



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT AGENDA

Meeting Type: Regular Meeting
Meeting Location: Media Access Center, Rm 306 - McConnell Center, Dover, NH 03820
Meeting Date: **Thursday, May 17, 2012**
Meeting Time: **7:00 pm**

1. ATTENDANCE

2. APPROVAL OF PRIOR MINUTES OF APRIL 19, 2012

3. HEARING – *CONTINUED FROM APRIL 19, 2012*

- A. * 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 (a) 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.

4. NEW HEARINGS

- A. * Z 12-07 Luke Murphy, 3 Nantucket Court, Tax Map 22, Lot 41, located in the Medium Density Residential (R-12) District, requests a variance from **Section 170-12.A** of the Zoning Ordinance and the R-12 District Table of Use to permit the construction of an attached deck to be located fifteen (15) ft. from the rear property line where a minimum thirty (30) ft. rear yard setback is required.
- B. * Z 12-08 Daniel and Lauren Fontaine, 544 Tolend Road, Tax Map C, Lot 28, located in the Rural Residential (R-40) District, requests a variance from **Section 170-12.A** of the Zoning Ordinance and the R-40 District Table of Use to permit the construction of a detached “in-law apartment” containing 768 sq. ft. where “in-law apartments” are not a permitted use in the R-40 District.

5. 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



RECEIVED
APR 30 2012
JA

City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Adopted: _____, 2012]

Office Use Only	Case #:	<u>212-07</u>	Date Received:	<u>4/30/12</u>
	Amount Paid:	<u>\$ 272.00</u> <u>CASH</u>	Time Received:	<u>8:30am</u>

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: LUKE MURPHY Phone # 603 608 8527
 Address of Applicant: 3 NANTUCKET CT DOVER NH 03820

E-Mail Address: _____

PROPERTY OWNER (if different from applicant): SAME

Address: _____ Phone # _____

E-Mail Address: _____

PROPERTY/PARCEL INFORMATION

Address: 3 NANTUCKET DOVER NH 03820

Brief Directions: CORNER OF HENRY LAW AVE + NANTUCKET CT

Zoning District: _____ Assessor's Map # 22 Lot(s) # 41-3

TYPE OF APPEAL: (Please check one)

- | | |
|--|---|
| <input checked="" type="checkbox"/> Variance | from Section _____ of the Zoning Ordinance |
| <input type="checkbox"/> Physical Disability Variance (RSA 674:33-V) | from Section _____ of the Zoning Ordinance |
| <input type="checkbox"/> Special Exception | per Section _____ of the Zoning Ordinance |
| <input type="checkbox"/> Appeal of Administrative Decision | regarding Section _____ of the Zoning Ordinance |
| <input type="checkbox"/> Equitable Waiver | per Section _____ of the Zoning Ordinance |

DESCRIBE BRIEFLY YOUR PLANS FOR THE PROPERTY:

TO INCREASE THE SIZE OF THE DECK TO 14'
LONG AWAY FROM THE HOUSE

RECEIVED
APR 13 2011

APPLICATION CHECKLIST (Please check off)

- A. 12 Copies of Completed Zoning Board of Adjustment Application ✓
- B. Application Signed by Property Owner (if different from Applicant) ✓
- C. 12 copies of plot plan drawn in accordance with a boundary line to scale not less than 1" = 40', (12 copies). They need to include the lot dimensions including area in square feet, and also the size and location of existing and proposed buildings if applicable, including setbacks. ✓
- D: **List of abutters** including addresses and map and lot number of parcels that adjoin or are located within two hundred (200) feet (including land across the street or waterway) of the subject 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. ✓
- E. **Mailing Labels** in triplicate with abutters names and addresses for notices ✓
- F. **TOTAL FEE** paid by cash or check made payable to "City of Dover" _____

