



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 16, 2012**
Meeting Time: **7:00 pm**

1. ATTENDANCE

2. ELECTION OF OFFICERS

3. APPROVAL OF PRIOR MINUTES OF DECEMBER 15, 2011.

4. OLD BUSINESS

5. NEW BUSINESS

- A. * Z 12-02 STF The Housing Partnership, One Dover Street, Tax Map 27, Lot 20, zoned RM-U, requests the following variances from the Zoning Ordinance of the City of Dover: (a) **Section 170-12.A** to permit the redevelopment of the existing building into a 42-unit residential apartment building where multifamily housing is not permitted in the RM-U District; (b) **Section 170-15.A** which requires that 100 sq. ft. of open space be provided for each bedroom of a multifamily residential structure; and (c) **Section 170-12.B**, to permit the height of the building to increase up to 52 ft. from the existing 50 ft. where a maximum height of 40 ft. is permitted.
- B. * Z 11-23 STF Development Corp., 39 Dover Point Road, Tax Map K, Lot 38, zoned R-12, requests a variance from **Section 170-12.A** of the Zoning Ordinance of the City of Dover to construct 8 townhouse residences, with shared access to the adjacent parcel, where townhouses are not a permitted uses in the R-12 District.
- C. * Z 12-03 South Dover Investment Group, LLC, 37 Dover Point Road, Tax Map K, Lot 37, zoned R-12, received a variance on June 16, 2005 to develop the property into a 28 unit congregate care facility where congregate care and multifamily housing is not permitted in the R-12 District. Applicant requests a variance from **Section 170-12.A** of the Zoning Ordinance of the City of Dover to amend the prior variance approval to allow for 32 units, to remove the requirement for congregate care, to provide that the units on the first floor be occupied by residents age 55 or older, to remove the age restrictions for the second and third floors, and to remove the requirement that food service be provided.

6. CASELAW AND LEGISLATIVE UPDATE

7. 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, Monday-Thursday from 8:30 am to 5:30 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: 2nd Floor Conference Rm - 288 Central Avenue, Dover, NH
03820
Meeting Date: **Thursday, December 15, 2011**
Meeting Time: **7:00 pm**

1. ATTENDANCE

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

Staff Present: Christopher Parker (Director of Planning)

The Chair called the meeting to order at 7:00 p.m.

2. APPROVAL OF PRIOR MINUTES OF DECEMBER 17, 2011

Motion: J. Kelley motioned to approve the November 17, 2011 minutes. Seconded by J.Stone Vote:
U/A S.Reid and W.Colbath abstained.

3. OLD BUSINESS – N/A

4. NEW BUSINESS

Members to hear case: S.Reid, W.Colbath, O.Perry, J. Kelley, F. Landford

- A. * Z 11-25 Richard Callaghan, 26 Horne Street, Tax Map 35, Lot 18, zoned R-12, owner Richard Callaghan, 32 Horne Street, appeals an administrative decision by the Zoning Administrator in a Notice of Zoning Violation letter to the applicant dated May 2, 2011 that the use of the property is a rooming house which is not allowed by right in the R-12 zone.

S.Reid asked C.Parker to explain his letter to the applicant and his memo to the Board.

J.Kelley and O.Perry asked for clarification on the findings of fact. Discussion ensued regarding the merits of continuing to hear the case.

Motion: J.Kelley motioned to dismiss as the issue is moot. Seconded by F. Landford. Vote U/A

5. STAFF COMMENTS – N/A

- New Zoning Administrator will be on staff by January meeting.

6. OTHER BOARD BUSINESS – N/A

- Update on Z11-23 remaining on table
- Discussion regarding potential impact of recent Supreme Court cases
 - C.Parker stated that staff will update the Board as part of its next meeting

7. ADJOURN

Motion: O.Perry motioned to adjourn at 7:24 pm. Seconded by W.Colbath. Vote: U/A



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z12-02)

Application Type:	Use Variance, Open Space Variance, Height Variance
Applicant:	The Housing Partnership
Owner:	Sidney Robbins Family Trust
Location:	One Dover Street (Tax Map 27, Lot 20)

INTENT: Obtain three variances related to permitting the redevelopment of the property as a forty-two (42) unit residential building. In addition to the use variance, a variance for open space and height is requested.

LOTS/UNITS PROPOSED: 42

AGENDA ITEM #: 4-A

ZONING DISTRICT: RM-U

EXISTING LAND USE: Vacant Warehouse

PROPOSED LAND USE: Multi-Family Dwelling

SURROUNDING LAND USE: Mixture of residential units; convenience store

PREVIOUS ZBA ACTION: N/A

PLANNING BOARD APPROVAL REQUIRED:
Yes

ATTACHMENTS: Application with six (6) exhibits including letter from applicant's counsel and redevelopment plan (2 sheets)

APPLICATION IS COMPLETE: Yes

NOTICES AS REQUIRED: Yes

STAFF RECOMMENDATION:
The Planning Department supports the Variance requests.

Summary of Request and Background

The subject property is located at the corner of Dover Street and Park Street, and is improved with a 5-story brick building, an attached one-story brick structure, and an attached wooden clapboard structure. The 5-story brick building, which dates from the early 20th century, was originally constructed for manufacturing and was most recently used as a warehouse. It and the other attached structures are currently vacant. The Applicant proposes to renovate the 5-story building into 42 affordable residential rental units and to remove the wooden clapboard structure to provide additional parking. The Applicant's plan requires the following three variances from the Zoning Ordinance: (i) Section 170-12.A to permit the redevelopment of the existing building into a 42-unit residential apartment building where multifamily housing is not permitted in the RM-U District; (ii) Section 170-15.A which requires that 100 sq. ft. of open space be provided for each bedroom of a multifamily residential structure; and (iii) Section 170-12.B, to permit the height of the building to increase up to 52 ft. from the existing 50 ft. where a maximum height of 40 ft. is permitted.

Reason for Staff Recommendation

Staff believes that the variance to permit the proposed use should be granted as the redevelopment of this large vacant mill building as a residential building is consistent with the surrounding mix of residential uses. It would constitute both a thoughtful adaptive reuse of an historic mill building and a significant improvement over what is now unattractive and potentially dangerous. In consideration of the substantial site constraints on the property, staff also supports the applicant's request for a variance from the open space requirements, on condition that the applicant (a) provide approximately 2,600 square feet of lawn on the property's eastern boundary for seasonal use which shall include areas for seating in locations to be determined with the Planning Board, and (b) provide additional areas for seating in locations to be determined with the Planning Board. Finally, staff supports the request for a height variance because it is necessary in order to accommodate the addition of external installation to preserve the interior historic character of the mill. Moreover, the additional height will have minimal visual impact and from street level will not be noticeable at all.

Recommendation

The Planning Department recommends the Board hold the public hearing, and approve the variances.

CASE # 212-02

DATE RECEIVED 2/1/12

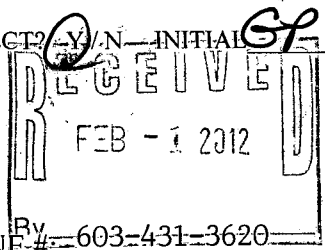
TIME RECEIVED 1145

AMOUNT PAID \$ 662.00

APPLICATION COMPLETE/ABUTTERS CORRECT? Y/N INITIAL SP

CK# 502991
+ \$200.00
CK# 45276

CITY OF DOVER
ZONING BOARD OF ADJUSTMENT
APPLICATION



I. APPLICANT The Housing Partnership: a NH Non-Profit Corporation PHONE # 603-431-3620
ADDRESS P. O. Box 466, 767 Islington Street, Portsmouth, NH 03802
PROPERTY OWNER Sidney Robbins Family Trust
ADDRESS 110-116 Washington Street, Dover, NH 03820
PROPERTY LOCATION One Dover Street, Dover, NH 03820
BRIEF DIRECTIONS Corner of Dover and Park Streets, Dover, NH
ZONE RM-U ASSESSOR'S MAP 27 LOT #(S) 20

TYPE OF APPEAL: (Please check off one)

- | | | |
|--|-------------------|-----------------------------|
| <input checked="" type="checkbox"/> VARIANCE | ARTICLE <u>IV</u> | SECTION <u>170-12,A;</u> |
| <input type="checkbox"/> VARIANCE (Physical Disability - RSA 674:33-V) | ARTICLE _____ | SECTION <u>170-12,B and</u> |
| <input type="checkbox"/> SPECIAL EXCEPTION | ARTICLE _____ | SECTION <u>170-15,A</u> |
| <input type="checkbox"/> APPEAL ADMINISTRATIVE DECISION | ARTICLE _____ | SECTION _____ |
| <input type="checkbox"/> EQUITABLE WAIVER | ARTICLE _____ | SECTION _____ |

Describe briefly your plans for this property: See attached letter from Wyskiel, Boc, Tillinghast and Bolduc, P.A., by Christopher A. Wyskiel, with Exhibits and plans by Ambit Engineering, Inc., Civil Engineers and Land Surveyors, all attached.

II. REQUIREMENTS SUBMITTED: (Please check off)

- A. Plot plan drawn in accordance with a boundary line survey to scale not less than 1" = 40', (10 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. In the case of an abutting property being under a condominium or other collective form of ownership, the term "abutter" means the officers of the collective or association, as defined in RSA 356-B: 3, XXIII. Additionally, the individual owners of units within the association, which are located within two hundred (200) feet of the common property line, shall be notified by first class mail only. X
- C. Application fee of:
- | | |
|---|----------------------|
| \$100.00 VARIANCE | \$ <u>100.00 X 3</u> |
| \$100.00 SPECIAL EXCEPTION | \$ _____ |
| \$25.00 APPEAL FROM ADMINISTRATIVE DECISION | \$ _____ |
| \$100.00 EQUITABLE WAIVER | \$ _____ |

D. Certified letters fee:		
# of abutters	<u>54</u> X \$8.00 =	\$ <u>432.00</u>
Applicant & Owner	<u>2</u> X \$8.00 =	\$ <u>16.00</u>
E. First Class Mail fee		
# of abutters	<u>54</u> X \$1.00 =	\$ <u>54.00</u>
F. Foster's newspaper public notice		
		\$ <u>60.00</u>
	TOTAL	\$ <u>662.00</u>

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.
see letter attached

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

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

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

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

(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.

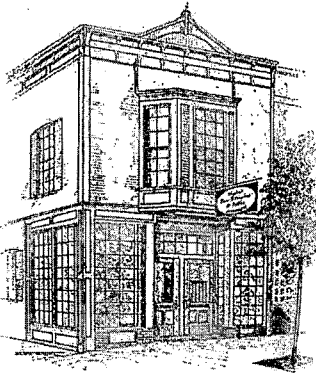
Attachment to
 Variance Application to the
 City of Dover Zoning Board of Adjustment
 by The Housing Partnership, Applicant

<u>Tax Map</u>	<u>Lot #.</u>	<u>Owner(s) of Record</u>	<u>Mailing Address</u>
27	2	Roman Catholic Bishop	P. O. Box 310 Manchester, NH 03105
27	3	Roman Catholic Bishop	P. O. Box 310 Manchester, NH 03105
27	4	Roman Catholic Bishop	P. O. Box 310 Manchester, NH 03105
27	12	William R. and Patricia Palmer	4 Park Street Dover, NH 03820
27	13	Donna M. Cordeiro and Blaine A. Glidden	16 Niles Street Dover, NH 03820
27	14	Park Street Condo Association (For all four unit owners)	c/o Beth Kelsch 9 Meadow Crossing Drive Gorham, ME 04038
27	14-1	Carlos A. Otero	1015 Aocoa Place #255 Kailua, HI 96734
27	14-2	Karen M. McCarthy	1 Randall Street Salem, MA 01970-2320
27	14-3	Elizabeth R. Phillips	143 ½ Sixth Street Dover, NH 03820
27	14-4	Bethany A. Kelsch	9 Meadow Crossing Drive Gorham, ME 04038
27	15	Roman Catholic Bishop	P. O. Box 310 Manchester, NH 03105
27	16	Dana and Susan Wirkala	93 East Street Duxbury, MA 02332

