



**CITY OF DOVER**

## ZONING BOARD OF ADJUSTMENT AGENDA

Meeting Type: Regular Meeting  
Meeting Location: Council Chambers, 288 Central Avenue, Dover, NH 03820  
Meeting Date: **Thursday, September 20, 2012**  
Meeting Time: **7:00 pm**

### 1. ATTENDANCE

### 2. APPROVAL OF PRIOR MINUTES OF AUGUST 16, 2012

### 3. CASE Z 12-15, FRIENDS FOREVER REAL ESTATE, LLC, 16 SUMMER STREET, TAX MAP 12, LOT 23

- A. Consideration of Withdrawal of Application
- B. Consideration of Rehearing Request

### 4. HEARING – CONTINUED FROM JUNE 21, 2012

- 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 and Dimensional Requirements to permit a lunch cart on the property where lunch carts are not a permitted use in the R-20 District.

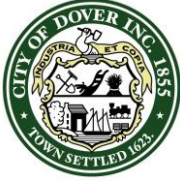
### 5. HEARINGS – NEW

- A. \* Z 12-16 Alex & Anne Krieger, 53 Three Rivers Farm Road, Tax Map N, Lot 3A, located in the Rural Residential (R-40) District. The subject property is improved with a single family dwelling, and a second single family dwelling is currently under construction. Applicants propose to occupy the dwelling under construction as a weekend home and to rent out the existing dwelling as a residence. Therefore, applicants request a variance to permit two (2) principal buildings on a lot where only principal building is permitted per the definition of “lot” set forth in **Section 170-6** of the Zoning Ordinance.
- B. \* Z 12-17 STF Darryl Rahn (Owner: Studio 590, LLC), 590 Central Avenue, Tax Map 30, Lot 125A, located in the Office (O) District, requests a special exception per **Section 170-12.A** of the Zoning Ordinance and the O District Table of Use and Dimensional Requirements to permit a jewelry retail store in the unit currently occupied by a hair salon.
- C. \* Z 12-18 David A. Goodwin, 37 Dover Neck Road, Tax Map M, Lot 79B, located in the Rural Residential (R-40) District. The subject property is improved with a Quonset hut and wooden office building, both which are currently used as a training facility for the carpenters’ union. The applicant proposes to remove the Quonset hut and use the wooden office building as a small scale printing business with up to three (3) employees. Applicant requests a variance from **Section 170-12.A** of the Zoning Ordinance and the R-40 District Table of Use and Dimensional Requirements to permit the wooden building to be used as a printing business with up to three (3) employees where printing business is not a permitted use in the R-40 District.
- D. \* Z 12-19 Vincent A. Duffy (Owner: 23 Atkinson St., LLC), 23 Atkinson Street, Tax Map 9, Lot 17, located in the Urban Density Multi-Residential (RM-U) District, requests a variance from **Section 170-12.A** of the Zoning Ordinance and the RM-U District Table of Use and Dimensional Requirements to permit the first floor of the building to be used as an office for a psychotherapy practice.

### 6. ADJOURN

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

Persons with questions or wishing to see the plans are invited to visit the Planning Office, Monday-Thursday from 8:30 am to 5:30 pm. You may also view materials at [www.dover.nh.gov](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, City Hall, Dover, NH 03820  
Meeting Date: **Thursday, August 16, 2012**  
Meeting Time: **7:00 pm**

### 1. ATTENDANCE

**Members Present:** William Colbath (Vice Chair), Frank Landford, James Kelley, Chris Prior (Alternate), Joshua Cote (Alternate)

**Members Not Present:** Sam Reid (Chair), Otis Perry, Jennifer Stone.

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

The Vice-Chair called the meeting to order at 7:00 p.m. The Vice Chair opened the meeting and introduced the Board and staff members to the audience.

### 2. APPROVAL OF PRIOR MINUTES OF JUNE 21, 2012

**Motion:** J.Kelley motioned to accept the June 21, 2012 minutes as amended. Seconded by F.Landford.  
Vote: U/A

### 3. NEW HEARINGS

- A. \* **Z 12-13 STF Development Corp.**, 37 Dover Point Road, Tax Map K, Lot 38, located in the Medium Density Residential (R-12) District, proposes to construct eight (8) townhouses per variance granted on February 16, 2012 (Case Z 11-23). 12 of the 28 proposed parking spaces are located in garages which directly abut the remaining 16 proposed parking spaces. As a result, the garage parking spaces do not have independent access to an aisle or driveway as is required by **Section 170-44.J** of the Zoning Ordinance. Therefore, applicant requests a variance from **Section 170-44.J** to permit parking spaces, to be located in the garages of the townhouses, that do not have independent access to an aisle or driveway.

Atty. James Schulte, representing the applicant, gave a brief overview. The applicant is asking for two variances due to the parking requirement of 3 spaces per unit. He stated that if this were a single family structure, it would only require 2 spaces. The end units will be larger in size including two car garages, and two additional spaces in front. Four of the units in the middle will be smaller units, and will have 1 car parking. He referred back to the ordinance and feels what they have provided to the board is adequate. The parking layout also reduces the amount of impervious space.

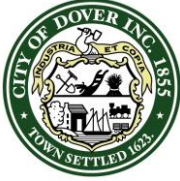
W.Colbath asked about additional parking possibilities.

J.Schulte stated the Planning Board may require a circular driveway to coincide with additional plans across the lot. He cannot guarantee additional parking due to planning details and concerns with abutters.

F.Landford questioned the number of proposed spaces (28).

J.Schulte clarified the number of spaces and the number of garages.

J.Kelley questioned that visually, the parking spaces appear narrow on the plan. He also questioned parking spaces for guests and where that would be.



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J. Schulte stated the residents have designated parking in front of their own unit, whether it is for residents or guests. He showed a fire lane area on the layout which may allow two additional spaces at the far end.

Board discussion ensued about the use of fire lanes for parking.

J.Kelley asked if the ZBA counts the garage spaces underneath as actual spaces.

T.Corwin spoke about granting the variances, and the conditions of approval. He stated the Planning Board may condition their approval on providing additional parking spaces.

J.Cote feels it is a reasonable request, but feels additional parking will become an issue and needs further review.

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

### **Staff recommendations:**

T.Corwin stated that staff is supportive of the request. He asked J.Schulte if two additional spaces were the bare minimum, or can a third be added.

J.Schulte stated the adjacent lot is under agreement.

J.Kelley has no problem allowing parking underground; however, he asked why the ZBA is involved in requiring the number of parking spaces in a development.

C.Prior motioned to grant the variance with the following condition: Seconded by J.Cote. Vote: U/A.

- Two additional on-site parking spaces shall be provided, and a third additional on-site parking space shall be provided if technically feasible.

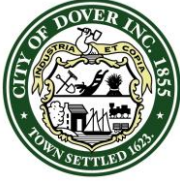
B. \* Z 12-14 STF Development Corp., 37 Dover Point Road, Tax Map K, Lot 38, located in the Medium Density Residential (R-12) District, proposes to construct eight (8) townhouses per variance granted on February 16, 2012 (Case Z 11-23). Applicant requests a variance from **Section 170-12.A** of the Zoning Ordinance and the R-12 District Table of Use and Dimensional Requirements to permit the townhouses to be located approximately 180 ft. from the front property line, where a minimum build to line of no greater than 25 ft. from the lot line is required.

Atty. James Schulte continued representing the applicant. He discussed where the driveway needs to be located and that there is no room to locate the units closer to the road. He discussed the old Dover set back rule, and the build-to rules.

J.Kelley asked why 25 ft. is required.

T.Corwin feels the variance is appropriate. The build-to line applies to your average neighborhood lot. He stated generally speaking, it encourages close-knit neighborhoods, larger backyards, and it does not fit this development.

*Public hearing opened. Nobody spoke. Public hearing closed.*



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### Staff recommendations:

J. Kelley motioned to grant the variance. C.Prior seconded. Vote: U/A.

- C. \* Z 12-15 Friends Forever Real Estate, LLC., 16 Summer Street, Tax Map 12, Lot 23, located in the Urban Density Multi-Residential (RM-U) District. 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 office space where office is not a permitted use in the RM-U District, and (b) to permit a rooming house use on the second floor of the existing building to be occupied by up to thirteen (13) people where only ten (10) are permitted.

Tim Corwin distributed and discussed updated documents that were handed out to the Board.