1.	Application fee of:	
	\$100.00 VARIANCE (per Section requested)	\$ <u>100 -</u>
	\$100.00 SPECIAL EXCEPTION	\$ _____
	\$100.00 APPEAL FROM ADMINISTRATIVE DECISION	\$ _____
	\$100.00 EQUITABLE WAIVER	\$ _____
2.	Certified letters fee: # of abutters <u>13</u> X \$8.00 =	\$ <u>104</u>
3.	Applicant & Owner mailing fee: <u>1</u> X \$8.00 =	\$ <u>8</u>
4.	First Class Mail fee (for individual owner of units within a condominium or other collective form of ownership): # of abutters _____ X \$1.00 =	\$ _____
5.	Foster's newspaper public notice	\$ <u>60.00</u>

TOTAL FEE \$ 272⁰⁰

VARIANCE REQUIREMENTS

THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY

A. Variance Requested

A variance is requested from Section(s) _____ of the Zoning Ordinance to permit:

B. The Five Variance Criteria (as set forth in NH RSA 674:33, I(b))

Please demonstrate compliance with the following:

1. Waiving the terms of the Ordinance will not be contrary to the public interest because:

The only abutter to the backside of THE HOUSE
IS A CITY OWNED BASEBALL FIELD SEPARATED BY A CITY
FENCE

2. Deviation from the strict requirements of the Ordinance is consistent with the spirit of the Ordinance because:

THERE IS ONLY 1 ABUTTER AND IT
IS THE CITY. ALSO B/C WE USE OUR SIDE
YARD AS OUR BACK YARD. B/C OF THE LAYOUT OF
THE HOUSE.

3. Granting the variance would do substantial justice because:

IT WOULD ALLOW US TO USE A PART OF
OUR YARD THAT IS CURRENTLY UN-USEABLE BECAUSE
OF THE SLOPE/FENCE/ ORIENTATION OF THE HOUSE. IF
THE DRIVEWAY FACED HENRY LAW AVE, WE WOULD BE WITHIN
THE CURRENT LAWS B/C OUR BACKYARD WOULD BE OUR
SIDE YARD & WE WOULD BE ALLOWED 15'.

3. The value of surrounding property will not be diminished because:

IT DOES NOT INFRINGE ANY FURTHER ON
THEIR PROPERTY.

NOTE: please complete EITHER paragraph 5A OR paragraph 5B. Staff recommends that you complete paragraph 5B only if you feel you cannot meet the requirements set forth in paragraph 5A.

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

(i) The following special conditions of the property distinguish it from other properties in the area:

IT'S ABUTTER TO THE BACK IS A CITY OWNED PROPERTY. IT HAS A SLOPE THAT MAKES IT VIRTUALLY UNUSEABLE.

and

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

BECAUSE ^{THERE} ~~IS~~ IS NO REAR ABUTTER, ~~THE CURRENT~~ ~~MAKING~~ MAKING A CHANGE TO THE CURRENT REAR SET BACK LAWS WOULDN'T AFFECT ANYONE BECAUSE THEIR IS ONLY A ROAD SEPARATED BY A FENCE BEHIND US. THE CITY OWNS THE PROPERTY + THE FENCE

and

(iii) The proposed use is a reasonable one because:

IT WILL ALLOW US TO USE OUR BACK YARD AS IT IS CURRENTLY UNUSEABLE. HAVING A DECK WE CAN USE WOULD ALLOW US TO USE THE CURRENT BACK YARD OF THE HOUSE, WHICH RIGHT NOW WE HARDLY HAVE SPACE TO USE B/C OF DECK SIZE

OR

If the criteria in subparagraph 5A above are not established, explain how, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it:

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.

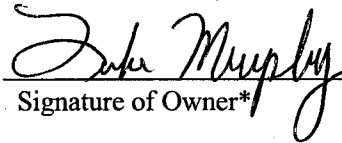
3. Describe how the requested use would not overload any public water, drainage or sewerage system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the City will be unduly subjected to hazards affecting health, safety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

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

Signature of Applicant*



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

SIGNATURE PAGE

THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS

I, the undersigned Applicant, hereby certify that the information contained within this Application is complete and accurate, and I acknowledge that I have read and understand the Application Instructions, which are set forth on the first two pages of this Application form.

