



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT AGENDA

Meeting Type: Regular Meeting
Meeting Location: Council Chambers, 288 Central Avenue, Dover, NH 03820
Meeting Date: **Thursday, February 21, 2013**
Meeting Time: **7:00 pm**

1. ATTENDANCE

2. APPROVAL OF PRIOR MINUTES OF DECEMBER 20, 2012 AND JANUARY 17, 2013

3. ELECTION OF OFFICERS

4. HEARINGS

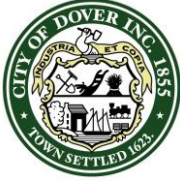
- A. * Z 13-03 STF Development Corp., 1 George Street (Tax Map 20, Lot 37), located in the Urban Density Multi-Residential (RM-U) District, proposes to remove the existing buildings and to construct a multi-family building containing six (6) dwelling units. A variance is required from **Section 170-12.A** of the Zoning Ordinance and the RM-U District Table of Use to permit a multi-family building containing six (6) dwelling units, where a maximum of only four (4) dwelling units per multi-family building is permitted by special exception in the RM-U District.
- B. * Z 13-04 Eric and Elizabeth Hagman, 205 Silver Street (Tax Map 13, Lot 12), located in the Medium Density Residential (R-12) District, has constructed an addition to the existing nonconforming dwelling, which at its closest is located approximately five (5) feet from the front lot line. Applicant requests a variance from **Section 170-41.D** of the Zoning Ordinance to permit the addition to be located approximately 7.8 ft. from the lot line at its closest, where additions to nonconforming structures may be located no closer than 10 ft. from the lot line.

5. ADJOURN

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

Persons with questions or interested in reviewing the application materials are invited to visit the Planning Department located in City Hall, open Monday-Thursday from 8:30 am to 5:30 pm. The application materials are also available on-line at www.dover.nh.gov. A map showing project locations can be found at www.dover.nh.gov/planhome.htm.

Follow us on Twitter @DoverNHPlanning and find us on Facebook at www.facebook.com/pages/Dover-NH/City-of-Dover-NH-Planning/446789895351.



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers, City Hall, Dover, NH 03820
Meeting Date: **Thursday, December 20, 2012**
Meeting Time: **7:00 pm**

1. ATTENDANCE

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

Members Not Present: Otis Perry, Joshua Cote (Alternate), Chris Prior (Alternate).

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

The Chair called the meeting to order at 7:00 p.m. The Chair opened the meeting, introduced the Board and staff members to the audience, and described the process used to hear cases.

Chris Parker, Director of Planning, thanked the Board members for volunteering and personally thanked William Colbath for his many years of service to the City. Mr. Colbath is retiring from the ZBA at the end of 2012.

2. APPROVAL OF PRIOR MINUTES OF NOVEMBER 15, 2012

Motion: J.Kelley motioned to accept the November 15, 2012 minutes. Seconded by W.Colbath. Vote: U/A.

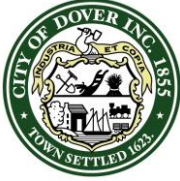
The Chair appointed Jennifer Stone (alternate) to vote on all cases this evening.

3. HEARING – CONTINUED FROM NOVEMBER 15, 2012

- A. * Z 12-23 Changing Places, LLC (Owner: Estate of Rita T. Taylor), 72 Durham Road (Tax Map I, Lot 12), located in the Low Density Residential (R-20) District and the Suburban Density Multi-Residential (RM-SU) District. Applicant proposes to construct a twenty (20) unit townhouse residential development in addition to the existing residence for a total of twenty-one (21) units. Applicant requests a variance from **Section 170-12.A** of the Zoning Ordinance and the R-20 and RM-SU District Tables of Use and Dimensional Requirements to permit +/- 6,331 sq. ft. of land per unit where a minimum of 10,000 sq. ft. is required.

Motion: W.Colbath motioned to remove from the table. Seconded by J.Kelley. Vote: U/A.

Atty. James Schulte represented the applicant and gave an overview of the proposed plan. Since the last meeting, the applicant has reduced the number of units from 21 to 16 following a meeting that was held with abutters. He noted they are allowed by right to have 12 units. The units will be built on slabs and will be developed as multi-use residential. He discussed the possibility of building 12 units with 4 bedrooms; but their preference is to have 16, 3-bedroom units, which attract a different type of user. He explained that there are not a lot of 4 bedroom apartments available in the City. These types of units generally attract families with children. Two and three bedroom apartments attract younger couples, singles, and retirees. Atty. Schulte explained that due to the wetlands there is limited space to construct; therefore there will be 7 units in one building, and 9 units in the other building. He stated that the Planning Board will deal with concerns about drainage and driveway issues. With the new revisions the driveway would move a little further south. Groundwater issues were discussed, and in fact Atty. Schulte stated that they will be improving the groundwater drainage near the Garrison. He compared about a dozen projects in the vicinity with densities far greater than the proposed project. He discussed the impact of the size of the units including a larger number of smaller units. He reviewed



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the criteria to be met for the variance. A letter was presented that was written by Peggy Carter from Coldwell Banker giving her professional advice on the development and sales analysis. When comparing the value of purchase, Schulte stated that it is less expensive to purchase a unit than it is to rent a unit of the same size. There is a good market for existing units and there is a real market for purchasing units because of purchase trends.