27	17	Michelle Freni and Stacey A. Marotta	18 Hemlock Avenue York, ME 03909
27	19	Frederick S. Gray, III	P. O. Box 443 New Castle, NH 03854
27	21	Michelle and James Kurtz and Brett and Nicole Wilson	220 Gulf Road Dover, NH 03820
27	22	Douglas Amato	24 Dover Street Dover, NH 03820
27	23	Seth Williams and Somchai Phonekeo	26 Dover Street Dover, NH 03820
27	24	Lorraine E. Blanchette, Trustee of the Lorraine Blanchette Liv. Trust	18 East Street Dover, NH 03820
27	25	Ray Paradis	2 Nute Road Dover, NH 03820
27	26	Perlene O'Rourke, Trustee of the Perlene O'Rourke Rev. Fam. Trust	2858 Leicester Terrace The Villages, FL 32126-6378
27	27	Dana and Sharon Moore, Trustees	25 Mallard Lane Dover, NH 03820
27	28A	James McGreal	27 Ham Street Dover, NH 03820
27	28B	James McGreal	27 Ham Street Dover, NH 03820
27	29	Richard and Robin Shaffer	20 Lucy Creek Drive Beaufort, SC 29907-2221
27	30	Holgate Limited Partnership	130 Central Avenue Dover, NH 03820
27	31	Holgate Limited Partnership	130 Central Avenue Dover, NH 03820

27	32	Kenneth S. and Stacie R. Chu	5 Deer Creek Run Dover, NH 03820
27	33	Robert H. Slater and Curtis C. Simonson	17 Pickman Street, Apt. 1 Salem, MA 01970
27	34	Charris Industries, LLC	34 Seagull Lane Eliot, ME 03903
27	35	Black Dog Realty, LLC	35 Hodgdon Farm Lane Newington, NH 03801
27	36	Gillian H. Tierney and George H. Shea, III	18 Walker Avenue Kittery, ME 03904
27	37	Mark Arsenault	19 Whitehorse Farms Rye, NH 03870
27	38	24-26 New York St., LLC	78 Walker Lane Fremont, NH 03044
27	39	TNT New York Street Group, LLC	P. O. Box 2063 Dover, NH 03821
27	40	Cheryl A. Arsenault	32 New York Street Dover, NH 03820
27	41	Sarah B. Wappler	63 Middle Road Deerfield, NH 03037-1606
27	42	Andrew D. Ellison	36 New York Street Dover, NH 03820
27	43	Investments of RLH III, LLC	263 Rochester Hill Road Rochester, NH 03867
27	46	Christopher L. Stevens and Melissa J. Stevens	14 Isaac Lucas Circle Dover, NH 03820
27	47	Eoghan E. Kelley	29-31D Dover Street Dover, NH 03820

27	48	Renesselaer Properties Ltd.	P. O. Box 633 Greenland, NH 03840-0633
27	49	Jennifer S. Graham	P. O. Box 956 Hollis, NH 03049-0956
27	50	Joseph and Kathryn Forbes-Fisher	36 River Street Exeter, NH 03833
27	51	Thomas E. and Kathryn Forbes-Fisher	P. O. Box 1806 Dover, NH 03821
27	52	Bonnie L. Greaney	P. O. Box 1274 Dover, NH 03821-1274
27	105	Kimon Lalas	151 Ten Rod Road Rochester, NH 03867
27	106	Mimi's New Hope, LLC	31 North River Lake Road Nottingham, NH 03290
27	107	Huts to Homes, LLC	P. O. Box 525 Barrington, NH 03825
27	109	Theodore T. Karambatsos and Evangelia G. Karambatsos	1 East Concord Street Dover, NH 03820
27	128	Steven Bucknam and Gino Filicetti	10 Gifford Farm Road Stratham, NH 03885
27	129	David James Peck and Bethany Jenilee Peck	8 Ham Street Dover, NH 03820
27	130	Irene R. Carrier, Trustee of the Irene R. Carrier Rev. Trust 1998	50 F.W. Hartford Drive Portsmouth, NH 03801
27	131	Todd A. Amazeen	4 Ham Street Dover, NH 03820
27	150	Patti Kemen Enterprises, LLC and John Kemen Sr. Properties, LLC	500 Sixth Street Dover, NH 03820



**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
***Bain D. Testa

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

February 1, 2012

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

RE: Use and Dimensional Variances Request
by The Housing Partnership, a Non-Profit Corporation
for Property owned by Sidney Robbins Family Trust
Dover Tax Map 27, Lot 20 - Corner of Dover and Park Streets

Ladies and Gentlemen:

This office represents The Housing Partnership, a N.H. non-profit corporation, with a mailing/legal address of P. O. Box 466, 767 Islington Street, Portsmouth, New Hampshire ("THP"). THP is the prospective purchaser of the above referenced property owned by the Sidney Robbins Family Trust, whose authorization (in lieu of signing this application) is attached as Exhibit 1. The subject property is shown on the "Residential Site Development" plans for "**Woodbury Mills**" drawn by Ambit Engineering, Inc., submitted herewith as Exhibit 2.

THP's Purchase and Sale Agreement with the owner contemplates THP acquiring variances, then Planning Board Site Review Approval to authorize its intended development of the property as forty-two (42) "affordable" for-rent residential units.

By this letter, and listed Exhibits, THP supplements its application to explain its proposed development and use of the property, the variances needed to do so, and how it meets all conditions to approve the requested variances.

Exhibits

- Exhibit 1 Owner's Authorization
- Exhibit 2 Residential Site Development Redevelopment Plans for Woodbury Mills (2 sheets)
- Exhibit 3 Relevant current zoning provisions
- Exhibit 4 Urban Density Multi-Residential (RM-U) District Table of Permitted Uses and Dimensional Requirements (current zoning)
- Exhibit 5 CBD (Central Business District) Regulating Plan and attached Tables of Permitted Uses and Dimensional Requirements for three sub-zones
- Exhibit 6 Google satellite map copy showing site's proximity to Park Street Park

Background

The RM-U District within which the property is located is primarily made up of single family and duplex structures. The property is developed with a five story brick structure, with an attached one story brick structure, together totaling approximately 58,000 square feet (approximately 53,000 square feet of inside leasable space – see page 2 of Exhibit 2 plan). Page 1 of the Exhibit 2 plans show an additional attached wooden clapboard structure (north of the five-story mill building, closer to Park Street) in poor condition and intended to be torn down to provide additional parking space.

The property's long standing use had been for warehousing and office operations associated with Robbins Auto Parts. Its original mill/manufacturing development over a century ago is atypical of the neighborhood. No reasonable use can be made of the property conforming to the zone's current scheme of permitted uses.

THP intends to redevelop the property as "Woodbury Mills," a five story "affordable" residential apartment building of 42 units. Preliminary designs are planning on nine one-bedroom apartments, 25 two-bedroom apartments, and eight three-bedroom apartments. Preliminary plans also call for the development of three handicap accessible units for each bedroom size (i.e., one one-bedroom, one two-bedroom and one three-bedroom unit). An elevator will service all floors in the buildings. This mix may change as plans develop, but the intended overall unit count of 42 is not intended to change. This 42 unit count becomes critical to THP's achieving a per unit total project development cost not exceeding limits established by the New Hampshire Housing Finance Authority (NHHFA), which awards tax credits critical to THP's financing plan explained more fully below.

Founded in 1988, THP is a non-profit, affordable housing organization that develops rental and home ownership opportunities for families and individuals in the Seacoast area of southern NH and Maine. THP's service area includes the New Hampshire communities of Dover, Lee, Farmington, Rochester, Rye, Exeter, Newmarket and Rollinsford. In Maine, it services Kittery, South Berwick, Eliot and Kennebunk. Generally, families and seniors must have incomes at or below 80% of Area Median Income. Projects such as Woodbury Mills, however, funded primarily by tax credit sales, are limited to seniors and families whose income is 60% or less of Area Median Income.

In Dover, THP owns four units at 563 Central Avenue, which serves special needs residents. This property is located within a block of the proposed Woodbury Mills project.

All of THP's properties are managed by MB Management Company, LLC. Established in 1971, MB manages over 2,350 units in Massachusetts, Maine, Rhode Island, New York and New Hampshire. MB's headquarters are located in Braintree, MA. However, its local office is in Dover, NH, and from that office it manages all of THP's properties. Until recently (12/31/11), MB also managed Cocheco Park Apartments here in Dover.

MB's property management services are paid entirely through a given property's operating budget, and according to industry standards. It receives management fees, as well as maintenance and staff fees. Annual operating budgets are reviewed and approved not only by THP, but also NHHFA. Properties funded by tax credits (as Woodbury Mills will be) also have annual operating budgets reviewed, previewed and approved by equity investors.

Tax credit properties, such as Woodbury Mills, are considered "stand alone properties," meaning that they must operate entirely independent of THP or other properties. Funds from other properties may not be used to supplement the stand alone project's budget. This means the tax credit properties are very carefully managed and well maintained. MB staff are required to take classes on how to best serve its tenants.

To encourage the private sector involvement in the development of affordable housing, the U.S. Congress has established federal income tax credits that may be awarded to affordable housing developers on the basis of multiple criteria scoring. In New Hampshire, tax credits are awarded by NHHFA through scoring evaluations granting higher points for projects meeting criteria such as, but not limited to, location in urban areas closer to public transportation and walkable to downtown service centers; accessible to public and water sewer; which use existing structures in creative and "green" adaptive re-use means. Points are also awarded for the number of bedrooms and family units provided, for historic preservation, for adaptive re-use and urban in-fill. Higher points are also awarded to proven effective management teams.

Tax credits awarded to the affordable housing developer are then sold to for-profit investors at a slightly discounted value, translating the awarded tax credit into cash investable as equity in the project. Preliminary budget planning for Woodbury Mills projects a total project redevelopment investment approximating \$9.6 million. Of this amount, THP hopes to be awarded almost \$8 million worth of federal income tax and historic preservation credits to be sold and thus invested as equity cash. The balance of project financing is anticipated to be made up of a low interest Federal Home Loan Bank loan, and grants from the Federal Home Loan Bank and, hopefully, the City of Dover through its next round of CBDG grant awards. THP is presently preparing a CBDG grant application for submission to the Dover Planning Board to be reviewed later this and next month.

Federal tax laws promoting the above explained tax credit financing will require the property to be encumbered by restrictive covenants requiring its "affordable" for-rent status for 99 years. To give Board members a sense of what that means in current day dollars, renters'/families' Average Median Income will not be able to exceed the following listed thresholds for the corresponding bedroom size units given current data:

<u>Family Income Not to Exceed</u>	<u>Unit Size</u>
\$40,290	1-bedroom
\$48,360	2-bedroom
\$55,860	3-bedroom

Variance Needs

The property, as developed, is unique for the zone and, frankly, unique for Dover. The 58,000 square foot structure intended to be re-used and readapted for residential use, sits on a 43,763 square foot lot (1.0046 acres). The zone's and neighborhood's predominant residential use makes its proposed residential readapted use most appropriate for the neighborhood. Alternative warehousing or office or manufacturing, or even mixed uses, would be less appropriate for the neighborhood.

Interestingly, Dover's Planning staff has proposed an expansion of the Central Business District's zone (see Exhibit 5) northward, to include properties along Central Avenue and beyond (east), which would include this property. The Planning staff recommends this site being included within the Residential sub-zone of the CBD. In January, 2012 Planning Board meetings, the Planning Board has encouraged the Planning staff's recommendation action. So, if and when this becomes a Planning Board and City Council adopted legislative change to the zoning ordinance, the use variance sought by this application would not be needed. Rather, the new zone would allow the use, subject to Planning Board Site Review.

THP's Purchase and Sale Agreement with the owner does not allow the parties to wait the many months process it may take for such a zoning change to be implemented. The contract's due diligence window contemplating ZBA and Planning Board (for Site Review) review is much shorter. THP's redevelopment and financing time tables also are aggressive, making this application needed.