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*



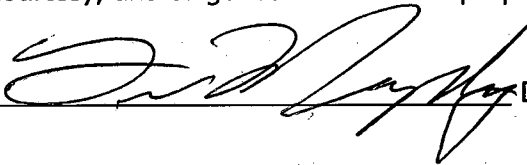
Signature of Owner*

*Both Signatures Required

AUTHORIZATION TO ENTER SUBJECT PROPERTY

I, and my successors, hereby authorize members of the Dover Zoning Board, Planning Department and other pertinent City Departments and boards to enter my property for the purpose of evaluating this application, including performing inspections during the application phase, post-approval phase, construction phase and occupancy phase. It is understood that these individuals must use all reasonable care, courtesy, and diligence when on the property.

Signature of Property Owner:



Date:

04/30/12

N/A

SPECIAL EXCEPTION REQUIREMENTS

THIS SECTION TO BE COMPLETED BY SPECIAL EXCEPTION APPLICANTS ONLY

A. General Special Exception Requirements (as set forth in §170-52.C.3 of the Zoning Ordinance)

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.

B. Specific Special Exception Requirements (as may be set forth in the applicable Table of Use)

Explain how the proposal meets the specific special exception requirements as may be set forth in the Table of Use for the zoning district in which the subject property is located:

A. _____

B. _____

C. _____

D. _____

E. _____

F. _____

List of abutters to 3 Nantucket Ct, Dover, NH, 03820

<u>Tax Map</u>	<u>Lot No.</u>	<u>Owner(s) of Record</u>	<u>Mailing Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>
22	42	City of Dover	288 Central Ave	Dover	NH	03820
22	41-2	Eric and Jessica Champagne	11 Nantucket Ct	Dover	NH	03820
22	41-5	Pashalis and Hefila Doukas	10 Nantucket Ct	Dover	NH	03820
22	41A	James and Tracy Wood	134 Henry Law Avenue	Dover	NH	03820
22	41-1	Robert and Angela Whealton	214 Southfield Ct	Bonaire	GA	31005
22	40	Steve and Wendy Scribner	130 Henry Law Ave	Dover	NH	03820
20	4	Joshua Leonard	52 Small Road	Barrington	NH	03825
20	5C	Michael and Cheryl Rudolph	6 Niles St	Dover	NH	03820
20	3	Stephen and Neilya Smith	137 Henry Law Ave	Dover	NH	03820
20	3-1	Northey Family Irrevocable Trust	4 Martin Lane	Dover	NH	03820
20	2A	Jonathan and Tracy Fagundo	143 Henry Law Ave	Dover	NH	03820
20	1	Betty Hannan	145 Henry Law Ave	Dover	NH	03820
K	5	Chris Prior	150 Henry Law Ave	Dover	NH	03820
22	41-6	Steve and Elsa Marshall	6 Nantucket Ct	Dover	NH	03820

CERTIFIED PLOT PLAN LOT 22-41 NANTUCKET COURT DOVER, NEW HAMPSHIRE

PREPARED BY:



71 NORTHEASTERN BLVD, UNIT 10A
NASHUA, NH 03062-3142
(603) 882-3312
www.cuococormier.com

LAND PLANNING SERVICE
CIVIL ENGINEERS
LAND SERVICES
ENVIRONMENTAL SCIENCES

SCALE: 1" = 40'

JULY 27, 2005 (REV AUG 25, 2005)