W.Colbath read a letter received from Hamilton & Pamela Krans in opposition of the variance. He also read an email letter received from Berrien Moore III, who also opposed the variance. Copies of the two letters are on file at the Planning Department.

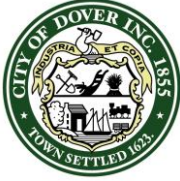
Atty. Patty Weathersbey, represents the applicants. She identified the owner of the property, David Reall; Steve Martineau, Executive Director of Friends Forever; and Michelle McCarthy, realtor. She pointed to the photo of the 200 year old house which has been for sale just over a year. She spoke about the neighborhood (RM-U) which is adjacent to The Wadleigh House, which is a 16 bed assisted living facility. There are other multi unit residential homes in the neighborhood, and one single family dwelling on the same side of the street, at the corner of Locust and Summer Streets. She provided photos of the properties for the Board.

She spoke about the Friends Forever organization which is a 501.c. non profit organization. They run cultural programs for youth from around the world that are in conflict. The youth spend two weeks in the area, receive training, learn cultural differences, return to their home country and work for a year long program. The home at 16 Summer Street is intended to have a small office space and temporary back-up housing for high school students who don't have a host family or another place to go. When the application was filled out, the term "rooming house" was not the appropriate description, but the closest fit. The children are sent here in groups of ten, and will be there no more than two weeks at a time. The Director and an additional chaperone would stay there. Currently, there are one full time and two part time employees, but they would like to grow the organization. There are only two parking spaces on-site. They have acquired two additional spaces off site. A rental van is rented only when needed to transport the children and will not be parked on the site continually. Ms. Weathersbey gave a brief overview of the RM-U district and permitted uses. The variance request is to allow up to 10 children and 3 staff members. She feels that this use is less intense than other permitted uses. The character of the building and neighborhood will not change. She feels with the Friends Forever purchase of the property, it will help the neighborhood and enhance it.

C.Prior asked about the current parking and additional offsite parking.

P.Weathersbey requests some flexibility of the Board if they cannot locate private off street parking for the additional spaces.

J.Kelley asked about the typical time of the year that the students would occupy the home and is it consecutive.



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S.Martineau stated that the groups traditionally come in the fall and the summer. Friends Forever uses other sites in Maine, Massachusetts, and Louisiana. The Dover location would be backup space only. He stated that it is not 20 weeks consecutively, rather two weeks at a time, now and again.

W.Colbath asked to define the students.

P.Weathersbey stated they are youth leaders. They go through an intensive application process. They are not permitted to travel alone, use cell phones, and there are strict guidelines which they must follow.

*Public hearing open.*

Robert Whiting, 160 Silver Street, opposes the variance for a residential mixed use to commercial use. He feels once allowed, others will follow. He recommended using other locations instead of Summer Street.

Sara Treacy, 148 Locust Street read a letter she wrote to the Board. She opposes the group home and stated it is a youth hostel. The proposed plan is more intense than a home occupation space. A copy of the letter is on file at the Planning Department.

Joe Hill, Sara's husband spoke about the location of the dormitory area, and stated this section of the structure looks down on his property. There are concerns with the number of people staying there at any time, privacy and noise.

Tinka Pritchett, lives across the street at 19 Summer Street and spoke in opposition. She has three apartments at 17 Summer Street. She resents an office space in her neighborhood.

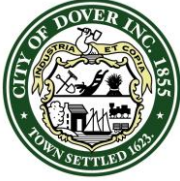
Mark Visciano, 185 Locust Street, thanked Ms. Weathersbey for her presentation. He feels it has limited parking, and a professional office would have a negative impact on the neighborhood.

Mark Rafferty, own property at 55 Summer Street which is a 4 unit building. He has lived there for the past 11 years. He spoke about the neighborhood, and how the neighbors interact. He spoke about Friends Forever being a Limited Liability Corp. which he feels limits their liability. He has concerns about the number of proposed parking spaces. The plans have changed last minute and neighbors didn't have the benefit of seeing the latest changes. He has concerns about the children being on a neutral ground instead of being in a private home and limiting their liability as an LLC.

Robert Giegengack, 14 Hamilton Avenue, spoke about the dormitory space being in the same space as the office. He also asked if there is available dormitory space in the Dover Children's home three blocks away or in the old McIntosh College dormitories, or in homes of those who rented to those college students. There is an abundance of other rental space within the city.

Matt Cox, 33 Fisher Street, commented as a resident of a neighborhood of antique homes. He states it's a shame that it relaxes the character of the neighborhood, and it becomes less residential.

Corby Feeney, 195 Silver Street doesn't feel the location is appropriate. She referred back to the McIntosh College and culinary school dormitories which she felt caused neighborhood problems. She questioned the sleeping



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arrangements for that size group and mentioned they would be in cramped quarters. She feels it's a fine organization, but for that neighborhood it would just be too much.

Ron Pfeiffer, owns and operates The Wadleigh House with his wife, has mixed emotions but does have serious concerns about ruining a quaint and beautiful town and turning it into a commercial interest that may not be conducive with the neighborhood. He is concerned if Friends Forever were to sell the property, what would move into it. He feels there are better places that would be more appropriate.

Brian Haines, lives at and owns 15-17 Elm Street, for the past 13 years. He thanked the representative of the applicant for stating this is a lovely 200 year old home and is in a wonderful neighborhood. He is not opposed to the mission, but it is the wrong place and at the wrong time. Addressing the applicant's comments that this project will help the neighborhood, he stated his neighborhood does not need help, as it is already a wonderful neighborhood.

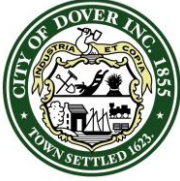
Patty Weathersbey responded to the concerns of the neighborhood abutters. She stated she understands that the residents wish to maintain the property as a single family home, but the fact is the home is for sale and there are several possibilities of more impactful permitted uses that could go in there. They are trying to use two permitted uses: a rooming house and an office and tweak them slightly. If Friends Forever sells or leaves, the variance would expire and future tenants/owners would have to come back to the Zoning Board.

*Public hearing closed.*

### **Staff recommendations:**

T. Corwin thanked the abutters for sharing their concerns. He clarified that in the future, the home could be used as a rooming house which can be occupied by up to 10 occupants as a permitted use. Since a rooming house is a permitted use, he cautioned that there would be no chaperones, possibly an absentee landlord and nobody in the office to discuss problems with. He clarified that the applicant proposes only two parking spaces. Staff does not believe the enforcement of conditions of approval related to parking will be an issue. A building permit and a certificate of occupancy are required. Staff generally does support the request, proposes the following conditions:

- The office portion of the building shall be located on the first floor of the building, be no greater than 650 square feet (net), and be used by no more than two (2) employees at any time. Future lessees/occupants shall be limited to non-profit organizations.
- Up to three (3) additional employees are permitted provided that a copy of a five (5) year lease is provided to the Planning Department for each parking space, which shall be located within a reasonable distance of the property on a lot where parking lot is a permitted use. The parking spaces may be leased from the City of Dover, if available, and shall be leased for the maximum term possible up to (5) years. Leases for the off-street parking spaces shall be maintained throughout the duration of the office use.
- Parking for the office shall utilize the existing driveway area only. On-street parking for the employees of the office use shall not be permitted.
- The rooming house is permitted as an accessory use to the office only, for a period of not greater than twenty (20) weeks per year. Rooms may not be rented to the general public, and shall be used in a manner that is corollary to the core function/purpose of the office occupant's business/activities.



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Future occupants of the office area must operate and use the rooming house portion of the building in a manner that is substantially similar to the applicant.

- Applicant shall obtain a Conditional Use Permit from the Planning Board to permit the rooming house use to have zero (0) on-site parking spaces, or to permit shared parking per Section 149-14.D.4.b of the Site Regulations.
- Travel to and from the rooming house by occupants of the rooming house shall be restricted to a single vehicle, which shall be parked in accordance with the parameters of the Conditional Use Permit.
- The notice of decision shall be recorded at the Strafford County Registry of Deeds.

W.Colbath asked if the variance can not be tied to the property, but tied to the occupant.

T.Corwin stated that it may not be legal to tie the variance to a particular applicant, but you can tailor the variance approval to both the property and the applicant.

