



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, June 21, 2012**  
Meeting Time: **7:00 pm**

### 1. ATTENDANCE

### 2. APPROVAL OF PRIOR MINUTES OF MAY 17, 2012

### 3. HEARINGS

- A. \* Z 12-09 Robert F. Fisher (Owner: Anne E Revocable Trust), 49 Littleworth Road, Tax Map G, Lot 29, located in the Low Density Residential (R-20) District, requests a variance from **Section 170-12.A** of the Zoning Ordinance and the R-20 District Table of Use to permit a lunch cart on the property where lunch carts are not a permitted use in the R-20 District.
- B. \* Z 12-10 Sherri Santo (Owners: Stephen & Marilyn Carter, Stephen YC Mau Revocable Trust, Jason & Sheri Santo), 1-5 Crown Point Drive, Tax Map 16, Lots 15-1, 15-2, and 15-3, located in the Medium Density Residential (R-12) District, requests a variance from **Section 170-33.A** of the Zoning Ordinance to permit the construction of a six (6) ft. fence in the front yard (located along Back River Road and Crown Point Drive) where a maximum height of three (3) ft. is permitted.
- C. \* Z 12-11 Rensselaer Properties, Ltd., 142 Broadway, Tax Map 27, Lot 278, located in the Urban Density Multi-Residential (RM-U) District. The property currently contains a single family dwelling and two large detached outbuildings which are nonconforming as to minimum required side and front yard setbacks. Applicant proposes to renovate the outbuildings and to construct connections between them and the single family dwelling thereby creating a single structure on the lot. Applicant proposes to use the first floor of the existing structure for a beauty shop and the remainder of the proposed consolidated structure as two (2) dwelling units. Applicant requests variances from **Section 170-12.A** of the Zoning Ordinance and the RM-U District Table of Use and Dimensional Requirements as follows: (a) to permit the first floor of the existing building to be used as a beauty shop where beauty shops are only permitted by special exception provided it qualifies as a customary home occupation, and (b) to permit the consolidated building to be located zero (0) feet from the side lot line shared with 69 Oak Street (Tax Map 27, Lot 279A) and nine (9) feet from the front lot line along Oak Street.
- D. \* Z 12-12 Mikula Family Revocable Trust, 52 Upper Factory Road, Tax Map E, Lot 52-B, located in the Rural Residential (R-40) District, requests a variance from **Section 170-12.A** of the Zoning Ordinance and the R-20 District Table of Dimensional Regulations to construct an 8 ft. by 32 ft. front porch addition to be located 16 feet from the front property line where a minimum front yard setback of forty (40) feet is required in the R-40 District.

### 4. APPROVAL OF REVISED ZBA APPLICATION FORM

### 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](http://www.dover.nh.gov), a map showing project locations can be found at [www.dover.nh.gov/planhome.html](http://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](https://www.facebook.com/pages/Dover-NH/City-of-Dover-NH-Planning/446789895351)



CITY OF DOVER

## ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting  
Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820  
Meeting Date: **Thursday, May 17, 2012**  
Meeting Time: **7:00 pm**

### 1. ATTENDANCE

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

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

The Chair called the meeting to order at 7:06 p.m. The Chair opened the meeting and introduced the Board and staff members to the audience, and described the process used to hear cases.

*Please note that the audio recording for this meeting failed.*

### 2. APPROVAL OF PRIOR MINUTES OF APRIL 19, 2012

**Motion:** O.Perry motioned to accept the April 19, 2012 minutes as amended. Seconded by J.Stone.  
Vote: U/A

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

*J.Kelly and F.Landford recused themselves from the case. J.Stone and C.Prior are voting in their place.*

- 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.

The applicant, Salmon Falls Holding, LLC, was represented by Attorney Christopher Boldt.

C.Parker spoke on the revised staff memo. He read staff's proposed conditions of approval. The proposed conditions would allow the applicant to replace the home with a modern structure, but addresses the concerns of the abutters. He stated the floor plan and footprint condition in the plan may need to be shifted as a new condition. A Notice of Decision was presented from the Planning Department. (copy in file)

S.Reid requested clarification about the building and asked if the new building is placed in its current location, would another 3 family be allowed in the rear of the property in the future.

C.Parker said they would have to come back to the Board. Discussion continued.

**Motion:** O.Perry motioned to grant the variance per the conditions described in staff's proposed Notice of Decision. Seconded by C.Prior. *Motion failed.*



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W.Colbath asked the board if they are suggesting including the accessory structure as square footage (which is a barn). The applicant submitted a plan that is a 10% increase in square footage, which includes the square footage of the barn and the structure. He also asked about grandfathering on a specific use, and rebuilding it.

O.Perry said they are redesigning the structure to fit in the space.

C.Parker stated the existing structure is grandfathered; a new structure would not be, and they need a variance for a new structure.

J.Stone asked about parking issues and driveways. Discussion ensued.

C.Parker stated the driveway does not require site plan approval.

S.Reid asked if the planning department is concerned about the location of the driveway.

C.Parker responded that they are changing the curb cut which makes it safer. City Engineering will look into the driveway with the driveway permit.

J.Stone asked if relocating the access would be considered.

W.Colbath asked that the gross area not exceed 10%, and that the driveway and the screenings go to TRC prior to construction to review the backing out situation of the driveway.

C.Parker stated this will be considered by engineering. He also feels the application stated "not to exceed the 10%" and he didn't feel that it was necessary to go to TRC.

J.Stone asked about the intent of the driveway plan and parking.

**Motion:** W.Colbath motioned to limit the increase to 10% and add a TRC review as a required condition. J.Stone seconded. *Motion failed.*

J.Stone asked if there are any regulations requiring screening on the property. C.Parker said there are not.

**Motion:** C.Prior motioned to approve the variance requested, with the following conditions:  
W.Colbath seconded. Vote: U/A.

1. The placement of the new structure shall not be any closer to the north side lot line than the plane along the existing structure and no closer to the south lot line than the plane along the existing barn structure, recognizing that the footprints/floor plans previously presented may need to be adjusted to fit into the building area described herein.
2. The new structure shall be no larger than what was presented in the application.

#### 4. NEW HEARINGS



CITY OF DOVER

## ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting  
Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820  
Meeting Date: **Thursday, May 17, 2012**  
Meeting Time: **7:00 pm**

- 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.

*C.Prior recused himself, as he is an abutter.*

Peter Anderson, who is a builder, represented the applicant Luke Murphy, who is out of town on business. Mr. Anderson presented a letter from the applicant allowing Mr. Anderson to speak on his behalf. Mr. Anderson gave a brief overview of the applicant's request. He discussed the 15' setbacks vs. the 30' setback requirement and the reconfiguration of the deck.

J.Kelley asked about the existing deck and asked if the homes on the street are similar. He commented on the request to have a smaller setback and if other neighbors would wish to do similar changes in future.

Mr. Anderson stated the property is unique. The old deck would be removed. He pointed out a misstatement in the application; the 14 ft deck is replacing the current deck. The plan submitted shows the deck is 14' closest to Henry Law Avenue and what they are requesting is a 15 ft rear setback.

S.Reid asked for a clarification.

*Public Hearing open. No one spoke. Public hearing closed.*

T.Corwin stated the Planning staff supports the application and granting the variance. The original plan included a larger deck, but the staff requested the applicant reduce the size.

**Motion:** J.Kelley motioned to grant the variance. Seconded by O.Perry. Vote: U/A.

*J.Cote and C.Prior did not vote.*

- 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.

*Public hearing open*

Daniel Fontaine represented himself. He mentioned the Building Inspection Department reviewed the preliminary plans including plans for a bedroom, bathroom, living room in the proposed barn, but there would be no kitchen or microwave. He was advised from Building Inspection that in-law apartments are allowed, but that cooking facilities are not.

W.Colbath asked about the "proposed building" on the plans and questioned the "proposed barn". He wanted clarification that the new building is 60-70 feet away from the main house. He also questioned why you would want to put an elderly person that far away from the main house with no kitchen access.



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J.Kelley confirmed with T.Corwin that an “In-Law” apartment over a detached accessory building is not permitted.

O.Perry asked about the new accessory dwelling unit and if it can be occupied by anyone? He stated a detached structure should have an alternative use as a garage and the dwelling unit must be on the second floor.

Sam Reid confirmed this is correct, and stated the Certificate of Occupancy will apply to the second floor only.

O.Perry asked the applicant why he wants the “in-law apartment” in the barn and not attached to the primary structure.

Daniel Fontaine stated the reason to have it in the barn is that he is a contractor and would need a woodshop and storage for his tools. He stated that the R-40 zone includes “elderly care”. He said he tore down a previous 1800 era dwelling and is trying to better the property with new structures.

Lauren Fontaine stated that the apartment is for her elderly dad who needs a place to live.

T.Corwin stated the staff memo states the staff does not take a position on the application and that the Planning Department is considering an accessory dwelling unit zoning amendment. Discussions ensued regarding the property driveways, water and utilities.

F.Landford asked about driveway and the proposed driveway and water line.

*Public hearing closed.*

**Motion:** O.Perry motioned to grant the variance with conditions to build the accessory dwelling unit. Seconded by J.Kelley. Vote: Passed 4-1 (opposed W.Colbath)

**5. STAFF COMMENTS:** N/A

**6. ADJOURN**

**Motion:** O.Perry motioned to adjourn at 8:10 pm. Seconded by F.Landford. Vote: U/A



CITY OF DOVER

## ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z12-09)

Application Type:	Variance
Applicant:	Robert F. Fisher
Owner:	Anne E Tucker Revocable Trust
Location:	49 Littleworth Road (Tax Map G, Lot 29C)

**INTENT:** Applicant proposes to operate a lunch cart on the subject property. A variance is required to permit the lunch cart which is not a permitted use in the zoning district in which the property is located (R-20).