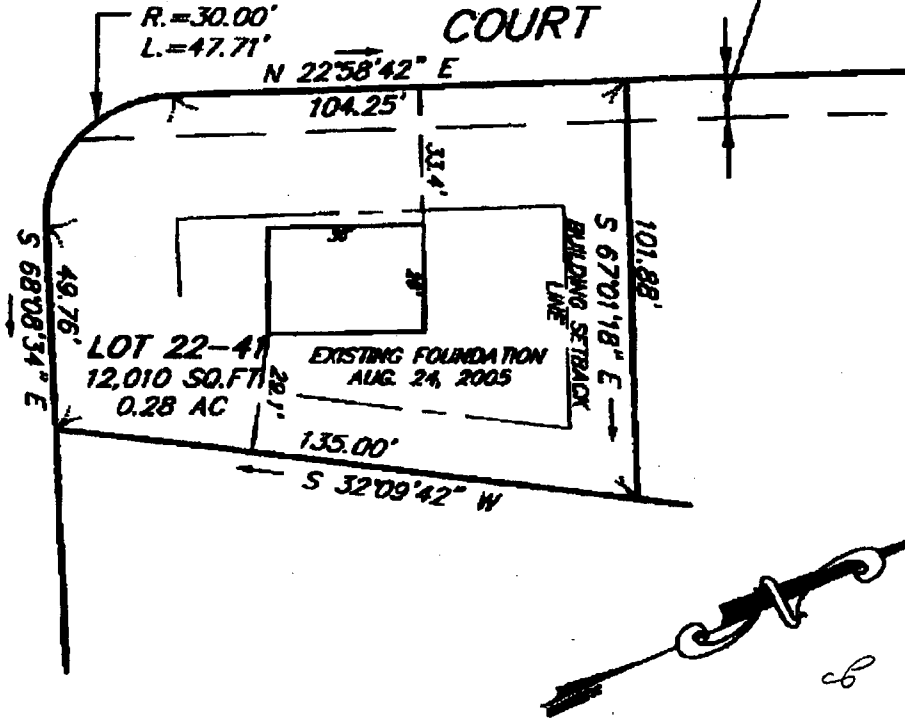
SCALE IN FEET

805-209

#3 NANTUCKET COURT

10'
UTILITY
EASEMENT

HENRY LAW AVENUE



Baboo Realty LLC

I HEREBY CERTIFY THAT THE FOUNDATION IS LOCATED ON THE LOT AS SHOWN ACCORDING TO AN ACTUAL SURVEY. I FURTHER CERTIFY THAT THE FOUNDATION IS NOT LOCATED IN A FEDERAL FLOOD HAZARD AREA AS SHOWN ON FLOOD INSURANCE RATE MAP DATED 6/15/82.