The plans submitted as Exhibit 2 are preliminary. They may change in the course of Planning Board Site Review (Applicant refinement, as well as Board and TRC input). As preliminarily designed, three variances are necessary:

1. A Use Variance (from Section 170-12, A) to allow for the building's redevelopment as 42 residential units;
2. An Open Space Variance (from Section 170-15, A) to excuse the project's providing a total of 8,300 square feet of open space (half active and half passive) in acknowledgment of the property's close proximity (and the Applicant's and Planning staff's preference to encourage use of) the recently redeveloped Park Street Park only a half block away, and in acknowledgment of the site's preliminary plan for:
 - a. approximately 3,200 square feet of building perimeter sidewalks to integrate with neighborhood sidewalks, encouraging walking;
 - b. the seasonal use of approximately 2,600 square feet of green space on the property's easterly boundary, to be designed to accommodate snow loads in winter, but general recreation use in fair seasons; and

- c. the development of sitting (bench and/or picnic table and/or gazebo) pods in a portion of the above referenced open space area, as well as (possibly) in an area along the northerly boundary of the site north of the one-story brick structure (if a parking space is eliminated to accommodate that design and as well as an electrical transformer);

All subject to Planning Board Site Review changes/approval.

3. A Height Variance (from Section 170-12, B) to accommodate the addition of a foot or two of external insulation (to maximize the building's R-value and conserve energy, while avoiding internal top floor insulation installation, in conflict with preferred historic preservation redevelopment of existing wood beams and wooden ceilings).

Variance Justification

It is entirely reasonable and legal, and in the best interests of Dover, to grant all requested variances:

1. Granting the variances will not be contrary to the public interest.

It is hard to imagine anything about this proposed project that could be characterized as contrary to the public interest. The project promotes the public interest, even though this is not the actual burden the Applicant must meet.

Federal, state and local laws encourage the development of affordable and/or workforce housing. The multi-decade efforts of THP should be applauded. Its adaptive re-use of this historic structure, which will preserve an architectural gem in the City of Dover, and avoid a unique structure's proposed re-use (by some other buyer) in a manner less conducive to the surrounding neighborhood, should be welcomed and encouraged.

Relaxing the open space requirements is not contrary to public interest. The site is in a densely developed residential neighborhood, where many existing structures, after accommodating parking needs, have precious little open space. The project's need to maximize parking (subject to the Planning Board's Conditional Use Permit jurisdiction) must be balanced with reasonable open space accommodations. It's in the public interest to encourage use of the recently redeveloped Park Street Park rather than insist upon the development of competing active and passive on-site recreational space.

With respect to the height variance, it serves the public interest to preserve historical features of the building. Improved R-value expectations are the norm, but cannot be achieved on the top floor of this project by conventional internal insulation without ruining (covering up) beautiful historic wooden beamed ceilings.

The zone's forty foot height limitation is written with the focus of governing the height of single family and duplex structures predominating the neighborhood. This mill is an anomaly. Its approximate fifty foot height will not be appreciably different by the addition of another foot or two of insulation at the roof's centerline, with decreasing insulation height as the new roof slopes to the building's edges. Any additional height will not be noticeable, but the internal historic preservation of inside top floor ceilings will be, to the benefit of the public interest.

2. Granting all variances serves the spirit of the ordinance.

The use and dimensional limitations of the RM-U zone are written with the focus of single family and duplex structures. No practical re-use of this site can be made conforming with the limited use options of present zoning.

Clearly, the spirit of the ordinance encourages residential use in the neighborhood. The proposed residential use is entirely reasonable, and consistent with Dover's Planning staff's recommended future changes to the zone (discussed above).

Awarding the open space and height variances are consistent with the above statements and thus also observe the spirit of the ordinance.

3. Granting all variances will result in substantial justice.

Granting all three variances will facilitate legally encouraged and socially promoted adaptive re-use and historic preservation of this mill building and provide needed workforce housing encouraged by federal laws, state law (see N.H. RSA Chapter 674) and local laws. THP's anticipated CBDG grant application will address a primary goal of the City of Dover in awarding CBDG grants, which is to promote affordable housing.

4. Granting all three variances will not diminish the values of surrounding properties.

Frankly, this redevelopment project will enhance a property which economic realities have allowed to become rundown. This will be much more than a spruce-up. It will be a welcomed improvement, preserving, if not improving, surrounding property values. This will be more fully discussed at time of hearing.

5. Literal enforcement of the provisions specifically referenced with respect to the three requested variances would result in unnecessary hardship.

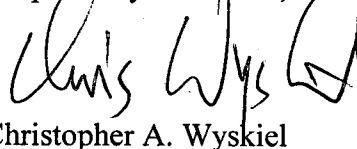
Special conditions of the property distinguish it from others in the area. This mill building is an obvious anomaly in the zone. How one legally, effectively, and responsibly re-uses more than an acre of building on just an acre of land is a challenge. THP's proposal is reasonable, appropriate, fulfills legal mandates and public policy, and best uses the special conditions of the property.

There is no fair and substantial relationship between the public purposes promoted by the specific use and dimensional requirements of the RM-U Zone and their specific application to this unique property. Planning staff's recommendation to the Dover Planning Board to extend the Central Business District (discussed above) is the best evidence that more relaxed standards are appropriate for the zone. Clearly, the use and dimensional limitations of the RM-U district (Exhibit 4) were written with the general inventory of predominantly single family and duplex structures within the zone.

The proposed use, including proposed open space designs and increase in height, are reasonable. All the above discussion supports these conclusions.

For all the above reasons, to be further explained and discussed at hearing, THP requests the ZBA to grant all three variances.

Respectfully submitted,



Christopher A. Wyskiel

CAW/nl
Enclosures

AUTHORIZATION

RICHARD L. ROBBINS, STANLEY B. ROBBINS AND JUDITH E. WEISNER, AS TRUSTEES OF THE SIDNEY ROBBINS FAMILY TRUST, with a mailing address of 14 Lisa Beth Circle, Dover, NH 03820 ("Robbins Family Trust"), hereby authorize **THE HOUSING PARTNERSHIP: A NON-PROFIT CORPORATION**, a New Hampshire non-profit corporation with a mailing address of P. O. Box 466, Portsmouth, NH 03801 ("The Housing Partnership") to act in the name, place and stead of the Robbins Family Trust with respect to certain specific actions concerning the property owned by the Robbins Family Trust located at One Dover Street in the City of Dover, New Hampshire, and depicted on Dover Assessors Map 27 as Lot 20 (the "Property").

The acts hereby authorized are specifically limited to the following acts necessary in order for The Housing Partnership to fulfill its obligations pursuant to a certain Purchase and Sale Agreement by and between The Housing Partnership and the Robbins Family Trust dated January 23, 2012 relating to the Property (the "Agreement"):

1. Filing of Applications with the City of Dover including applications before the Dover Zoning Board of Adjustment and Planning Board, in order to construct a 40 unit affordable housing project as contemplated by the Agreement;
2. Taking steps necessary to file or obtain any permits or applications necessary, whether local, state or federal, for The Housing Partnership's development and subsequent use of the Property as a 40 unit affordable housing project as identified in the Agreement.

The Housing Partnership shall provide the Robbins Family Trust with copies of any and all documents, reports, applications, correspondence or any other paperwork completed or filed in connection with this Authorization or the Agreement. A fully executed copy of this Authorization may be relied upon as if it were an original.

IN WITNESS WHEREOF, Judith E. Weisner, Richard L. Robbins and Stanley B. Robbins, as Trustees of the Sidney Robbins Family Trust, hereby execute this Authorization on January _____, 2012.

SIDNEY ROBBINS FAMLY TRUST

By: Judith E. Weisner
Judith E. Weisner, Trustee

Witness

By: _____
Richard L. Robbins, Trustee

Witness

By: _____
Stanley B. Robbins, Trustee

Witness

Exh. 1
(1 of 3)

AUTHORIZATION

RICHARD L. ROBBINS, STANLEY B. ROBBINS AND JUDITH E. WEISNER, AS TRUSTEES OF THE SIDNEY ROBBINS FAMILY TRUST, with a mailing address of 14 Lisa Beth Circle, Dover, NH 03820 ("**Robbins Family Trust**"), hereby authorize **THE HOUSING PARTNERSHIP: A NON-PROFIT CORPORATION**, a New Hampshire non-profit corporation with a mailing address of P. O. Box 466, Portsmouth, NH 03801 ("**The Housing Partnership**") to act in the name, place and stead of the Robbins Family Trust with respect to certain specific actions concerning the property owned by the Robbins Family Trust located at One Dover Street in the City of Dover, New Hampshire, and depicted on Dover Assessors Map 27 as Lot 20 (the "**Property**").

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IN WITNESS WHEREOF, Judith E. Weisner, Richard L. Robbins and Stanley B. Robbins, as Trustees of the Sidney Robbins Family Trust, hereby execute this Authorization on January 30, 2012.

SIDNEY ROBBINS FAMLY TRUST

Witness

By: _____
Judith E. Weisner, Trustee

Witness

By: _____
Richard L. Robbins, Trustee

Witness

By: Stanley B. Robbins (Trustee)
Stanley B. Robbins, Trustee

Exh. 1
(2 of 3)

AUTHORIZATION

RICHARD L. ROBBINS, STANLEY B. ROBBINS AND JUDITH E. WEISNER, AS TRUSTEES OF THE SIDNEY ROBBINS FAMILY TRUST, with a mailing address of 14 Lisa Beth Circle, Dover, NH 03820 ("Robbins Family Trust"), hereby authorize **THE HOUSING PARTNERSHIP: A NON-PROFIT CORPORATION**, a New Hampshire non-profit corporation with a mailing address of P. O. Box 466, Portsmouth, NH 03801 ("The Housing Partnership") to act in the name, place and stead of the Robbins Family Trust with respect to certain specific actions concerning the property owned by the Robbins Family Trust located at One Dover Street in the City of Dover, New Hampshire, and depicted on Dover Assessors Map 27 as Lot 20 (the "Property").

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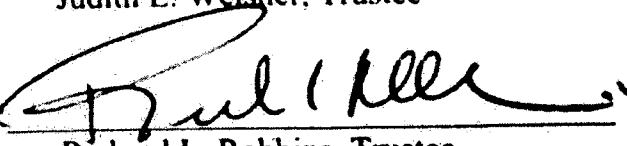
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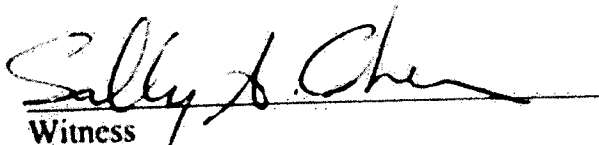
IN WITNESS WHEREOF, Judith E. Weisner, Richard L. Robbins and Stanley B. Robbins, as Trustees of the Sidney Robbins Family Trust, hereby execute this Authorization on January ____, 2012.

SIDNEY ROBBINS FAMILY TRUST

By: _____
Judith E. Weisner, Trustee

By: 
Richard L. Robbins, Trustee

Witness


Witness

Witness

By: _____
Stanley B. Robbins, Trustee

Exh. 1
(3 of 3)

DOVER CODE

Except as herein provided, no BUILDING or land shall be used except for the purposes permitted in the district as described in this Article.

- A) Uses permitted by right. A use listed in the Tables of Use and Dimensional Regulations By District is permitted as a matter of right in the district in which it is listed, subject to the rules set forth in this Chapter and other sections of the Code of the City of Dover.
- B) Uses permitted by right, with conditions imposed. A use listed in the Tables of Use and Dimensional Regulations By District and denoted with a numerical reference number (footnote) indicates a use that is permitted by right only when in compliance with certain imposed conditions.
- C) Uses permitted by special exception. A use listed in the Uses Via Special Exception section of the Tables of Use and Dimensional Regulations By District may be permitted as a special exception granted by the Board of Adjustment in accordance with the conditions of Article VI and 170-52 herein and in conformance with such other rules and regulations as may apply.

The Special Exception designation in a given district does not constitute an authorization of an assurance that such use will be permitted.

- D) Uses not permitted. A use not listed in the Tables of Use and Dimensional Regulations By District shall not be permitted in the district.
- E) PLANNING BOARD Site Review Approval. The following development/redevelopment shall be subject to the rules and regulations contained in the Site Review Ordinance of the City of Dover*:
 - 1) All non-residential development or redevelopment.
 - 2) All multi-family residential uses wherein more than five (5) units are proposed for development.
 - 3) All MOBILE HOME PARKS.
 - 4) Any Change of Use as defined in Chapter 149, Site Review Ordinance.
- F) Overriding district regulations. All uses are subject to the regulations of the overriding districts as listed and defined in this Chapter. (Refer to Article VII.)