**LOTS/UNITS PROPOSED:** n/a

**AGENDA ITEM #:** 3A

**ZONING DISTRICT:** R-20

**EXISTING LAND USE:** Residential

**PROPOSED LAND USE:**  
Residential and Commercial

**SURROUNDING LAND USE:** Single-family residential, industrial and commercial

**PREVIOUS ZBA ACTION:** Variance sought to permit an eating and drinking establishment in a residential zoning district (Case Z00-9). Variance denied per Notice of Decision dated April 20, 2000.

**PLANNING BOARD APPROVAL REQUIRED:** No

**ATTACHMENTS:** Application, Tax Map, Case Z00-9 Application, Case Z00-9 Notice of Decision

**APPLICATION IS COMPLETE:** No – Plot Plan not submitted

**NOTICES AS REQUIRED:** Yes

**STAFF RECOMMENDATION:**  
The Planning Department does not support the variance request.

### Summary of Request and Background

The subject property is located at 49 Littleworth Road and is improved with a multi-family dwelling unit. The applicant has requested a variance to operate a “lunch truck” on the property which is a non-permitted commercial use of the property. A similar variance request for a “mobile lunch truck” was made in 2000 (Case Z00-9), at which time the property was located in the R-40 District. The variance request was denied by the ZBA.

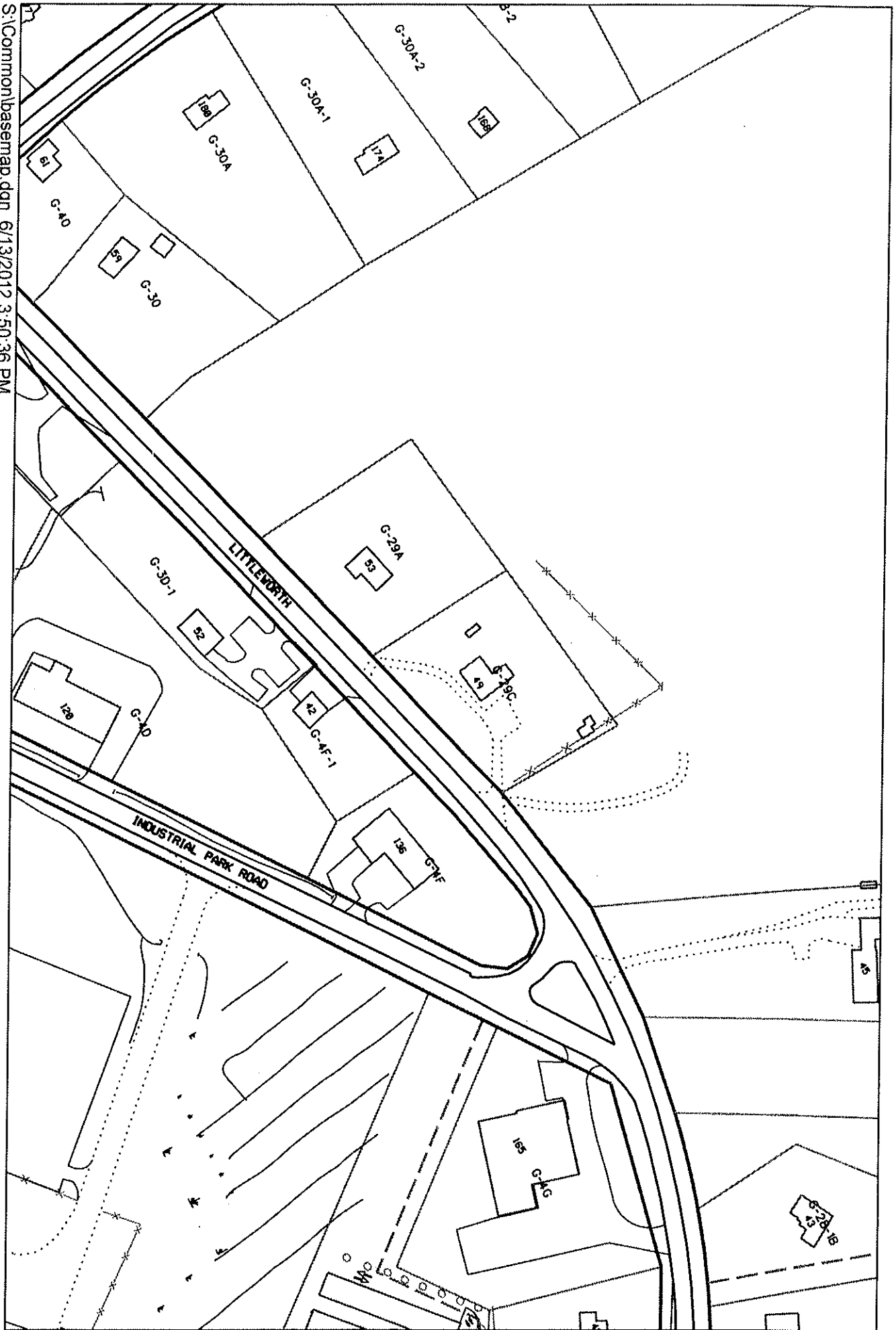
### Reason for Staff Recommendation

Staff believes that there are no special conditions of the property that distinguishes it from any other property similarly zoned. The property is already being used for a multi-family residence, and there are several other uses permitted in the R-20 District that the property could be used for, if desired. A similar request was made to the ZBA in 2000 and was denied where the ZBA concluded that the application failed to meet all five (5) of the variance criteria.

### Recommendation

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

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**City of Dover, New Hampshire  
ZONING BOARD OF ADJUSTMENT APPLICATION**

[Adopted: \_\_\_\_\_, 2012]

Office Use Only	Case #:	<u>212-09</u>	Date Received:	<div style="border: 1px solid black; padding: 5px; text-align: center;"> <b>RECEIVED</b>  MAY 29 2012  By _____ </div>
	Amount Paid:	\$ <u>223.00</u> <u>CL # 1058</u>	Time Received:	

**APPLICANT/PROPERTY OWNER INFORMATION**

APPLICANT: Robert E. Fisher Phone # 603-742-6131

Address of Applicant: PO Box 70, Dover, NH 03821-0070

E-Mail Address: \_\_\_\_\_

PROPERTY OWNER (if different from applicant): Ann Tucker

#16  
Address: The Garrison, Route 108, Dover, NH 03820 Phone # 603-742-2424

E-Mail Address: \_\_\_\_\_

**PROPERTY/PARCEL INFORMATION**

Address: 49 Littleworth Rd.

Brief Directions: Littleworth Road beyond Dover Paint & Varnish on the same side  
of the street.

Zoning District: R 20 Assessor's Map # G Lot(s) # 29

**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:**

Lunch Cart  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**YOUR RECEIPT  
THANK YOU**

Planning and Com Dev  
M-F 8A - 4P  
603.516.6008

**APPLICATION CHECKLIST** (Please check off)

05/02/2012 3:29AM 07  
000000#2365 CLERK07

- \_\_\_\_\_ of Completed Zoning Board of Adjustment Application
- \_\_\_\_\_ Application signed by Property Owner (if different from Applicant)
- \_\_\_\_\_ Copies of plot plan drawn in accordance with a boundary line to scale than 1" = 40', **(12 copies)**. They need to include the lot lines including area in square feet, and also the size and location of existing and proposed buildings if applicable, including setbacks.
- \_\_\_\_\_ **Abutters** including addresses and map and lot number of parcels which abut, touch, or are located within two hundred (200) feet (including land across street or waterway) of the subject property. In the case of an abutting parcel being under a condominium or other collective form of ownership, the "abutter" means the officers of the collective or association, as defined in Section 56-B: 3, XXIII. Additionally, the individual owners of units within the condominium, which are located within two hundred (200) feet of the common boundary line, shall be notified by first class mail only.
- \_\_\_\_\_ **Labels** in triplicate with abutters names and addresses for notices
- \_\_\_\_\_ **FEE** paid by cash or check made payable to "City of Dover"

**\*COPY\***

1 @ \$100.00 Variance \$100.00  
6 @ \$8.00 Certified Mail \$48.00  
1 @ \$100.00 LLA \$100.00  
-1 @ \$100.00 LLA V-100.00  
1 @ \$8.00 Certified Mail \$8.00  
7 @ \$1.00 Archive Fee \$7.00  
1 @ \$60.00 Legal Notice \$60.00  
50 @ \$0.50 Copies \$25.00  
#176  
#1058  
#1209

ITEMS CHECK 66Q **\$248.00**

1. Application fee of:
    - \$100.00 VARIANCE (per Section requested) \$ 100.00
    - \$100.00 SPECIAL EXCEPTION \$ \_\_\_\_\_
    - \$100.00 APPEAL FROM ADMINISTRATIVE DECISION \$ \_\_\_\_\_
    - \$100.00 EQUITABLE WAIVER \$ \_\_\_\_\_
  2. Certified letters fee: # of abutters 6 X \$8.00 = \$ 48.00
  3. Applicant & Owner mailing fee: 1 X \$8.00 = \$ 8.00
  4. First Class Mail fee (for individual owner of units within a condominium or other collective form of ownership): # of abutters 7 X \$1.00 = \$ 7.00
  5. Foster's newspaper public notice \$ 60.00 ✓
- TOTAL FEE** \$ 223.00

6. Copies 10 sets @ 6 pages each X .50 = 30.00

# VARIANCE REQUIREMENTS

**THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY**

**A. Variance Requested**

A variance is requested from Section(s) 170-12A of the Zoning Ordinance to permit:

A LUNCH CART

**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:

A lunch cart will enhance the property and neighborhood.

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

See #1.

3. Granting the variance would do substantial justice because:

See #1.

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

The land is large enough to accommodate this use and the property is already multi family.

