



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – AGENDA *REVISED*

Meeting Type: Regular Meeting
Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820
Meeting Date: **Thursday, March 15, 2012**
Meeting Time: **7:00 pm**

1. ATTENDANCE

2. ELECTION OF OFFICERS

3. APPROVAL OF PRIOR MINUTES OF FEBRUARY 16, 2012

4. HEARINGS

- A. * Z 12-04 Dover Flower Studio LLC, 652 Central Avenue, Tax Map 30, Lot 135, located in the Office District, requests special exception approval per **Section 170-12.A** of the Zoning Ordinance and the Office District Table of Use to permit an approximately 1,100 s.f. retail store for the sale of fresh flowers and plants.
- B. * Z 12-05 Dover Flower Studio LLC, 652 Central Avenue, Tax Map 30, Lot 135, located in the Office District, requests a variance from **Section 170-12.A** of the Zoning Ordinance and the Office District Table of Use to permit the installation of an 11 s.f. projecting sign, where projecting signs are not permitted.
- C. * Z 11-11 Salmon Falls Holding, LLC, 45-48 Arch Street, Tax Map 11, Lot 16, located in the Medium Density Residential (R-12) District, proposes to demolish an existing three (3) family dwelling, which is a nonconforming use, and to construct a new three (3) family dwelling on a different portion of the lot. Applicant requests a variance from **Section 170-12.A** of the Zoning Ordinance and the R-12 District Table of Use to permit a three (3) family dwelling unit use of the property, where three (3) family dwelling units are not a permitted use, *and (b) to permit the new three (3) family dwelling to be located approximately 18 ft. from the front lot line.*

5. CASELAW AND LEGISLATIVE UPDATE

6. ADJOURN

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

Persons with questions or wishing to see the plans are invited to visit the Planning Office, 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

Revision is italicized.



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1. ATTENDANCE

Members Present: Sam Reid (Chair), Frank Landford, Jennifer Stone (Alternate).

Members Not Present: William Colbath (Vice Chair), Otis Perry, James Kelley, Chris Prior, Joshua Cote (Alternate).

Staff Present: Christopher Parker (Director of Planning), Timothy Corwin (Assistant City Planner), Gail Pare (Recording Secretary)

The Chair called the meeting to order at 7:04 PM. Due to the Board only having 3 members in attendance and quorum not being met, the Chair then explained to the applicants their option to defer to a later time.

2. APPROVAL OF PRIOR MINUTES OF DECEMBER 15, 2011

Motion: J.Stone made the motion to approve the December 15, 2011 minutes. Seconded by F.Landford.
Vote: U/A

3. OLD BUSINESS – N/A

4. 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.

Public Hearing Open

Chris Wyskiel asked if the case were deferred what the next meeting date would be. C.Wyskiel spoke to the Board about rescheduling and needed time to discuss with his clients.

The Chair introduced the new Assistant Planner, Timothy Corwin and welcomed him to the Zoning Board.

Closed public hearing.

C.Wyskiel requested item A. be deferred to later in the meeting.

Motion: F.Landford motioned to remove from the table. Seconded by J.Stone. Vote: U/A

The Board suggested moving onto Item B. C.Wyskiel agreed to be heard later in the night.

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



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residences, with shared access to the adjacent parcel, where townhouses are not a permitted uses in the R-12 District.

Public Hearing Open

Attorney James Schulte, representing the applicants on items 2 and 3 presented to the Board, stated these cases are distinct of each other but closely connected and his remarks presented were an overview of each before presenting the cases individually. The two parcels are adjacent properties. 37 Dover Point Rd. was approved as a congregate care facility, with amenities to its residents aged 55+ in June 2005. There would be no nursing or medical staff, but it did require that there be at least food service available. J.Schulte pointed to an (.9 acres, 40,000 s.f. lot) on the plan, which presently has a single family home near the street. The plans would include removing that building and allow for 8 townhouses to replace the single family structure.

The previous approval for 37 Dover Point Rd. showed an access road directly off Dover Point Rd. In this proposal there is no direct access to Dover Point Rd, but a driveway has been constructed to 39 Dover Point Rd. and the single family home has been removed and landscaping and groundwork has been done for the proposed townhomes (15,000 s.f. 3-story building). The proposal for 37 Dover Point Rd. would eliminate the access way to Dover Point Rd., and propose a shared access off of Dover Lane, directly across from Thornwood Lane. When this property is developed, there will be a need for some traffic control devices. There would be proposed changes in the entrance/exit heading north and south. J.Schulte showed the shared driveway use in order for it to work, but variances need to be approved for it to work.

J.Schulte referred to the new zoning changes in the past year and the context for this property is that the townhouse property is adjacent to multi family units, single family residences, Village Drive, duplex clusters and is directly across the street from an approved gasoline station/convenience store. There is a proposed three story office building at Thornwood Farms. It is next to the old Cadillac/Olds dealership which is now a Quick Lane auto facility. Local businesses include the Bill Dube Auto Sales, the Dover Point Office Park, and Market Square which is a mixed use office/residential project; and then the Harvest Place 11 townhouse units, and the Centennial Drive townhouses. This property also abuts St. Mary's Cemetery. This property, which is zoned R-12, is at the far end of the zone, surrounded by multi-family, single family residences, and the cemetery. It would be more marketable for townhouses rather than single family dwellings due to the market and economic times.

The variance would be in the spirit of the ordinance and the current neighborhood. It would not diminish the current neighboring properties, or the cemetery and it would not cause a fundamental change in the neighborhood or have a negative safety impact.

When the original plan was approved in 2005, the plan asked for 28 units, (27, 2 bedrooms, and 1, 1 bedroom unit). The variance today is asking to increase to 32 units. In the end there will be 12, 1-bedroom, and 20, 2 bedroom units. J.Schulte presented a letter to the Board from The Provident Bank stating they wish to continue to finance construction projects for the developer, however, as the property is approved for an over-55 population, it potentially limits the marketability of this development and makes it more difficult to put together a reasonable financing package to make the project feasible. The developer has now requested that the age restriction be removed from the 2nd and 3rd floors, so that the units could be rental units with the possibility they would later be sold depending on the market. They are also asking



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to remove the congregate care restriction, the food service, and increase the number of units from 28 to 32. J.Schulte also read a letter from John Gray stating his support for the variance request.

The Chair asked if anyone would like to speak. Marilyn Fallansbee of 25 Dover Point Rd. spoke in favor of the proposed plan.

C.Parker spoke on behalf of the Planning Board and feels the request for the townhouse use is reasonable and the use will be compliant and sensitive to the neighborhood.

Closed public hearing.

F.Landford asked J.Schulte if space from the congregate care would make up for the extra units. J.Schulte responded that there will be common space on the first floor, no kitchen area, so this area will be cut down, and some of the units will be reduced slightly to allow for the increase in the number of units.

J.Stone asked about the rendering presented by the applicant and the style of the condos.

J.Schulte responded the townhouses will look like the Centennial and Harvest properties in style.

F.Landford made a statement he is not happy with the number of residences that are allowed on the small lot, but will vote in favor of it because the City still allows it and has not changed the zoning because it is allowed under a variance.

Motion: F.Landford motioned to grant the variance. J.Stone seconded. Vote: U/A.

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.

Public Hearing Open

J.Schulte who again represented the applicant as previously outlined spoke to the Board. He is asking for approval as previously requested.

Mrs. Fallansbee spoke in favor. She liked the parking spaces underneath and feels the proposal is a good one.

Closed public hearing.

C.Parker pointed out a traffic study will be needed once it goes to the Planning Board, and the board will be looking at the site change requests including changing the location of the entrances.



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S.Reid asked if food service would still be available on the first floor units.

J.Schulte stated there will be space for food service if the residents want it, but it will not be required.

There will be a common dining area on the first floor. There will be a kitchen, but not a commercial kitchen.

S.Reid asked if the financing was refused by the bank.

J.Schulte said negotiations with a number of banks have failed - the problem is congregate care facilities. Banks and developers have not had success financing them.

S.Reid asked about the appearance of the building and if it is consistent with the drawing.

J.Schulte replied that it is.

J.Stone asked about the landscaping, shrubbery and a previous landscape design that was approved by the Planning Board.

J.Schulte replied there will be no changes to the previous approval.

J.Stone stated she was not present in 2005, and she requested time to read the minutes from the 2005 meeting before voting on the variance.

The Chair pointed out that the law was different in 2005.

J.Stone stated her concerns for further change.

C.Parker pointed out due to the difficulties in finding financing, much research and discussion was done in the previous years. The City's definitions of "elderly", "assisted" and "congregate care" have changed since 2005. The Planning Dept. wants to see a concrete design, finality and a reasonability of it for the neighborhood.

Furthermore, C.Parker stated that a traffic control device is on the Thornwood plan, and a traffic study will review this issue.

J.Schulte spoke about the advantages of having different age groups, and it's cost effective for the changes in the parking, and the entrances are needed to make the proposal work.

Motion: F.Landford motioned to approve the variance as submitted. Seconded by J.Stone. Vote: U/A

Reopen public hearing on Item A.

Motion: F.Landford motioned to remove Item A from the table. Seconded by J.Stone. Vote: U/A.

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-



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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.

Attorney Chris Wyskiel, spoke on behalf of the owner of the site – The Sidney Robbins Family Trust, and the applicant, The Housing Partnership, a non-profit organization which specializes in its mission to provide affordable housing. Arnie Chapman of the Housing Partnership was also present to answer any questions.

They are requesting three variances. C.Wyskiel pointed out the property which sits on a 1 1/3 acre lot and is a historic property for the City which dates back to the early 20th century. The 58,000 s.f. building was most recently used for office use and warehouse space. He pointed out that the mill has a grandfathered “right” to reuse as a warehouse or office space but they feel it would not be in the best interest in preserving the mill.

The Housing Partnership believes in adaptive and historical reuse and preserving the mill is the best use. The preservation of the mill is significantly tied to the financing of the project. C.Wyskiel stated that the wooden structures on the property would be demolished and he also discussed parking spaces, the parking ratio and the need for a parking and traffic assessment. Within the building itself, there would be 42 affordable housing units. 42 is a critical number for financing due to the limit on ceiling costs per unit. The proposed plan includes (9) one-bedroom units, (25) 2-bedroom units, and (8) 3-bedroom units. The target of affordability for those who will be eligible to rent is between \$40,000 to \$55,800 per year and could be less. This project promotes public interest.

When the building is restored, the interior will be sandblasted to preserve the historical mill features, but it will be a benefit to increase the R-values of the building, and this would be done through insulating in the roof. In this zone, there is a height restriction and by adding to the roof height, it maintains the current mill features through preservation and building integrity. Due to the height restriction of 40 feet, by adding a couple of feet to the top of the building and not destroying the interior of the building makes sense.

The Open Space requirement is a good balance of many factors for this site and the neighborhood. It makes sense to tear down the wooden/cement structures to make room for additional parking but it does not make sense to restrict the parking any further. He stressed the parking ratio will work for this project. There will be an outdoor grass recreation/leisure area for the warmer months and in the winter that area will become a snow load area for plowing. Further management will be required to remove heavy snow loads and maintain/manage the property by MV Management Property, LLC.

C.Wyskiel went on to state there would be tax credits through a scoring method overseen by the Housing Finance Authority of NH. This is a green use, infill project with historic preservation, with sidewalks, all of which score points. If the application is successful, the Housing Finance Authority wins these tax credits and uses these credits to sell at a discount to investors. They are hopeful that the award would be approximately \$8mil which will then be sold to investors and transferred into equity so there would be a low amount of loans to make the property work. He feels the variance requests are consistent with the zoning changes within the City.



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Dorothy Harris, a broker and a certified appraiser, spoke about the multi-use residential use of the neighborhood. She stressed that the proposed use of the property definitely enhances the property values to the surrounding properties and having a current warehouse in the neighborhood is detrimental to the neighborhood.