170-12. Applicability of Tables of Use and Dimensional Regulations by District [Amended 12-09-09 by Ord. No. 2009-09-09-15]

- A) Uses permitted in those zoning districts identified in 170-7 shall be as set forth in the Tables of Use and Dimensional Regulations By District.
- B) The minimum regulations for LOT size, LOT FRONTAGE, BUILDING SETBACK standards for front, side and REAR YARDS, BUILDING HEIGHTS, and LOT

* See Ch. 149, Site Review.

EXH. 3
(1 of 2)

ZONING

coverage shall be as specified in the Tables of Use and Dimensional Regulations By District.

ARTICLE V DIMENSIONAL REGULATIONS

170-13. Availability of utilities and services. [Amended 6- 10-87 by Ord. No. 13-87]

In instances where municipal sewer and water facilities are not provided, no residential STRUCTURE shall be built on a LOT with less than thirty thousand (30,000) square feet in area. Where municipal water is available and sewer is not, the minimum LOT size shall be twenty thousand (20,000) square feet in area. In no instance, however, shall the above requirements be more permissive than those required by the New Hampshire Water Supply and Pollution Control Commission or required elsewhere in this chapter. Furthermore, the above requirement shall not be substituted for mandatory hookups required by other chapters of the Code of the City of Dover.

170-14. Nonconforming LOTS. [Amended 6-10-87 by Ord. No. 13-87; 08-01-90 by Ord. No. 8-90]

The erection of a BUILDING or STRUCTURE shall be permitted on any LOT which has been duly recorded at the Strafford County Registry of Deeds on or before the effective date of adoption of this chapter, provided that:

- A) The LOT shall support a land area of at least five thousand (5,000) square feet and a minimum width of fifty (50) feet. In such cases, the following SIDE YARD restrictions shall apply:
- 1) A LOT with a width of one hundred ten (110) feet or less and greater than seventy-five (75) feet, shall have a minimum SIDE YARD of ten (10) feet.
 - 2) A LOT with a width of seventy-five (75) feet or less and fifty (50) feet or more shall have a minimum SIDE YARD of six (6) feet.
- B) Refer to Article X of this chapter for provisions regulating nonconforming LOTS that are adjacent or of continuous FRONTAGE and NONCONFORMING USES and STRUCTURES.

170-15. OPEN SPACE requirements. [Added 08-01-90 by Ord. No. 8-90, Amended 12-09-09 by Ord. No. 2009-09.09-15]

- A) For each bedroom of a multifamily [greater than four (4) DWELLING UNITS] residential STRUCTURE, there shall be provided at least one hundred (100) Square feet of usable OPEN SPACE. Half of this required OPEN SPACE shall be provided in such a manner so as to afford active recreational opportunities for children, to include such facilities as swings, sandboxes, slides, play areas, etc. The remainder of the required OPEN SPACE shall be provided in such a manner so as to afford passive recreational opportunities for adults, such as sitting areas, outdoor cooking facilities, walkways, etc. The active and passive recreational facilities may be combined or

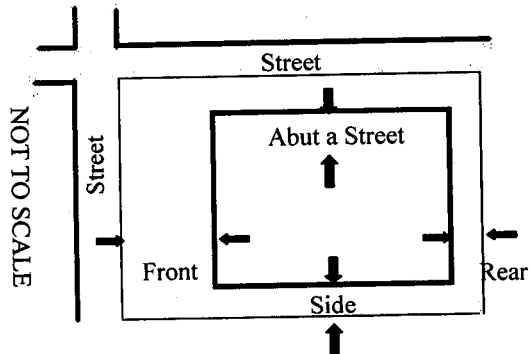
Exh. 3
(2 of 2)

Urban Density Multi-Residential (RM-U) District

The information included in this Table represents the requirements for development in this District.

LOT OCCUPATION (1)	
Min. Lot Size (2)	10,000 sf
Frontage (feet)	80 ft
Lot Coverage	40%
SETBACKS - PRINCIPAL BUILDING (FEET)	
Front/ Abut a Street	(3)
Side	15
Rear	15
OUTBUILDING/ACCESSORY USE SETBACKS (FEET)	
Front/ Abut a Street	(3)
Side Setback	10
Rear Setback	10
BUILDING HEIGHT (FEET)	
Principal Building	40
Outbuilding	40

Permitted Uses
1 Family Dwelling
2 Family Dwelling
Conversion of Existing Dwelling to Accommodate not more than 2 units (4)
Rooming House (5)
Funeral Parlor
Office (6)
Service Club (7)
Adult Day Care
Child Care Facility
Church
Educational Institution, K-12
Public Recreation
Public Utility (8)



The principal structure shall be distanced from the lot lines as shown.

Sign Regulations	
Total Sign No.	1
Maximum Sign Area	16 sf*
* Cust. Home Occupation Sign Max 2 Sf a Development Identification sign may be 20 sf	
SETBACKS - Freestanding Sign	
Sign	10'
Sign Type	Allowed
Freestanding	Yes
Projecting	Yes
Wall/Awning	No
Temporary	No

Uses Via Special Exception (see 170-52)
3-4 Family Dwelling (SEE OVER)
Conversion of Existing Dwelling to Accommodate not more than 4 units (SEE OVER)
Beauty and barbershop (SEE OVER)
Congregate Care (SEE OVER)
Elderly Assisted Care (SEE OVER)
Nursing Homes (SEE OVER)
Group Home Form Minors (SEE OVER)

SEE PAGE 2 FOR FOOTNOTES

Exh 4
(1 of 2)

- [1] Refer to µµ 170-13 and 170-14 for exceptions to lot size, frontage and setback requirements.
- [2] All land containing wetlands shall not be counted in determining the gross land area of a lot for the purposes of minimum lot size or minimum density requirements for residential uses. The minimum non-wetland portion of any newly created lot shall be contiguous. For the purposes of this calculation, wetlands shall include areas that meet the definition of wetland in the NH Code of Administrative Rules - Vt. 101.87 and the 1987 Federal Manual For Identifying Jurisdictional Wetlands. [Amended 1-22-2003 by Ord. No. 35]. Wetland buffers shall only be allowed to count for 40 percent of the minimum lot size required.
- [3] The front setback and about a street shall be calculated by determining the setbacks of all lots within the same zone located with 500 feet from the exterior lot lines of the original lot to be subdivided. For new construction, this dimension shall be considered to be a build to line, as opposed to a setback. For expansions, it will remain a setback. Regardless of the average, in no case shall the build to line be closer than five (5) feet to the front lotline.
- [4] Provided that the lot contains at least two thousand (2,000) square feet for each dwelling unit plus an additional five hundred (500) square feet for every bedroom contained in such multiunit residence. A maximum of four (4) units per lot is allowed.
- [5] Provided that no more than five (5) rooms are rented to no more than (10) persons.
- [6] Permitted only if operated as a customary home occupation (Refer to definition in µ 170-6B)
- [7] Provided that there is no sale or consumption of alcoholic beverages on the premises.
- [8] The utility facility shall be appropriately fenced to protect the public. Landscaping materials shall be required to provide a visual screen from any structures and storage within. [Amended 10-28-88 by Ord. No. 18-88]

SPECIAL EXCEPTION CRITERIA

Three- and four-family dwellings. [Added 3-25-87 by Ord. No. 6-87]

Three- or four-family dwellings and conversions of existing dwellings to three (3) or four (4) units shall be subject to the following regulations:

- A. The specific site must have an amount of open space, either landscaped or left natural, at least equal to the average amount of open space on all developed lots in the RM-U District that are wholly or partly within two hundred (200) feet of the subject parcel. Existing parking areas, either gravel, paved or unpaved, shall not be considered to be open space.
- B. Off-street parking, in accordance with Chapter 149, Site Review, shall be provided as to avoid vehicles backing into the street. Two (2) parking spaces per unit shall be required.
- C. Parking lots shall be at least five (5) feet from a side property line and ten (10) feet from a front property line.
- D. Parking areas shall be screened from the street and from abutting lots.
- E. Structures shall be at least twenty (20) feet from a front property line, fifteen (15) feet from a rear property line and fifteen (15) feet from a side property line unless abutting a street, in which case, the distance from the side property line shall be twenty (20) feet.

Barber- and Beauty Shops

Barber- and beauty shops shall be subject to the following regulations:

- A. No more than one (1) operator's chair is permitted.
- B. No assistants are to be employed.
- C. All operators are to be members of the immediate family who reside in the home.
- D. All such uses shall conform to the regulations governing customary home occupations in 170-6B.

Elderly Assisted Care Home. [Added 09-15-93 by Ord. No. 19-93]

Elderly Assisted Care Home is allowed by Special Exception in accordance with the densities and provisions stated below:

- A. Elderly Assisted Care Homes larger than 6 bedrooms shall meet the following density requirements: in the RM-U District at a density of one bedroom per 2,500 sq. ft.;
- B. Provided that parking and service areas are screened from abutting residential uses.
- C. Notwithstanding the above requirements, the maximum number of bedrooms and residents allowed in a facility may be increased provided the increase is found not to be detrimental to the surrounding properties and conforms with parking standards in Chapter 170-44 (Off Street Parking). Furthermore, any increase to an existing structure must be contained within or contiguous to the original structure. [Added 01-22-03 by Ord. No. 35-02]

Congregate Care Facility. [Added 09-15-93 by Ord. No. 19-93]

Congregate Care Facility is allowed as a Special Exception in accordance with the density and provisions stated below:

- A. In the RM-U District at one unit per 2,500 sq. ft. of land;
- B. Provided that parking and service areas are screened from abutting residential uses.

Nursing Home. [Added 09-15-93 by Ord. No. 19-93]

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

- A. In the RM-U District at one unit per 2,000 sq. ft. of land;
- B. Provided that parking and service areas are screened from abutting residential uses.

Group Home for Minors. [Added 09-01-93 by Ord. No. 20-93]

Group Home for Minors shall be subject to the following conditions:

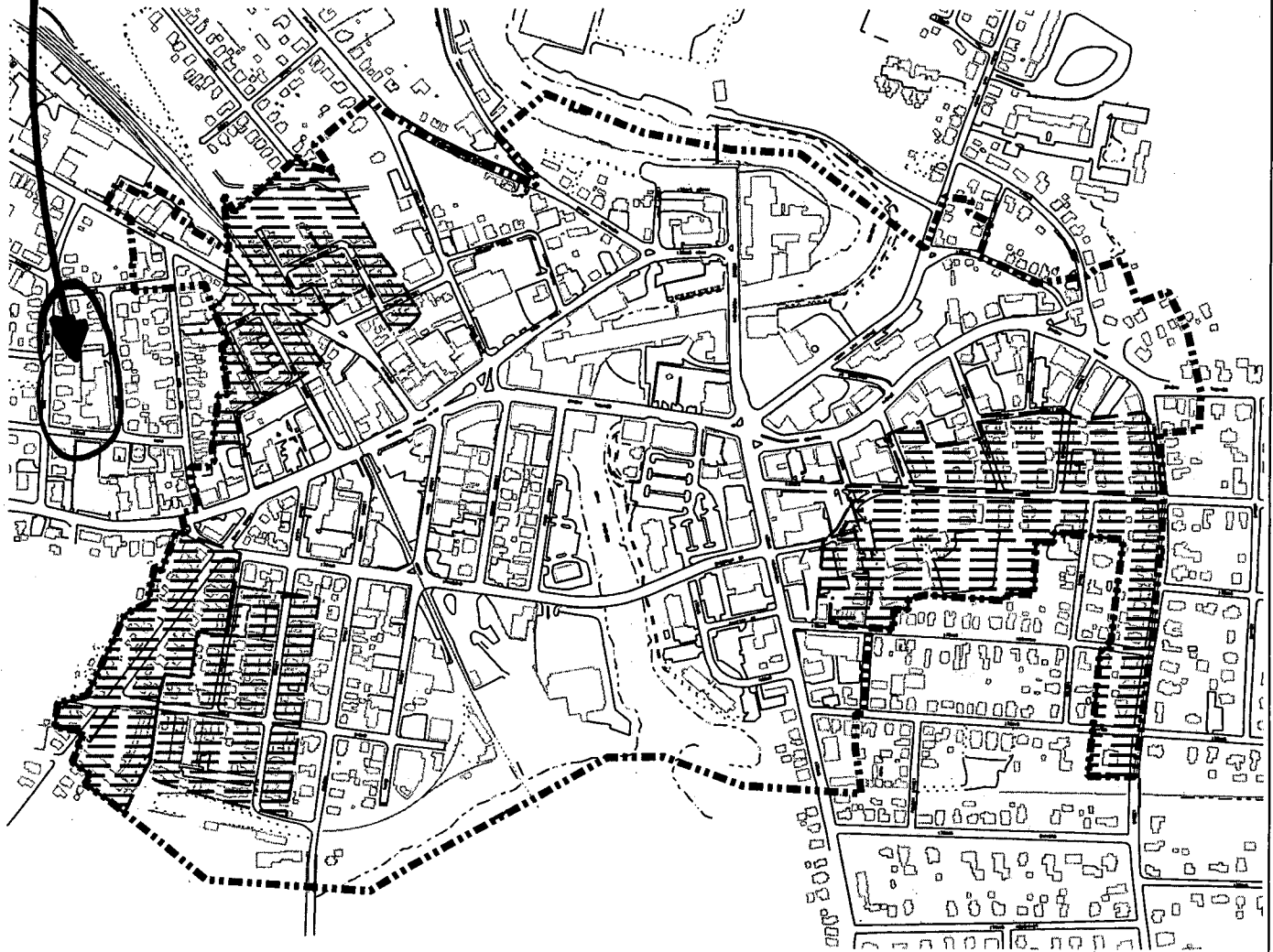
- A. The group home site shall be compatible with abutting uses.
- B. The group home shall be located in areas of transitional land use or mixed land uses.
- C. Parking and service areas shall be screened from abutting residential uses, unless the abutter chooses to not want said screening.
- D. Open space shall be maintained on the property in an amount comparable to the neighborhood.
- E. The planned occupancy of the group home shall be compatible with the permitted density of the surrounding neighborhood.