**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:

The property is large enough and suitable for the proposed use

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:

The property is suitable for the use

and

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

A hard coat will not be offensive to the neighbors

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

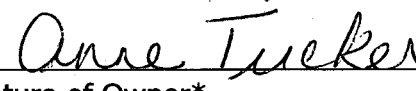
**THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS**

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\*

x   
\_\_\_\_\_  
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: 6-1-12



CASE # 200-9

DATE RECEIVED 4/5/00

AMOUNT PAID \$ 145.86

TIME RECEIVED 3:20pm

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

I. APPLICANT Steven + Katharine Hensel PHONE #: 749-9645  
ADDRESS 49A Littleworth Road Dover NH 03820  
PROPERTY OWNER Douglas AND Anne Tucker  
ADDRESS 40 Littleworth Road Dover NH 03820  
PROPERTY LOCATION 49 Littleworth Road Dover NH  
BRIEF DIRECTIONS West on Route 9, white colonial on right across from Industrial Park  
ZONE R-20 ASSESSOR'S MAP G-1 LOT #(S) 29C

TYPE OF APPEAL: (Please check off one)

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

Describe briefly your plans for this property: To park mobile lunch truck, take out only, on side of driveway during the business week. 8AM to 2PM. We will be moving it during the weekends, going to events and Hilton Park. We would like to sell food for the area businesses, coffee and lunch, only 4 days a week, Tuesday-Friday. It is in a residential area but clearly would not be a problem to neighboring properties. Since it is in a business community.

II. REQUIREMENTS SUBMITTED: (Please check off)

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

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

# of abutters <u>5</u> X \$2.98 =	\$ <u>14.90</u>
Applicant & Owner <u>2</u> X \$2.98 =	\$ <u>5.96</u>
Foster's ad	\$ <u>25.00</u>

TOTAL \$ 145.86

III. NARRATIVE: Complete the section pertaining to your request. Keep your answers brief and be prepared to explain them in detail at the meeting. If you need more space use an additional sheet of paper.

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

1. Describe the unnecessary hardship created for the applicant's property based on the existing zoning ordinance.

The subject property is located on Littleworth Road. It is adjacent to an industrial park which contains both industrial + commercial facilities. Several businesses are located directly across the street from the subject property. The surrounding area is largely commercial, and many of the businesses exist as a result of previously granted variances, or as non-conforming uses. As such, the subject property is located in an area which has become less than ideal for residential use.

2. Explain how granting of the variance will result in substantial justice.

Within the last few years, at least 2 use variances have been granted to neighboring properties. As a result, a retail tractor dealership and a used car lot exist within 2/10 of a mile from the subject property. Much of the surrounding area has been utilized for commercial and industrial use, and the proposed use is consistent with the area's present use.

3. Explain how a variance would be consistent with the spirit and intent of the ordinance.

The presence of a single mobile lunch truck will not violate the spirit and intent of the zoning ordinance. The area in question was designated as an R-20 zone many years ago. However, the entire neighborhood has undergone substantial change since that time. Although an "Eating and drinking establishment" is not permitted use in an R-20 zone a mobile lunch truck is arguably not covered by that prohibition.

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

Although the proposed lot is located in an R-20 zone, it is located adjacent to an I-2 industrial zone. Across the street are several commercial uses, including Shaw's Ridge Farm Equip. and Goodwin's office products both retail dealers. The lot abutting to the south operates seasonal perennial plant sale business, as well as a riding stable. Within 1/4 of a mile are a used car lot, gas station/convenience store. Given the current neighboring commercial

5. Discuss how the variance would not be contrary to the public interest.

Neighboring businesses and industries would benefit from the convenience and easy accessibility to a mobile lunch wagon. Abutters and local businesses have indicated their consent to the proposed use of the property. The proposed use should have little impact on traffic, as intended customers would be those already working in the area.

4. uses, the proposed variance will not have any effect on property values, also it is mobile, not fixed so it will, and may more.

**SPECIAL EXCEPTION REQUIREMENTS**

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

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

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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.

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**APPEAL FROM AN ADMINISTRATIVE DECISION**

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

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

*Kathleen Heusel*

Signature of Applicant\*

*Arme Tucker*

*F. D. Dwyer, Jr.*

Signature of Owner\*

\*Both Signatures Required

**IMPORTANT**

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

Case # Z 00-9

**ORDER GRANTING OR DENYING A VARIANCE BY  
THE ZONING BOARD OF ADJUSTMENT  
CITY OF DOVER, NEW HAMPSHIRE**

The Zoning Board of Adjustment for the City of Dover, New Hampshire, having held a public hearing on 4/20/00, to consider an application for a variance submitted by Douglas & Ann Tucker for the property located at 49 Littleworth Rd., and having heard all the arguments presented at the hearing, makes the following **FINDINGS OF FACT** and draws the following **CONCLUSIONS**:

1. It is the Board's **CONCLUSION** that, if the applicant complies with the strict letter of the ordinance, he/she ( <sup>J. Murphy R. Callaghan</sup> does / does not ) face an unnecessary hardship.

This **CONCLUSION** is based on the following **FINDINGS OF FACT**:

Because there are numerous other locations in the immediate area that this business could be run with no relief needed, therefore there is no hardship in this land.

2. It is the Board's **CONCLUSION** that, if granted, the variance ( <sup>D. Conway J. Murphy</sup> will / will not ) deliver substantial justice.

This **CONCLUSION** is based on the following **FINDINGS OF FACT**:

This <sup>particular</sup> business could be operated in numerous locations in the immediate area without relief no injustice would occur with denial of application.

3. It is the Board's **CONCLUSION** that, if granted, the variance ( <sup>J. Murphy</sup> will / will not ) be in harmony with the spirit and intent of the zoning ordinance.

The CONCLUSION is based on the following FINDINGS OF FACT:

*This particular business application does not meet the intent of a residential zone.*

4. It is the Board's CONCLUSION that, if granted, the variance ( <sup>D. Trefethen</sup> will / will not ) result in a diminution in value of surrounding properties.

This CONCLUSION is based on the following FINDINGS OF FACT:

*The neighborhood is a mixed use already, the addition of this operation would not affect property values.*

5. It is the Board's CONCLUSION that, if granted, the variance ( <sup>D. Trefethen</sup> will / will not ) be contrary to the public interest.

This CONCLUSION is based on the following FINDINGS OF FACT:

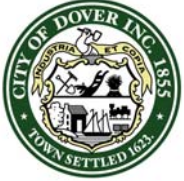
*The proposed use is probably desired by the public that works or commutes in the area.*

THEREFORE, based upon the foregoing, IT IS ORDERED that the application for the variance be ( GRANTED / DENIED ). If granted, it is subject to the following conditions:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Ordered this 20<sup>th</sup> day of April, 2000

*Dean W. Trefethen*  
Zoning Board of Adjustment  
Chairperson



CITY OF DOVER

## ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z12-10)

Application Type:	Variance
Applicant:	Sherri Santo
Owner:	Stephen & Marilynn Carter, Stephen YC Mau Revocable Trust, Jason & Sheri Santo
Location:	1-5 Crown Point Drive (Tax Map 16, Lots 15-1, 15-2, and 15-3)

**INTENT:** Applicant proposes to construct a six (6) foot fence around the perimeter of the shared front yard abutting Back River Road and Crown Point Drive. Because the Zoning Ordinance only permits fences in the front yard having a height of no greater than three (3) feet, a variance is required to permit the fence to be a height of six (6) feet.

**LOTS/UNITS PROPOSED:** n/a

**AGENDA ITEM #:** 3-B

**ZONING DISTRICT:** R-12

**EXISTING LAND USE:** Multi-Family Residential

**PROPOSED LAND USE:** Multi-Family Residential

**SURROUNDING LAND USE:** Multi-Family Residential, Single Family Residential, and Commercial

**PREVIOUS ZBA ACTION:**

(a) Variance sought to move a non-conforming three-family dwelling use to another portion of the lot (Case Z03-4). Variance denied per Notice of Decision dated July 24, 2003.

(b) Variance sought to construct a three-family dwelling where zoning only permitted a multi-family structure of 5 or more units (Case 04-22). Variance granted per Notice of Decision dated July 15, 2004.

**PLANNING BOARD APPROVAL REQUIRED:** No

**ATTACHMENTS:** Application, Plot Plan

**APPLICATION IS COMPLETE:** Yes

**NOTICES AS REQUIRED:** Yes

**STAFF RECOMMENDATION:**

The Planning Department supports the variance request as depicted on the plot plan.

**Summary of Request and Background**

The subject property is Tax Map 16, Lot 3 located at the corner of Back River Road and Crown Point Drive. The condo units are identified as 1, 3, and 5 Crown Point Drive (Tax Map 16, Lots 15-1, 15-2, and 15-3 respectively). The building is located on a very small lot. The only green space on the lot is a small area located in the “front yard” along Back River Road, a very busy main road. Although this area is the “front yard” as that term is defined in the Zoning Ordinance, functionally it is what the owners consider their rear yard in that the rear of the house faces Back River Road and the front of the building where the main entrances are located faces inward to the Crown Point development. The small yard offers no privacy: it is completely exposed to Back River Road traffic coming in both directions in addition to pedestrians using the sidewalk. Moreover, applicants have small children who are unable to safely use the yard due to its small size and close proximity to the busy traffic of Back River Road. Because this yard is considered the front yard under the Zoning Ordinance, the owners are restricted from erecting a fence with a height greater than three (3) feet. Therefore, a variance is required from 170-33.A of the Zoning Ordinance to permit the construction of a six (6) ft. fence in the front yard where a maximum height of three (3) ft. is permitted.