J.Kelley asked about the City's point of view and the new ordinances, the reality is that the City does displace what was residential. He asked what the ZBA's view is. He also stated that the intent of the applicant is not to modify the building, but their plan is to make sure they upkeep the home. It would be difficult for a home of this nature to upkeep. He feels the office use is a very confined use.

T.Corwin stated that in his personal opinion this particular property may be one that would benefit from a historical district. However, Dover does not have a historical district. He stated that there are certain planning tools available under State Law which the City can use to protect neighborhoods such as this, to maintain and protect historical buildings.

C.Prior stated that historically these youths have been placed in residential homes. This now opens up possibilities that brings in 10 youths and not look for that residential structure, which displaces the entire process. He feels 10 is a permitted use, which is fairly liberal. He struggles with the number of 13. He questions if this is the best reasonable use.

F.Landford feels the best use for this home is to keep as single family; however, he does not feel it is an unreasonable use.

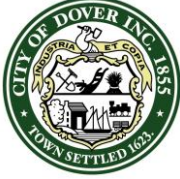
J.Cote struggles with the amount of opposition there is for it, but there are worse alternatives for the home.

W.Colbath stated the application is more for a rooming house, but the definition is more of a group home and it is for a short term.

T.Corwin stated they looked at all definitions including group home for minors. Group homes for minors are licensed through the State of NH and this home would not be. Staff worked with the applicant to identify the use. This is a hybrid use.

J.Kelley motioned to accept and grant the variance with conditions as stated by the Planning Dept. Seconded by F.Torr. Vote: 3/2 – approval carries. (J.Cote and F.Landford against.)

The Vice Chair reminded the abutters that there is an appeal period of 30 days.



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#### 4. APPROVAL OF REVISED ZBA APPLICATION FORM

C.Prior motioned to approve the revised Zoning Board Application. Seconded by F.Landford. Vote: U/A.

#### 5. STAFF COMMENTS:

#### 6. ADJOURN

**Motion:** J.Kelley motioned to adjourn at 9:31 pm. Seconded by J.Cote. Vote: U/A

DRAFT



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.



City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

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

Office Use Only Case #: 212-09 Date Received:
Amount Paid: \$ 223.00 Time Received:
CR # 1058 RECEIVED MAY 29 2012

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

Address: #16 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)

- 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:

Lunch Cart



**CITY OF DOVER**

## ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z12-16)

Application Type:	Variance
Applicant:	Alex & Anne Krieger
Owner:	Alex & Anne Krieger
Location:	53 Three Rivers Farm Road (Tax Map N, Lot 3A)

**INTENT:** Applicants request a variance to permit two (2) residential buildings on a lot where only one principal building is permitted per the definition of “lot” set forth in Section 170-6 of the Zoning Ordinance.

**LOTS/UNITS PROPOSED:** Two (2) single-family dwellings (one existing, one under construction)

**AGENDA ITEM #:** 4-A

**ZONING DISTRICT:** R-40

**EXISTING LAND USE:** Vacant

**PROPOSED LAND USE:** Single family dwelling

**SURROUNDING LAND USE:** Single family residential

**PREVIOUS ZBA ACTION:** None

**PLANNING BOARD APPROVAL REQUIRED:** No

**ATTACHMENTS:** Application with supplementary materials including letter from applicants, addendum, letters from abutters, photos, and two (2) plot plans

**APPLICATION IS COMPLETE:** Yes

**NOTICES AS REQUIRED:** Yes

**STAFF RECOMMENDATION:**  
The Planning Department is not opposed to the variance request.

### Summary of Request and Background

The subject property contains 6.7 acres, is located at 53 Three Rivers Road, and is improved with a single family dwelling. A second single family dwelling is currently under construction. Applicants propose to occupy the dwelling under construction as a weekend home and to rent out the existing dwelling (which is currently vacant) as a residence.

As set forth in Section 170-6 of the Zoning Ordinance, “lot” means “a parcel of land... intended to be occupied by one (1) principal building.” Under the proposed zoning amendments posted by the Planning Board on June 26, 2012, “lot” means “a parcel of land... occupied by... one (1) principal building.” Because applicants propose that both the existing dwelling and the dwelling under construction be used and occupied, a variance is required to permit two (2) principal buildings on a lot where only one principal building is permitted.

### Reason for Staff Recommendation

Staff believes that given the size of the property and the relative seclusion of the new dwelling from other existing dwellings, the grant of this variance will have little to no impact on surrounding properties. From a planning perspective therefore, staff believes the request is a reasonable one.

Note that although the property is 6.7 acres and has frontage of approximately 325 ft., a variance would be required to subdivide the property in that Three Rivers Road is a private street and whereas the Zoning Ordinance requires that lots have frontage on a public street. Staff believes that a request to permit a second principal dwelling is more reasonable than a request to permit an additional lot with frontage on a private street.

However, it is not clear what unique characteristics the property has that distinguishes it from other properties in the area. Therefore, it is not clear how and whether the denial of the variance request would result in an unnecessary hardship.

### Recommendation

The Planning Department is not opposed to the variance request and recommends the Board hold the public hearing. Should the Board choose to grant the variance, staff recommends that the approval be conditioned as follows:

- The new dwelling may be used for weekend and vacation use only. Should the new dwelling be used as a permanent, full-time residence, the variance shall no longer be valid.

Note that the applicants also offer to permit the variance to expire upon the sale of the property. Staff however does not believe this proposed condition is valid in that a variance relates to the unique conditions of a property, not the unique circumstances of the occupants/owners.

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

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

Office Use Only	Case #: <u>212-16</u>	Date Received
	Amount Paid: \$ <u>192.00</u>	Time Received

**RECEIVED**  
SEP - 4 2012

**APPLICANT/PROPERTY OWNER INFORMATION**

APPLICANT: ALEX & ANNE KRIEGER Phone # 617-983-9179  
Address of Applicant: 75 MORaine STREET, JAMAICA PLAIN, MA-02130  
E-Mail Address: akrieger@nbbj.com annemackin2@gmail.com  
PROPERTY OWNER (if different from applicant): SAME  
Address: \_\_\_\_\_ Phone # \_\_\_\_\_  
E-Mail Address: \_\_\_\_\_

**PROPERTY/PARCEL INFORMATION**

Address: 53 THREE RIVERS FARM ROAD, DOVER, NH  
Brief Directions: RIGHT TURN UNTO THREE RIVERS FARM ROAD OF GULF ROAD AS ONE APPROACHES FROM DOVER.  
Zoning District: R-40 Assessor's Map # N Lot(s) # 3A

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

- 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 ARE RESIDENTS OF BOSTON WHO ARE BUILDING A WEEKEND HOUSE ON THE PROPERTY & WOULD LIKE TO KEEP RENTING THE EXISTING HOUSE ON THE PROPERTY. (PLEASE SEE COVER LETTER)

Alex and Anne Krieger  
75 Moraine Street  
Boston MA 02130

Zoning Board of Adjustment  
City of Dover, New Hampshire  
288 Central Avenue  
Dover, NY 03820-4169

Dear Members of the Zoning Board of Adjustment,

Please find herewith our application for a variance for the use of our residential property at 53 Three Rivers Farm Road, in Dover, designated in Dover's zoning plan as a Rural Residential property (R-40). We request to continue to rent out a pre-existing house on the property as we complete, and then occupy, a new weekend house set further back on the property.

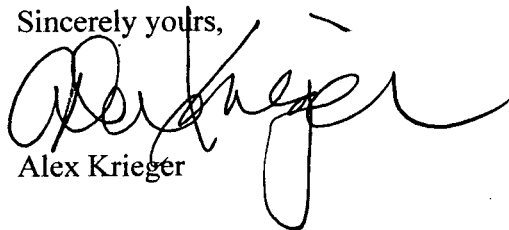
We have apprised the owners of the properties abutting our own of our request for a variance. We include a note and a letter of support from two of them. We have also apprised a few other nearby neighbors of our request to you.

The pre-existing house, of a barn-like, outbuilding design, now stands empty in anticipation of our application for a Certificate of Occupancy for the new house. Meanwhile, a possible act of vandalism (a broken window) has raised our concerns about the security of our new house in its remote setting. We realize that we will only occupy the house on weekends in good weather and that the property will be vacant much of the time, and unprotected.

*We ask for a variance to continue to rent the pre-existing house only for a specific period. We agree to abandon the variance and conform to standard R-40 zoning at such time as we may make the new house our primary residence, or until we sell the property, whichever comes first.*

We enclose the required information, forms, and some photographs to clarify the specifics of our request. Thank you for your consideration.