Exh 4
(182)

CBD REGULATING PLAN

THP
SITE

- COMMERCIAL GENERAL
- MIXED USE
- RESIDENTIAL



Exh 5
(1 of 3)

The information included in this Table represents the requirements for development in this District.

Statement of Purpose:

North of the Downtown core are neighborhoods of smaller homes, once the residences of mill employees, shopkeepers, and others for whom the close proximity to the Downtown was an important feature. Smaller in scale than the more ornate homes in the Mixed Use District, many of these buildings still present considerable architectural detailing. Many of them have outbuildings at the rear of the property. The continued use of these areas as residential neighborhoods is important, both to the city's heritage and to achieving the smart growth and low carbon impact goals of the master plan. Where new structures are added, they should mimic the placement, scale, and building materials of the older homes.

LOT OCCUPATION	
Lot Coverage	40%
Minimum Frontage	75 ft
BUILD TO LINES - PRINCIPAL BUILDING	
Front (Principal)	8 ft min. 15 max
Front (Secondary)	8 ft min. 10 max
Side	10 ft min.
Rear	15 ft. min
Frontage Buildout	40% min
OUTBUILDING/ACCESSORY SETBACKS	
Front Setback	20 ft min + bldg setback
Side Setback	5 ft min
Rear Setback	5 ft min
PRIVATE FRONTAGES	
Common Yard	permitted
Porch and Fence	permitted
Terrace / Lightwell	not permitted
Stoop	permitted
Shopfront & Awning	not permitted
Gallery	not permitted
BUILDING HEIGHT	
Principal Building	2 stories min, 3 max
Outbuilding	2 stories max

*CUP may be used to adjust above standards

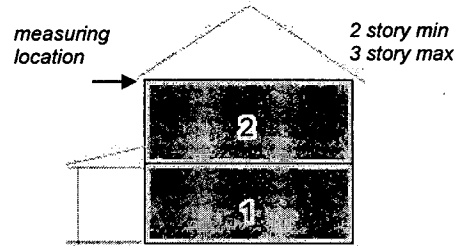
SPECIAL REGULATIONS

Streetscape Standards (See 170-10.1 E)

- a. Sidewalks shall be asphalt a minimum of 5 feet wide.

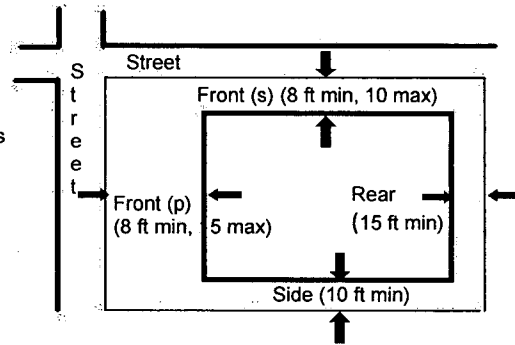
Building Height

1. Building height shall be measured in number of Stories, excluding attics and raised basements.
2. Height shall be measured to the eave or roof deck as specified in the ordinance.



Build to Lines

1. The Facades and Elevations shall be distanced from the Lot lines as shown.
2. Facades shall be built along the Principal Frontage to a minimum of 40% of the Frontage Buildout.



Parking Location Standards (See 170-44)

- a. Must have 2 spaces per unit on site.

Turn sheet over for Permitted Uses

→
Exh 5
(1 of 3)

Permitted Uses			
Uses	Commercial	Mixed Use	Residential
Residential	Permitted, but not on ground floor except in existing structures	Permitted, but not on ground floor except in existing structures	Permitted
Lodging	Permitted	Permitted, up to 12 rooms w/stays up to 14 days	Permitted, up to 12 rooms w/stays up to 14 days
Professional Services/Offices/ Commercial	Permitted	Permitted	Home Occupation, Neighborhood Store, others via CUP (170-10.1 B)
Eating and Drinking (without drive-thru)	Permitted	Not Permitted	Not Permitted
Retail/ Personal Services	Permitted	Permitted	Permitted
Civic	Permitted	Permitted	Permitted
Other	Via CUP (170-10.1 B)	Via CUP (170-10.1 B)	Via CUP (170-10.1 B)

Sign Regulations - Residential

Total Sign No.	1
Maximum Sign Area	16 sf *
* Cust. Home Occupation Sign max 2 sf; a Development Identification sign may be 20 sf.	
SETBACKS - Freestanding Sign	
Sign	10'
Sign Type	Allowed
Freestanding	Yes
Projecting	Yes
Wall/Awning	No
Temporary	No

Adult Bookstore, Video Store or Adult Cabaret

[Added 10-20-93]

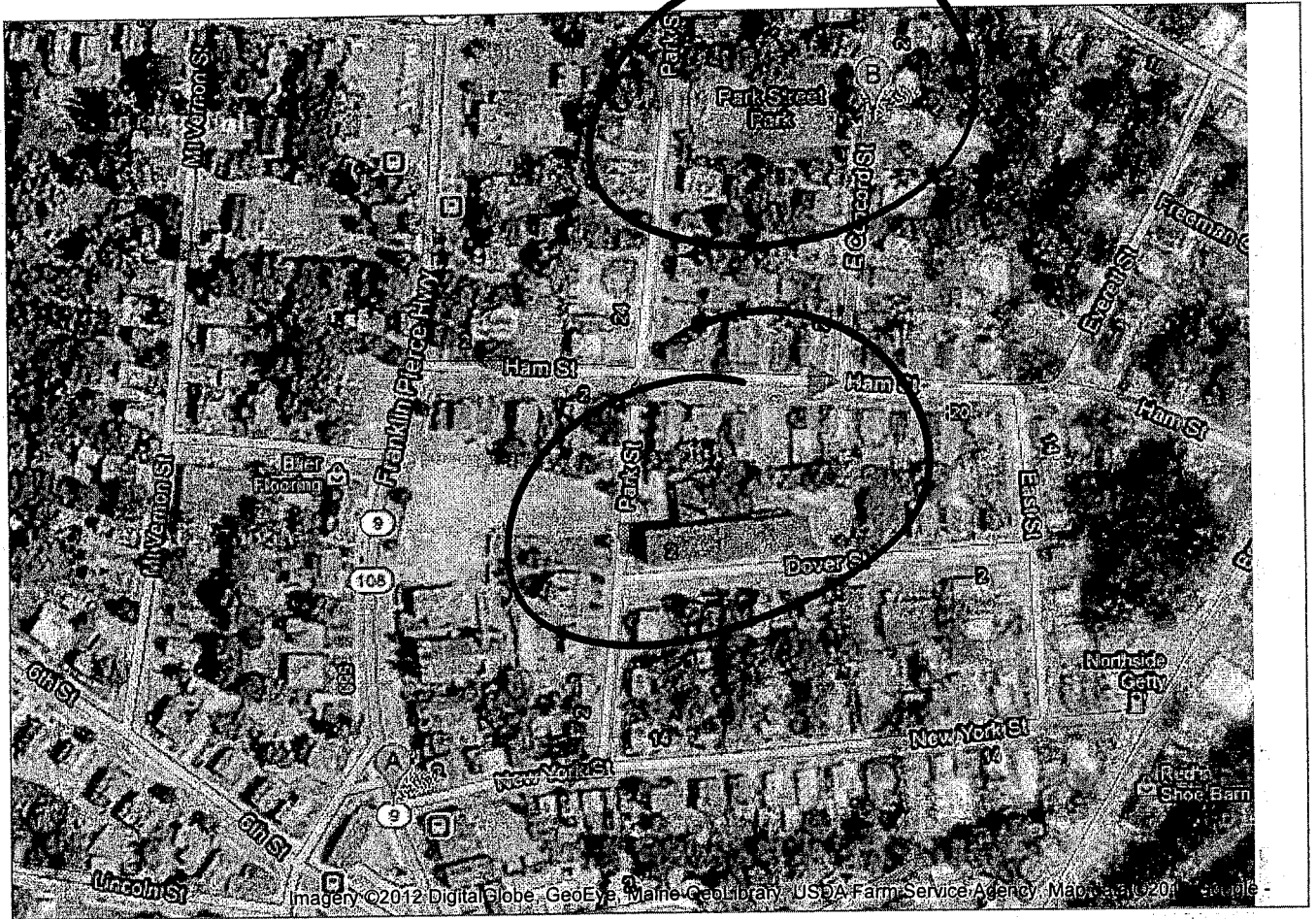
by Ord. No. 28-93]

Adult Bookstore, Video Store or Adult Cabaret shall be subject to the following conditions:

- A. An Adult Bookstore, Video Store or Cabaret shall be at least 500 feet from a parcel of land containing an existing residential use.
- B. An Adult Bookstore, Video Store or Cabaret shall be at least 1000 feet from a parcel of land containing a school, church, community park or public recreational area.
- C. No adult Bookstore, Video Store or Cabaret shall be permitted within 1000 ft. of an existing similar use.
- D. The proposed use shall comply with all other state statutes, and city ordinances and codes.