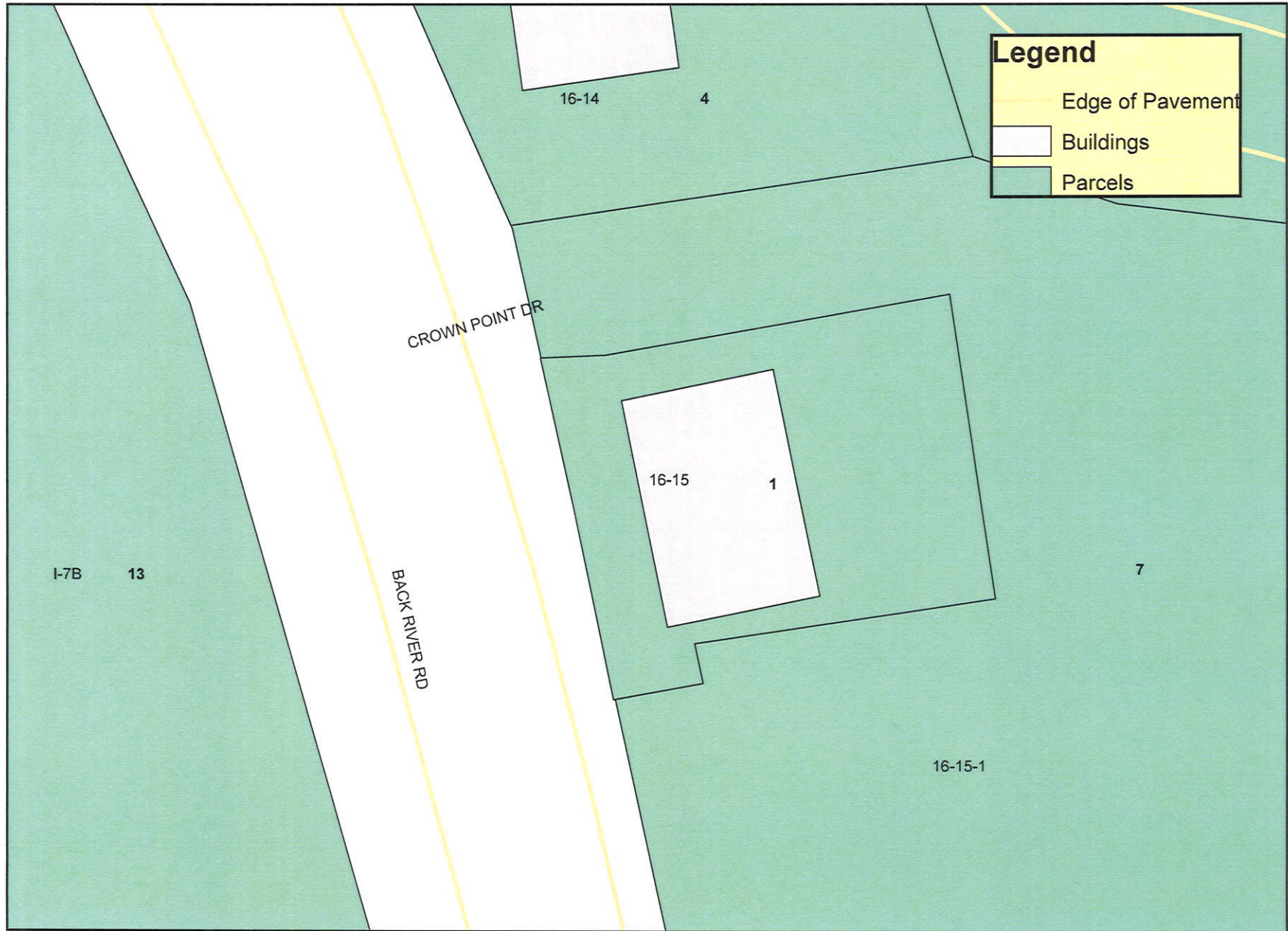
**Reason for Staff Recommendation**

Staff believes that the property has special conditions (corner lot with small rear yard abutting busy main road) which warrant the granting of the variance both to (a) ensure a reasonable use of the property and (b) ensure the safety of the occupants. Staff does however recommend that the ZBA approve the application with a condition that the construction of the fence meet the site line requirements of Section 170-33.B.2, by limiting the height of the fence to 4 feet within this area. Note that this is what is depicted on the plot plan submitted by applicants. Staff recognizes that this will not afford complete privacy. But the proposed condition is an attempt to balance the safety and privacy concerns of the applicants with the safety concerns of drivers pulling onto Back River Road from Crown Point Drive. Staff also recommends that the variance is approved on condition that the fence is located 6 feet from the sidewalk. This proposed condition is at the request of the Community Services Department and is in fact reflected on the plot plan submitted by the applicants.

**Recommendation**

The Planning Department recommends the Board hold the public hearing, and approve the variance per the plot plan submitted, which depicts the fence at a height of 4 ft. within the site line described in Section 170-33.B.2, a height of 6 ft. in the area outside of the site line, and a distance of 6 ft. from the sidewalk.

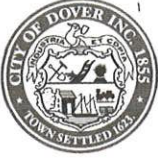
# Plot Plan for 1 Crowne Point Drive Dover, NH



Scale: 1 inch = 30 feet

Note: This is not a survey.





City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Adopted: \_\_\_\_\_, 2012]



Office Use Only Case #: 212-10 Date Received:
Amount Paid: \$ 214.00 Time Received:
By

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: Sheri Santo Phone # 603-953-3140
Address of Applicant: 5 Crown Point Drive, Dover NH 03820
E-Mail Address: sherisanto@gmail.com

PROPERTY OWNER (if different from applicant): Stephen & Marilynn Carter | Stephen Mau, Trustee, | Jason & Sheri Santo
Address: 1 Crown Point Dr. | 154 Wallace Rd Rye NH 03870 | 5 Crown Point Dr. Phone # 603-742-2191 |
E-Mail Address: swcarter@comcast.net | garywiz123@yahoo.com

PROPERTY/PARCEL INFORMATION

Address: 1, 3 and 5 Crown Point Drive, Dover NH 03820
Brief Directions: From Rte. 108 heading towards Durham, turn left on to Back River Road. The property will be on the left just after Tedeschi Convenience Store and the Psychiatric Building
Zoning District: Assessor's Map # 16 Lot(s) # 15-1, 15-3 and 15-5

TYPE OF APPEAL: (Please check one)

- X Variance from Section \_\_\_\_\_ of the Zoning Ordinance
Physical Disability Variance (RSA 674:33-V) from Section \_\_\_\_\_ of the Zoning Ordinance
Special Exception per Section \_\_\_\_\_ of the Zoning Ordinance
Appeal of Administrative Decision regarding Section \_\_\_\_\_ of the Zoning Ordinance
Equitable Waiver per Section \_\_\_\_\_ of the Zoning Ordinance

DESCRIBE BRIEFLY YOUR PLANS FOR THE PROPERTY:

We would like to install a 6' fence around the majority of the yard on the Back River Rd. side of the property with the area in the line of sight
The entire fence would be 6' back from the sidewalk in accordance with the department of public works. from the corner being 4' in height. The main reason for the fence is to address a safety issue, as there are two small children residing in these properties, and the back door currently opens directly out to a very busy road.
As the front of the property is a parking lot, the small lawn area in the back side is the only area for children to and for residents to enjoy the outdoors. The fence would provide us with reasonable use of the small yard area which is currently unusable due to the proximity of the road. Additionally the fence would provide an element of privacy as our windows are directly on street level and there is a great deal of foot traffic due to the Tedeschi Convenience Store and Psychiatric office next to us.

# VARIANCE REQUIREMENTS

## THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY

### A. Variance Requested

A variance is requested from Section(s) 170-33.A of the Zoning Ordinance to permit:

A 6' fence (4' height in the line of sight from the corner) around the yard on the Back River Road side of 1, 3, and 5 Crown Point Drive.  
Although the front side of our property on Crown Point Drive is a parking lot, the back yard located on Back River Road is considered a second front yard by the  
city due to the proximity of the street. Therefore, we must request a variance to allow us to erect a fence around this area to address safety and privacy issues.

### 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 fence will not block the line of sight at the corner. The fence will be 6' from the sidewalk in accordance with the public works dept.  
The fence will address a safety issue so small children living in the property will not be able to run directly into the street and get hit by cars.  
It will be a nice looking white vinyl fence which will match the building.

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

Our property is unique because the area we want to fence in is not a standard front yard as other properties in the vicinity have. Our property is also unique  
because this "front" yard is the only yard area our property has. Most properties in the area do not need to fence in their front yard as they also have a back yard.  
There is a very high level of foot traffic on this side of our property due to the commercial building located next to us and the convenience store  
at the bottom of our street. Our windows are located at street level and the standard 3' front yard fence would not provide any privacy or safety  
for this property. The higher fence would provide privacy from heavy foot traffic, safety for children to play outside in a yard on a busy street, and  
protection for the yard and building if a driver were to swerve off the road as people speed up and down the road at all hours of the day and night.

#### 3. Granting the variance would do substantial justice because:

Small children living on the property would no longer be able to run directly into the very busy street. Children living in the property would have  
a place to play outdoors. Currently with a parking lot on one side and a busy street on the other side there is no way for children to play outside safely.  
The residents of the property would be able to make some reasonable use of the yard area without constant foot traffic looking into the yard.  
The residents of the property would have some privacy from foot traffic looking into their windows as they pass by. The yard area on this property  
is currently used as a dumping ground by passers by throwing their trash in the yard, letting their dogs poop on the lawn and leaving their  
used furniture (couches, mattresses, etc.) on the lawn. The 3' fence currently allowed for front yards in the area does not help with the safety or  
privacy issues of this specific property.

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

Allowing a taller fence on our property will not negatively effect any surrounding property in any way. The fence will not impede vision  
at the street corner and will not interfere with the right of way. The fence will look nice and will make the area look better as there will no longer  
be trash, dog poop, signs, used furniture, etc. being dumped in the yard.

Many of the properties surrounding ours are either rental apartments or commercial buildings, and none of these properties have a traditional front yard, so we will not be standing out from the norm so to speak. Neighbors and visitors driving by will not need to worry about small children running into the road after a ball or toy.