David Choate of Grubb & Ellis of NNE, spoke in favor of the application. D.Choate does a lot of brokerage in Dover for lease/sale. He commented that this property would not be commercially viable or feasible property for a number of reasons. It is a non-conforming use. The industrial sector of Dover is now located out in the Industrial Parks off Sixth Street in the Industrial Park, Crosby Road, and Venture Drive areas. They have easy truck access and close to the highways. The site has lack of parking for large number of employees, and 5-story mill buildings are not what companies are looking for. Other mills in NH, are currently being converted into housing.

Elizabeth Phillips, 143 ½ Sixth Street, owns a unit on Park Street which abuts the property. Her concern is parking and the abandoned church parking lot. She is concerned about unsafe incidents, nightly activity, and increase of people which will change the neighborhood's image, more cars impacting the neighborhood, parallel parking and the narrow streets. She also wanted to know about the management of the building, the timeline, and tenants.

Doug Amato – a 20 year resident on Dover Street. He agrees on the traffic generated by a warehouse use, but after 5pm the neighborhood is quiet. He is concerned about the proposed parking and the current parking regulations. He prepared a presentation about population density with increases in the density. He feels it does have a negative impact on the neighborhood without free space. Snow removal will be an issue and he has had to put in a retaining wall to hold back snow from his abutter. He questioned the “affordable housing” and the amount of money spent on the mill. He feels its going to cause greater traffic, and he referred to Fair Housing practices and to the “Dover projects” and low cost housing and issues that it brings.

Beth Kelch is an owner of a condominium unit on Park Street, diagonal to the Robbins mill building. She likes the historic preservation, and shares many of the same concerns of the others; she states the neighborhood has challenges but she can promote to her renters that the neighborhood and the area is quiet. She is also concerned with the Park Street and Dover Street area parking situation and the narrow streets with the increase in traffic.

C.Wyskiel spoke in response to those who had issues. He spoke about density, and potential uses. To address the concerns – he feels filling up an abandoned mill building that has been restored with responsible citizens and filling up a parking lot which was an attractive nuisance with cars and lighting is a positive move. Snow concerns will be addressed. Granting an open space variance – encourages citizens to use the recently restored Park Street park and have community with other people in the neighborhood.

Arnie Chapman of the Housing Partnership spoke on behalf of the housing program. He discussed rent and the percentages (lower end and higher end of incomes) factors. They don't rent to unemployed people, they do extensive background checks, criminal background, credit checks, and landlord references with great flexibility to who they accept into the program.



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C.Parker asked for a clarification between the Housing Authority and the Housing Partnership programs.

A.Chapman discussed subsidy housing vs. serving working families within the parameters and that they collect rent.

J.Stone asked if the Housing Partnership needs to own for a minimum amount of time.

A.Chapman stated the Partnership owns and manages the property and the bank is a limited silent partner. In the past there have been land use restrictions – after 15 years, the property has to continue to be affordable to working families. In time that has changed. Now most funding sources require a minimum of 30 years, and in some cases the State of N.H. requires 99 years.

J.Stone also asked about bedroom totals (there would be 83 or 84 bedrooms). She also asked what is the current open space around the building in s.f. and if there were no parking, what are the possibilities for underground parking. (Due to the foundation and footings, there is no possibility for underground parking.)

Parking issues would be discussed further at the Planning stage.

C.Parker states the Planning Department has been looking into rezoning the property coincidentally. He feels this lot is right for a variance – a very unique structure which has outlived its purpose but should not be demolished and has a reasonable use presented. The Planning Department recommends supporting approval of all three variances. As an additional condition of approval, the Planning Dept. suggested when it goes to the Planning Board the plan be required to have a snow removal plan in place. Density, traffic studies, and parking issues will be brought to the Planning Board.

C.Parker commented on the open space, the parking and the need for review.

S.Reid feels the mill project is a classic case for a variance and plans to vote for all three variance requests.

F.Landford feels the planning board needs to be mindful of the requests of the residents in the neighborhood.

Item A – Use Variance to allow redevelopment of the building into a 42 unit residential apartment building.

Motion: F.Landford motioned to grant the variance. Seconded by J.Stone. Vote U/A.

Item B - Open Space Variance – which requires that 100 sq.ft. of open space be provided for each bedroom.

Motion: F.Landford motioned to grant the variance to allow only 2600 sq.ft. of lawn on the Eastern boundary where 100 sq.ft. would be required for each bedroom of the unit.
Seconded by J.Stone. Vote U/A.

Item C – To Permit a Height up to 52 ft. from the existing 50 ft where a maximum height of 40 ft is permitted.

Motion: F.Landford motioned to grant the variance to allow up to 52 ft. from the existing 50 ft where only 40 ft is permitted to allow for the installation of insulation. Add an umbrella condition for all three



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variances contingent that the Planning Board require a snow removal plan. Seconded by J.Stone. Vote: U/A.

5. **STAFF COMMENTS:**

- Tim Corwin introduced himself to the Board. Chair Reid welcomed him.

6. **OTHER BOARD BUSINESS**

- Elections for the ZBA will be held March 15, 2012. Sam Reid will not be present but expressed a willingness to stay on as Chair.
- C.Parker mentioned televising future ZBA meetings. The Board will wait to consider until a quorum is met.

7. **ADJOURN**

Motion: F.Landford motioned to adjourn at 9:19 pm. Seconded by J.Stone. Vote: U/A.

DRAFT



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z12-04)

Application Type: Special Exception
Applicant: Dover Flower Studio LLC
Owner: William & Lorraine Quimby
Location: 652 Central Avenue (Tax Map 30, Lot 135)

INTENT: To obtain Special Exception approval to permit an approximately 1,100 s.f. retail store for the sale of fresh flowers and plants, to be located within the existing building.

LOTS/UNITS PROPOSED: N/A

AGENDA ITEM #: 4-A

ZONING DISTRICT: Office

EXISTING LAND USE: commercial/retail

PROPOSED LAND USE:
commercial/retail

SURROUNDING LAND USE:
Commercial and single and multi family houses

PREVIOUS ZBA ACTION: Variance granted on 1/20/94 to permit an increase in non-conforming retail use

PLANNING BOARD APPROVAL REQUIRED: No

ATTACHMENTS: Parcel map

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 652 Central Avenue, across from the intersection with Hill Street. The property is currently improved with a commercial structure, partially occupied by a photo studio. Applicant proposes to use an approximately 1, 100 s.f. portion of the structure for a retail store for the sale of fresh flowers and plants. "Retail stores" are permitted in the Office District via Special Exception approval as set forth in the Office District Table of Use.

Reason for Staff Recommendation

The Planning Board believes that, per the information presented in the application, the applicant's proposed retail flower store meets the six (6) special exception criteria for retail stores in the Office District (as set forth in the Table of Use). Moreover, the retail commercial use of this building is consistent with how it has been used in the past¹ and present, and is consistent with the commercial use of adjacent and nearby properties.

Recommendation

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

¹ The space to be occupied by the flower store was most recently occupied by another retail store, "Homedco" which received a variance in 1994 to permit the expansion of a non-conforming use for the installation of an oxygen tank. As a condition of variance approval, the tank was to be removed when Homedco vacated the property. It is not clear when Homedco left, but it has been more than twelve (12) months, and therefore the proposed retail use of this space cannot be considered the continuation of a non-conforming use. Therefore, special exception approval is required.

CASE # 212-04

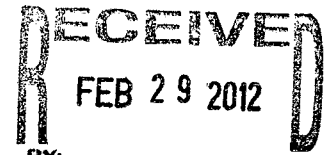
DATE RECEIVED 2/29/12 TIME RECEIVED _____

AMOUNT PAID \$ 376.00

APPLICATION COMPLETE/ABUTTERS CORRECT? Y/N INITIAL _____

CL# 1016

CITY OF DOVER
ZONING BOARD OF ADJUSTMENT
APPLICATION



I. APPLICANT DOVER FLOWER STUDIO LLC PHONE #: 373-4889
ADDRESS 652A CENTRAL AVE
PROPERTY OWNER WILLIAM QUIMBY
ADDRESS 3 WILDWOOD LN DOVER NH
PROPERTY LOCATION 652A CENTRAL AVE
BRIEF DIRECTIONS APPROX 1 MILE NORTH OF CITY HALL DIRECTLY
ACROSS FROM PURDY FUNERAL PARLOR
ZONE O ASSESSOR'S MAP 30 LOT #(S) 135

TYPE OF APPEAL: (Please check off one)

- | | | |
|--|---------------|---------------|
| <input type="checkbox"/> VARIANCE | ARTICLE _____ | SECTION _____ |
| <input type="checkbox"/> VARIANCE (Physical Disability - RSA 674:33-V) | ARTICLE _____ | SECTION _____ |
| <input checked="" 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 OPERATE A RETAIL BUSINESS
SELLING FRESH FLOWERS + PLANTS.

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.
- 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.
- C. Application fee of:

\$100.00 VARIANCE	\$ _____
\$100.00 SPECIAL EXCEPTION	\$ <u>100</u>
\$100.00 APPEAL FROM ADMINISTRATIVE DECISION	\$ _____
\$100.00 EQUITABLE WAIVER	\$ _____

D. Certified letters fee:		
# of abutters	<u>25</u> X \$8.00 =	\$ <u>200</u>
Applicant & Owner	<u>2</u> X \$8.00 =	\$ <u>16</u>
E. First Class Mail fee		
# of abutters	<u>0</u> X \$1.00 =	\$ <u>0</u>
F. Foster's newspaper public notice		\$ <u>60.00</u>
	TOTAL	\$ <u>376.00</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.

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

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

4. Provide proof that demonstrates the variance will not diminish the 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; 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.

SPECIAL EXCEPTION REQUIREMENTS

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

A FLOWER SHOP WILL BEAUTIFY & ENHANCE THE NEIGHBORHOOD & COMMUNITY. IT IS COMPATIBLE WITH OTHER PERMITTED USES IN THE DISTRICT IE B&B, FUNERAL PARLOR, CHURCH, HOSPITAL, NURSING HOME.

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

A MAJORITY OF SALES ARE DELIVERED TO CUSTOMERS RATHER THAN PICKED UP ON SITE. NOT A LARGE ENOUGH VOLUME TO CREATE TRAFFIC CONGESTION OR ENDANGER PEDESTRIANS.

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.

ONLY 2 PEOPLE WORKING IN THE SHOP. WATER USAGE WILL BE FAR LESS THAN AN ORDINARY HOUSEHOLD - NO BATH, SHOWERS, LAUNDRY.

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]
Signature of Applicant*

x *[Signature]*
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>	
<i>[Signature]</i> Signature of Applicant	Date <u>2-29-12</u>

Addendum to Address Special Exception Criteria

- A) Window boxes and displayed flowers will beautify the neighborhood. No obstacles to or rerouting of current pedestrian traffic.
- B) Store area is approx 1,100 square feet.
- C) 1 parking space required per 250 sq ft of store area. 5 spaces required for 1,100 sq ft. 3 spaces available in parking lot behind building. On street parking available for the other 2.
- D) Plants and fresh flowers are brought to the shop in owner vehicles. Occasional deliveries of supplies in box truck offload in 5-10 minutes at doorstep in front of shop off of street.
- E) Flower shop would not create any disruptive activity. Compatible with existing funeral homes across the street and any of the other permitted uses of property in the district.
- F) Hours of operation are generally 9:00 am to 5:30 pm. They would never fall outside the 6:00 to 9:00 pm parameter.