Exh. 5
 (193)

Google



Driving directions to Park Street Park

Exh. 6



(27/15)
 N/F ROMAN CATHOLIC BISHOP
 ST. CHARLES PARISH RECTORY
 577 CENTRAL AVENUE
 DOVER, N.H. 03820
 892/114
 922/337

(27/28A)
 N/F JAMES MCGREAL
 27 HAM STREET
 DOVER, N.H. 03820
 480/217

(31)
 N/F HOLGATE LIMITED
 PARTNERSHIP
 183 CENTRAL AVENUE
 DOVER, N.H. 03820
 1889/5

(49)
 N/F JENNIFER S. GRAHAM
 P.O. BOX 956
 HOLLIS N.H. 03049
 3351/145

(27/18)
 N/F DANA & SUSAN J. WIRKALA
 88 EAST STREET
 DUXBURY, MA 02332
 2102/665

(27/28B)
 N/F JAMES MCGREAL
 27 HAM STREET
 DOVER, N.H. 03820
 3180/220

(27/32)
 N/F KENNETH S. &
 STACE R. CHU
 5 DEER CREEK RUN
 DOVER, N.H. 03820
 2284/454

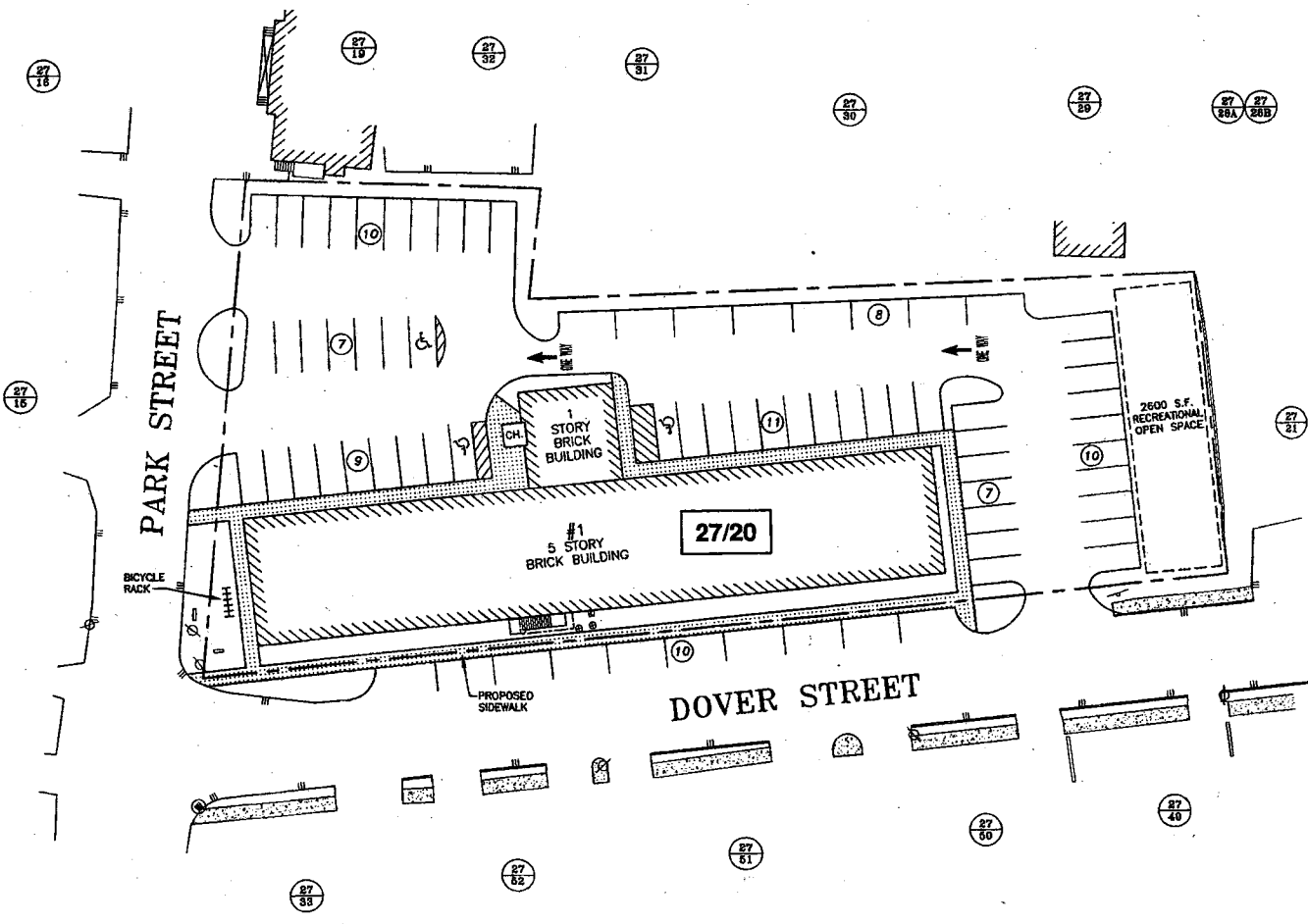
(27/50)
 N/F JOSEPH & KATHRYN
 FORBES-FISHER
 38 RIVER STREET
 EXETER, N.H. 03833
 2897/189

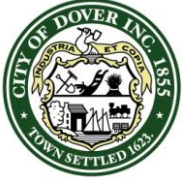
(27/18)
 N/F FREDERICK S. GRAY, III
 P.O. BOX 443
 NEW CASTLE, N.H. 03854
 2438/339

(27/29)
 N/F RICHARD & ROBIN SHAFFER
 20 LUCY CREEK DRIVE
 BEAUFORT, SC 29907-2221
 1575/596

(27/53)
 N/F ROBERT H. SLATER
 & CURTIS C. SIMONSON
 17 PICKMAN STREET, APT. 1
 SALEM, MA 01870
 3061/377

(27/51)
 N/F THOMAS E. & KATHRYN
 FORBES-FISHER
 P.O. BOX 1808
 DOVER, N.H. 03821
 3123/949





CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z11-23)

Application Type:	Use Variance
Applicant:	STF Development Corp.
Owner:	STF Development Corp.
Location:	39 Dover Point Road (Tax Map K, Lot 38)

INTENT: To obtain a use variance to allow eight (8) multi-family dwelling units in a district where the use is not permitted.

LOTS/UNITS PROPOSED: Eight (8) multi-family units

AGENDA ITEM #: 4-B

ZONING DISTRICT: R-12

EXISTING LAND USE: single family dwelling

PROPOSED LAND USE: Eight townhouse style multi-family dwelling units

SURROUNDING LAND USE: Single family houses, commercial and a cemetery

PREVIOUS ZBA ACTION: N/A

PLANNING BOARD APPROVAL REQUIRED: Yes

ATTACHMENTS: Application with addendum (preliminary site plan included with Case Z12-03)

APPLICATION IS COMPLETE: Yes

NOTICES AS REQUIRED: Yes

STAFF RECOMMENDATION:
The Planning Department supports the variance request.

Summary of Request and Background

The subject property is located at 39 Dover Point Road, across from Thornwood Lane. The property is currently improved with a single family structure. The applicant proposes to redevelop the site to construct eight (8) townhouse style attached residential units to be located on the back half of the property, together with 29 parking spaces. The proposed access from the property to Dover Point Road will be aligned with Thornwood Lane, and three additional access points are proposed to be shared with 37 Dover Point Road, which is Item 4-C on the Board's agenda (Case Z12-03). Because townhouses are not a permitted uses in the R-12 District, the applicant's plan requires a variance from Section 170-12.A of the Zoning Ordinance.

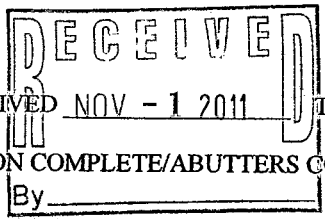
Reason for Staff Recommendation

The proposed townhouses are a reasonable use of the property considering its location next to a cemetery on one side, a multi-family building on the other (*see* Case Z12-03), and planned and existing commercial uses across Dover Point Road. The proposal is consistent with the spirit of the district which permits residential, but a variance is appropriate to permit multi-family residential in light of the unique location of the property which is not suited for a single or two-family dwelling. Moreover, because there are additional multi-family dwellings located near the property further along Dover Point Road, the proposed use is in conformance with the character of the neighborhood.

Recommendation

The Planning Department recommends the Board hold the public hearing, and approve the variance.

CASE # 211-23
 AMOUNT PAID \$ 229.00
 CK# 13742



211-23

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

I. APPLICANT STF Development Corp. PHONE #: 603-742-2121
 ADDRESS 242 Central Avenue, Dover, NH 03820
 PROPERTY OWNER STF Development Corp.
 ADDRESS 242 Central Avenue, Dover, NH 03820
 PROPERTY LOCATION 39 Dover Point Road, Dover, NH
 BRIEF DIRECTIONS 39 Dover Point Road, nearly opposite Thornwood Lane.
 ZONE R-12 ASSESSOR'S MAP K LOT #(S) 38

TYPE OF APPEAL: (Please check off one)

<input checked="" type="checkbox"/> VARIANCE	ARTICLE <u>170</u>	SECTION <u>11</u>
<input type="checkbox"/> VARIANCE (Physical Disability - RSA 674:33-V)	ARTICLE _____	SECTION _____
<input type="checkbox"/> SPECIAL EXCEPTION	ARTICLE _____	SECTION _____
<input type="checkbox"/> APPEAL ADMINISTRATIVE DECISION	ARTICLE _____	SECTION _____
<input type="checkbox"/> EQUITABLE WAIVER	ARTICLE _____	SECTION _____

Describe briefly your plans for this property: To construct 8 townhouse residences, with shared access for the adjacent parcel.

II. REQUIREMENTS SUBMITTED: (Please check off)

- A. Plot plan drawn in accordance with a boundary line survey to scale not less than 1" = 40', (**10 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. In the case of an abutting property being under a condominium or other collective form of ownership, the term "abutter" means the officers of the collective or association, as defined in RSA 356-B: 3, XXIII. Additionally, the individual owners of units within the association, which are located within two hundred (200) feet of the common property line, shall be notified by first class mail only. 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	5	X \$8.00 =
		\$ 40.00
Applicant & Owner	3	X \$8.00 =
		\$ 24.00
E. First Class Mail fee		
# of abutters	5	X \$1.00=
		\$ 5.00
F. Foster's newspaper public notice		
		\$ 60.00
TOTAL		\$ 229.00

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.

See attached

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

See attached.

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

See attached.

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

See attached.

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
See attached.

(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
See attached.

(iii) the proposed use is a reasonable one.
See attached.

SPECIAL EXCEPTION REQUIREMENTS

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

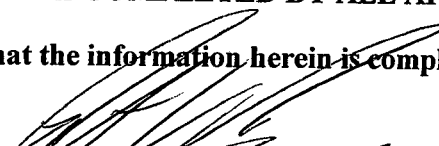
2. Detail how the requested use would not create undue traffic congestion or unduly impair pedestrian safety.

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.

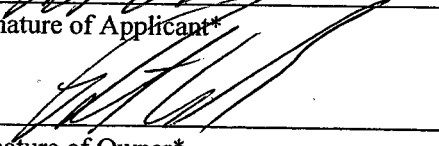
THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS

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



Signature of Applicant*



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

VARIANCE REQUIREMENTS:

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

The applicant is requesting a variance to allow the construction of a 8 residential townhouses on a lot containing approximately 41,200 square feet. This proposal is presented in conjunction with the development plan for the adjacent lot, so that they will share a common entrance and exit onto Dover Point Road.

This property is located opposite a B-3 zone and the ETP zone. Other multifamily uses exist in the neighborhood which are similar to the proposed townhouses. In the B-3 zone, multifamily housing is permitted provided that the lot has 5,000 square feet per unit. The proposed townhouses will be located on the last lot before the cemetery and will be separated from the single family residences located further north along Dover Point Road.

The public interest is affected if the proposed use would constitute a fundamental change in the neighborhood or if there would be a substantial impact on health and safety. Given the proximity of other similar multifamily uses, the proposed use would constitute an extension of the existing development in this area.

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

Granting this variance will allow the property to be developed with improved access to and from Dover Point Road by establishing a common entrance opposite Thornwood Lane. The general spirit of the zoning ordinance is to ensure that uses are consistent with the character of the neighborhood. This neighborhood has existing multifamily uses. The proposed townhouses will be separated from the single family residences located further north along Dover Point Road.

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

Substantial justice is done if the benefit to the applicant exceeds any detriment to the general public. The proposed use is permitted directly across the street, and already exists in near proximity to this property. The proposed use is consistent with existing, authorized, and proposed uses in the neighborhood. The proposed use will not have a detrimental impact on the general public.

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

The proposed use is allowed directly across the street from this property, and there are existing multifamily uses in the neighborhood. This property will share the entrance with the adjacent parcel, and this property is located directly adjacent to the cemetery. The proposed use will be separated from existing residential uses in the neighborhood.

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:

This one acre lot is located across from the B-3 and ETP zones. It is located at the end of a section of residential development, and is immediately adjacent to the cemetery. The closest uses to this property are commercial or multifamily residential. This property will share use of the entrance to Dover Point Road. The proposed use is separated from existing single family dwellings.

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

The general purpose of the ordinance is to ensure that uses are consistent with the character of the neighborhood. This neighborhood has existing multifamily uses. The proposed townhouses are similar to other units in this neighborhood and will be consistent with the blended character of the neighborhood.

(iii) The proposed use is a reasonable one.

The proposed use is consistent with other uses which are allowed, existing, or proposed in close proximity to this property. The location of this lot as abutting the cemetery makes it unsuitable for a single family residence. The multifamily use is more consistent with the character of nearby properties and uses.