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**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:

The yard of concern interpreted as our "front yard" is the only yard area the property has. Currently, there is not only no safe place for children to play on the property, there is no place for children to play at all. A 3' fence does not offer any privacy as the windows are at ground level and the yard is very close to a busy street with a great deal of foot traffic. Passers by could easily look over a 3' or 4' fence into windows and the yard at children playing in bathing suits, etc. Anyone wanting to steal a child playing could reach or step over a 3' fence. Additionally, a 3' fence can be easily climbed over by children chasing after a ball or toy which could easily bounce or be thrown over a 3' fence. The doors on this side of the property are incredibly close to the very busy street and drivers in the area do not observe the speed limit making it a very dangerous part of the road.

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**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:

This property is unique as it does not have a back yard. The property does not look like others in the area so it will not look out of place if it varies from the ordinance. The property is located on a very busy and dangerous street. The doors and windows on this side of the property are in close proximity to the street and high volume foot traffic making both privacy and safety concerns unique to this property. There are no pathways, stairs or walkways to the doors on this side of the building that will appear impeded by a higher fence. As the address for this property is Crown Point Drive (not Back River Road), public access to the building for mail and parcel delivery, etc. is on the other side of the building, and will not be impeded by a higher fence.

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**and**

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

Granting this variance will allow the residents of this property reasonable use of the only yard area they have. It will not interfere with the line of sight at the corner, the right of way or the public works department needs. Granting the variance will address a serious safety concern for the children on the premises. It will also address a privacy concern in a high foot traffic area. Due to the state of the housing market, residents of this property do not have the option of selling and moving to a more child friendly area. Granting the variance would make the property more safe and private for current residents and would increase value of the property for any future residents if the state of the market should change.

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**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:

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# 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.

<b>IMPORTANT</b>
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.

Sheri Santo, Secretary Millerown Condo. Assoc.  
Signature of Applicant\*

Sheri Santo, Secretary Millerown Condo. Assoc.  
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: Sheri Santo Date: 6/4/12

# 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.

<b>IMPORTANT</b>
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.

Shirley Santo  
Signature of Applicant\*

Stephen W. Carter, PRESIDENT, MILLCROWN CONDOMINIUM ASSOCIATION  
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: Stephen W. Carter Date: 6/4/2012  
PRESIDENT, MILLCROWN CONDOMINIUM ASSOCIATION

**YOUR RECEIPT  
THANK YOU**

Planning and Com Dev  
M-F 8A - 4P  
603-516.6008

05/02/2012 3:44AM 07  
00000#2366 CLERK07

**APPLICATION CHECKLIST** (Please check off)



\_\_\_\_\_ s of Completed Zoning Board of Adjustment Application

\_\_\_\_\_ on signed by Property Owner (if different from Applicant)

✓  
✓

**\*COPY\***

Variance 1 @ \$100.00  
Certified Mail 6 @ \$8.00  
Archive Fee 6 @ \$1.00  
Legal Notice 1 @ \$60.00  
#931  
#1210

\_\_\_\_\_ of plot plan drawn in accordance with a boundary line to scale  
than 1" = 40', **(12 copies)**. They need to include the lot  
numbers including area in square feet, and also the size and location  
of and proposed buildings if applicable, including setbacks.

✓

\_\_\_\_\_ **abutters** including addresses and map and lot number of parcels  
that are or are located within two hundred (200) feet (including land across  
a street or waterway) of the subject property. In the case of an abutting  
property being under a condominium or other collective form of ownership,  
"abutter" means the officers of the collective or association, as defined  
in Section 6-B: 3, XXIII. Additionally, the individual owners of units within the  
condominium, 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	\$ _____
	\$100.00 APPEAL FROM ADMINISTRATIVE DECISION	\$ _____
	\$100.00 EQUITABLE WAIVER	\$ _____
2.	Certified letters fee: # of abutters <u>5</u> X \$8.00 =	\$ <u>40.00</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>6</u> X \$1.00 =	\$ <u>6.00</u>
5.	Foster's newspaper public notice	\$ <u>60.00</u>
	<b>TOTAL FEE</b>	\$ <u>214.00</u>





CITY OF DOVER

## ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z12-11)

Application Type:	Variance
Applicant:	Rensselaer Properties, Ltd.
Owner:	Rensselaer Properties, Ltd.
Location:	142 Broadway (Tax Map 27, Lot 278)

**INTENT:** The property currently contains a single family dwelling and two large detached outbuildings which are nonconforming as to minimum required side and front yard setbacks. Applicant proposes to renovate the outbuildings and to construct connections between them and the single family dwelling thereby creating a single structure on the lot. Applicant proposes to use the first floor of the existing structure for a beauty shop and the remainder of the proposed consolidated structure as two (2) dwelling units. Variances are required to permit the beauty shop, and to permit the consolidated building to be located zero (0) feet from the side lot line shared with 69 Oak Street. and nine (9) feet from the front lot line along Oak Street.

**LOTS/UNITS PROPOSED:** n/a

**AGENDA ITEM #:** 3-C

**ZONING DISTRICT:** RM-U

**EXISTING LAND USE:** Residential and Commercial

**PROPOSED LAND USE:**  
Multi-Family Residential and Commercial

**SURROUNDING LAND USE:** Single-family residential, multi-family residential, industrial and commercial

**PREVIOUS ZBA ACTION:** No

**PLANNING BOARD APPROVAL REQUIRED:** No

**ATTACHMENTS:** Application, Plot Plan, Photos (5)

**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 a corner lot located at the intersection of Oak Street and Broadway with an address of 142 Broadway. The property is improved with a single family dwelling which was most recently used as a dentist office on the first floor. It is staff's understanding that the dentist office use discontinued approximately one year ago. The property is also improved with a large paved parking lot and two detached garages which are currently not used except periodically as storage space. The applicant proposes to renovate the outbuildings and to construct connections between them and the single family dwelling thereby creating a single structure on the lot. Applicant proposes to use the first floor of the existing structure for a beauty shop and the remainder of the proposed consolidated structure as two (2) dwelling units. A variance is required to permit the beauty shop which is permitted in the RM-U District by special exception but only if the criteria for a customary home occupation are met. A variance is also required to permit the consolidated building to be located zero (0) feet from the side lot line shared with 69 Oak Street and nine (9) feet from the front lot line along Oak Street.

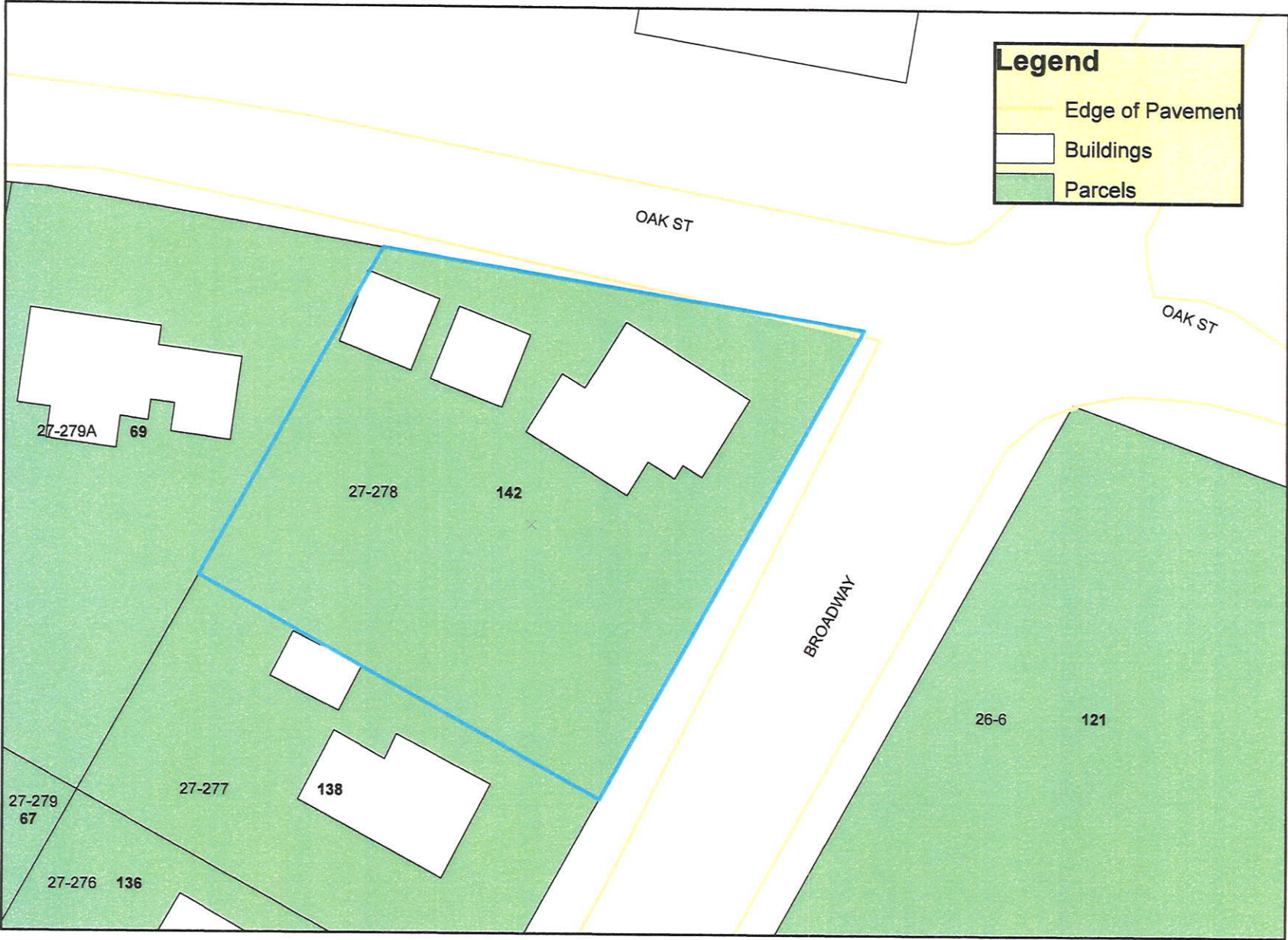
### Reason for Staff Recommendation

Staff believes that the request is a reasonable one and that the property has special conditions which warrant the granting of the variance. Specifically, because of its location at a busy intersection, it is unlikely to be used as a single-family residence. Although the first floor could be used as an apartment, the proposed beauty shop is consistent not only with the type of uses envisioned for the district (it's permitted by special exception), but also with the diversity of uses in the neighborhood, as well as the historic use of the property as a commercial use. Indeed, the large paved parking lot lends itself to such a commercial use. With respect to the dimensional variance, the reason it is necessary is that because the garages will be attached to the main building, it is as if the main building is being extended in a way that won't meet the minimum required setback. Nevertheless, as a practical matter, the outbuildings already exist and will remain in their current location. Therefore, granting the variance will have no impact on existing conditions on the ground. Moreover, due to the widening of Oak Street, the garages cannot practically or safely be used for their intended purpose, and therefore, have mostly remained unused. Renovating the structures for a residential use would ensure a reasonable use of these structures. The plan is also a sustainable one in that it proposes to repurpose and renovate existing structures instead of tearing down and rebuilding.