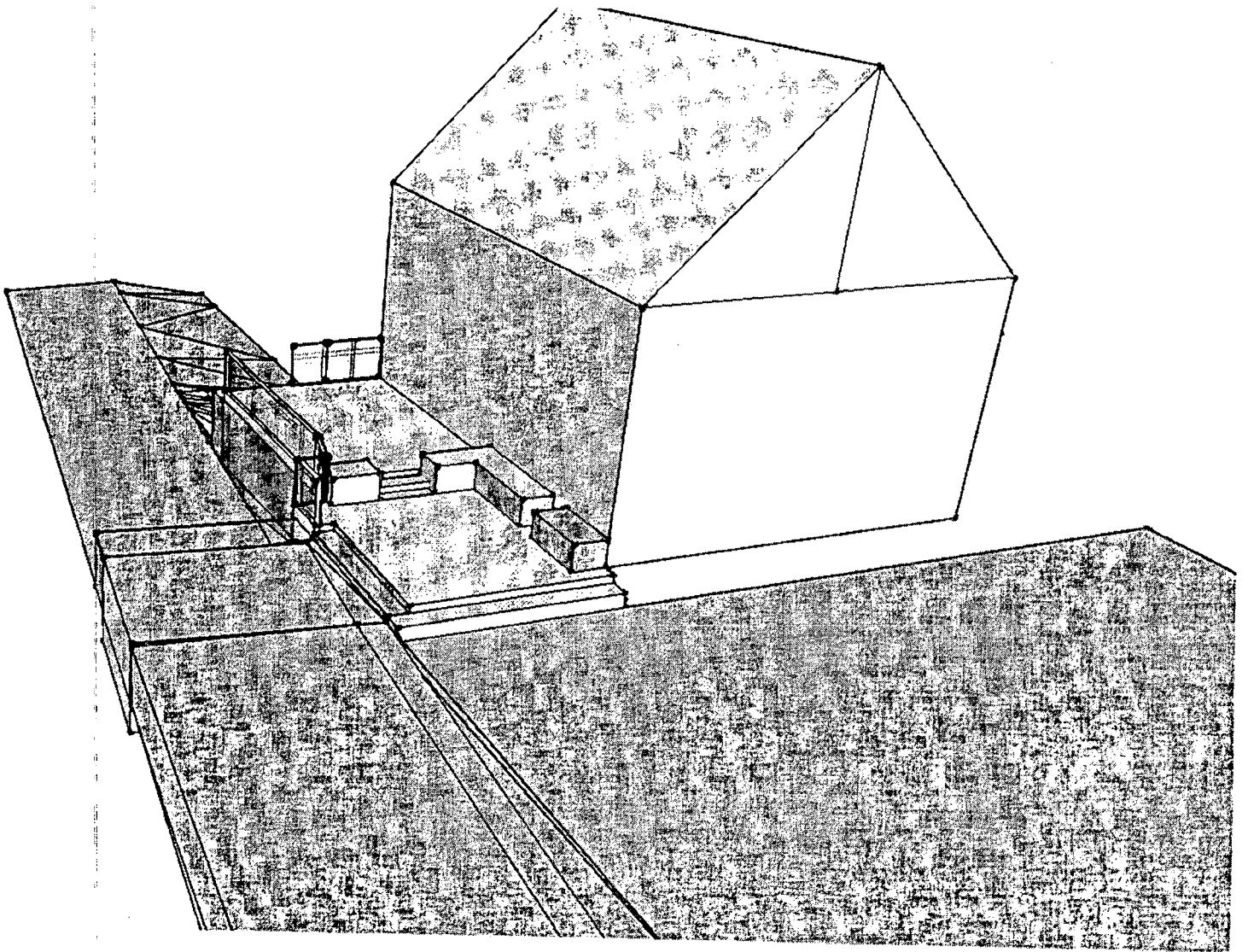
8/25/05
DATE

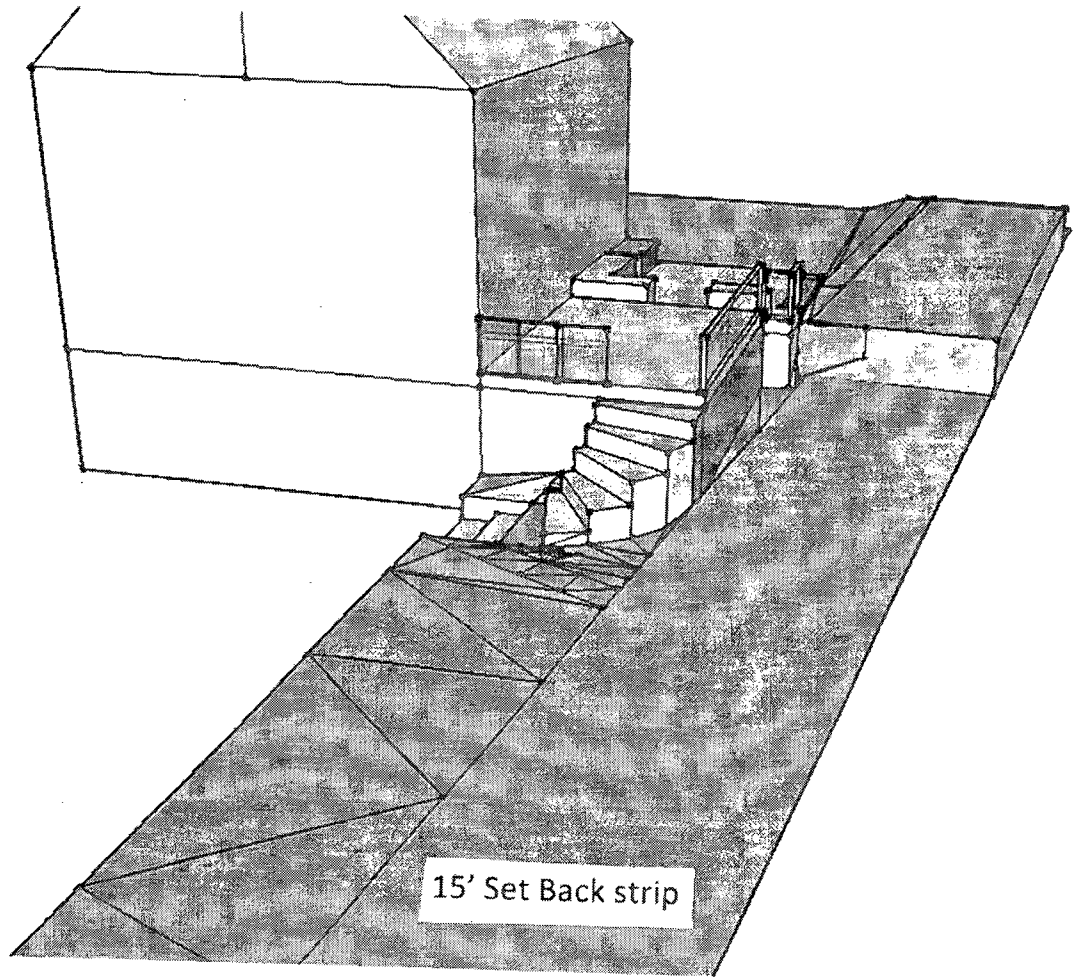
STATE OF NEW HAMPSHIRE
LICENSED LAND SURVEYOR
No. 606
RICHARD E. CUOCO
Richard E. Cuoco
SIGNATURE