Sincerely yours,



Alex Krieger



Anne Mackin Krieger

## VARIANCE REQUIREMENTS

*Completed by Variance Applicants*

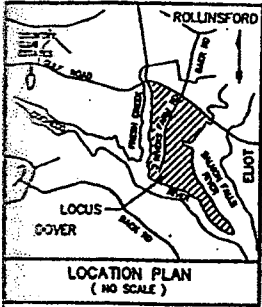
### A. Variance Requested

A variance is requested from Section \_\_\_\_\_ of the Zoning Ordinance to permit us, the owners of 53 Three Rivers Farm Road, to continue to rent a PRE-EXISTING HOUSE to tenants, while we, the owners, when permitted, occupy the HOUSE BEING COMPLETED on the same property (53 Three Rivers Farm Road).

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

1. **Waiving the terms of the Ordinance will not be contrary to the public interest because:**
  - a) The pre-existing house, that we request a variance to rent, has been rented out for many years. This will not change.
  - b) We, the property owners, do not intend to occupy the new house except on weekends during good weather. Since we already visit our property on weekends, the number of people on the site and the amount of traffic generated will not change.
  - c) The new house is not visible from the road (except slightly and distantly in the winter) and has not changed the appearance of the property as seen from the road.
  - d) The owners agree to a limited term for the variance. The owners promise to bring the property into conformity with the R-40 zoning requirements—by razing the house or converting it to an acceptable use such as a guest house, barn, or green house—at such time as they may sell the house or come to occupy it permanently.
  
2. **Deviation from the strict requirements of the Ordinance is consistent with the spirit of the Ordinance because:**
  - a) The variance will be of limited duration, as explained above.
  - b) The number of people occupying the property will not increase.
  - c) The security of the property (and surrounding properties) will be better maintained by having the property occupied.
  
3. **Granting the variance would do substantial justice because:**
  - a) The variance will expire at the time of the sale of the property or such time as the property may become the primary residence of the owners. Meanwhile, it allows the owners to secure the safety of their property by having the site occupied full time.
  - b) A vacant, unoccupied property could create a risk to the community.

4. **The value of surrounding property will not be diminished because:**
  - a) The level of investment in the new house recently constructed on the property should, if anything, raise property values.
  - b) The pre-existing house (the one that the owners request a variance to continue to rent out) has been filled until this summer, as by past owners, with roommates on small incomes. Those tenants have left. We now plan to seek to rent the house to a couple or small family of good character.
  - c) The variance requested would be temporary.
  
5. a)
  - i. **The following special conditions of the property distinguish it from other properties in the area.** As mentioned, the new house is hidden in the woods and is not visible from the road. We will not occupy the house, except on weekends in good weather, for the next few years. We believe the house has already been subject to an act of vandalism (broken window).
  
  - 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 requested variance would be temporary.**
  
  - iii. **The proposed use is a reasonable one because** it does not impact surrounding properties and addresses legitimate concerns on the part of the owners (our part).  
Two of our three abutting neighbors have already supported our request.

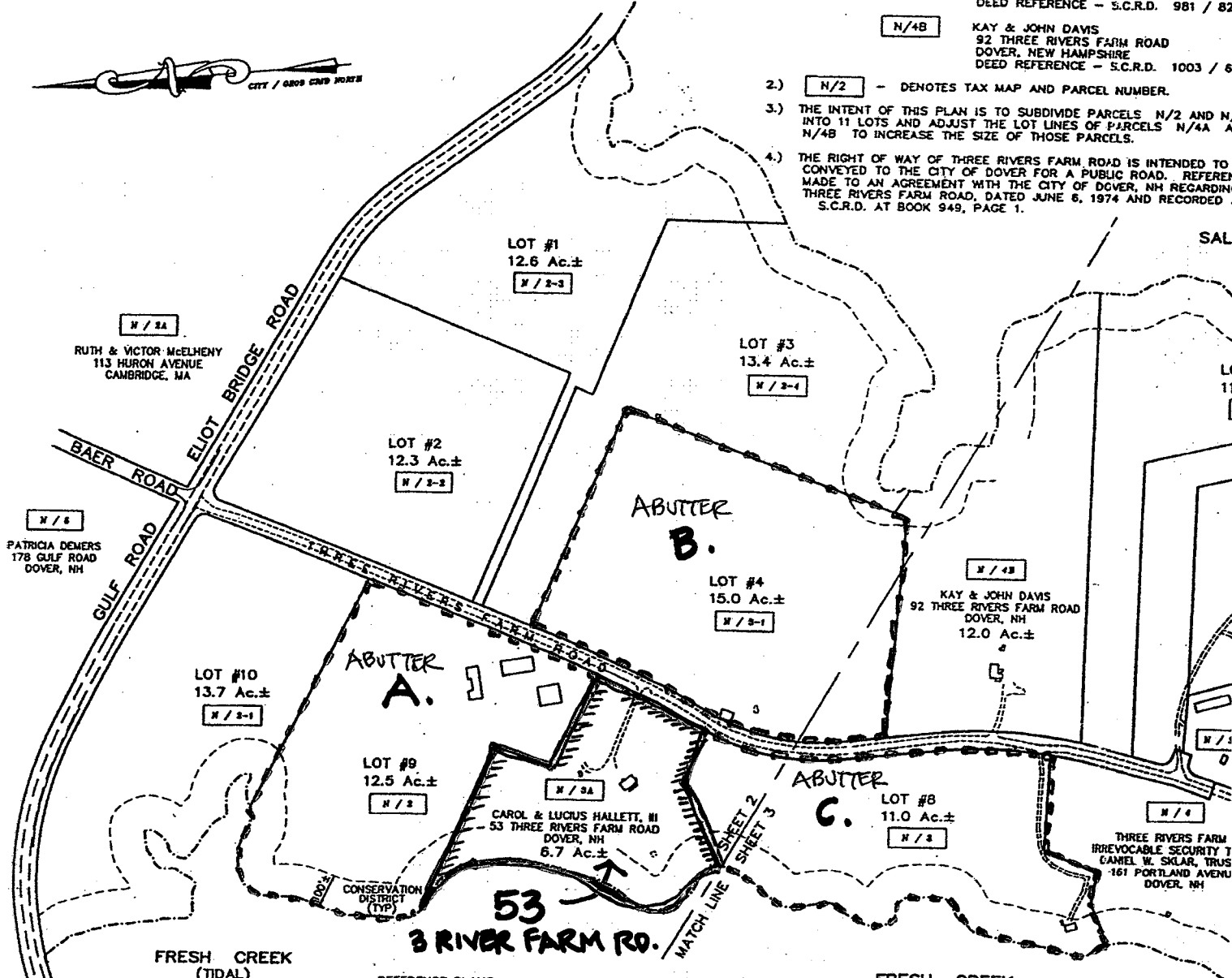


**LOT LEGEND**

- 1 - CHARLES WOODHOUSE
- 2 - PETER ROLLINS
- 3 - EDWARD ROLLINS
- 4 - KARL DAVIS
- 5 - ASHTON ROLLINS
- 6 - GEORGEANN R. DIPERRI
- 7 - PETER ROLLINS
- 8 - PENELOPE ROLLINS
- 9 - HOLLY WOODHOUSE
- 10 - ASHTON WOODHOUSE
- 11 - TRUST U/W OF ASHTON ROLLINS
- N/3A - LUCIUS HALLETT, III
- N/4A - ELIZABETH HALLETT
- N/4B - MICHAEL HALLETT
- N/4B - JOHN DAVIS

**NOTES:**

- 1.) OWNERS OF RECORD:
  - N/2 - TRUST U/W OF ASHTON ROLLINS C/O LUCIUS HALLETT - TRUSTEE 53 THREE RIVERS FARM ROAD DOVER, NEW HAMPSHIRE DEED REFERENCES - S.C.R.D. 334 / 0 864 / 010; 326 / 0
  - N/3A - CAROL & LUCIUS HALLETT 53 THREE RIVERS FARM ROAD DOVER, NEW HAMPSHIRE DEED REFERENCE - S.C.R.D. 949 / 13
  - N/4A - HELENE HALLETT 106 THREE RIVERS FARM ROAD DOVER, NEW HAMPSHIRE DEED REFERENCE - S.C.R.D. 981 / 82
  - N/4B - KAY & JOHN DAVIS 92 THREE RIVERS FARM ROAD DOVER, NEW HAMPSHIRE DEED REFERENCE - S.C.R.D. 1003 / 61
- 2.) N/2 - DENOTES TAX MAP AND PARCEL NUMBER.
- 3.) THE INTENT OF THIS PLAN IS TO SUBDIVIDE PARCELS N/2 AND N/3 INTO 11 LOTS AND ADJUST THE LOT LINES OF PARCELS N/4A AND N/4B TO INCREASE THE SIZE OF THOSE PARCELS.
- 4.) THE RIGHT OF WAY OF THREE RIVERS FARM ROAD IS INTENDED TO BE CONVEYED TO THE CITY OF DOVER FOR A PUBLIC ROAD. REFERENCE MADE TO AN AGREEMENT WITH THE CITY OF DOVER, NH REGARDING THREE RIVERS FARM ROAD, DATED JUNE 6, 1974 AND RECORDED IN S.C.R.D. AT BOOK 949, PAGE 1.