### Recommendation

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

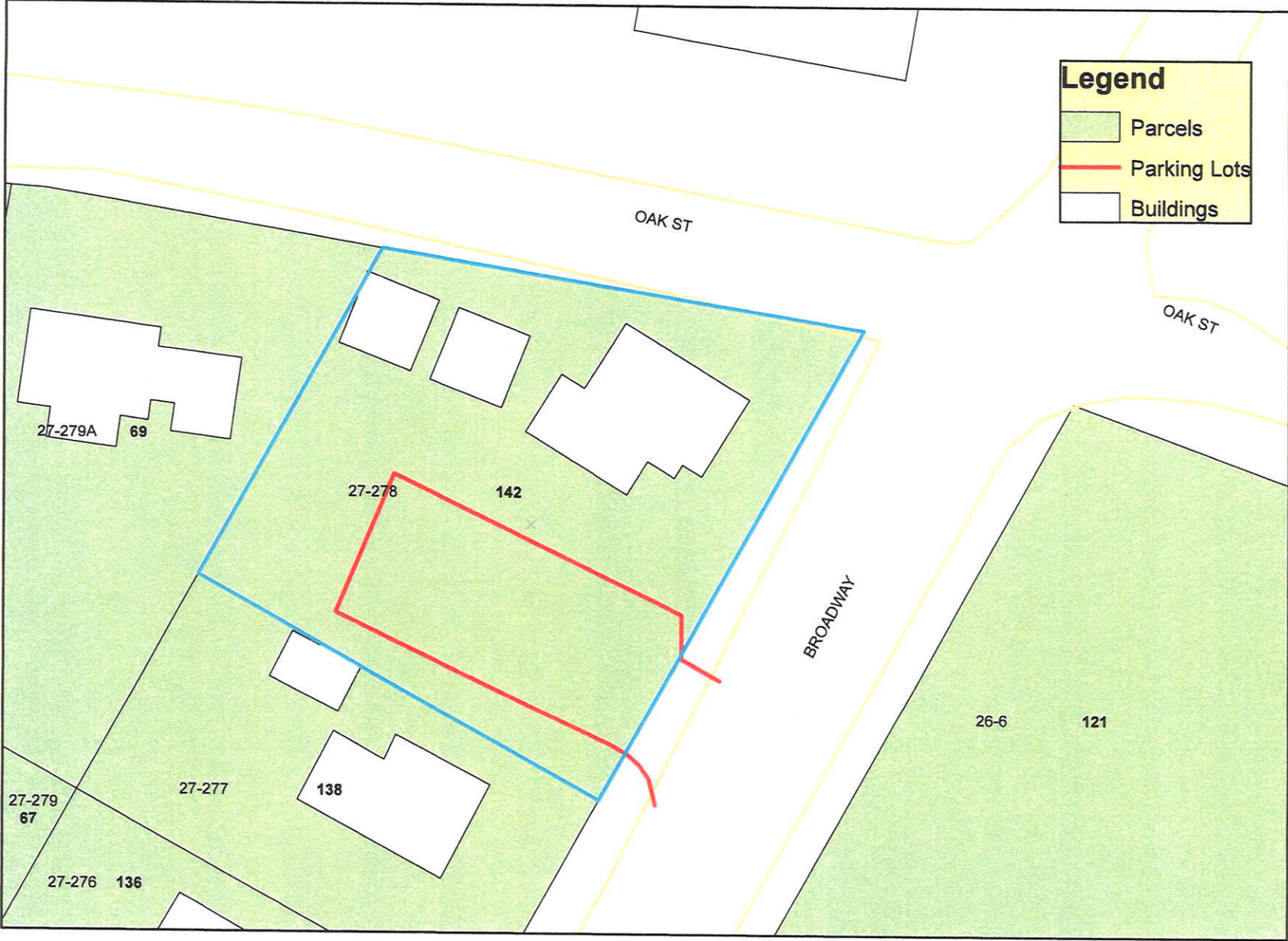
# Plot Plan for 142 Broadway Dover, NH



Scale: 1 inch = 40 feet

Note: This is not a survey.

Plot Plan for 142 Broadway  
Dover, NH



Scale: 1 inch = 40 feet

Note: This is not a survey.













City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Adopted: \_\_\_\_\_, 2012]

Office Use Only Case #: 212-11 Date Received: JUN 5 2012
Amount Paid: \$ 340.00 Time Received: By

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: RENSSELAER PROPERTIES Phone # 603.234.0850
Address of Applicant: 19 DOVER STREET, DOVER, NH 03820 mail: John Turner @ John Turner Consulting c/o 19 Dover St. Dover NH 03820
E-Mail Address: johnt@consultjtc.com
PROPERTY OWNER (if different from applicant):
Address: Phone #
E-Mail Address:

PROPERTY/PARCEL INFORMATION

Address: 142 BROADWAY, DOVER, NH 03820
Brief Directions:
Zoning District: RM-U Assessor's Map # 27 Lot(s) # 278

TYPE OF APPEAL: (Please check one)

- [x] Variance x 2 from Section \_\_\_\_\_ of the Zoning Ordinance
Physical Disability Variance (RSA 674:33-V) from Section \_\_\_\_\_ of the Zoning Ordinance
Special Exception per Section \_\_\_\_\_ of the Zoning Ordinance
Appeal of Administrative Decision regarding Section \_\_\_\_\_ of the Zoning Ordinance
Equitable Waiver per Section \_\_\_\_\_ of the Zoning Ordinance

DESCRIBE BRIEFLY YOUR PLANS FOR THE PROPERTY:

- (1) UTILIZE THE FIRST FLOOR OF THE MAIN BUILDING AS A BEAUTY SHOP
(2) ATTACH BOTH OUTBUILDINGS TO THE MAIN BUILDING; CREATE A SINGLE FAMILY DWELLING APARTMENT IN THE TWO OUT BUILDINGS
(3) RESULT: EXISTING APARTMENT (2nd & 3rd FLR) OF MAIN BUILDING, CONTINUED COMMERCIAL USE OF FIRST FLOOR OF MAIN BUILDING, AND A NEW APARTMENT IN THE FORMER GARAGE SPACE.

## APPLICATION CHECKLIST (Please check off)

- |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                   |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|
| A. 10 Copies of Completed Zoning Board of Adjustment Application                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <u>✓</u>          |
| B. Application signed by Property Owner (if different from Applicant)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <u>✓</u>          |
| C. 10 copies of plot plan drawn in accordance with a boundary line to scale not less than 1" = 40', <b>(10 copies)</b> . 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.                                                                                                                                                                                                                                                                                                                            | <u>✓</u>          |
| D. <b>List of abutters</b> 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. | <u>✓</u>          |
| E. <b>Mailing Labels</b> in triplicate with abutters names and addresses for notices                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <u>✓</u>          |
| F. <b>TOTAL FEE</b> paid by cash or check made payable to "City of Dover"                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <u>          </u> |
| 1. Application fee of:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                   |
| \$100.00 VARIANCE (per Section requested) × 2                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | \$ <u>200.00</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>9</u> × \$8.00 =                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | \$ <u>72.00</u>   |
| 3. Applicant & Owner mailing fee: <u>1</u> × \$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 _____ × \$1.00 =                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | \$ <u>0</u>       |
| 5. Foster's newspaper public notice                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | \$ <u>60.00</u>   |
| <b>TOTAL FEE</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | \$ <u>340.00</u>  |

# VARIANCE REQUIREMENTS

## THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY

### A. Variance Requested

A variance is requested from Section(s) 170-12A of the Zoning Ordinance to permit:

- (1) TO ALLOW THE FIRST FLOOR OF THE MAIN BUILDING, A LONG-STANDING (3+ DECADES) DENTAL OFFICE, TO BE UTILIZED AS A BEAUTY SHOP
- (2) TO ALLOW THE TWO OUT-BUILDINGS THAT WILL BE RENOVATED INTO A SINGLE-FAMILY APARTMENT TO BE LOCATED WITHIN THE MINIMUM REQUIRED SIDE & FRONT SET-BACKS

### 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:

- (A) THE LONG STANDING DENTAL OFFICE HAD BEEN IN USE FOR 30+ YEARS WITH SIMILAR IMPACT USE
- (B) THE EXISTING STRUCTURES WILL NOT EXPAND FROM THEIR EXISTING FOOTPRINT, ALLOWING THE EXISTING CONDITION WITH THE SET BACKS TO BE UNCHANGED
- (C) PROPERTY ABUTS INDUSTRIAL AND IS 'NEIGHBORING' B-3 WHERE THE BEAUTY SHOP USE IS ALLOWED