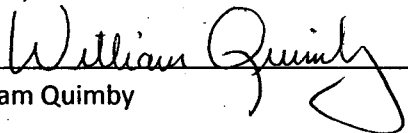
February 25, 2012

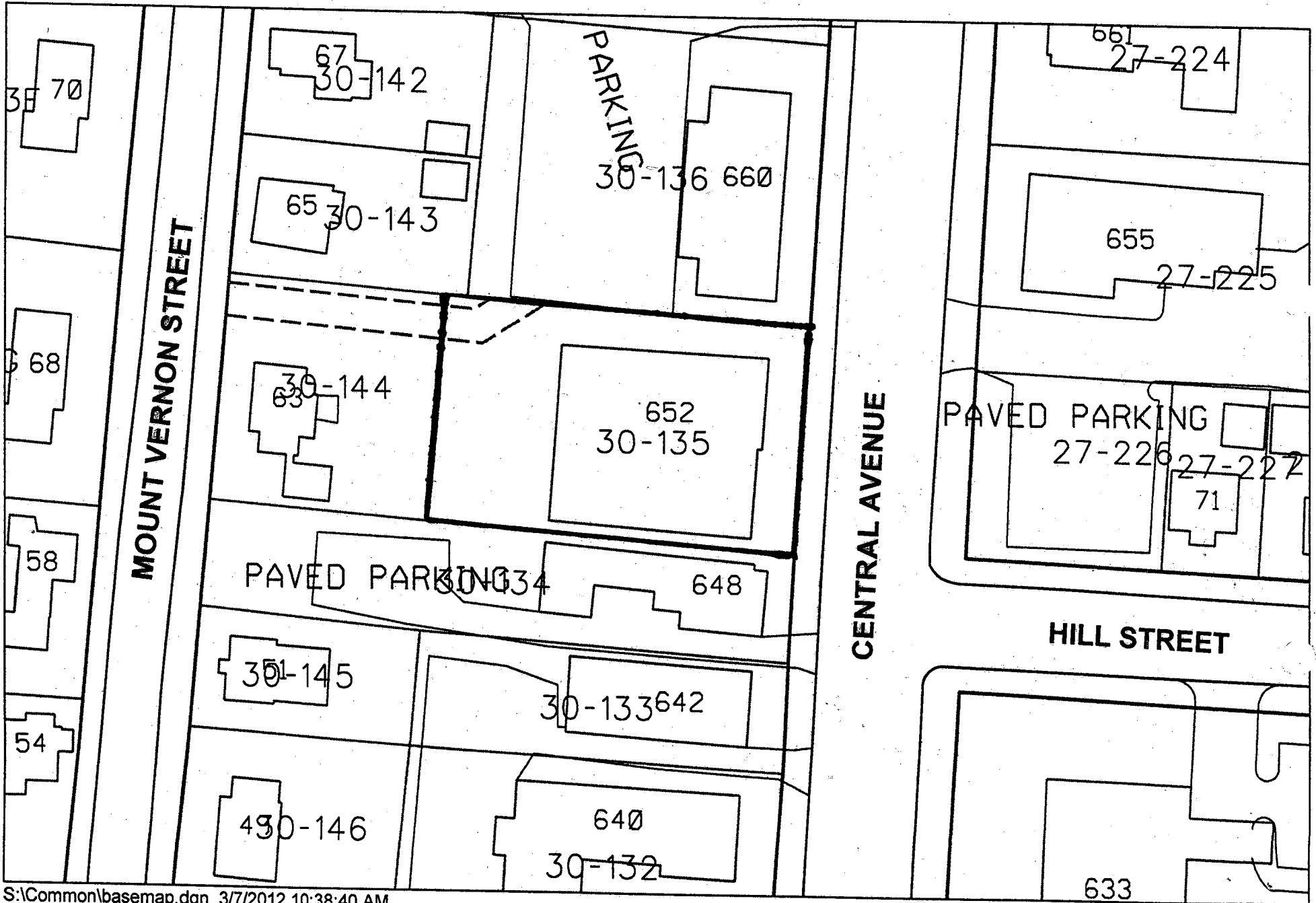
To The City of Dover NH Planning Board:

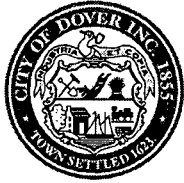
As the owner of the property at 652 Central Avenue, I approve the request for special exception allowing Dover Flower Studio LLC to use suite 652A as a retail flower shop.

I also approve their requests for variance to 1) hang a projecting sign from the building and 2) display a temporary portable sign (a-frame).

Signed,

x  _____
William Quimby





CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z12-05)

Application Type:	Variance
Applicant:	Dover Flower Studio LLC
Owner:	William & Lorraine Quimby
Location:	652 Central Avenue (Tax Map 30, Lot 135)

INTENT: To obtain a Variance for an 11 s.f. projecting sign to advertise an approximately 1,100 s.f. retail store for the sale of fresh flowers and plants, to be located within the existing building.

LOTS/UNITS PROPOSED: N/A

AGENDA ITEM #: 4-B

ZONING DISTRICT: Office

EXISTING LAND USE: commercial/retail

PROPOSED LAND USE:
commercial/retail

SURROUNDING LAND USE:
Commercial and single and multi family houses

PREVIOUS ZBA ACTION: Variance granted on 1/20/94 to permit an increase in non-conforming retail use

PLANNING BOARD APPROVAL REQUIRED: No

ATTACHMENTS: Parcel map, photo of building exterior, image of proposed sign

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 652 Central Avenue, across from the intersection with Hill Street. The property is currently improved with a commercial structure, partially occupied by a photo studio. As set forth in Case Z12-05, applicant proposes to use an approximately 1,100 s.f. portion of the structure for a retail store for the sale of fresh flowers and plants. To advertise the business, applicant proposes to install an 11 s.f. projecting sign, which is not a permitted sign type in the Office District. Therefore, applicant's proposed projecting sign requires a variance from Section 170-12.A of the Zoning Ordinance.

Reason for Staff Recommendation

The proposed projecting sign is less than the maximum permitted size and will be a reasonable method of identifying the property. The configuration of the façade of the building is not conducive to designing and installing an appropriate wall sign, and a freestanding sign would require variance relief because the structure does not meet the 20 ft. minimum setback required to install a freestanding sign. The applicant's projecting sign, which is the only exterior sign proposed for the applicant's business, is consistent with the photo studio's sign which is also projecting.

Recommendation

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

CASE # 712-05

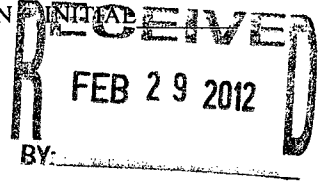
DATE RECEIVED 2/29/12 TIME RECEIVED _____

AMOUNT PAID \$ 160.00

APPLICATION COMPLETE/ABUTTERS CORRECT? Y/N _____

CITY OF DOVER
ZONING BOARD OF ADJUSTMENT
APPLICATION

CH# 1017



I. APPLICANT DOVER FLOWER STUDIO LLC PHONE #: 343-4889
ADDRESS 652 A CENTRAL AVE
PROPERTY OWNER WILLIAM GUMBY
ADDRESS 3 WILDWOOD LANE DOVER NH
PROPERTY LOCATION 652 A CENTRAL AVE
BRIEF DIRECTIONS APPROX 1 MILE NORTH OF CITY HALL
DIRECTLY ACROSS FROM PURDY FUNERAL PARLOR
ZONE O ASSESSOR'S MAP 30 LOT #(S) 135

TYPE OF APPEAL: (Please check off one)

- VARIANCE ARTICLE _____ SECTION _____
- 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:

TO HAVE AN 11 SQ FT ELLIPTICAL SHAPED, DOUBLE
SIDED SIGN PROTECTING FROM THE BUILDING AND
PERPENDICULAR TO THE STREET.

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.
- 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.
- C. Application fee of:
 - \$100.00 VARIANCE \$ 100
 - \$100.00 SPECIAL EXCEPTION \$ _____
 - \$100.00 APPEAL FROM ADMINISTRATIVE DECISION \$ _____
 - \$100.00 EQUITABLE WAIVER \$ _____

D. Certified letters fee:		
# of abutters _____	X \$8.00 =	\$ _____
Applicant & Owner _____	X \$8.00 =	\$ _____
E. First Class Mail fee		
# of abutters _____	X \$1.00 =	\$ _____
F. Foster's newspaper public notice		\$ <u>60.00</u>
	TOTAL	\$ <u>160.-</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.
HANGING SIGN WILL NOT BE AN OBSTACLE TO
PEDESTRIAN TRAFFIC AND WILL NOT OBSTRUCT VISIBILITY
FOR VEHICLE TRAFFIC

2. Provide proof that demonstrates how a variance observes the spirit of the ordinance.
SIGNS PERPENDICULAR TO THE STREET ARE PERMITTED
IF FREESTANDING. PROPERTY FRONTAGE IS 2 FT SHORT FOR
FREESTANDING SIGN.

3. Provide proof that demonstrates how a variance will result in substantial justice.
RETAIL BUSINESS NEEDS A SIGN EASILY VISIBLE TO STREET
TRAFFIC TO ATTRACT CUSTOMERS AND MAKE IT EASY TO LOCATE.

4. Provide proof that demonstrates the variance will not diminish the values of surrounding properties.
THE SIGN WILL BE ONE OF OTHERS ALREADY IN THE
AREA. IT WILL BE AESTHETICALLY PLEASING.

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
IT IS BEING USED FOR RETAIL BUSINESS

(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
NOT CLEAR WHY PROTECTING SIGN IS NOT PERMITTED BUT THIS SIGN IS
UNDER THE MAX SIZE LIMIT AND IS A REASONABLE WAY TO IDENTIFY THE
BUSINESS GIVEN THE SPECIAL CONDITIONS OF THE PROPERTY.

(iii) the proposed use is a reasonable one.
USE & PURPOSE IS NO DIFFERENT THAN THE
FREESTANDING SIGNS ALLOWED IN THE DISTRICT

SPECIAL EXCEPTION REQUIREMENTS

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

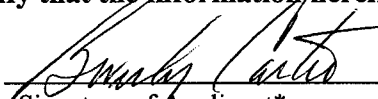
2. Detail how the requested use would not create undue traffic congestion or unduly impair pedestrian safety.

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.

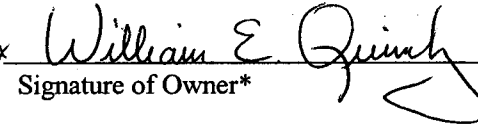
THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS

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

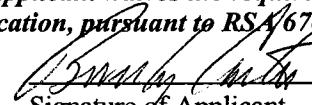


Signature of Applicant*

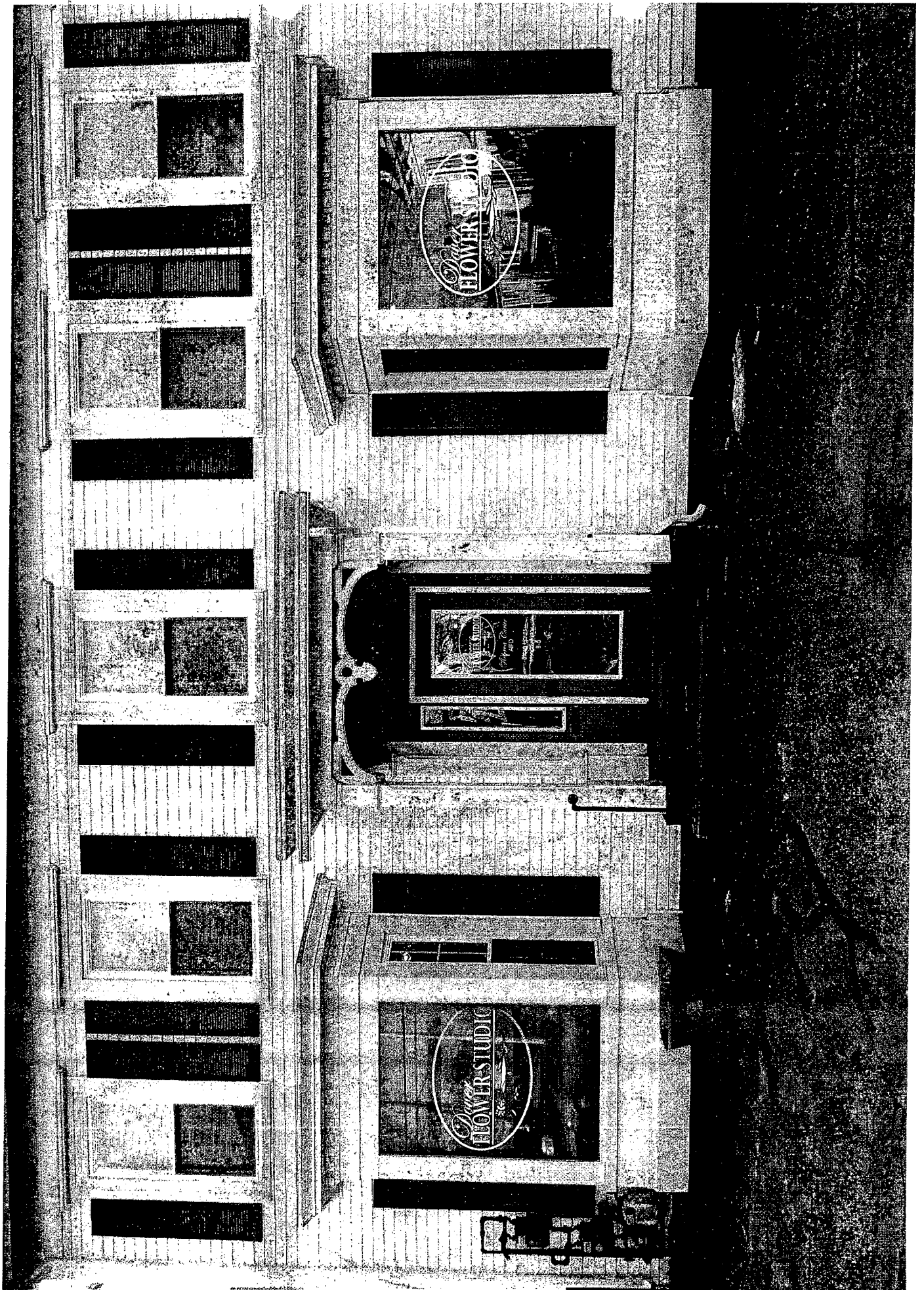
x 

Signature of Owner*

*Both Signatures Required

The applicant waives the requirement of holding a hearing within thirty (30) days of receipt of the application, pursuant to RSA 676:7, II:


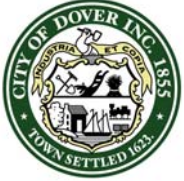
Signature of Applicant Date 2-29-12



(603) 343-4684

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CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z11-11)

Application Type:	Variance
Applicant:	Salmon Falls Holding, LLC
Owner:	Salmon Falls Holding, LLC
Location:	46-48 Arch Street (Tax Map 11, Lot 16)

INTENT: Applicant proposes to demolish an existing three (3) family dwelling, which is a nonconforming use, and to construct a new three (3) family dwelling on a different portion of the lot. Applicant seeks a use variance to permit the replacement three (3) family dwelling, which is not a permitted use in the R-12 District. Applicant is also asking for relief from the front setback, to allow the new structure to be placed approximately with the same front setback as the existing structure has.

LOTS/UNITS PROPOSED: 3

AGENDA ITEM #: 4-C

ZONING DISTRICT: R-12

EXISTING LAND USE: residential - three (3) family dwelling

PROPOSED LAND USE: residential - three (3) family dwelling

SURROUNDING LAND USE:
Single family residential and duplexes

PREVIOUS ZBA ACTION: None

PLANNING BOARD APPROVAL REQUIRED: No

ATTACHMENTS: Site plan

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 46-48 Arch Street. The property is currently improved with a three family dwelling unit on it. The applicant wishes to remove the outdated structure and replace it with one that is more modern, includes garages, is energy efficient and is in keeping with the look and feel of Arch Street. The use is currently grandfathered, where only a single family use is allowed on the lot. Therefore, applicant's proposed use requires a variance from Section 170-12 of the Zoning Ordinance. Additionally, the applicant requests to have the front setback of the new structure match that of the existing structure.

Reason for Staff Recommendation

The applicant requested relief from Chapter 170-40 and 170-12. Staff believes that while 170-40Bⁱ, could apply, no other sections of 170-40 would. The use is not being moved from one structure to another it is being extinguished and replaced by a similar three family dwelling also located on the property; thus relief is from 170-12 (table of uses), not from 170-40 (non conforming uses).

Staff believes it is reasonable to relocate the three units into a new efficient structure, which will improve the look and functionality of the lot. This is accomplished, in part, by relocating the parking into a more efficient layout, and includes garage storage. Staff believes the improved structure is in keeping with the neighborhood look at feel, desired by the residents of Arch Street.

Staff believes the applicant does need relief from the front setback. Staff understands the request, but the interpretation of the setback notation on the table of uses allows that if the lot were vacant, the structure could be placed within a range of 5 to 25 feet from the front property line along Arch Street. The applicant has proposed placing the structure at approximately 18 feet, matching the existing structure.

If the ZBA agrees with the applicant that relief is required for the front setback, staff supports this. The spirit and intent of the range of area for the setback is being met in the request and it makes sense for the applicant to have a similar setback to what is in place today.

Recommendation

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

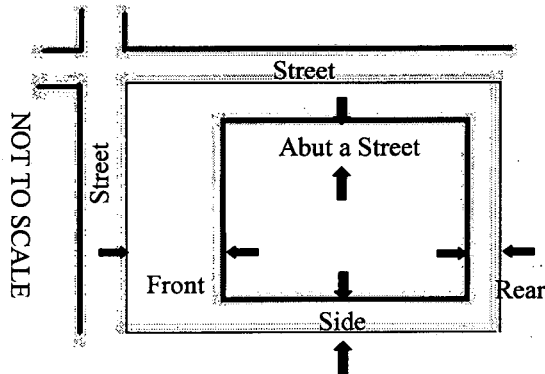
ⁱ The intent of 170-40B is that more than one structure exists on the property and a non-conforming use is being relocated from one structure to another. This is historically how this has been interpreted. In this scenario two structures will not be occupied at one time.

Medium Density Residential (R-12) District

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

LOT OCCUPATION (1) (2)	
Min. LOT Size (3) (4)	12,000 sf
FRONTAGE (feet)	100 ft
LOT Coverage	30%
SETBACKS - PRINCIPAL BUILDING (FEET)	
Front/ Abut a Street	(5)
Side	15
Rear	30
OUTBUILDING/ACCESSORY USE SETBACKS (FEET)	
Front/ Abut a Street	(5)
Side SETBACK	10
Rear SETBACK	10
BUILDING HEIGHT (FEET)	
PRINCIPAL BUILDING	35
OUTBUILDING	35

Permitted Uses
ASSEMBLY HALL
BED and BREAKFAST
CHILD CARE FACILITY
CONSERVATION LOT
Conversion of Existing Dwelling to Accommodate not more than 2 units (6)
Dwelling, 2 Family (7)
DWELLING, SINGLE FAMILY
EDUCATIONAL INSTITUTION, K-12
EDUCATIONAL INSTITUTION, POST SECONDARY
FARM ANIMALS FOR FAMILY USE, for non-commercial purposes, on lots containing a one or two family dwelling (8)
OFFICE(9)
PUBLIC RECREATION
Public Utility (10)



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)
ELDERLY ASSISTED CARE (SEE OVER)

- [1] In the case of an Open Space Subdivision, in accordance with Article IV of Chapter 155 of the Code of Dover, the dimensional requirements shall be as specified in μ 155-22 of the Code of the City of Dover, 1983. [Added 6-10-87 by Ord. No. 13-87]
- [2] Refer to $\mu\mu$ 170-13 and 170-14 for exceptions to lot size, frontage and setback requirements.
- [3] All land containing wetlands shall not be counted in determining the gross land area of a lot for the purposes of minimum lot size or minimum density requirements for residential uses. The minimum non-wetland portion of any newly created lot shall be contiguous. For the purposes of this calculation, wetlands shall include areas that meet the definition of wetland in the NH Code of Administrative Rules – Wt. 101.87 and the 1987 Federal Manual For Identifying Jurisdictional Wetlands. [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.
- [4] Refer to Chapter 155, Subdivision of Land, Article IV for the minimum lot size for a major Subdivision. Any major subdivision in an R-12 district, must follow the procedures for an OSS if the original lot meets the minimum lot size required. [Amended 1-22-2003 by Ord. No. 35]
- [5] For new subdivisions, the applicant the average setbacks of all lots within the same zone located within five hundred (500) feet from the exterior lot lines of the original lot to be subdivided. This dimension shall be considered to be a build to line. Regardless of the average, in no case shall the build to line be closer than five (5) feet to the front LOT line. Expansions to, or renovations of, structures on existing lots have a twenty five (25) foot setback. Vacant lots created prior to December 2009, have a build to line no closer than five (5) feet and no greater than twenty five (25) feet to the front LOT line.
- [6] Any dwelling unit existing on or before May 27, 1964, may be converted, provided that the lot shall contain at least four thousand (4,000) square feet per dwelling unit and a minimum floor area of five hundred (500) square feet per dwelling unit.
- [7] Two family dwellings are permitted in the R-12 Districts when incorporated in an open space subdivision and comply with all regulations specified in Chapter 155, Subdivision of Land, Article IV, Open Space Subdivisions, of the Code of the City of Dover, 1983 [Added 9-14-88 by Ord No. 13-88] [Amended 1-15-03 by Ord No. 35-11]
- [8] Use is allowed on the portion of the lot that is behind the principal structure, provided the following standards are met: Chickens: No more than six (6) chickens and no roosters, with three (3) square feet of chicken coop and twenty (20) square feet of a fenced enclosure yard per chicken; all coops and enclosures shall be twenty (20) feet from any property line. Sheep or goats: one animal per 10,000 square feet of lot area, with a maximum of six (6) animals; ten (10) square feet of shelter and thirty (30) square feet of a fenced enclosure yard per animal; all shelters and enclosures shall be thirty (30) feet from any property line . [Amended 12-08-10 by Ord. No. 2010-10.27-13]
- [9] Permitted only if operated as a customary home occupation (Refer to definition in μ 170-6B)
- [10] 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

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 R-20 District at a density of one bedroom per 3,000 sq. ft.;
- B. Provided that parking and service areas are screened from abutting residential uses.
- C. Notwithstanding the above requirements, the maximum number of bedrooms and residents allowed in a facility may be increased provided the increase is found not to be detrimental to the surrounding properties and conforms with parking standards in Chapter 170-44 (Off Street Parking). Furthermore, any increase to an existing structure must be contained within or contiguous to the original structure. [Added 01-22-03 by Ord. No. 35-02]

CASE # 211-11 DATE RECEIVED _____
 AMOUNT PAID \$ _____ TIME RECEIVED _____

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

I. APPLICANT Salmon Falls Holding, LLC PHONE #: 603-373-8400
 ADDRESS 37 Wholey Way, Portsmouth, NH 03801
 PROPERTY OWNER same
 ADDRESS _____
 PROPERTY LOCATION 46-48 Arch Street
 BRIEF DIRECTIONS southwest corner of Arch Street and Washington Street
 ZONE R-12 ASSESSOR'S MAP 11 LOT #(S) 16

TYPE OF APPEAL: (Please check off one)

- | | | | |
|-------------------------------------|---|--------------------|-----------------------------------|
| <input checked="" type="checkbox"/> | VARIANCE | ARTICLE <u>170</u> | SECTION <u>40 & R12 Table</u> |
| <input type="checkbox"/> | VARIANCE (Physical Disability - RSA 674:33-V) | ARTICLE _____ | SECTION _____ |
| <input type="checkbox"/> | SPECIAL EXCEPTION | ARTICLE _____ | SECTION _____ |
| <input type="checkbox"/> | ADMINISTRATIVE DECISION | ARTICLE _____ | SECTION _____ |
| <input type="checkbox"/> | EQUITABLE WAIVER | ARTICLE _____ | SECTION _____ |

Describe briefly your plans for this property:

Relocate/reconfigure structures (three dwelling units) which are now
existing non-conforming uses as a result of very recent rezoning.
New building will be closer to Washington Street but no closer to Arch
than the existing facade and stairs..