BOUNDARY INFORMATION TAKEN FROM:

\\land\Projects\100836\eng\FINAL\CERTIFIED.DWG, Model: 08/25/2005 10:06:48 AM, P14

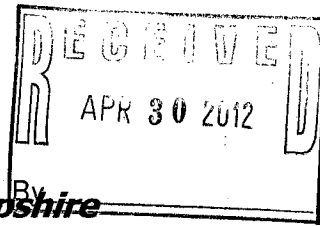
RECEIVED
APR 30 2012
By _____





Murphy Residence Deck Addition

Spiral stair to 14' x 20' to 16' x 18' lower deck with planters



City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Adopted: _____, 2012]

Office Use Only	Case #:	<u>Z12-08</u>	Date Received:	<u>4/30/12</u>
	Amount Paid:	<u>\$216.00</u>	Time Received:	<u>10:00 am</u>
	CL#	<u>107</u>		

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: Daniel and Lauren Fontaine Phone # 603-717-4854 & 8153

Address of Applicant: 544 Tolend Road Dover, NH 03820

E-Mail Address: danielfontaine@me.com laurenfontaine@me.com

PROPERTY OWNER (if different from applicant): n/a

Address: n/a Phone # n/a

E-Mail Address: n/a

PROPERTY/PARCEL INFORMATION

Address: 544 Tolend Road Dover, NH 03820

Brief Directions: From downtown Dover take Washington Street to Tolend Road. Continue on Tolend Road past French Cross Road. Property is on left .5 miles.

Zoning District: R-40 Assessor's Map # C-28 Lot(s) # 28

TYPE OF APPEAL: (Please check one)

- | | |
|--|---|
| <input checked="" type="checkbox"/> Variance | from Section _____ of the Zoning Ordinance |
| <input type="checkbox"/> Physical Disability Variance (RSA 674:33-V) | from Section _____ of the Zoning Ordinance |
| <input type="checkbox"/> Special Exception | per Section _____ of the Zoning Ordinance |
| <input type="checkbox"/> Appeal of Administrative Decision | regarding Section _____ of the Zoning Ordinance |
| <input type="checkbox"/> Equitable Waiver | per Section _____ of the Zoning Ordinance |

DESCRIBE BRIEFLY YOUR PLANS FOR THE PROPERTY:

We plan to build a 44' x 32' monitor style barn that will have an In-Law apartment on the 2nd floor.

APPLICATION CHECKLIST (Please check off)

- A. 12 Copies of Completed Zoning Board of Adjustment Application ✓
- B. Application signed by Property Owner (if different from Applicant) ✓
- C. 12 copies of plot plan drawn in accordance with a boundary line to scale not less than 1" = 40', **(12 copies)**. They need to include the lot dimensions including area in square feet, and also the size and location of existing and proposed buildings if applicable, including setbacks. ✓
- D. **List of abutters** including addresses and map and lot number of parcels that adjoin or are located within two hundred (200) feet (including land across the street or waterway) of the subject 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. ✓
- E. **Mailing Labels** in triplicate with abutters names and addresses for notices ✓
- F. **TOTAL FEE** paid by cash or check made payable to "City of Dover" ✓