**REFERENCE PLANS:**

- 1.) PLAN SHOWING SHORELINES OF COCHECO RIVER NEAR "THREE RIVERS", DOVER, NEW HAMPSHIRE SCALE: 1" = 200'; DATED: MAY, 1968; BY WM. A. GROVER, CIVIL ENGINEER, DOVER, N.H. TO BE RECORDED.
- 2.) PLAN OF LAND - THREE RIVERS FARM ESTATE OF ASHTON ROLLINS, DOVER, NEW HAMPSHIRE SCALE: 1" = 100'; DATED OCTOBER, 1966 BY G.L. DAVIS & ASSOCIATES, DOVER, N.H. RECORDED S.C.R.D. PLAN 13, POCKET 11, FOLDER 2
- 3.) SUBDIVISION OF PORTION OF LAND OF HEIRS OF ASHTON ROLLINS, THREE RIVERS FARM, DOVER, NEW HAMPSHIRE SCALE: 1" = 50'; DATED MAY, 1974 BY RICHARD P. TOWLE, R.L.S., DOVER, N.H. RECORDED S.C.R.D. PLAN 35, POCKET 9, FOLDER 1
- 4.) PROPOSED LIMITED SUBDIVISION FOR ASHTON HALLETT THREE RIVERS FARM, DOVER, NEW HAMPSHIRE SCALE 1" = 40'; DATED FEBRUARY, 1975
- 5.) SUBDIVISION PLAN FOR JOHN DAVIS THREE RIVERS FARM, DOVER, NEW HAMPSHIRE SCALE: 1" = 100'; DATED MARCH, 1977 BY FREDERICK E. DREW ASSOCIATES, MADBURY, N.H. RECORDED S.C.R.D. PLAN 17A - 193
- 6.) ESTATE OF ASHTON ROLLINS, DOVER, NEW HAMPSHIRE SCALE: 1" = 100'; DATED SEPTEMBER, 1984 BY FREDERICK E. DREW ASSOCIATES, MADBURY, N.H. RECORDED S.C.R.D. PLAN 25 - 54
- 7.) LOT LINE ADJUSTMENT PLAN PREPARED FOR TRUST U/W OF ASHTON ROLLINS - THREE RIVERS FARM ROAD, DOVER NEW HAMPSHIRE, DATED 11/13/96; REVISED 12/21/98

REV. NO.	DATE	DESCRIPTION	BY	CHK
1	12/13/96	REV. PER PLANNING COMMENTS	RJM	KJM
2	12/21/98	REV. PER PLANNING COMMENTS	RJM	KJM
REVISIONS				
35-1034	SUBDIVISION		9A-15	2-45



**CITY OF DOVER**

## ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z12-17)

Application Type:	Special Exception
Applicant:	Darryl Rahn
Owner:	Studio 590, LLC
Location:	590 Central Avenue (Tax Map 30, Lot 125A)

**INTENT:** Applicant requests a special exception per Section 170-12.A of the Zoning Ordinance and the Office District Table of Use and Dimensional Requirements to permit a jewelry retail store in the unit currently occupied by a hair salon.

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

**AGENDA ITEM #:** 4-B

**ZONING DISTRICT:** Office

**EXISTING LAND USE:** Commercial

**PROPOSED LAND USE:** Commercial

**SURROUNDING LAND USE:**  
Commercial, Residential

**PREVIOUS ZBA ACTION:** None

**PLANNING BOARD APPROVAL  
REQUIRED:** No

**ATTACHMENTS:** Application with addendum and tax map

**APPLICATION IS COMPLETE:** Yes

**NOTICES AS REQUIRED:** Yes

**STAFF RECOMMENDATION:**  
The Planning Department supports the special exception request.

### Summary of Request and Background

The subject property is a 0.42 acre parcel with an address of 590 Central Avenue, located at the northwest corner of the intersection of Central Avenue and Milk Street. The property is currently improved with a commercial structure, containing two units, one occupied by a hair salon, and the other by a dry cleaner. Applicant proposes to use the portion of the building currently occupied by a hair salon to relocate his “Gold Rush Coin & Jewelry” retail store, which is currently located at 270 Central Avenue. “Retail stores” are permitted in the Office District via Special Exception approval as set forth in the Office District Table of Use.

### Reason for Staff Recommendation

The Planning Department believes that, per the information presented in the application, the applicant’s proposed retail jewelry store meets the six (6) special exception criteria for retail stores in the Office District (as set forth in the Table of Use). The use of this building for a retail store is consistent with how the property and building have been used in the past and present, and is compatible with the surrounding uses which is a mix of commercial and residential.

### Recommendation

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



City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Adopted: August 16, 2012]

Office Use Only Case #: 212-17 Date Received:
Amount Paid: \$ Time Received:

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: Darryl Bahr Phone # (603) 740-4900

Address of Applicant: 270 Central Ave, Dover, NH

E-Mail Address: uncle-dra@yahoo.com

PROPERTY OWNER (if different from applicant): Studio 590, LLC

Address: 590 Central Ave, Dover, NH Phone # (603) 742-4216

E-Mail Address: care of agent: johnvalyo@me.com

PROPERTY/PARCEL INFORMATION

Address: 590 Central Ave, Dover, NH

Brief Directions: At the corner of Central Ave. and Milk Street

Zoning District: Office Assessor's Map # 30 Lot(s) # 125A

TYPE OF APPEAL: (Please check one)

- Variance from Section
Physical Disability Variance (RSA 674:33-V) from Section
Special Exception per Section 70-152 of the Zoning Ordinance
Appeal of Administrative Decision regarding Section
Equitable Waiver per Section

DESCRIBE BRIEFLY YOUR PLANS FOR THE PROPERTY:

operate a retail store (Gold Rush Coin + Jewelry) in the space currently occupied by a hair salon known as Studio 590.

## SPECIAL EXCEPTION REQUIREMENTS

THIS SECTION TO BE COMPLETED BY SPECIAL EXCEPTION APPLICANTS ONLY

### **A. General Special Exception Requirements (as set forth in s. 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.**

The requested use would be desirable to the public convenience or welfare because it would provide members of the public with a local, walk-in venue to buy and sell coins, precious metals and jewelry.

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

The requested use as a retail store (Gold Rush Coin and Jewelry) would not create undue traffic congestion or unduly impair pedestrian safety because:

- The proposed retail store will be run by a sole proprietor and will have a low volume of customer traffic.
- The proposed retail store will be located in an existing structure with existing parking that meets the City of Dover's parking Regulations (the building contains 1,954 square feet and the site has 20 parking spaces, whereas the site regulations require no more than 1 space per 250 square feet, or 8 spaces).
- The proposed retail store sells small (as opposed to bulky) articles. Accordingly, the proposed retail store will not require deliveries from large trucks that would interfere with the flow of traffic on adjacent roads.

#### **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.**

The requested use will not overload any public system because:

- The proposed retail store will be run by 1 employee and will service a small volume of customers and will place a very small demand on City systems.
- The proposed retail store will use less water and sewer capacity than the hair salon that is currently occupying the location.

**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. The store shall contribute to a NEIGHBORHOOD feel and be pedestrian friendly.**

The proposed retail store will meet this requirement because:

- The proposed store will contribute to a neighborhood feel because both the business and the real estate will be owned and operated by a local, small business person.
- The proposed store will contribute to a neighborhood feel because it will be open during business hours and will be closed nights and Sundays.
- The proposed store will be pedestrian friendly because it will have sufficient on-site parking.
- The proposed store will be pedestrian friendly because it will be located on the first floor of the building.