II. REQUIREMENTS SUBMITTED: (Please check off)

- A. Plot plan drawn in accordance with a boundary line survey to scale not less than 1" = 40', (9 copies). They need to include the lot dimensions including area in square feet, and also the size and location of existing and proposed buildings if applicable, including setbacks. X
- B. List of abutters including addresses and map and lot number of parcels who adjoin or are directly across the street or stream from property. X
- C. Application fee of:
- | | |
|---|------------------|
| \$100.00 VARIANCE | \$ <u>100.00</u> |
| \$100.00 SPECIAL EXCEPTION | \$ _____ |
| \$25.00 APPEAL FROM ADMINISTRATIVE DECISION | \$ _____ |
| \$100.00 EQUITABLE WAIVER | \$ _____ |
- D. Certified letters fee:
- | | |
|--|------------------|
| # of abutters <u>20</u> X \$8.00 = | \$ <u>160.00</u> |
| Applicant & Owner <u>3*</u> X \$8.00 = | \$ <u>24.00</u> |
| Foster's newspaper public notice | \$ <u>60.00</u> |
| *plus surveyor and attorney | |
| TOTAL | \$ <u>344.00</u> |

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* *[Handwritten Signature]* *for Samad Kalleh Hady, LLC*

Signature of Owner* *[Handwritten Signature]* *for Samad Kalleh Hady, LLC*

*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

AMENDED VARIANCE APPLICATION FOR
SALMON FALLS HOLDING, LLC (“Applicant”)

VARIANCES FROM ZONING ORDINANCE PROVISIONS CONCERNING (1)
REDEVELOPMENT OF NON-CONFORMING USES CONTAINED IN SECTION 170-40,
INCLUDING BUT NOT LIMITED TO SUBSECTIONS A AND B, (2) TO THE EXTENT
NECESSARY THE USE RESTRICTIONS CONTAINED IN TABLE MEDIUM DENSITY
RESIDENTIAL (R-12) DISTRICT, AND (3) THE 25 FOOT FRONT SETBACK CONTAINED
IN THE RECENT AMENDMENT TO SAID TABLE
TO ALLOW A PROPOSED RELOCATION/RECONFIGURATION OF AN EXISTING
THREE (3) DWELLING UNIT STRUCTURE AND BARN LOCATED AT 46-48 ARCH
STREET, ASSESSOR’S MAP 11, LOT 16 (“the Property”)

Introduction:

This Amended Variance Application seeks relief from the provisions of Zoning Ordinance Section 170-40 concerning the proposed redevelopment/reconfiguration of the three (3) dwelling units contained within the existing structures on the Property, which, as a result of the Arch Street Rezoning that occurred on January 26, 2011 (“the Rezoning”)¹, are now existing non-conforming uses. To the extent necessary, this Application also seeks relief from the use restrictions contained in Table Medium Density Residential (R-12) District (“the Table”) to allow the three (3) dwelling units to remain on the Property in their new location and configuration. Finally, this Application seeks relief from the 25 foot front setback contained in the Table (as it was recently amended as of February 22, 2012) to allow the new structure to be no closer than the front setback of the existing façade and stairs. See, Existing Conditions Plot Plan attached hereto as “Exhibit A”.

Specifically, the Applicant wishes to remove the existing structures (due to their age, condition and inefficient configuration) and to rebuild the three (3) dwelling units in a new building to be located closer to the intersection of Arch and Washington Streets. See, Proposed Plot Plan attached hereto as “Exhibit B”; see also, draft Floor Plans and draft Elevations attached hereto as “Exhibit C” and “Exhibit D”, respectively. The Applicant wishes the new building to be located no closer to Arch Street than the existing façade and stairs are currently located – namely approximately 18 feet +/- . This location would otherwise meet the side and rear setback requirements of the R-12 zone and would be further away from the existing single family units in the neighborhood. Under the recently amended version of the Table, the text reads as follows:

[5] For new subdivisions, the applicant shall calculate the average setbacks of all lots within the same zone located within five hundred (500) feet from the exterior lot lines of the original lot to be subdivided. This dimension shall be considered to be a build to line. Regardless of the average, in no case shall the build to line be closer than five (5) feet to the front LOT line. **Expansions to, or renovations of, structures on existing lots have a twenty-five (25) foot setback.** Vacant lots created prior to December 2009, have a

¹ Please note that the Applicant has brought suit through other counsel to challenge the legitimacy of this Rezoning.

build to line no closer than five (5) feet and no greater than twenty five (25) feet to the front LOT line. (*Emphasis added*)

Since this Application does not concern either a subdivision or a vacant lot, the only setback provision applicable in this instance is the **bold** text above creating the 25 foot front setback, from which the Applicant requests relief to be able to maintain the build to line of the existing façade and stairs – namely 18 ft. +/-.

As the draft Floor Plans and Elevations attached as “**Exhibit C**” and “**Exhibit D**”, respectively, indicate (which are subject to revision but reflect the general concept to be built), it is the Applicant’s intent that the new building would be in keeping with the general style of the existing structures and complimentary to the existing neighborhood.

The footprint of the existing structures is approximately Three Thousand (3000) square feet; and to be certain that the dwelling units can be appropriately configured and constructed, the Applicant asks that the ZBA’s approval authorize that the total square footage for the footprint of the new building be 110% of that existing figure, i.e., authorize a total of Three Thousand Three Hundred (3,300) square feet.

The neighborhood surrounding the Property consists of the both multi-unit and single family homes along Arch and Washington Streets, both of which are major arteries in the City’s transportation grid. Of the 35 dwelling units with frontage along Arch Street, only 14 are single family dwellings; and the rest are duplexes, triplexes, 4- and 5-unit buildings. Of the 4 corner lots with frontage on either Washington or Silver Streets and Arch Street, only the Property is now in the R-12 Zone where 3- and 4-unit dwellings are not allowed. Prior to the Rezoning, the Property was located in the RM-U District which allows 3- and 4-unit dwellings via Special Exception so that the existing use on the Property as a three (3) unit dwelling would not have been considered “non-conforming uses” per Zoning Ordinance Section 170-43. The Property is also abutted by the functioning Boston & Maine Railway line that runs from Boston to Portland. The Applicant wishes to develop the Property in a manner consistent with the existing neighborhood. The variances listed above are necessary for the Applicant to make this reasonable use of the Property.

To obtain a variance, the Applicant must show that: (1) the variance would not be contrary to the public interest; (2) the variance observes the spirit of the ordinance; (3) the variance will result in substantial justice; (4) the variance will not diminish the values of surrounding properties; and (5) literal enforcement of the provisions of the ordinance would result in unnecessary hardship, the standards for which are now: either A - (i) special conditions of the property distinguish it from other properties in the area; (ii) no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision of the property; and (iii) the proposed use is a reasonable one; or B – if the criteria in subparagraph 5A above are not established, provide proof that an unnecessary hardship exists if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformity with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

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

As the NH Supreme Court has indicated repeatedly, the requirement that the variances not be “contrary to the public interest” is coextensive and related to the requirement that the variance be consistent with the spirit of the ordinance. See, Chester Rod & Gun Club v. Town of Chester, 152 N.H. 577, 580 (2005); Malachy Glen Associates, Inc. v. Town of Chichester, 155 N.H. 102, 105-06 (2007); Farrar v. City of Keene, 158 N.H. 684, 691 (2009); and Harborside Associates, L.P. v. Parade Residence Hotel, LLC, 162 N.H. 508 (2011). A variance is contrary to the public interest only if it “unduly, and in a marked degree conflicts with the ordinance such that it violates the ordinance’s basic zoning objectives.” Chester Rod & Gun Club, 152 N.H. at 581; Farrar, 158 N.H. at 691; and Harborside, 162 N.H. at 514.

Moreover, these cases instruct us to make the determination that a variance does not “unduly and to a marked degree” conflict with such zoning objectives by examining where possible the language of the Zoning Ordinance. Here, there is no stated purpose for the terms of Zoning Ordinance Section 170-40, which reads in its entirety as follows:

170-40. NONCONFORMING USES of land. [Amended 08-01-90 by Ord. No. 8-90; 12-09-09 by Ord. No. 2009.09.009-15]

Where, at the time of passage of this chapter, lawful use of land exists which would not be permitted by the regulations imposed by this chapter, the use may be continued so long as it remains otherwise lawful, provided that:

A) No such NONCONFORMING USE shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter with the exception of a single-family STRUCTURE. Said single-family STRUCTURE may be expanded up to twenty percent (20%) of its gross habitable floor space provided the addition conforms to all other applicable regulations and ordinances and no additional units are created.

B) **No such NONCONFORMING USE shall be moved, in whole or in part, to any portion of the LOT or parcel other than that occupied by such use at the effective date of adoption or amendment of this chapter.** (*Emphasis added*)

C) If any such NONCONFORMING USE of land ceases for any reason for a period of more than twelve (12) consecutive months or for twenty-four (24) months during any three-year period, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.

D) No additional STRUCTURE not conforming to the requirements of this chapter shall be erected in connection with such NONCONFORMING USE of land with the exception of accessory STRUCTURES associated with a single-family house provided they comply with all other applicable City ordinances and regulations.

E) The above notwithstanding, if a LOT meets the requirements of 170-14, any additions or accessory STRUCTURES may be allowed to meet the SIDE YARD SETBACKS outlined therein.

Similarly, there are no statements of purpose contained in the Table for either uses or the front setback provisions; and there are no other purposes expressly stated in support of the provisions from which this Application seeks relief. While the Applicant believes that the **bold**

text contained in Article 170-40(B) is the most applicable to this situation due to its use of the phrase "moved, in whole or in part", the Applicant seeks relief from the Article in general in an abundance of caution.

Accordingly, without express statements of purpose concerning the ordinance provisions in question, the Applicant asserts that this Board can and should look to the usual public interest objective of use regulations – which are usually intended to segregate various uses into various areas of the municipality (other than in the City's CBD where form based zoning has now been adopted) to provide compatible uses with adequate spaces between buildings for air, light and general safety and to ensure the adequate provision of public utilities and services. The same can generally be said to be the purpose of any setback requirement – although the particular distance in any setback is rather arbitrary. Similarly, the general concept behind avoiding increasing expansion of non-conforming use where such area issues are involved is to avoid increasing encroachment upon neighboring conforming properties.

In this case, the Applicant asserts that granting the variances do not conflict with any implied zoning objectives set forth above because:

1. By allowing a renovated/relocated 3-unit dwelling on the Property, the Property is greatly enhanced and restored to the overall betterment of the City and the neighborhood. Granting these variances would also avoid the potential physical and aesthetic decline of the existing structures.
2. The variances comport with the existing character and usage of the Property since it currently is used as a three (3) unit dwelling. As noted above, there are approximately 21 multiple dwelling units along Arch Street alone with many more in the immediate vicinity of the Property along Washington Street.
3. Allowing the variances will not negatively impact any abutting property since the proposed relocation/reconfiguration of the structures will move the new building closer to Washington Street and thereby further away from any of the single family dwellings on Arch Street so that there would be no increased encroachment of this non-conforming use that was so recently created as a result of the Rezoning.
4. By allowing the variances, the placement of a renovated 3-unit dwelling on the Property will likely result in a net fiscal benefit to the community through enhanced tax revenues from the Property itself. This would occur without a disproportionate burden or increase on municipal services or significant increases in traffic flows.
5. By allowing the footprint of the proposed new building to be increased by 10% over the footprint of the existing structures, the new building would be increased less than the percentage allowed by the Ordinance for single family residences. Given the corner lot location abutting the railroad tracks, this increase will not be viewed as an encroachment on any abutter; and the neighborhood has several existing structures of a much larger size within just a few doors of the Property.