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

- (A) BEAUTY SHOP IS ALLOWED IN RM-U, HOWEVER RESTRICTED TO 'CUSTOMARY HOME OCCUPATION'
- (B) HAD DENTIST NOT RETIRED, OR HAD SOLD THE PROPERTY AND BUSINESS USE, THIS VARIANCE WOULD NOT BE NECESSARY
- (C) THERE WILL BE NO CHANGE IN THE EXISTING LOCATION OF THE OUTBUILDINGS

3. Granting the variance would do substantial justice because:

IT WOULD ALLOW THE PROPERTY TO MAXIMIZE THE EXISTING FOOTPRINT POTENTIAL WITH NO IMPACT. THERE IS MORE THAN ADEQUATE ON-SITE PARKING DUE TO THE EXISTING PARKING LOT. THE BUILDING WILL BE BOTH ARCHITECTURALLY AND ESTHETICALLY IMPROVED. ADDITIONALLY, BY ALLOWING A SIMILAR COMMERCIAL USE (DENTAL OFFICE VS. BEAUTY SHOP) IT NEGATES THE SUBSTANTIAL FINANCIAL BURDEN OF CONVERSION TO RESIDENTIAL USE

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

- (A) ACROSS BROADWAY: INDUSTRIAL USE / INDUSTRIAL ZONING DISTRICT; (B) ACROSS OAK: 2-STORY MULTI-FAMILY (ROLLINSFORD); (C) ABUTTING ON BROADWAY: 2-3 FAMILY DWELLINGS (D) REAR ABUTTING ON OAK: SINGLE FAMILY; (E) 350' SOUTHERLY ON BROADWAY: B-3 ZONING DISTRICT WHICH PERMITS BEAUTY SHOP USE

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
**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:

(A) UNIQUE, WHERE THE FIRST FLOOR IS DESIGNED FOR COMMERCIAL USE AND HAS BEEN UTILIZED AS SUCH FOR 30+ YEARS. THIS PROPERTY ALSO ALLOWS FOR SIGNIFICANTLY MORE THAN THE REQUIRED PARKING DUE TO THE EXISTING ON-SITE PARKING LOT

(B) THE SET BACKS ARE EXISTING AND WILL NOT BE CHANGED OR MODIFIED

**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:

(A) THE RM+D CONDITIONS APPEAR TO LIMIT 'COMMERCIAL USE' TO 'CUSTOMARY HOME OCCUPATION USE'. WE CONTENTED THAT DUE TO THE PROPERTY'S FORMER USE AND DURATION THERE WILL BE NO DEFINITIVE CHANGES WITH THE BEAUTY SHOP USE.

(B) THE OUT BUILDINGS THAT WILL BE RENOVATED ARE EXISTING AND THE SETBACKS WILL NOT CHANGE.

**and**

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

(A) IT IS REASONABLE TO ALLOW A BEAUTY SHOP ON THE FIRST FLOOR OF THE MAIN BUILDING

(B) ALTHOUGH THE SIDE SETBACK IS NEAR OR AT THE PROPERTY LINE, THE STRUCTURE HAS BEEN IN THAT POSITION FOR MANY YEARS. THE FRONT SETBACK WAS BEEN REDUCED AS A RESULT OF THE PREVIOUS OAK STREET WIDENING PROJECT AND RENOVATED OAK X BROADWAY INTERSECTION.

**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:

· NOT APPLICABLE ·

# EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS

## THIS SECTION TO BE COMPLETED BY EQUITABLE WAIVER APPLICANTS ONLY

An Equitable Waiver of Dimensional Requirements is requested from Article \_\_\_\_\_ Section \_\_\_\_\_ of the Zoning ordinance to permit \_\_\_\_\_

\_\_\_\_\_  
- NOT APPLICABLE -  
\_\_\_\_\_

1. Does the request involve a dimension requirement, not a use restriction?    yes    no

\_\_\_\_\_  
- NOT APPLICABLE -  
\_\_\_\_\_

2. a) Explain how the violation has existed for 10 years or more with no enforcement action, including written notice, being commenced by the city **OR** b) explain how the nonconformity was discovered after the structure was substantially completed or after a vacant lot in violation had been transferred to a bona fide purchaser **AND** how the violation was not an outcome of ignorance of the law or bad faith but resulted from a legitimate mistake.

\_\_\_\_\_  
- NOT APPLICABLE -  
\_\_\_\_\_

3. Explain how the nonconformity does not constitute a nuisance nor diminish the value or interfere with future uses of other property in the area.

\_\_\_\_\_  
- NOT APPLICABLE -  
\_\_\_\_\_

4. Explain how the cost of correction far outweighs any public benefit to be gained.

\_\_\_\_\_  
- NOT APPLICABLE -  
\_\_\_\_\_

**NOTE: The Board must find in the affirmative on all four questions or the request must be denied**

# APPEAL OF ADMINISTRATIVE DECISION

*THIS SECTION TO BE COMPLETED BY APPLICANTS APPEALING AN ADMINISTRATIVE DECISION ONLY*

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

- NOT APPLICABLE -

A large area of horizontal lines for writing, crossed out with a large X. The X is drawn with two diagonal lines that intersect in the center of the page, covering the entire writing area.

# 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.

\_\_\_\_\_  
\_\_\_\_\_  
- NOT APPLICABLE -  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_  
- NOT APPLICABLE -  
\_\_\_\_\_  
\_\_\_\_\_

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.

\_\_\_\_\_  
\_\_\_\_\_  
- NOT APPLICABLE -  
\_\_\_\_\_  
\_\_\_\_\_

**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. \_\_\_\_\_  
- NOT APPLICABLE -  
B. \_\_\_\_\_  
C. \_\_\_\_\_  
D. \_\_\_\_\_  
E. \_\_\_\_\_  
F. \_\_\_\_\_  
\_\_\_\_\_


# 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.

<b>IMPORTANT</b>
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: 6/05/12



# ABUTTERS LIST

142 Broadway, Dover, NH 03820



- (1) Nguyen Mai Thi Xuan  
Ly Khanh Cong  
69 Oak Street  
Dover, NH 03820
- (2) Hilary Sherman  
138 Broadway  
Dover, NH 03820
- (3) 121 Broadway, LLC  
340 Central Avenue, Suite 202  
Dover, NH 03820
- (4) Phofolos Family Rev Trust of 2001  
Helen & Constantine Phofolos, Trustees  
136 Broadway  
Dover, NH 03820
- (5) Karen A. Ott  
P.O. Box 1013  
Dover, NH 03820
- (6) Claudette B. Colokathis  
67 Oak Street  
Dover, NH 03820
- (7) Beverly W. Gobbi  
65 Oak Street  
Dover, NH 03820
- (8) Stephen Kokolis  
70 Oak Street  
Dover, NH 03820  
*(Re: 68-70 Oak Street, Rollinsford)*
- (9) V.N. Gatzoulis  
25 Rogers Street  
Dover, NH 03820  
*(Re: 72 Oak Street, Rollinsford)*

Owner: John Turner  
John Turner Consulting  
c/o 19 Dover St.  
Dover NH 03820



CITY OF DOVER

## ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z12-12)

Application Type:	Variance
Applicant:	Mikula Family Revocable Trust
Owner:	Mikula Family Revocable Trust
Location:	52 Upper Factory Road (Tax Map E, Lot 52-B)

**INTENT:** Applicant intends to construct an 8 ft. by 32 ft. porch to be attached to the front of the house. Because the porch will be located 16 feet from the front property line, a variance is required from the minimum required 40 ft. setback.

**LOTS/UNITS PROPOSED:** n/a

**AGENDA ITEM #:** 3-D

**ZONING DISTRICT:** R-40

**EXISTING LAND USE:** Single-Family Residential

**PROPOSED LAND USE:** Single-Family Residential

**SURROUNDING LAND USE:** Single-Family Residential

**PREVIOUS ZBA ACTION:** No

**PLANNING BOARD APPROVAL REQUIRED:** No

**ATTACHMENTS:** Application, Pictures (8), Specification Sheet, E-Mail Correspondence with T. Corwin

**APPLICATION IS COMPLETE:** No – Plot Plan not submitted

**NOTICES AS REQUIRED:** Yes

**STAFF RECOMMENDATION:**  
The Planning Department takes no position on the application.

### Summary of Request and Background

The subject property is located at 52 Upper Factory Road and is improved with a single family residence. The house is located 24 ft. from the front lot line and, therefore, is nonconforming with respect to the minimum required 40 ft. front yard setback in the R-40 District. The property abuts lots developed as part of the Pacific Drive development. As part of the Pacific Drive Planning Board approval, the developer was required to install a landscape buffer between the rear of the Pacific Drive properties and the subject property. The buffer was installed but has not yet matured. The applicants believe that because of the development of the Pacific Drive lots, they no longer enjoy privacy in their rear yard and therefore would like to construct a porch on the front of the home which faces a wooded area on the other side of Upper Factory Road. The proposed 8 ft. by 32 ft. “farmer’s porch” will be located approximately 16 ft. from the front lot line thereby increasing the existing non-conformity by 8 ft.

### Reason for Staff Recommendation

Staff conducted a site visit to the property on June 7, 2012. From the vantage point of Upper Factory Road and Pacific Drive, it is not clear why an eight (8) ft. fence in the rear yard would not provide the privacy that the applicants are seeking. Moreover, the landscaped buffer will also provide an additional level of protection as it matures. It is also true that although the house is already nonconforming, it appears to be far closer to the road than any other house in the area and the additional 8 ft. will cause the house to appear even more out of character and out of context from the rest of the neighborhood. Finally, although the portion of the improved single family lot across Upper Factory Road that the house faces is currently wooded, that lot could possibly be subdivided at some point in the future and improved thereby eliminating the “privacy” of the front porch but leaving a house that is severely nonconforming with respect to the minimum required setback. Nevertheless, if applicants can demonstrate at the hearing that the only outdoor area they can reasonably enjoy is the front yard, the property might have the special conditions necessary to warrant a finding of hardship.