**b. The store will be no larger than 2000 square feet.**

The proposed store will meet this requirement because the store will occupy only a portion of the existing structure and the entire structure contains less than 2,000 square feet (according to the assessor's records, the entire structure contains only 1,954 square feet).

**c. No more than half of the required parking necessary shall be on-site parking, which shall be screened from abutting residential lots.**

The structure and the parking lot are existing structures. Currently there is no screening between the parking area located to the right of the building. If the proposed retail store is approved, the applicant will install a 7' fence between that parking area and the abutting residential lots.

**d. Any loading or unloading of products shall not disrupt neighborhoods or traffic flow.**

The proposed store meets this requirement because the items sold by the store will be small, non-bulky items. Therefore, the loading and un-loading of products will be accomplished by the customers themselves or by UPS delivery.

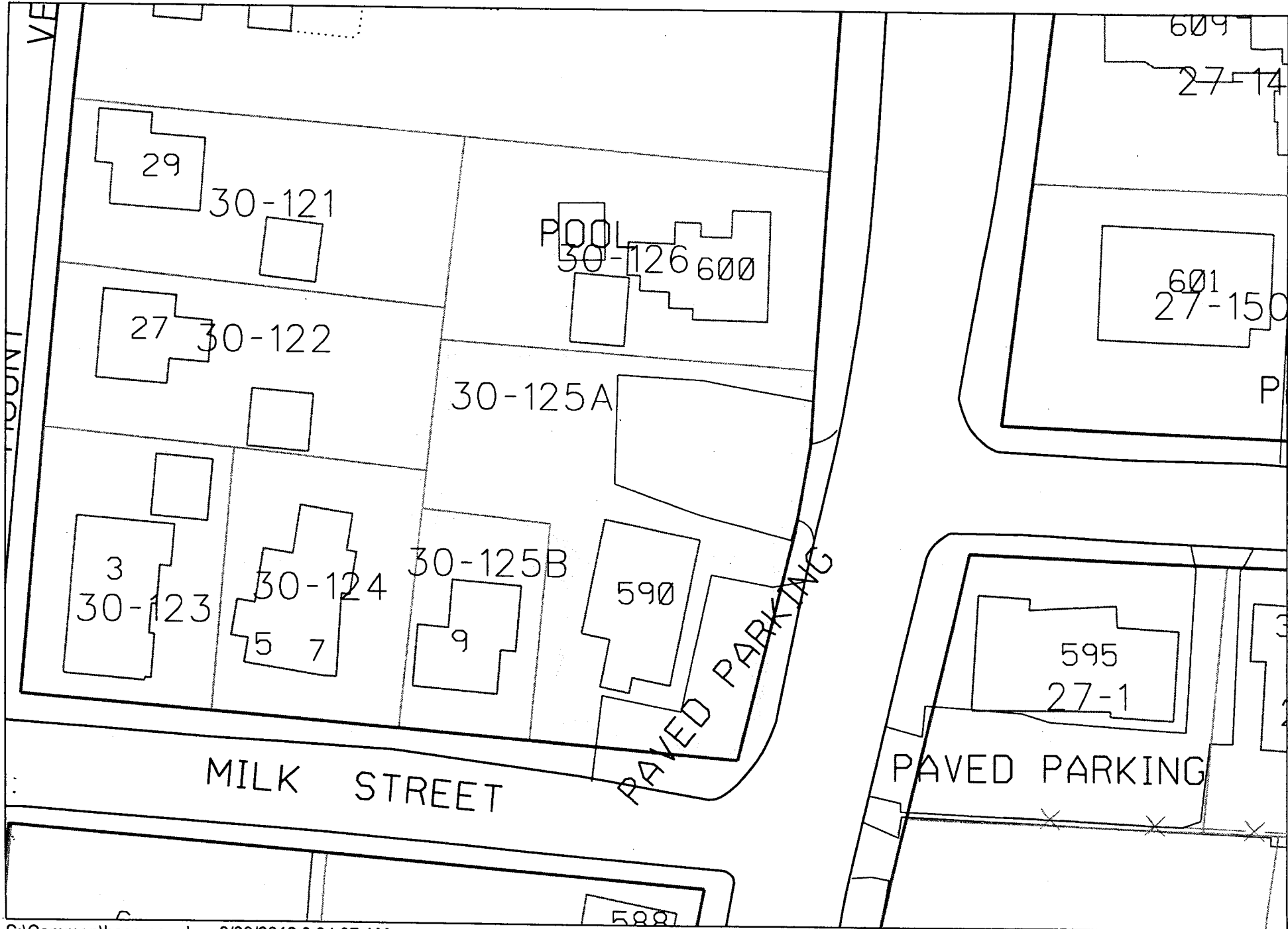
**e. The proposed use shall be compatible with the surrounding NEIGHBORHOOD.**

The abutters within the surrounding neighborhood include a dry cleaner, law office, real estate brokerage, message and spa service, financial group, church, flooring installer, and both multi-family units and residential dwellings. The proposed retail store will be compatible with the surrounding neighborhood because:

- It will be a small owner-operated store.
- It will generate a low volume of traffic.
- It will be open during business hours on weekdays and on Saturdays, but it will be closed nights and Sundays.

**f. Hours of operation shall be limited to 6am to 9pm Sunday – Thursday, and 6am to 10pm Friday and Saturday.**

The proposed store will meet this requirement because the hours of operation will be 10:00am to 5:00pm Monday – Friday, 10:00am to 3:00pm on Saturday and closed on Sunday.



Office District



**CITY OF DOVER**

## ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z12-18)

Application Type:	Variance
Applicant:	David A. Goodwin
Owner:	David A. and Janet K. Goodwin
Location:	37 Dover Neck Road (Tax Map M, Lot 79B)

**INTENT:** Applicant requests a variance from Section 170-12.A of the Zoning Ordinance and the R-40 District Table of Use and to permit the existing wooden office building to be used as a printing business with up to three (3) employees where printing business is not a permitted use in the R-40 District.

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

**AGENDA ITEM #:** 4-C

**ZONING DISTRICT:** R-40

**EXISTING LAND USE:** Commercial

**PROPOSED LAND USE:** Commercial

**SURROUNDING LAND USE:** Single family residential

**PREVIOUS ZBA ACTION:** None

**PLANNING BOARD APPROVAL REQUIRED:** No

**ATTACHMENTS:** Application with supplementary materials including letter from applicant, addendum, letter from abutters, photos, and aerial photo

**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 contains 3.85 acres and is located at 37 Dover Neck Road. The property is improved with a Quonset hut and wooden office building, both which are currently used as a training facility for the carpenters' union. The applicant proposes to remove the Quonset hut and use the wooden office building as a small scale printing business with up to three (3) employees. Applicant requests a variance from Section 170-12.A of the Zoning Ordinance and the R-40 District Table of Use and to permit the wooden building to be used as a printing business with up to three (3) employees where printing business is not a permitted use in the R-40 District.

### Reason for Staff Recommendation

Staff believes that the property is unique in that although it is located in a residential district, it is improved with two commercial structures and has been historically used for commercial purposes. The proposal represents both a continuation of the commercial use of the property, and a betterment in that the applicant will remove the unsightly Quonset hut. The removal of this building will bring the overall property into more conformance with the Zoning Ordinance and will remove an eyesore. Staff believes the proposed printing business will have less of a negative impact than the current use in that the printing business will be limited to no more than three (3) employees at a time and will be confined to a single building as opposed to the existing two.

### Recommendation

The Planning Department is not opposed to the variance request and recommends the Board hold the public hearing and grant the requested variance on the following conditions:

- The Quonset hut shall be removed within one (1) year of the variance approval date.
- No more than three (3) employees permitted on the premises at any time.
- The carpenter's union sign in the front of the property shall be removed within three (3) months of the variance approval date.



City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Adopted: August 16, 2012]

Office Use Only Case #: 212-18 Date Received:
Amount Paid: \$ Time Received:

APPLICANT/PROPERTY OWNER INFORMATION.