6. By allowing the front setback of the new building to be no closer to Arch Street than the existing façade and stairs, the existing spatial relationship of the Property within the neighborhood is maintained without any impairment to the surrounding properties.

Moreover, the Chester, Malachy Glen, Farrar and Harborside cases instruct us to make the determination that this Variance Application does not “unduly and to a marked degree” conflict with such zoning objectives by analyzing such things as whether granting the variance would “alter the essential character of the neighborhood” or “threaten the public health, safety or welfare”. Furthermore, the Supreme Court in Harborside expressly reminded us: “**Mere conflict with the terms of the ordinance is insufficient.**” Harborside, 162 N.H. at 514 (*emphasis added*).

In this case, we can state without reservation that these variances would not alter the essential character of this neighborhood or threaten public health, safety or welfare since the renovated/relocated structure will continue to be used as the existing structures currently are - namely for a three (3) unit dwelling - and in a comparable size and location as both the existing structures and other buildings in the neighborhood. Moreover, there are adjacent properties in the immediate area which also appear to have residential densities in excess of the level set forth in the Table so that allowing this variance would not alter the essential character of the neighborhood.

Therefore, granting these variances will not be contrary to the public interest.

2. The variance observes the spirit of the Ordinance.

As referenced in Section 1, above, these variances are consistent with the applicable purposes of the Zoning Ordinance. As the NH Supreme Court has indicated in Chester Rod & Gun Club, Malachy Glen, Farrar and Harborside the requirements that the variance not be “contrary to the public interest” or “injure the public rights of others” are coextensive and are related to the requirement that the variance be consistent with the spirit of the ordinance. See, Chester Rod & Gun Club, 152 N.H. at 580. A variance is contrary to the spirit of the ordinance only if it “unduly, and in a marked degree conflicts with the ordinance such that it violates the ordinance’s basic zoning objectives.” Chester Rod & Gun Club, 152 N.H. at 581; Farrar, 158 N.H. at 691; and Harborside, 162 N.H. at 514. As discussed above, the variances are consistent with the spirit of the Ordinance because they will allow the relocation/reconfiguration of the existing three (3) dwelling units into a new structure closer to Washington Street, of a size within 10 percent of the footprint of the existing structures and with a front setback that is no closer than the existing façade and stairs; and as such, this relocation/reconfiguration will not alter the character of the neighborhood.

Therefore, granting these variances observes the spirit of the Ordinance.

3. The variance will result in substantial justice.

As noted in Malachy Glen and Harborside, *supra*, “perhaps the only guiding rule [on this factor] is that any loss to the individual that is not outweighed by a gain to the general public is an injustice.” Malachy Glen, 155 N.H. at 109, *citing*, 15 P. Loughlin, New Hampshire Practice, Land Use Planning and Zoning § 24.11, at 308 (2000) (*quoting* New Hampshire Office of State Planning, The Board of Adjustment in New Hampshire, A Handbook for Local Officials (1997)); and Harborside, 162 N.H. at 515. In short, there must be some gain to the general public from denying the variance that outweighs the loss to the Applicant from its denial.

In this case, there is a clear loss to the Applicant that is not outweighed by any gain to the community if these variances are denied. The variances will allow the Applicant to renovate and relocate the existing structures currently containing 3 dwelling units into a new structure containing 3 updated dwelling units – all closer to Washington Street (and thereby further away from any single family dwellings on Arch Street) on a footprint within 10% of footprint of the existing structures, and at a front setback line that is no closer than the existing structure’s façade and stairs. The new units will be of better quality and of a more functional use than those in the existing buildings. Denying the variances will not result in any gain to the public given that the existing three (3) units will be allowed to remain in the current structures; but denying the variances will result in harm to the Applicant and to the general public by preventing Applicant’s reasonable use and improvement of the Property and the associated community benefits of better quality structures and higher tax values.. *See also*, Farrar v. City of Keene, 158 N.H. at 692; and Harborside, 162 N.H. at 516.

Additionally, the Applicant purchased the Property on November 29, 2010, less than 60 days prior to the Rezoning.

Thus, granting these variances would do substantial justice while denying these variances would be a substantial injustice in light of the circumstances set forth above.

4. The variance will not diminish surrounding property values.

None of the surrounding properties would suffer any diminution in value as a result of granting these variances. Indeed, granting these variances would help to improve not only the value of the Property but also the value of the surrounding properties in keeping with the essential mixed character of the neighborhood. A renovated 3-unit dwelling would bring a higher value to the neighborhood than the current 3-unit dwelling currently brings. In support of this position, the Applicant hereby tenders the opinion letter of Realtor Thomas Heany of Keller Williams Realtors dated February 29, 2012, which is attached hereto as “**Exhibit E**”.

5. A. 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; (ii) no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and (iii) the proposed use is a reasonable one;

or

B. If the criteria in subparagraph 5A above are not established, provide proof that an unnecessary hardship exists if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformity with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

A. (i) Special conditions of the property that distinguish it from other properties in the area; (ii) no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and (iii) the proposed use is a reasonable one.

(i) Special Conditions:

The Property contains at least the following "special conditions":

1. the existing structures in their current configuration and condition contain three (3) dwelling units;
2. the façade and stairs of the existing "main house" are located approximately 18 feet from Arch Street;
3. the Property is located at corner of Arch and Washington Streets and adjacent to the functioning Boston & Maine Railroad line; and
4. the Property is the only corner lot on Arch Street at either Washington or Silver Streets that was included in the Rezoning, which made the existing 3 dwelling units non-conforming thereby necessitating the variances requested.

Due to these special conditions, the Property is distinguished from other properties in the area.

(ii) No Fair and Substantial Relationship

As stated above, there are no express general public purposes for the provisions of Section 170-40 or the Table that are at issue in this Application. Even if the ZBA were to imply purposes for Section 170-40 and the Table, those purposes would be limited in nature to: (i) the segregation of various uses into various areas of the municipality to provide compatible uses with adequate spaces between buildings for air, light and general safety and to ensure the adequate provision of public utilities and services uses; and (ii) to avoid increasing encroachment by non-conforming uses upon neighboring conforming properties.

These variances, however, do not offend such implied purposes. The proposed relocation/reconfiguration of the existing 3 dwelling units do not insert any new non-conforming use into this mixed-use neighborhood composed of single family homes,

duplexes, triplexes, and 4- and 5-unit structures. No adjacent conforming properties would suffer increased encroachment by the proposed relocation of the dwelling units closer to Washington Street. The proposed size and location of the new building is in keeping with other structures in the immediate neighborhood and will be no closer than the front setback/build to line of the existing façade and stairs. Accordingly, there is no fair and substantial relationship exists between the general public purposes of the ordinance provisions at issue and the specific application of those provisions to the Property.

(iii) The proposed use is a reasonable one

The proposed relocation/reconfiguration of the existing 3 dwelling units to a new location on the Property closer to Washington Street is per se reasonable. There is no change in use since no additional units are being added to these structures. The proposed newly constructed units will be within 10% of the existing square footage of the existing structures. The proposed buildings' front setback/build to line would be no closer to Arch Street than the existing façade and stairs – i.e., at approximately 18 feet +/- where 25 feet are required. Although final elevations and plans would have to be presented and approved by the Planning Board, draft Floor Plans and Elevations of the proposed building contained in Exhibits C and D reflect that the building will be visually in conformity with the neighborhood and will be an improvement on the existing structures. Accordingly, the proposed use is a reasonable one.

B. The Alternative Standard for Unnecessary Hardship

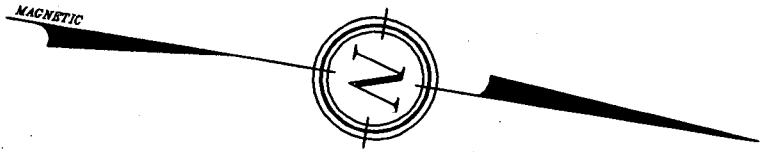
While the Applicant justifiably believes that it has meet the standard for proving Unnecessary Hardship under 5A, if the ZBA holds otherwise, the Applicant respectfully would show that it meets the standard for proving Unnecessary Hardship under 5B. Specifically, the special conditions listed above distinguish the Property from other properties in the area. Strict conformity with the provisions of Section 170-40 and the Table as potentially amended means that the existing structures cannot be relocated or reconfigured in any way despite the fact that no abutting properties or other properties in the vicinity would be negatively impacted by the proposed relocation/reconfiguration of the structures closer to Washington Street. Thus, these provisions interfere with the reasonable use of the Property, namely the improvement of the existing structures into a better configuration at a slightly different location on the Property. For the reasons stated above, the proposed use is a reasonable one.

Salmon Falls Holding LLC
Amended Application for Variance

Exhibit A
Existing Conditions Plot Plan

211-11

THIS IS NOT A BOUNDARY SURVEY



S74.40'32"W
367.45'

N49.53'22"E
595.30'

S74.45'46"W
333.50'

TAX MAP 11, LOT 16
±152,870 sq.ft.
±3.51 acres

N63.24'24"E
115.02'

EXISTING RESIDENTIAL
STRUCTURE IS ±18'
FROM THE FRONT
BOUNDARY LINE

BUILDABLE
ENVELOPE

66.01' 65.05'
S10°54'53"E S03°38'30"E

S75.56'15"W
166.09'

25' SETBACK

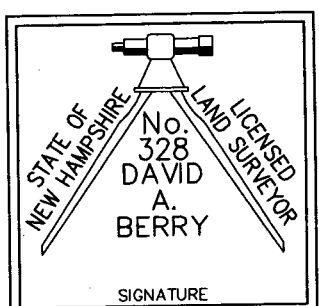
266.13' ± 16' ± 18'
S10°31'34"E

ARCH STREET

ZONING : R12
TAX MAP : 11
LOT : 16

EXISTING PLOT PLAN
FOR
SALMON FALLS HOLDINGS LLC
46 & 48 ARCH STREET
DOVER, N.H.
TAX MAP 11, LOT 16
±152,870 sq.ft.
±3.51 acres

FRONT ~ 25'
SIDE ~ 15'
REAR ~ 30'



BERRY SURVEYING & ENGINEERING
335 SECOND CROWN POINT RD.
BARRINGTON, N.H. 332-2863

SCALE : 1 IN. EQUALS 80 FT.