JBack Realty, LLC
34 Dover Point Road
Dover, NH 03820

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34 Dover Point Road
Dover, NH 03820

JBack Realty, LLC
34 Dover Point Road
Dover, NH 03820

2830 Holdings, LLC
340 Central Avenue, Suite 202
Dover, NH 03820

2830 Holdings, LLC
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Dover, NH 03820

2830 Holdings, LLC
340 Central Avenue, Suite 202
Dover, NH 03820

South Dover Investment Group, LLC
40 Godfrey Cove Road
York, ME 03909

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York, ME 03909

Roman Catholic Bishop of Manchester
577 Central Avenue
Dover, NH 03820

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State of New Hampshire
Department of Transportation
7 Hazen Drive
Concord, NH 03301

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James H. Schulte, Esquire
660 Central Avenue
Dover, NH 03820

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McEaney Survey Associates, Inc.
24 Chestnut Street
Dover, NH 03820

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Dover, NH 03820

~~211-25~~
211-23 → 2/8/12

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Concord, NH 03301

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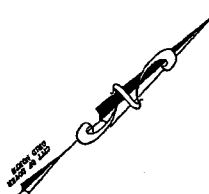
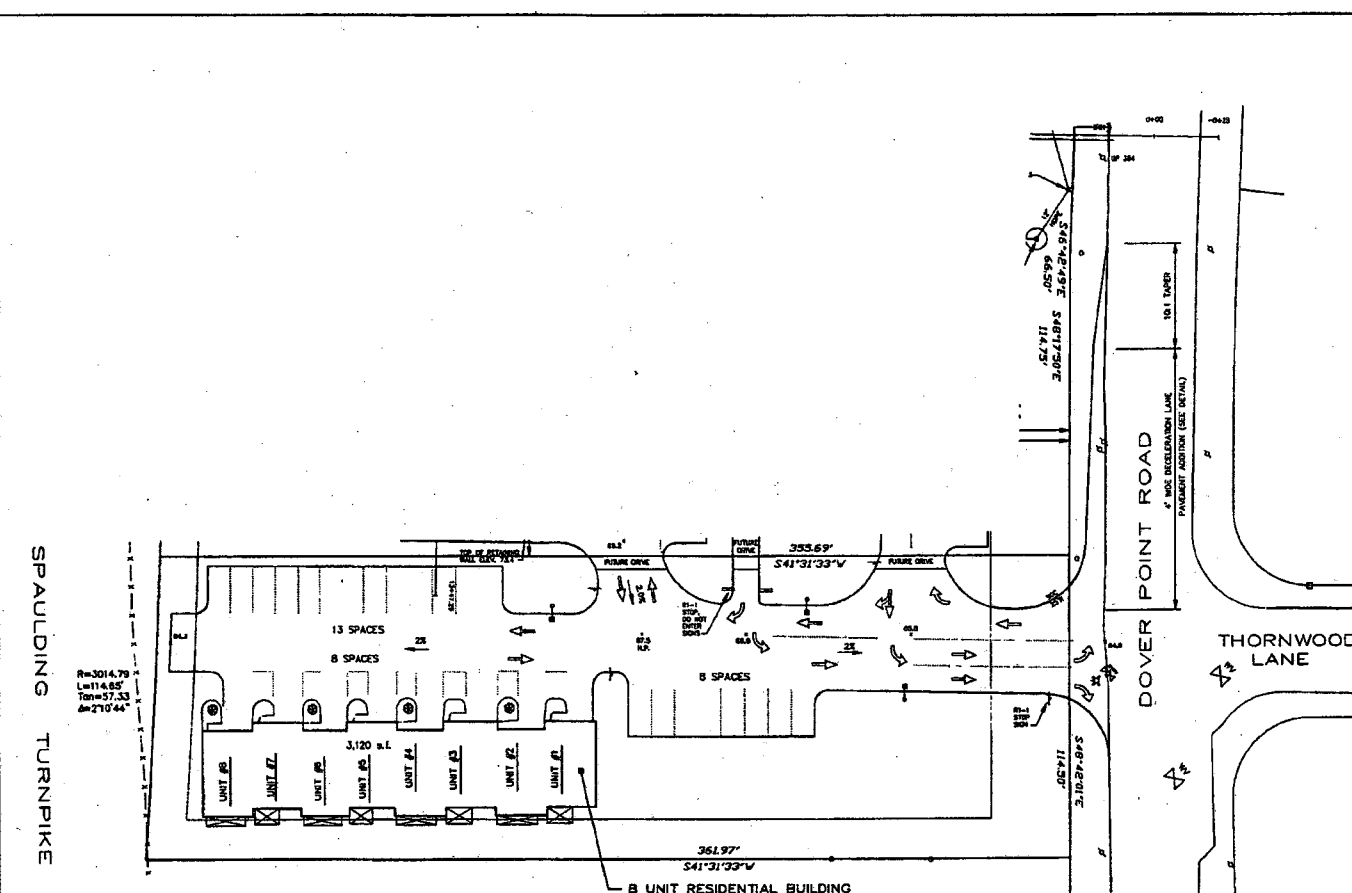
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McEneaney Survey Associates, Inc.
24 Chestnut Street
Dover, NH 03820

~~211-25~~
211-23



SPAUDING TURNPIKE

R=3014.79
L=1148.85'
Tan=57.33
Δ=27°0'44"

B UNIT RESIDENTIAL BUILDING

DOVER POINT ROAD

THORNWOOD LANE

NO.	DATE	DESCRIPTION	BY	CHK
11-1500		PRELIM		
PROJECT NO		TYPE	FIELDBOOK & PAGES	

PRELIMINARY SITE PLAN
 PREPARED FOR:
37 DOVER POINT ROAD
 TAX MAP K, LOT No. 38
 DOVER, NEW HAMPSHIRE

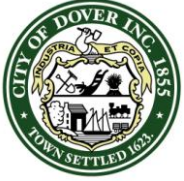
DRAWN BY: BSW	FILE: 11500\2000 04-1077.dwg
SCALE: 1" = 20'	DATE: 07/11/2011

M S A
 McManey
 Survey
 Associates, Inc.

P.O. Box 681 - 24 CHESTNUT STREET
 DOVER, NH 03820 (603) 742-0911

SURVEYING - PLANNING - CONSULTING

RECORDED
 NOV 9 2011
 By



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z12-03)

Application Type:	Modification of Prior Use Variance Approval
Applicant:	South Dover Investment Group, LLC
Owner:	South Dover Investment Group, LLC
Location:	37 Dover Point Road (Tax Map K, Lot 37)

INTENT: Applicant seeks a modification of prior congregate care variance approval in order to permit a 32 unit facility having one floor restricted to age 55, two floors with no age restrictions, and no food service requirement.

LOTS/UNITS PROPOSED: Thirty-two (32) multi-family units

AGENDA ITEM #: 4-C

ZONING DISTRICT: R-12

EXISTING LAND USE: Vacant

PROPOSED LAND USE: Thirty-two (32) apartment style multi-family dwelling units in a three (3) story structure with the first story remaining age restricted.

SURROUNDING LAND USE: Single family houses, commercial and a cemetery

PREVIOUS ZBA ACTION: Case Z 05-14 – variance granted to permit a 28 unit congregate care facility with food service provided.

PLANNING BOARD APPROVAL REQUIRED: Yes

ATTACHMENTS: Application with addendum and preliminary site plan

APPLICATION IS COMPLETE: Yes

NOTICES AS REQUIRED: Yes

STAFF RECOMMENDATION:
The Planning Department supports request to modify the variance approval.

Summary of Request and Background

The subject property is located at 37 Dover Point Road, adjacent to 39 Dover Point Road which is located across from Thornwood Lane. In 2005, the applicant applied for a variance to construct a multi-story congregate care facility with parking underneath (Case Z05-14). The Board granted the variance on the condition that the building contain no more than 28 units and that food services be made available to all tenants as requested. Currently, the property is vacant except for some site improvements related to the approved congregate care facility including a driveway, fire hydrant, and a pit for the foundation. The applicant now seeks a modification of the variance approval to allow for 32 units, to remove the requirement for congregate care, to provide that the units on the first floor be occupied by residents age 55 or older, to remove the age restrictions for the second and third floors, and to remove the requirement that food service be provided. Please note that, as depicted on the attached preliminary plan, the applicant proposes to access the property via three shared access drives with 37 Dover Point Road (see Case Z11-23), which in turn will access Dover Point Road with a drive that is aligned with Thornwood Lane.

Reason for Staff Recommendation

Staff supports the requested modification. Given market conditions, congregate care is now significantly more difficult to finance and demand may be limited. The request to modify the variance approval to permit a mix of age-restricted and unrestricted units therefore is a reasonable accommodation of the prior variance approval and is consistent with the spirit of the original approval. The increase of 4 units is necessary to ensure the financial feasibility of the project and does not constitute a significant alteration of the original approval. Furthermore, if approved, the applicant will eliminate the approved access point onto Dover Point Road which is near to but not aligned with Thornwood Lane, and will instead provide access through 37 Dover Point Road, the access to which is aligned with Thornwood Lane. From a planning perspective therefore, approval of the modification will result in a significant benefit to the community.

Recommendation

The Planning Department recommends the Board hold the public hearing, and approve the modification to the variance approval.

CASE # 212-03

DATE RECEIVED 2/2/12

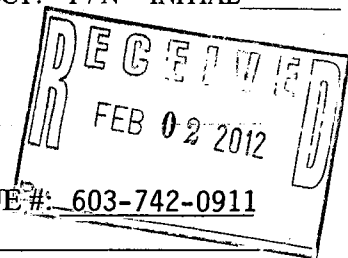
TIME RECEIVED 1130

AMOUNT PAID \$ 247.00

APPLICATION COMPLETE/ABUTTERS CORRECT? Y/N INITIAL _____

CK# 4445

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



212-03

I. APPLICANT South Dover Investment Group, LLC PHONE # 603-742-0911
 ADDRESS 40 Godfrey Cove Road, York, ME 03909
 PROPERTY OWNER South Dover Investment Group, LLC
 ADDRESS 40 Godfrey Cove Road, York, ME 03909
 PROPERTY LOCATION 37 Dover Point Road, Dover, NH
 BRIEF DIRECTIONS 37 Dover Point Road; nearly opposite Thornwood Lane.

ZONE R-12 ASSESSOR'S MAP K LOT #(S) 37

TYPE OF APPEAL: (Please check off one)

VARIANCE ARTICLE 170 SECTION 11
 VARIANCE (Physical Disability - RSA 674:33-V) ARTICLE _____ SECTION _____
 SPECIAL EXCEPTION ARTICLE _____ SECTION _____
 APPEAL ADMINISTRATIVE DECISION ARTICLE _____ SECTION _____
 EQUITABLE WAIVER ARTICLE _____ SECTION _____

Describe briefly your plans for this property: The applicant received a variance to develop this property into a 28 unit congregate care facility. This application seeks to amend that variance by removing the requirement for congregate care, to provide that the units on the first floor be occupied by residents age 55 or older, that the age restrictions be removed for the second and third floors, and that the requirement for food service be removed. Some 2 bedroom units will be converted to 1 bedroom units, to increase the number of units to 32, but retain

II. REQUIREMENTS SUBMITTED: (Please check off) the same number of bedrooms.

- A. Plot plan drawn in accordance with a boundary line survey to scale not less than 1" = 40', (10 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. In the case of an abutting property being under a condominium or other collective form of ownership, the term "abutter" means the officers of the collective or association, as defined in RSA 356-B: 3, XXIII. Additionally, the individual owners of units within the association, which are located within two hundred (200) feet of the common property line, shall be notified by first class mail only. 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 7 X \$8.00 = \$ 56.00
Applicant & Owner 3 X \$8.00 = \$ 24.00

E. First Class Mail fee

of abutters 7 X \$1.00 = \$ 7.00

F. Foster's newspaper public notice

\$ 60.00

TOTAL

\$ 247.00

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.

See attached

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

See attached.

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

See attached.

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

See attached.

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
See attached.

(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
See attached.

(iii) the proposed use is a reasonable one.
See attached.

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.

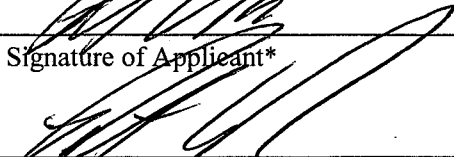
THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS

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



Signature of Applicant*



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

VARIANCE REQUIREMENTS:

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

In June, 2005, the Zoning Board and the Planning Board approved the development of this property into a 28 unit congregate care building. Most of the parking would be located in a garage located under the building, with provision for some surface parking. This proposal is being submitted in conjunction with a proposal to develop the adjacent parcel so that the two parcels will share an entrance onto Dover Point Road which is immediately opposite Thornwood Lane.