APPLICANT: David A. Goodwin Phone # 742-6013
Address of Applicant: 23 Dover Neck Road, Dover, NH 03820
E-Mail Address: david@northeastprintingservices.com

PROPERTY OWNER (if different from applicant): David A. Goodwin and Janet K. Goodwin
Address: 23 Dover Neck Road, Dover, NH 03820 Phone # 742-6013
E-Mail Address: same

PROPERTY/PARCEL INFORMATION

Address: 37 Dover Neck Road
Brief Directions: On right hand side of Dover Neck Road, just past intersection
with Middle Road
Zoning District: R-40 Assessor's Map # M Lot(s) # 79B

TYPE OF APPEAL: (Please check one)

- XX Variance from Section 170-11 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:

To operate a small part-time printing business at a property which currently
is used as a training facility for the carpenters' union.

## VARIANCE REQUIREMENTS:

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

The applicant seeks a variance to change from a commercial use to a less intensive commercial use. The property is presently being used by the carpenter's union as a training facility. The Quonset hut contains wood working and welding equipment which is used by the student. The students and their instructors also build projects outside of the buildings and periodically use a large crane in construction projects. The wooden building contains an office which also is used as an instructional area. During instructional periods, which often occur on weekends, there have been more than a dozen students at work at the property.

The applicant proposes to use the wooden building as an office and a small scale printing business. In addition to the applicant, there will be 2 part time employees who work Monday through Thursday from 8 am to 3:30 pm. The primary work is business stationery and small forms. There is no walk in business, there will be no sign outside, and there will be no advertising of the business location.. Product is shipped and received by UPS 2 to 3 times per week. Deliveries take 5 to 10 minutes each and consist of 5 boxes or less per delivery. The applicant resides next door to this property. Due to changes in technology, the volume of his printing business has been dramatically reduced, and he is limiting the equipment involved, the products he produces, and the customers he services.

The applicant will be removing the metal Quonset hut within the next year when the union has completed removing the items which it is storing in that building.

The public interest is affected if the proposed use would constitute a fundamental change in the neighborhood or if there would be a substantial impact on health and safety. The proposed change of use will reduce the amount of traffic to the site and will reduce the activity and attendant noise that is caused by the construction activities of the students and their instructors. There will be noise or emissions caused by the proposed use.

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

The spirit of the ordinance is to allow commercial uses which are low impact, quiet, and low volume. The proposed use will be less intensive than the current use, and will be less intensive than other uses which are permitted as a matter of right. If this property were being developed into an open space subdivision, this use would qualify as a personal service establishment and an office, both of which would be permitted uses as the commercial component of the open space subdivision. The activity associated with the proposed use will be substantially less than such permitted uses as a clinic, child care facility, educational institution, or kennel.

3. Granting the variance would do substantial justice because:

Substantial justice is done if the benefit to the applicant exceeds any detriment to the general public. The proposed use is less intensive than the current use or other uses which are permitted in this zone. This change of use will allow the removal of the Quonset hut, which will improve the appearance of the property and the neighborhood.

4. The value of surrounding properties will not be diminished because:

The proposed use is less intensive than the current use or other uses which are permitted in this zone. This change of use will allow the removal of the Quonset hut, which will improve the appearance of the property and the neighborhood. The proposed use would be permitted as the commercial component of an open subdivision in this zone.

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:

This property presently has a use that is more intensive and more intrusive than the proposed use will be. The property contains an older metal building which this applicant will remove within the next year. There is also an existing wooden building. Neither building is suitable for use as a residence. The lot is large enough to accommodate an open space subdivision, and the proposed use would be allowed as the commercial component of such a subdivision.

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

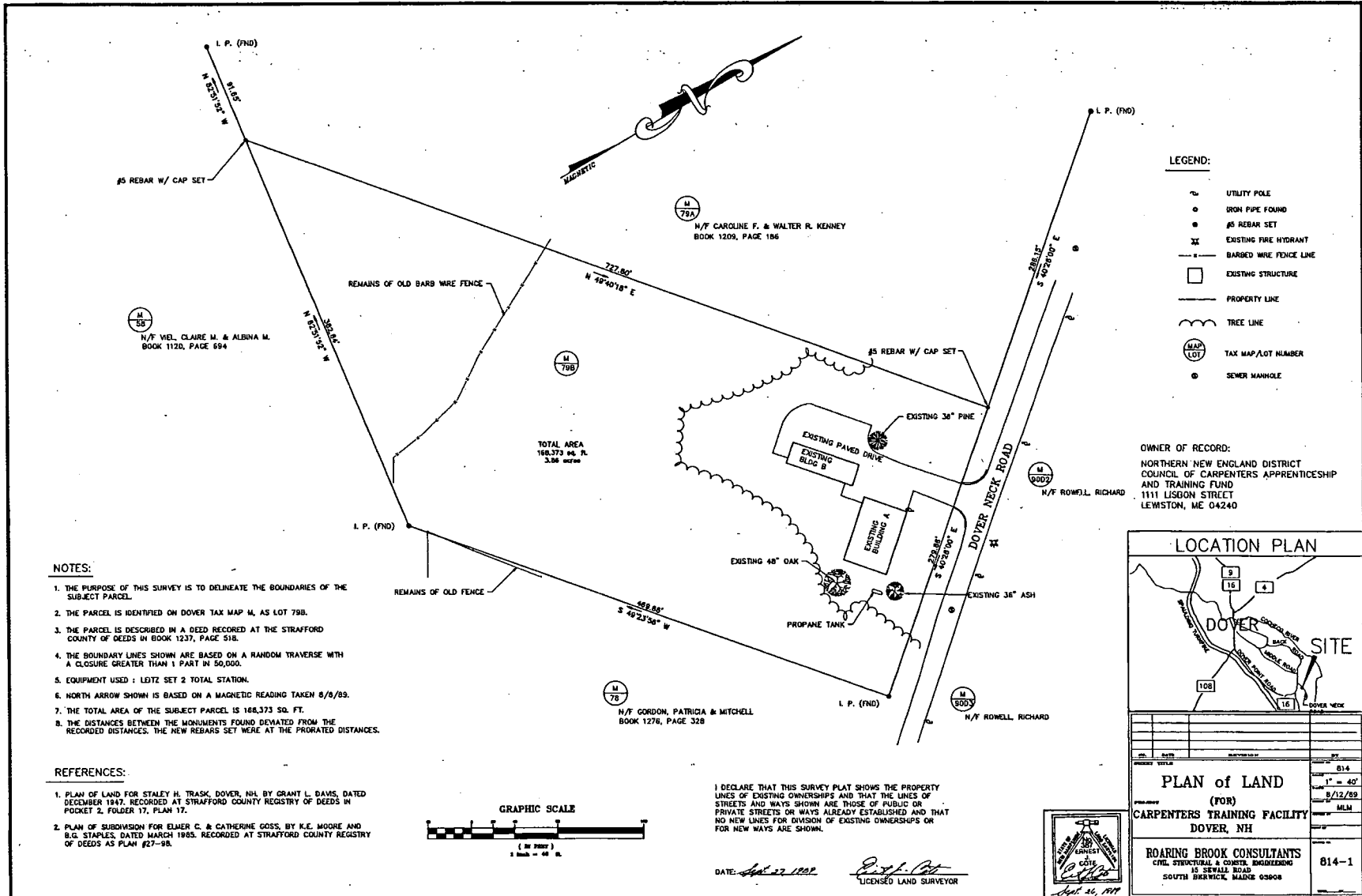
The general purpose of the ordinance is to allow commercial uses which are low impact, quiet, and low volume. The proposed use will be less intensive than the current use, and will be less intensive than other uses which are permitted as a matter of right. The proposed use would be allowed as the commercial component of such a subdivision.

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

The proposed use will be less intensive than the current use, and will be less intensive than other uses which are permitted as a matter of right. The proposed use would be allowed as the commercial component of such a subdivision.