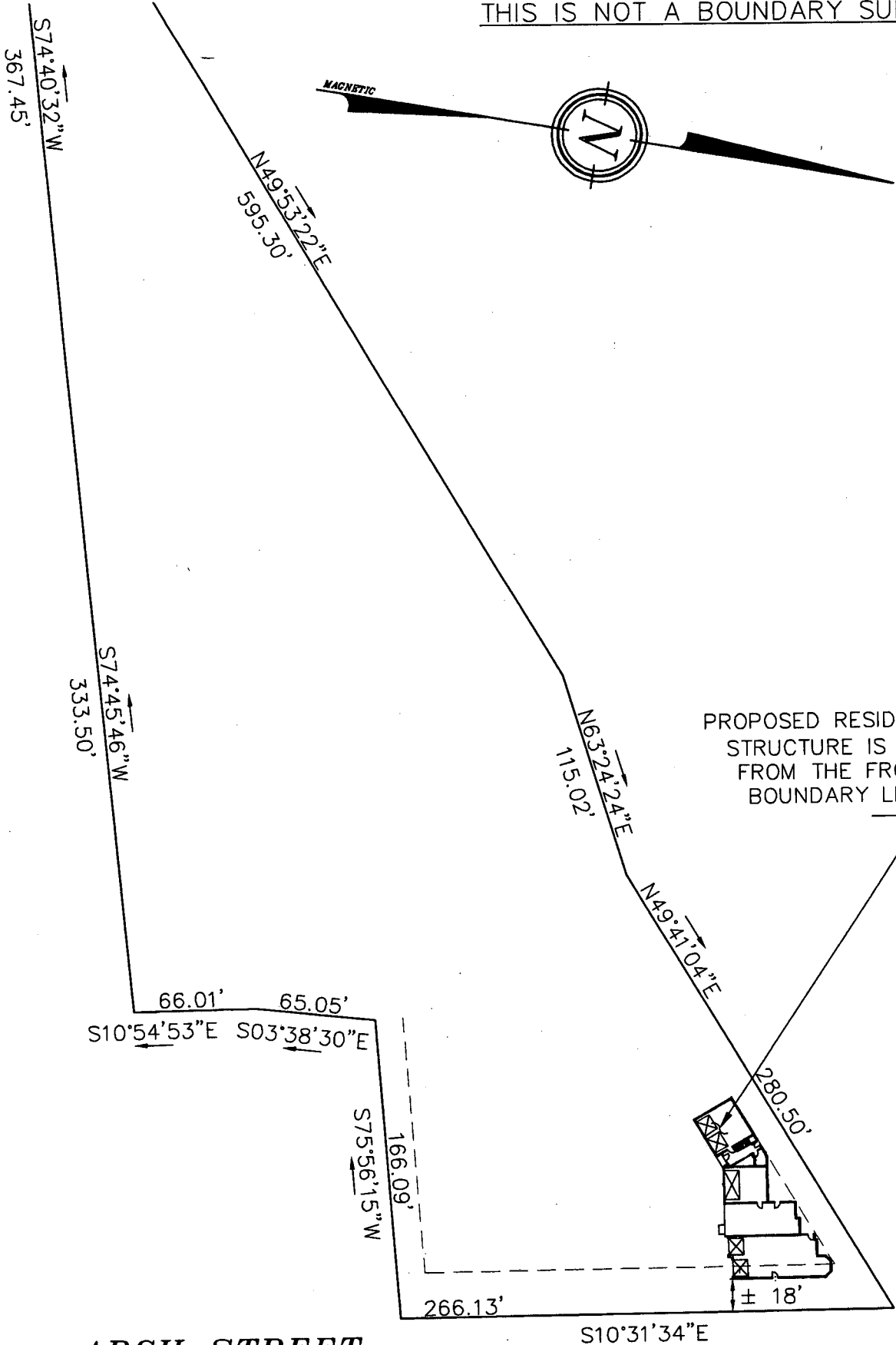
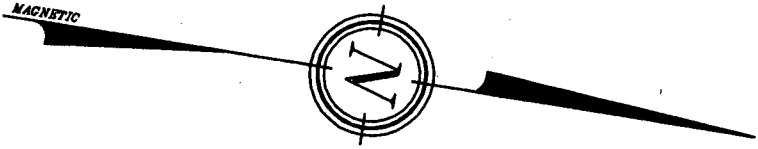
DATE : FEBRUARY 28, 2012

FILE NO. : DB 2011 -032

Salmon Falls Holding LLC
Amended Application for Variance

Exhibit B
Proposed Plot Plan

THIS IS NOT A BOUNDARY SURVEY



PROPOSED RESIDENTIAL STRUCTURE IS ±18' FROM THE FRONT BOUNDARY LINE

ARCH STREET

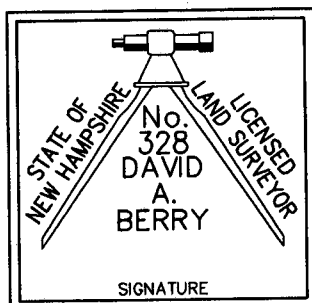
PROPOSED BUILDING LOCATION PLAN

FOR
SALMON FALLS HOLDINGS LLC
46 & 48 ARCH STREET
DOVER, N.H.
TAX MAP 11, LOT 16

±152,870 sq.ft.
±3.51 acres

ZONING : R12
TAX MAP : 11
LOT : 16

FRONT ~ 25'
SIDE ~ 15'
REAR ~ 30'



BERRY SURVEYING & ENGINEERING

335 SECOND CROWN POINT RD.
BARRINGTON, N.H. 332-2863

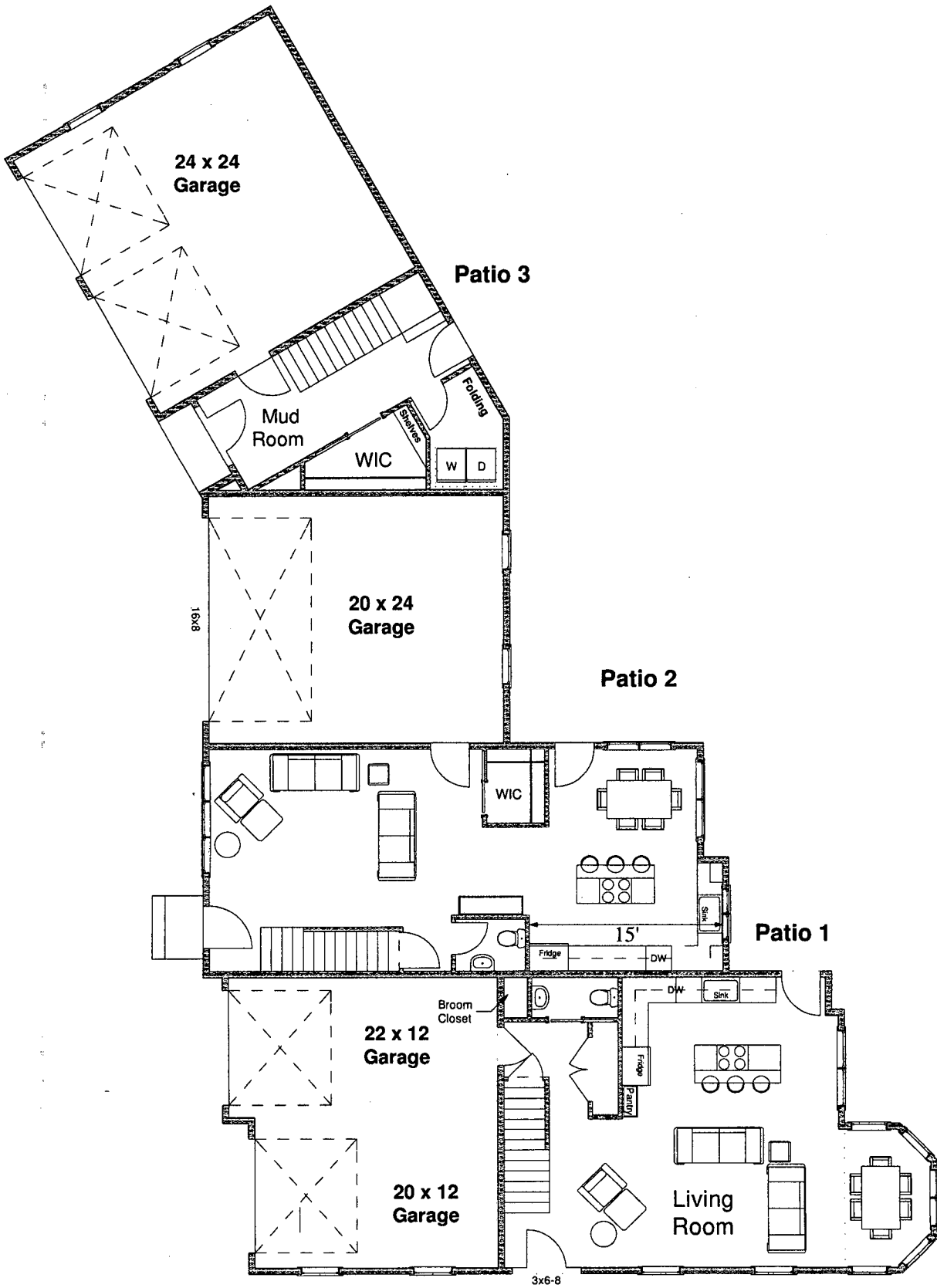
SCALE : 1 IN. EQUALS 80 FT.

