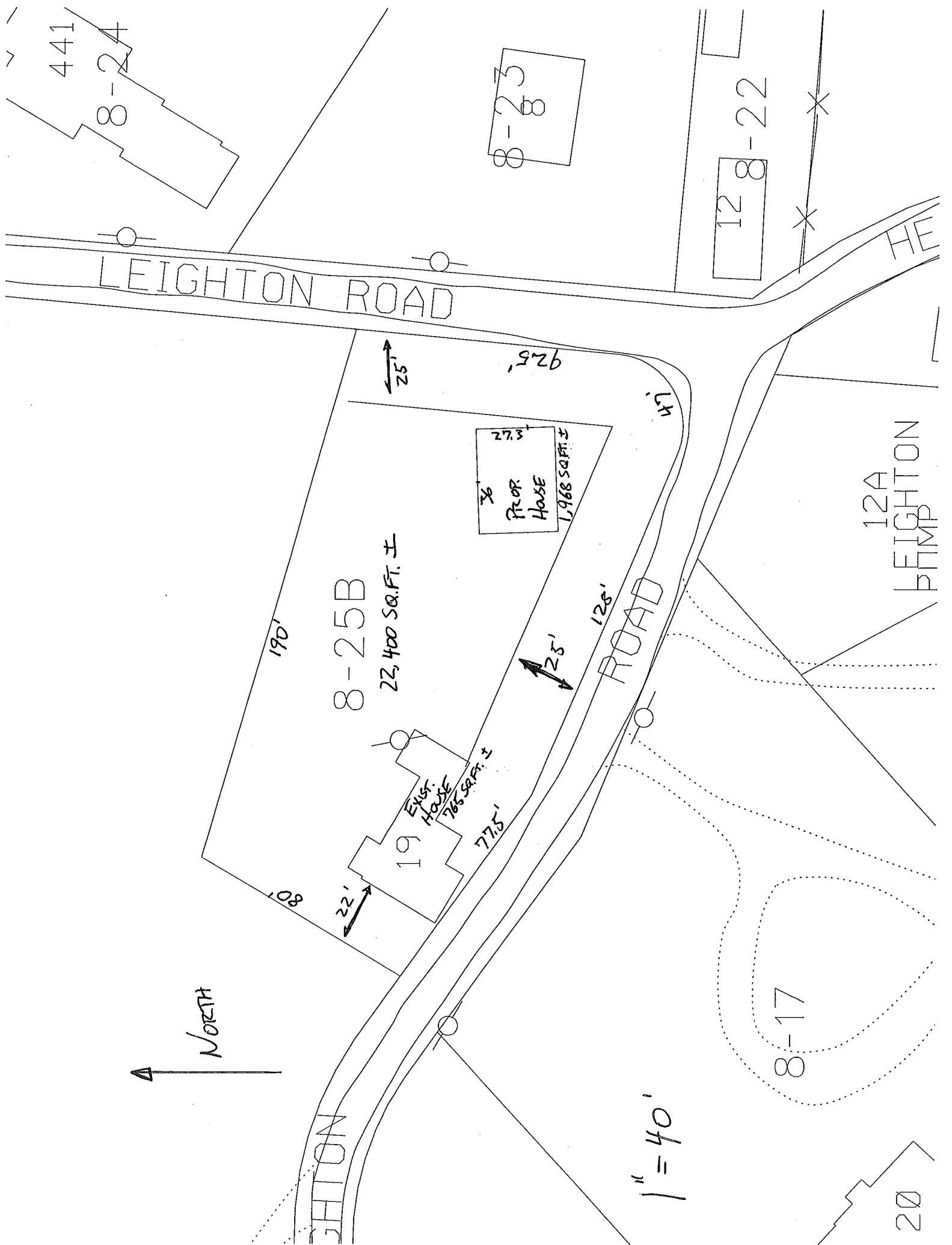
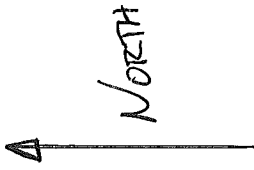
IMPORTANT
PROPERTY IDENTIFICATION SIGN MUST BE POSTED ON THE PROPERTY FOR THE 5 DAYS PRIOR TO HEARING. FAILURE TO POST MAY RESULT IN APPLICATION NOT BEING ACCEPTED

Edward Deoply
Signature of Applicant*

Edward Deoply
Signature of Owner*

*Both Signatures Required

<i>The applicant waives the requirement of holding a hearing within thirty (30) days of receipt of the application, pursuant to RSA 676:7, II:</i>	
_____ Signature of Applicant	_____ Date



1" = 40'

20