### Recommendation

The Planning Department recommends the Board hold the public hearing but takes no position on whether or not the variance should be approved.



# City of Dover, New Hampshire ZONING BOARD OF ADJUSTMENT APPLICATION

[Adopted: April 19, 2012]

Office Use Only	Case #:	<u>212-12</u>	Date Received:	<div style="border: 2px solid blue; padding: 5px; text-align: center;"> <b>RECEIVED</b>          JUN - 5 2012          By _____       </div>
	Amount Paid:	\$ _____	Time Received:	

### APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: ROBERT E. MIKULA Phone # 1-603-742-9427  
 Address of Applicant: 52 UPPER FACTORY RD, DOVER, N.H. 03820  
 E-Mail Address: MIKULA I @ LIVE.COM  
 PROPERTY OWNER (if different from applicant): \_\_\_\_\_  
 Address: \_\_\_\_\_ Phone # \_\_\_\_\_  
 E-Mail Address: \_\_\_\_\_

### PROPERTY/PARCEL INFORMATION

Address: AS ABOVE  
 Brief Directions: FOURTH STREET TO RIGHT AT WASHINGTON ST LEFT ON TOLEND RD RIGHT ON UPPER FACTORY RD  
 Zoning District: R-40 Assessor's Map # E-501 Lot(s) # 50-1 52B

### TYPE OF APPEAL: (Please check one)

- |                                                                      |                                                      |
|----------------------------------------------------------------------|------------------------------------------------------|
| <input checked="" type="checkbox"/> Variance                         | from Section <u>170-12.A</u> 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:

32 x 8 I WOULD LOVE TO HAVE A FARMERS PORCH ON THE FRONT OF MY HOME FOR PRIVACY, AS THE DEVELOPMENT IN THE BACK OF OUR PROPERTY HAS TAKEN THAT AWAY DUE TO THE CLOSE PROXIMITY OF) THERE PROPERTY

# APPLICATION CHECKLIST (Please check off)

- A. 10 Copies of Completed Zoning Board of Adjustment Application ✓
- B. Application signed by Property Owner (if different from Applicant) ✓
- C. 10 copies of plot plan drawn in accordance with a boundary line 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. ✓

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.

← CITY ASSESSOR

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) \$ 100.00
  - \$100.00 SPECIAL EXCEPTION \$ \_\_\_\_\_
  - \$100.00 APPEAL FROM ADMINISTRATIVE DECISION \$ \_\_\_\_\_
  - \$100.00 EQUITABLE WAIVER \$ \_\_\_\_\_

2. Certified letters fee: # of abutters 6 X \$8.00 = 48.00 \$ 56.00

3. Applicant & Owner mailing fee: 1 X \$8.00 = 8.00 \$ 56.00

4. First Class Mail fee (for individual owner of units within a condominium or other collective form of ownership): # of abutters 7 X \$1.00 = \$ 7.00

5. Foster's newspaper public notice \$ 60.00

**TOTAL FEE** ~~\$ 279.00~~  
\$ 216.00

# VARIANCE REQUIREMENTS

**THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY**

## A. Variance Requested

A variance is requested from Section(s) <sup>50-1</sup>~~50-2~~ of the Zoning Ordinance to permit:  
THE PORCH WILL BE LOCATED APPROX 16 FEET FROM THE FRONT PROPERTY LINE - MEASURED 10 FEET IN FROM THE EDGE OF THE ROAD WHICH IS OWNED BY THE CITY,

## 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:

I WILL BE A LARGE IMPROVEMENT TO MY HOME AND WILL ENHANCE THE APPEARANCE OF THE HOMES ON THE ENTIRE AREA

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

A IMPROVEMENT ON MY HOME REFLECTS ON OTHER HOMES IN AREA AS WELL -

3. Granting the variance would do substantial justice because:

ANY OUTSIDE IMPROVEMENT DONE BY A PROFESSIONAL CARPENTER, REFLECTS ON THE ENTIRE ROAD

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

A PORCH WILL ADD TO THE VALUE OF MY HOME, AS WELL AS SURROUNDING HOMES

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
**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:

\_\_\_\_ (1) The reason we are applying for the variance is: we presently have a usable deck in the back of our \_\_\_\_\_  
\_\_\_\_ home, which we have enjoyed for the last 39 years. However, since the new development, (Pacific \_\_\_\_\_  
\_\_\_\_ Drive) pictures #4 and #5 clearly shows the closeness between 8 Pacific Drive deck and our 52 Upper \_\_\_\_\_  
\_\_\_\_ Factory deck. \_\_\_\_\_

**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:

\_\_\_\_ (2) Because of the height of my deck (approximately six feet high), a maximum of six feet high privacy \_\_\_\_\_  
\_\_\_\_ wall would have to be installed completely around the deck which in our contractor's (RCB) and my \_\_\_\_\_  
\_\_\_\_ opinion would not be very appealing. A six foot high fence installed on my property line next to 8 Pacific \_\_\_\_\_  
\_\_\_\_ Drive would not be tall enough, as I could stand on my deck and still look into my neighbor's yard and he \_\_\_\_\_  
\_\_\_\_ could easily look into mine. \_\_\_\_\_

**and**

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**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.

<p><b>IMPORTANT</b></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>
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

*Robert E Mikula*

Signature of Applicant\*<sup>o</sup>

*Robert E. Mikula*

Signature of Owner\*

\*Both Signatures Required

*Linda M. Mikula*

## 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:

*Robert E Mikula*

Date:

*6/4/2012*

*Linda M. Mikula*





3



4



5









## SPECIFICATION SHEET

**8' x 32' Farmers Porch / 3' x 4' Steps / Roofing / To Include:**

- \* Remove shrubs and steps.
- \* Install ¾" stone under deck area.
- \* Pour 10" cement tubes.
- \* Frame with pressure treated 2x8's -16" on center.
- \* Install 4x4 pressure treated post for roof and railing support.
- \* Install vinyl sleeves over all 4x4 posts.
- \* Frame shed roof with 2x8's – 16" on center.
- \* Sheath roof with ½" CDX plywood.
- \* Frame ceiling with 2x6's – 16" on center.
- \* Apply trim and siding to match existing.
- \* Apply 12" vinyl soffit panels on ceiling.
- \* Install (1) set of stairs with railings.
- \* All exposed wood to be covered with PVC trim or wrapped in

### **Aluminum**

- \* Install Composite decking.
- \* Install TimberTech Composite railings.
- \* Strip and shingle front and back of main house.
- \* Apply Ice Belt (2) rows with underlayment paper on rest of roof.
- \* Apply shingles on stripped areas and porch to match existing.
- \* Apply vinyl lattice around bottom of porch.
- \* Install (2) GFCI receptacles.
- \* Install (2) Fan light boxes and fans.
- \* Switching to be on fans / fans supplied by owner.
- \* Repair damaged siding near shed roof area.
- \* Install Vinyl octagon window with PVC trim.
- \* Save and re-hang existing gutter and downspout.
- \* Pour new cement pad for side entry steps.
- \* Frame side entry steps and landing with pressure treated wood.
- \* All decking and railings on side entry stairs and platform to match front porch materials.
- \* All exposed wood of side entry stairs and platform to be covered with PVC trim.
- \* All PVC trim to screwed and plugged.
- \* RCB Construction to apply for building permit.
- \* Dispose of debris.

# APPLICATION CHECKLIST (Please check off)

- A. 10 Copies of Completed Zoning Board of Adjustment Application ✓
- B. Application signed by Property Owner (if different from Applicant) ✓
- C. 10 copies of plot plan drawn in accordance with a boundary line 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. ✓

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.

← CITY ASSESSOR

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) \$ 100.00
  - \$100.00 SPECIAL EXCEPTION \$ \_\_\_\_\_
  - \$100.00 APPEAL FROM ADMINISTRATIVE DECISION \$ \_\_\_\_\_
  - \$100.00 EQUITABLE WAIVER \$ \_\_\_\_\_

2. Certified letters fee: # of abutters 6 X \$8.00 = \$ 48.00 ~~\$ 56.00~~

3. Applicant & Owner mailing fee: 1 X \$8.00 = \$ 8.00 ~~\$ 56.00~~

4. First Class Mail fee (for individual owner of units within a condominium or other collective form of ownership): # of abutters 7 X \$1.00 = \$ 7.00

5. Foster's newspaper public notice \$ 60.00

**TOTAL FEE** ~~\$ 279.00~~  
\$ 216.00

# VARIANCE REQUIREMENTS

**THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY**

## A. Variance Requested

A variance is requested from Section(s) 50-1  
50-2 of the Zoning Ordinance to permit:

FARMERS PORCH ON FRONT OF RESIDENCE

## 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:

IT IS A IMPROVEMENT TO MY PROPERTY  
AND WILL IMPROVE THE BEAUTY OF  
THE SURROUNDING HOMES -

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

3. Granting the variance would do substantial justice because:

A IMPROVEMENT ON MY PROPERTY  
REFLECTS ON THE SURROUNDING HOMES  
AS WELL -

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

THE OVER ALL APPEARANCE OF MY  
HOME WILL BE IMPROVED BY A LARGE  
MARGIN!

**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:

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**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:

THERE IS NO NEGATIVE IMPACT ON ANY OF THE PROPERTIES IN THE AREA, ONLY AN IMPROVEMENT

**and**

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

MY WIFE AND I VALUE OUR PRIVACY AS ANY HOMEOWNER WOULD. THE FARMERS PORCH IN THE FRONT OF MY HOUSE WITH THE WOOD AREA AND TREES WOULD ALLOW THAT.

**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:

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# 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.

<p><b>IMPORTANT</b></p> <p>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.</p>
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Robert E Mikula

Signature of Applicant\*

Robert E. Mikula

Signature of Owner\*

\*Both Signatures Required

Linda M. Mikula

## 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: Robert E Mikula Date: 6/4/2012

Linda M. Mikula