DATE : FEBRUARY 28, 2012

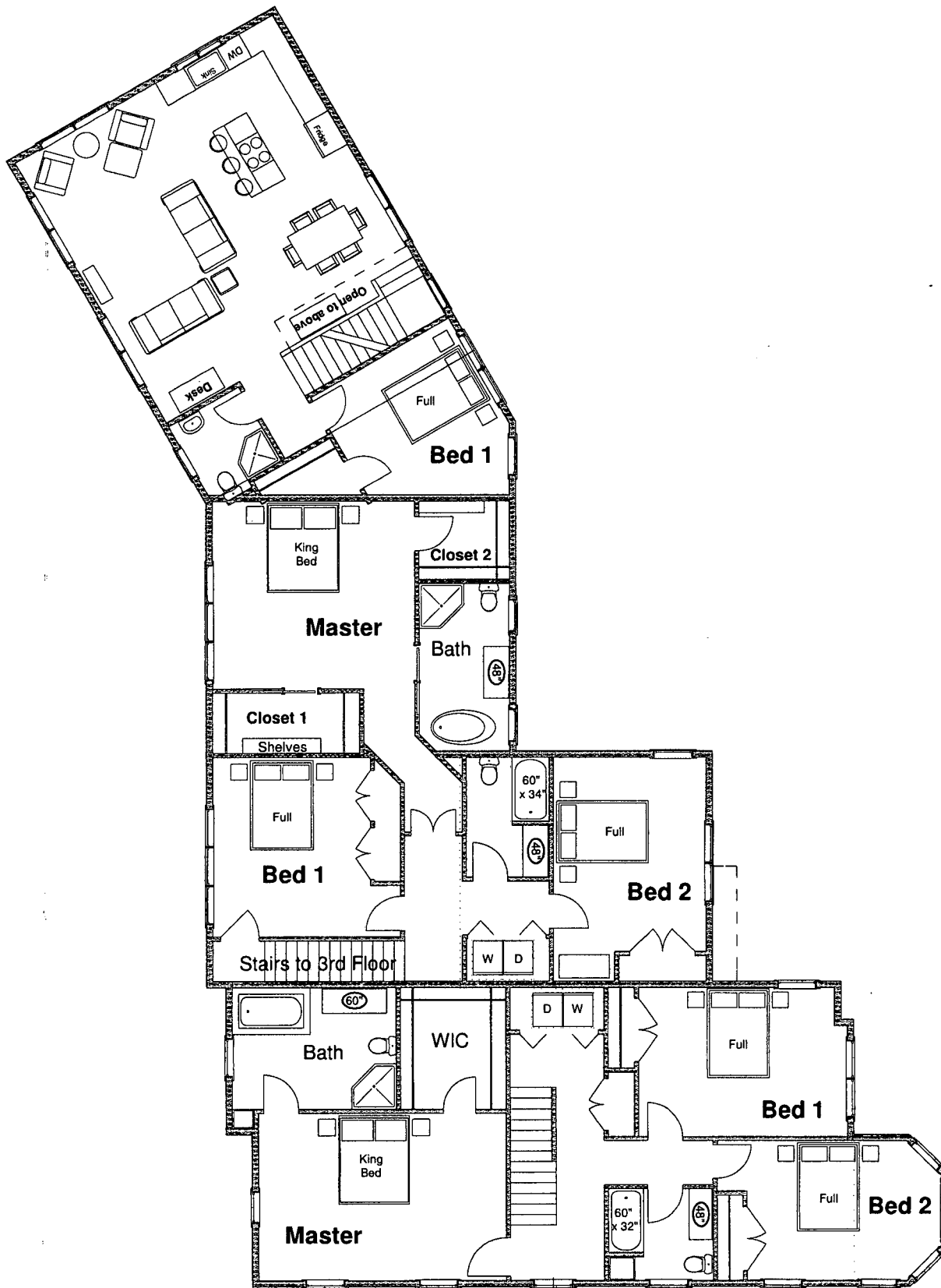
FILE NO. : DB 2011 -032

Salmon Falls Holding LLC
Amended Application for Variance

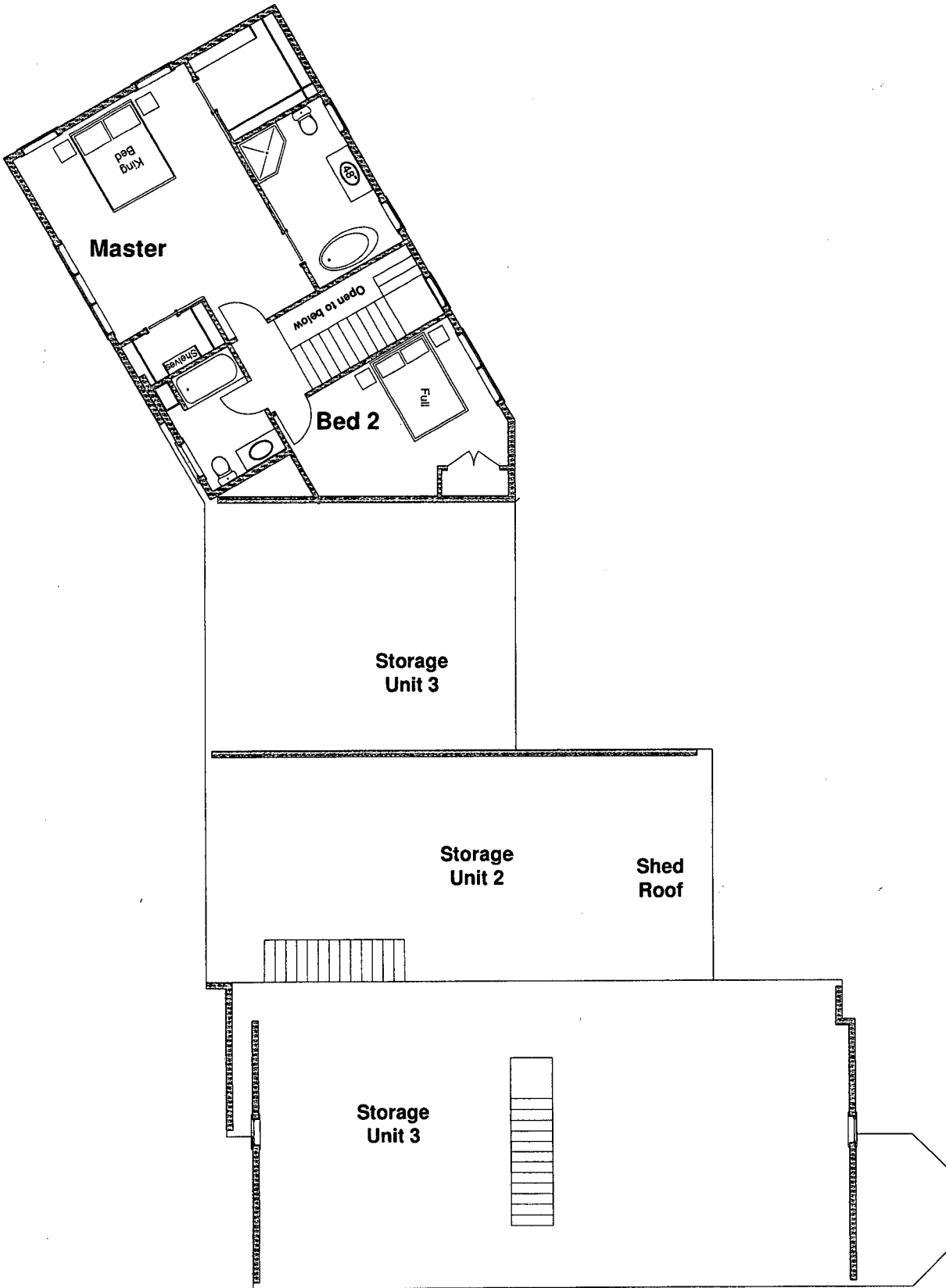
Exhibit C
Draft Floor Plans



Michelle Shields Design Smart Creative Architecture www.MichelleShieldsDesign.com	6 Rudolph Avenue Kittery, Maine 03904 207-438-9829 Cell: 207-752-7623	PROJECT: Brandt Development	SITE: 46 & 48 Arch Street Dover, NH	ISSUED FOR: Review	SCALE: Not to Scale	TITLE: Proposed First Floor	SHEET: P3
				ISSUE DATE: February 29, 2012			



Michelle Shields Design Smart Creative Architecture www.MichelleShieldsDesign.com	6 Rudolph Avenue Kittery, Maine 03904 207-438-9829 Cell: 207-752-7623	PROJECT: Brandt Development	SITE: 46 & 48 Arch Street Dover, NH	ISSUED FOR: Review	SCALE: Not to Scale	TITLE: Proposed Second Floor	SHEET: P4
				ISSUE DATE: February 29, 2012			



Michelle Shields Design
 Smart Creative Architecture
 www.MichelleShieldsDesign.com

6 Rudolph Avenue
 Kittery, Maine 03904
 207-438-9829
 Cell: 207-752-7623

PROJECT:
 Brandt
 Development

SITE:
 46 & 48 Arch Street
 Dover, NH

ISSUED FOR:
 Review
ISSUE DATE:
 February 29, 2012

SCALE:
 Not to
 Scale

TITLE:
 Proposed
 Third Floor

SHEET:
P5

Salmon Falls Holding LLC
Amended Application for Variance

Exhibit D
Draft Elevations

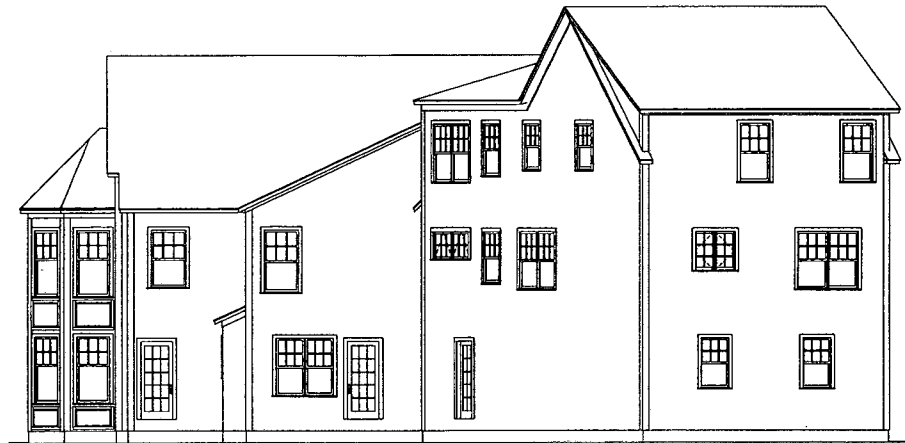


Michelle Shields Design Smart Creative Architecture www.MichelleShieldsDesign.com	6 Rudolph Avenue Kittery, Maine 03904 207-438-9829 Cell: 207-752-7623	PROJECT: Brandt Development	SITE: 46 & 48 Arch Street Dover, NH	ISSUED FOR: Review	SCALE: Not to Scale	TITLE: Proposed Renderings	SHEET: Cover
				ISSUE DATE: February 29, 2012			

Front

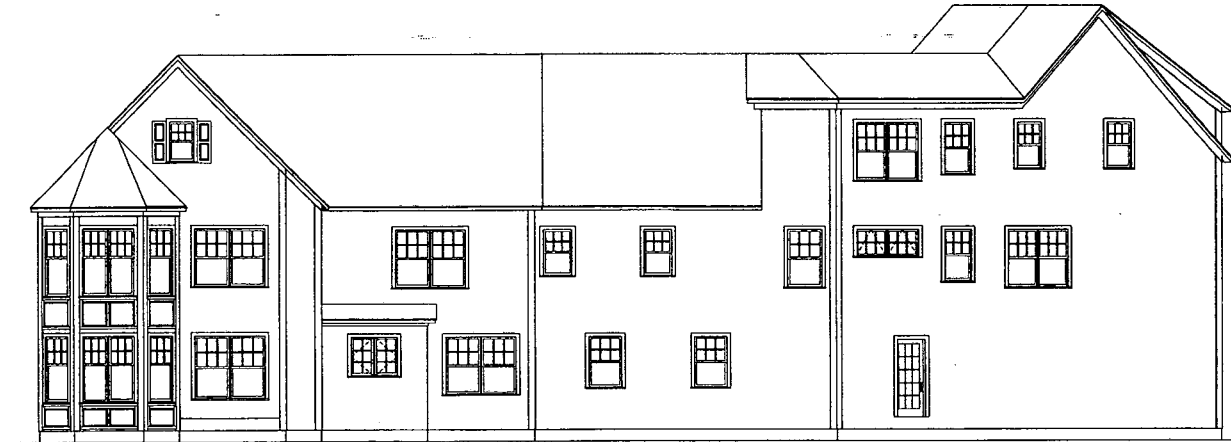


Rear



Michelle Shields Design Smart Creative Architecture www.MichelleShieldsDesign.com	6 Rudolph Avenue Kittery, Maine 03904 207-438-9829 Cell: 207-752-7623	PROJECT:	SITE:	ISSUED FOR:	SCALE:	TITLE:	SHEET:
		Brandt Development	46 & 48 Arch Street Dover, NH	Review			
				ISSUE DATE:	1/16" = 1'-0"	Proposed Elevations	P1
				February 29, 2012			

Right



Left



Michelle Shields Design Smart Creative Architecture www.MichelleShieldsDesign.com	6 Rudolph Avenue Kittery, Maine 03904 207-438-9829 Cell: 207-752-7623	PROJECT:	SITE:	ISSUED FOR:	SCALE:	TITLE:	SHEET:
		Brandt Development	46 & 48 Arch Street Dover, NH	Review	1/16" = 1'-0"	Proposed Elevations	P2
				ISSUE DATE: February 29, 2012			

Salmon Falls Holding LLC
Amended Application for Variance

Exhibit E
Realtor Letter



February 29, 2012

Henry Brandt
37 Wholey Way
Portsmouth, NH 03801

Re: Arch Street, Dover

Dear Mr. Brandt,

Similar to the letter I provide to you in May of 2011, I am providing this updated letter in support of your variance request and to endorse the proposed building plan which I've reviewed. As the neighborhood has several multi-family properties, this proposal really just conforms to what already historically exists. Your proposal to create either a condominium or executive rentals brings three new owner-occupants or high-end tenants to the neighborhood, either of which are extremely neighborhood conscious. Typically these individuals take great pride in their property and the area in which they live. Therefore, I see no potential for your abutters and neighbors to experience any diminution of value through the approval of this proposal as it offers to attract exactly the type of resident who will share their sense of community.

The proposed three-unit building offers a design, particularly from the street side, that resembles a large single family home rather than the stereotypical apartment building. Your design reflects those that have been lauded nationally as a "best practice" for urban infill projects. Further, your proposal reflects the scale and architecture of the existing neighborhood and fits in seamlessly. Finally, it is of course a marked improvement over the existing structures, and offers an enormous aesthetic as well as health and safety enhancement to the area. Envisioned as a condominium, these units would be new and of high quality, and the resultant pricing would likely attract an "upper end" buyer. As apartments, they are apt to attract the sort of professionals routinely sought by many of the local prominent employers. With this combination of condition, location and price point the likely resident would seek to maintain the property to a level that reflects the caliber of their home. My experience is that these sorts of folks tend to take better care of a property, with their higher investment of both time and money, than does an average market-rate tenant. The resultant affect would be an enhancement of the area's market appeal and, likely, an enhancement of the value of the surrounding properties too.

In my experience, both as a real estate broker for 27 years, and in my time as a member of the Goffstown Planning Board, I can't recall a situation where a well-constructed new building has lowered the value of surrounding older properties. In fact, the opposite is typically true.

If you have further questions of me, or if I can provide further clarification, please contact me at the number listed below.

Sincerely,



Thomas J. Heany
Team Leader and Chief Executive Officer

Keller Williams Coastal Realty
501 Islington Street, Ste. 2, Portsmouth, NH 03801
Telephone 603-610-8500 Fax 603-610-8550
EACH OFFICE IS INDEPENDENTLY OWNED AND OPERATED