017241

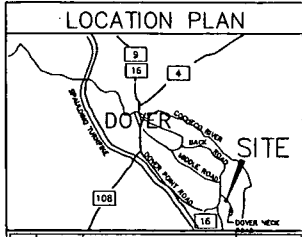
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LEGEND:

- UTILITY POLE
- IRON PIPE FOUND
- ⊙ \$5 REBAR SET
- ⊕ EXISTING FIRE HYDRANT
- ⊖ BARBED WIRE FENCE LINE
- EXISTING STRUCTURE
- PROPERTY LINE
- ⌒ TREE LINE
- MAP LOT TAX MAP/LOT NUMBER
- ⊙ SEWER MANHOLE

OWNER OF RECORD:  
 NORTHERN NEW ENGLAND DISTRICT  
 COUNCIL OF CARPENTERS APPRENTICESHIP  
 AND TRAINING FUND  
 1111 LISDON STREET  
 LEWISTON, ME 04240

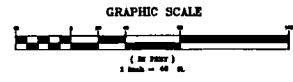


NOTES:

1. THE PURPOSE OF THIS SURVEY IS TO DELINEATE THE BOUNDARIES OF THE SUBJECT PARCEL.
2. THE PARCEL IS IDENTIFIED ON DOVER TAX MAP M, AS LOT 78B.
3. THE PARCEL IS DESCRIBED IN A DEED RECORDED AT THE STRAFFORD COUNTY OF DEEDS IN BOOK 1237, PAGE 518.
4. THE BOUNDARY LINES SHOWN ARE BASED ON A RANDOM TRAVERSE WITH A CLOSURE GREATER THAN 1 PART IN 50,000.
5. EQUIPMENT USED : LEITZ SET 2 TOTAL STATION.
6. NORTH ARROW SHOWN IS BASED ON A MAGNETIC READING TAKEN 8/8/89.
7. THE TOTAL AREA OF THE SUBJECT PARCEL IS 166,373 SQ. FT.
8. THE DISTANCES BETWEEN THE MONUMENTS FOUND DEVIATED FROM THE RECORDED DISTANCES. THE NEW REBARS SET WERE AT THE PRORATED DISTANCES.

REFERENCES:

1. PLAN OF LAND FOR STALEY H. TRASK, DOVER, NH, BY GRANT L. DAVIS, DATED DECEMBER 1947, RECORDED AT STRAFFORD COUNTY REGISTRY OF DEEDS IN FOLDER 2, FOLDER 17, PLAN 17.
2. PLAN OF SUBDIVISION FOR ELMER C. & CATHERINE GOSS, BY K.E. MOORE AND B.G. STAPLES, DATED MARCH 1985, RECORDED AT STRAFFORD COUNTY REGISTRY OF DEEDS AS PLAN #27-98.



I DECLARE THAT THIS SURVEY PLAT SHOWS THE PROPERTY LINES OF EXISTING OWNERSHIPS AND THAT THE LINES OF STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED AND THAT NO NEW LINES FOR DIVISION OF EXISTING OWNERSHIPS OR FOR NEW WAYS ARE SHOWN.

DATE: April 27, 1997  
 \_\_\_\_\_  
 LICENSED LAND SURVEYOR



PLAN of LAND		Scale: 1" = 40'
(FOR)		Date: 8/12/89
CARPENTERS TRAINING FACILITY		Drawn by: MLM
DOVER, NH		
ROARING BROOK CONSULTANTS		Sheet: 814-1
CIVIL, STRUCTURAL & CONSTRUCTION ENGINEERING		
15 SEWALL ROAD		
SOUTH BERTWICK, MAINE 03908		

314-24



**CITY OF DOVER**

## ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z12-19)

Application Type:	Variance
Applicant:	Vincent A. Duffy
Owner:	23 Atkinson St., LLC
Location:	23 Atkinson Street (Tax Map 9, Lot 17)

**INTENT:** Applicant requests a variance from Section 170-12.A of the Zoning Ordinance and the RM-U District Table of Use and Dimensional Requirements to permit the first floor of the building to be used as an office for a psychotherapy practice.

**LOTS/UNITS PROPOSED:** Office located on portion of first floor, and three (3) residential units

**AGENDA ITEM #:** 4-D

**ZONING DISTRICT:** RM-U

**EXISTING LAND USE:** Mixed Use Commercial/Multi-Family Residential

**PROPOSED LAND USE:** Mixed Use Commercial/Multi-Family Residential

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

**PREVIOUS ZBA ACTION:** Case H84-32 – Variance granted to permit conversion of existing four (4) unit apartment building a five (5) unit dwelling.

**PLANNING BOARD APPROVAL REQUIRED:** No

**ATTACHMENTS:** Application, tax map, photos

**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 contains 0.31 acres, is a corner lot located at 23 Atkinson Street at the intersection with St. Thomas Street, and is improved with a three (3) story residential building. The first floor was most recently used for a day care, the second an office<sup>1</sup>, and the third an apartment. Applicant proposes to use a 561 sq. ft. area of the first floor as an office for his psychotherapy practice, and the remainder of the building as three (3) residential units. Because “office” is not a permitted use in the RM-U District, a variance is required from Section 170-12.A of the Zoning Ordinance and the RM-U District Table of Use and Dimensional Requirements for applicant’s proposed psychotherapy office use.

### Reason for Staff Recommendation

Staff believes that the property is unique in that the first floor is outfitted for commercial purposes and has been used for commercial purposes for many years. The property is improved with a large parking lot that also supports a commercial use of the property. The commercial use of the property is also compatible with the uses permitted in Central Business District (CBD) which is located directly adjacent to the property. In the CBD, located directly across both Atkinson Street and St. Thomas Street, commercial on the first floor is not only permitted, but is in fact a requirement (the CBD General and Mixed Use prohibit residential on the first floor). Staff believes the proposed office use is a modest and reasonable use of the first floor of this building and will have significantly less impact on the neighborhood than the most recent daycare use.

### Recommendation

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

<sup>1</sup> It is staff’s understanding that the second floor office use was an outgrowth of the initial accessory office use for the daycare.

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

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

Office Use Only	Case #:	<u>212-19</u>	Date Received:	<b>RECEIVED</b> SEP - 5 2012 By _____
	Amount Paid:	\$ _____	Time Received:	

**APPLICANT/PROPERTY OWNER INFORMATION**

APPLICANT: Vincent A. Duffy Phone # 603-767-2230

Address of Applicant: P.O. Box 301 Dover, NH 03821-0301

E-Mail Address: Vincent0821@comcast.net

PROPERTY OWNER (if different from applicant): 23 Atkinson St. LLC

Address: P.O. Box 301 Dover, NH 03821-0301 phone # 603-767-2230

E-Mail Address: Vincent0821@comcast.net

**PROPERTY/PARCEL INFORMATION**

Address: 23 Atkinson St. Dover, NH 03820

Brief Directions: Lot is on the corner of St. Thomas Street and Atkinson Street.

Zoning District: RM-U Assessor's Map # 09 Lot(s) # 17

**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:**

Currently, the building is zoned for 3 units. I plan to use a portion of 23A Atkinson (which was most recently used as a daycare) as a 2 office psychotherapy practice. The remainder of 23A will be a one bedroom or studio apartment.

# 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:

Approximately 561 square feet of office space, on the first floor of 23A Atkinson Street, where office space is not a permitted use in the RM-U district.

## 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:

- ① Property has adequate off street parking to accommodate the parking needs of both the residence and office spaces.
- ② The most recent use of 23A Atkinson was for commercial purposes (used as a daycare.)
- ③ Traffic volume will be significantly less than when used as a daycare

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

There are no negative impacts on the immediate area caused by allowing 23A Atkinson to be used as an office. It is also consistent with the prior use of 23A Atkinson Street.

3. Granting the variance would do substantial justice because:

There will not be a negative impact on the surrounding community as there are ample parking spaces (off street) for both residential and office use.

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

Permitting the office is consistent with the prior use, with less impact on the surrounding area.

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 A unique aspect of this property is that it was previously used for commercial purposes.
- ② The property has a handicap accessible ramp, allowing for clients with disabilities to have access to the office.

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 has already been used as office space. In addition, enforcing the ordinance will prevent the reasonable use of a portion of the first floor.

and

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

The property has already been used for commercial purposes including some of the space in the daycare which is designated for office use. In addition, the proposed use will not alter the character of the neighborhood and will be less impacted by the traffic volume than it's prior use.

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:

1-8,9 180

9-59 22

1-3  
57

9-57 24

9-61 26

9-61A 28

9-62 30

1-2 59

SAINT THOMAS ST

ATKINSON ST

184

167 (FA)  
1 2 3 4 5 6  
PARKING FOR 16  
9/10/11/12  
120 FT

9-17 23

9-16 27

1-1 6

66 FT

9-15 31

9-19 56

66 FT

9-14 35

9-20 10

9-23 20

9-21 16

BELKNAP ST

9-22

9-24 26

910-75