1.	Application fee of:	
	\$100.00 VARIANCE (per Section requested)	\$ <u>100.⁰⁰</u>
	\$100.00 SPECIAL EXCEPTION	\$ <u>- 0 -</u>
	\$100.00 APPEAL FROM ADMINISTRATIVE DECISION	\$ <u>- 0 -</u>
	\$100.00 EQUITABLE WAIVER	\$ <u>- 0 -</u>
2.	Certified letters fee: # of abutters <u>6</u> X \$8.00 =	\$ <u>48.⁰⁰</u>
3.	Applicant & Owner mailing fee: <u>1</u> X \$8.00 =	\$ <u>8.⁰⁰</u>
4.	First Class Mail fee (for individual owner of units within a condominium or other collective form of ownership): # of abutters <u> </u> X \$1.00 =	\$ <u>0.⁰⁰</u>
5.	Foster's newspaper public notice	\$ <u>60.00</u>
TOTAL FEE		\$ <u>216.⁰⁰</u>

VARIANCE REQUIREMENTS

THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY

A. Variance Requested

A variance is requested from Section(s) _____ of the Zoning Ordinance to permit:

constructing a 44' x 32' monitor style barn with an In-Law apartment on the 2nd floor that will measure 24' x 32' which equals 768 sq. feet including a full kitchen.

B. The Five Variance Criteria (as set forth in NH RSA 674:33, I(b))

Please demonstrate compliance with the following:

1. Waiving the terms of the Ordinance will not be contrary to the public interest because:

this building design, finish and its setting on the property will not detract from neighborhood.

2. Deviation from the strict requirements of the Ordinance is consistent with the spirit of the Ordinance because:

we intend to construction this barn/InLaw apartment with the same quality and workmanship that has been demonstrated in the recent construction on the single family residence on the property.

3. Granting the variance would do substantial justice because:

we will be allowed to use our property for our personal family needs.

3. The value of surrounding property will not be diminished because:

the overall design scheme enhances all the surrounding properties because of its cohesive nature.

NOTE: please complete EITHER paragraph 5A OR paragraph 5B. Staff recommends that you complete paragraph 5B only if you feel you cannot meet the requirements set forth in paragraph 5A.

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

(i) The following special conditions of the property distinguish it from other properties in the area:
Our property has been cleared and now fits the look of a rural area. We want to build a barn that would "fit" the essential nature of a rural area while being able to help our elderly parents by having them on the property, but with their own privacy. The affordability of an inlaw apartment vs. a nursing home or assisted care facility is great and being unable to use the inlaw apartment in a normal manner would cause unnecessary financial hardship on both parents, and we the applicants.

and

(ii) No fair and substantial relationship exists between the general purposes of the ordinance provision and the specific application of that provision to the property because:
In a R-40 Residential District one of the uses permitted, via "Special Exception", is that of a Elderly Assisted Care facility. We are substantiality asking for the same exception and our lot meets all the density requirements of those Ord. No. 19-93

and

(iii) The proposed use is a reasonable one because:
All of the neighbors have been personally contacted by us, shown the plans, and have given a positive response. Since one of the abutters to this property is the old City of Dover dump, we believe we are ,making an investment into the livability of this district and increasing the value of all the abutters properties. Therefore the spirit of the ordinance is observed and justice is done towards our elderly.

OR

5B. If the criteria in subparagraph 5A above are not established, explain how, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it:

SIGNATURE PAGE

THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS

I, the undersigned Applicant, hereby certify that the information contained within this Application is complete and accurate, and I acknowledge that I have read and understand the Application Instructions, which are set forth on the first two pages of this Application form.

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

AUTHORIZATION TO ENTER SUBJECT PROPERTY

I, and my successors, hereby authorize members of the Dover Zoning Board, Planning Department and other pertinent City Departments and boards to enter my property for the purpose of evaluating this application, including performing inspections during the application phase, post-approval phase, construction phase and occupancy phase. It is understood that these individuals must use all reasonable care, courtesy, and diligence when on the property.

Signature of Property Owner:

Date:

4/28/12