Since those approvals, the applicant has sought financing for the project but has been unable to obtain approval from lenders. The applicant is therefore requesting that the prior variance for this building be amended to allow the restriction for congregate care to be removed, so that the first floor of the building would be limited to residents age 55 and older, with no age restriction for the residences on the second and third floors. In addition, the number of units would be changed from 28 to 32 to allow for some one bedroom units. It is anticipated that the one bedroom units would be primarily for single persons, so the total number of residents is not likely to change, and the total number of bedrooms would remain the same within the same footprint for the overall building. There will be 32 parking spaces in the lower level of the building. The requirement for food service would also be removed.

The size, appearance, and location of the building would not change, and the general nature of the use of the building would not change. While food service would not be provided, each of the units in the original project would have had a full kitchen and residents would have been able to provide their own meals. That ability will be retained if this variance is granted since each unit will have its own kitchen.

The intensity of the use will not change from what has previously been approved. The ZBA previously determined that this level of residential use would not be contrary to the public interest.

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

Granting this revision to the previously granted variance will allow the property to be developed with the same physical requirements as approved in 2005. A portion of the building will continue to be restricted for the use of persons age 55 and older. The size, appearance, and location of the building and related improvements will not change.

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

The congregate care use which was previously approved is primarily a residential use for individuals who do not require medical or nursing care, but who wish to live in apartment style accommodations. The requested revision would eliminate the requirement for food service, and would remove the age restriction for the second and third stories. The applicant has been unable

to obtain financing for a congregate care use, but can obtain financing for a multi-age residential building. There will be no change in the size, appearance, or location of the building, and there will be minimal change in the use of the property.

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

The ZBA and the Planning Board previously approved this building for residential use as a congregate care building, and approved the size, appearance and location of the building. If this variance is granted, the removal of the requirements for congregate care, age limits, and food service will not change the essential character of the residential use of the property. The building will not be changed, The appearance of the building from the neighborhood will not change. The intensity of the use will not change. There will be no greater impact on the neighborhood than what has already been determined will not diminish values 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:

This is a large lot which is located across from the B-3 and ETP zones. It is located at the end of a section of residential development, and is separated from the cemetery by a single lot. This property has previously been approved for the development of a congregate care building with a foot print of 15,634 square feet. This request is to modify the conditions of the variance previously granted. The revisions will be consistent with the special conditions of this property.

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

The general purpose of the ordinance is to provide for residential use of the property. The ZBA has previously granted a variance for multi-family use of this property. The requested amendment is to modify three of the conditions of that variance. Those modifications will not change the appearance of the property and the modifications will not be apparent to the neighborhood. There will still be units which are restricted to persons over the age of 55, although some units would not have that limitation. Food preparation would be done in each unit rather than in a common facility.

(iii) The proposed use is a reasonable one.

The ZBA and the Planning Board have previously approved the development of this property for a residential building with a foot print of 15,634 square feet, to be used as a

congregate care facility. The congregate care use required that food service be provided and that the units be occupied by persons age 55 and older. The applicant seeks only to remove the requirement for congregate care, food service, and the age restriction on the second and third floors, and to have more one bedroom units. The general residential nature of the property will not change, and the size, appearance, and location of the building will not change.

Herbert Follansbee
Marion Follansbee
25 Dover Point Rd.
Dover, NH 03820

Herbert Follansbee
Marion Follansbee
25 Dover Point Rd.
Dover, NH 03820

Herbert Follansbee
Marion Follansbee
25 Dover Point Rd.
Dover, NH 03820

31-33 Dover Point Road Condos
15 Briarwood Lane
Dover, NH 03820

31-33 Dover Point Road Condos
15 Briarwood Lane
Dover, NH 03820

31-33 Dover Point Road Condos
15 Briarwood Lane
Dover, NH 03820

JNM Realty Trust
15 Briarwood Lane
Dover, NH 03820

JNM Realty Trust
15 Briarwood Lane
Dover, NH 03820

JNM Realty Trust
15 Briarwood Lane
Dover, NH 03820

Steven Tyler Wilkinson
33 Dover Point Road
Dover, NH 03820

Steven Tyler Wilkinson
33 Dover Point Road
Dover, NH 03820

Steven Tyler Wilkinson
33 Dover Point Road
Dover, NH 03820

2830 Holdings, LLC
340 Central Ave, Suite 202
Dover, NH 03820

2830 Holdings, LLC
340 Central Ave, Suite 202
Dover, NH 03820

2830 Holdings, LLC
340 Central Ave, Suite 202
Dover, NH 03820

STF Development corp
242 Central Ave
Dover, NH 03820

STF Development corp
242 Central Ave
Dover, NH 03820

STF Development corp
242 Central Ave
Dover, NH 03820

State of New Hampshire
Department of Transportation
7 Hazen Drive
Concord, NH 03301

State of New Hampshire
Department of Transportation
7 Hazen Drive
Concord, NH 03301

State of New Hampshire
Department of Transportation
7 Hazen Drive
Concord, NH 03301

South Dover Investment Group,
LLC
40 Godfrey Cove Rd
York, ME 03909

South Dover Investment Group,
LLC
40 Godfrey Cove Rd
York, ME 03909

South Dover Investment Group,
LLC
40 Godfrey Cove Rd
York, ME 03909

James H. Schulte, Esquire
660 Central Avenue
Dover, NH 03820

James H. Schulte, Esquire
660 Central Avenue
Dover, NH 03820

James H. Schulte, Esquire
660 Central Avenue
Dover, NH 03820

McEaney Survey Assoc. Inc.
24 Chestnut Street
Dover, NH 03820

McEaney Survey Assoc. Inc.
24 Chestnut Street
Dover, NH 03820

McEaney Survey Assoc. Inc.
24 Chestnut Street
Dover, NH 03820

2/12-03 2/8/12

LIST OF ABUTTERS

Map K, Lot 35 Herbert Follansbee
Marion Follansbee
25 Dover Point Road
Dover, NH 03820

Map K, Lot 36 31-33 Dover Point Road Condominium
15 Briarwood Lane
Dover, NH 03820

Map K, Lot 36-31 JNM Realty Trust
15 Briarwood Lane
Dover, NH 03820

Map K, Lot 36-33 Steven Tyler Wilkinson
33 Dover Point Road
Dover, NH 03820

Map K, Lots 19A &
19C 2830 Holdings, LLC
340 Central Avenue, Suite 202
Dover, NH 03820

Map K, Lot 38 STF Development Corp.
242 Central Avenue
Dover, NH 03820

Spaulding
Turnpike State of New Hampshire
Department of Transportation
7 Hazen Drive
Concord, NH 03301

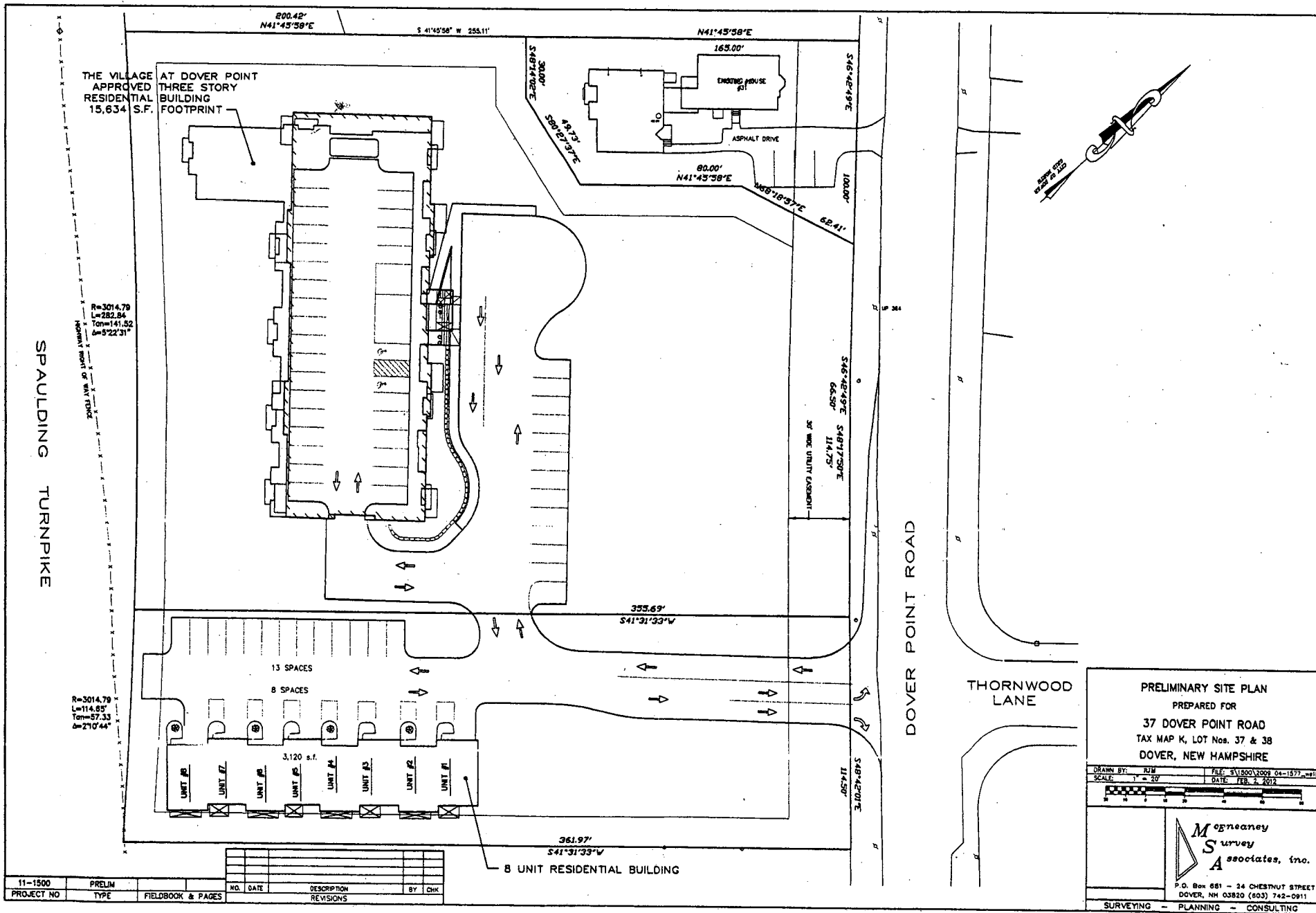
Applicant

Map K, Lot 37 South Dover Investment Group, LLC
40 Godfrey Cove Road
York, ME 03909

James H. Schulte, Esquire
660 Central Avenue
Dover, NH 03820

2-12-03

Surveyor McEneaney Survey Associates, Inc.
24 Chestnut Street
Dover, NH 03820



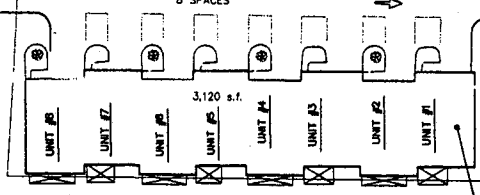
THE VILLAGE AT DOVER POINT
 APPROVED THREE STORY
 RESIDENTIAL BUILDING
 15,634 S.F. FOOTPRINT

R=3014.79
 L=282.84
 Ton=141.32
 Δ=9°22'31"

SPAULDING TURNPIKE

R=3014.79
 L=114.85
 Ton=57.33
 Δ=2°10'44"

13 SPACES
 8 SPACES



8 UNIT RESIDENTIAL BUILDING

PROJECT NO	PRELIM TYPE	FIELDBOOK & PAGES	NO.	DATE	DESCRIPTION REVISIONS	BY	CHK
11-1500	PRELIM						

PRELIMINARY SITE PLAN
 PREPARED FOR
 37 DOVER POINT ROAD
 TAX MAP K, LOT Nos. 37 & 38
 DOVER, NEW HAMPSHIRE

DRAWN BY: RJM FILE: S15001009 04-1577_mwh
 SCALE: 1" = 30' DATE: FEB. 2, 2010

M Mcneaney
S Survey
A associates, inc.

P.O. Box 681 - 24 CHESTNUT STREET
 DOVER, NH 03820 (603) 742-0911

SURVEYING - PLANNING - CONSULTING