J.Kelley asked Atty. Schulte to confirm the number of bedrooms in the units.

Atty. Schulte confirmed they propose 3 bedrooms vs. 4 bedrooms and stated that the preferred market would be to young couples, groups of people, and older couples downsizing who want two or three bedrooms. It typically excludes children. The target market would change to families or student housing if the variance was not granted. If you go to four bedrooms you would expect children or student rentals.

J.Kelley stated the objective is rentals and the target is UNH students. He asked why a realtor gave the opinion and not an appraiser.

Atty. Schulte explained that the appraiser's job is similar to the assessor. Appraisers don't look at what will happen down the road but only how much it will sell for. A realtor's function is different.

S.Reid confirmed that the applicant met with the abutters and some still have concerns. He asked about screenings along the boundaries, and drainage in the roads; he asked if the applicant would agree to the condition of limiting to unit sizes to three bedrooms.

Atty. Schulte stated that they would cooperate with the abutters and the Planning Board with the various concerns. Drainage systems and concerns were discussed. A drainage analysis and design will be presented to the Planning Board when the time comes. He also confirmed that the applicant has agreed to a condition of limiting the unit size to three bedrooms.

J.Kelley asked T.Corwin about the density of the extra 4 units, and going against the zoning density.

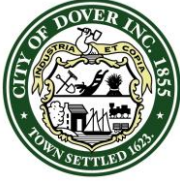
T.Corwin discussed the proposed density and that they worked with the applicants. They felt it was a reasonable request.

Atty. Schulte discussed there are 6 residential zones in the city, and some zones don't fit.

Public hearing open.

Robert Sylvester, 56 Durham Road #7, asked about the public interest, the town and the surrounding abutters. The interest of the neighborhood would be better with 20, 2 bedroom units vs. the larger units. He mentioned that Mr. O'Neil discussed having foliage to the water and is concerned about possible water drainage.

Dean Trefethen, 5 Cielo Drive, Mayor and Planning Board representative; has been asked by abutters to speak on behalf of the citizens of Dover. He stated that he has nothing against Changing Places. The issue tonight is density and that they are allowed 12 units by right. He asked for clarification if the plans include the existing house. There are many issues, many which will be addressed by the Planning Board. He is asking the Board to look at the character of the neighborhood, which are mostly single family homes. He feels 12 units are "right".



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The standards have changed. The change is in the wetlands. We need higher standards because the water needs to go somewhere and not on the neighbors land. He stated that there is no hardship, and asked what the reason to need more units is. The number of bedrooms has nothing to do with the request and it's already zoned multi-family.

Charlotte Courtemanshe, current president of the Garrison Condo Association stated that most of the units have sump pumps running year-round. The units have French drains. Residents are concerned with traffic, and looking at a plastic fence. They are concerned about the large number of rentals which may have adverse effects. They do not support the density of that property.

Guiseppe Bellan, 56 Durham Road #5, spoke about the density and the effect it has on the Garrison. He handed out pictures and how it affects the road and the drainage issues. He stated that felt there is no hardship.

Rita Taylor, 68 Durham Road, stated that she is a direct abutter. She discussed the definition of "townhouses" and that people usually own them, which are cared for and not rented. She stated that she grew up on the property which is all clay soil, which will not drain. She is concerned about traffic, drainage, and who will rent them, and that the property will not be maintained.

Albert Catalfo, owns 82 and 72 Durham Road, is concerned about taxes, safety of the pedestrians, that there are no sidewalks, water and drainage. He feels Route 108 is over populated. He commented that the building would have a negative impact on his property due to the building heights.

Dave Nollet, 56 Durham Road #4, spoke about the beauty of the property and that the owners have pride in their units. As a covenant, only 9 units can be rented in the Garrison. He is concerned about renting to college students and the consequences it poses.

Atty. Schulte clarified that for a portion of the property RMSU, the variance only applies to the back portion of the property and not to the front. He stated the house out front may stay the way it is, or it could be converted to a duplex. He confirmed the target market would change with 16 units. All the issues are identical with 12 units vs. 16 units.

S.Reid asked about the lack of hardship.

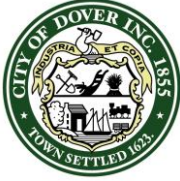
Atty. Schulte stated that there is a hardship due to the lack of buildable area, which is more costly planning for the roads.

J.Stone asked why 16 units vs. 12 units

Atty. Schulte confirmed there are different circumstances based on unit sizes and target market areas and having families in there would cause a negative impact on the revenues for the city (for example schools, recreation, etc.)

Staff Recommendation:

The Planning Department supports the variance request. Tim Corwin thanked the abutters for their comments, concerns and for coming out tonight. The Planning Board will address the many concerns of the abutters if the



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variance is approved. T.Corwin suggested two conditions:

- Limit the number of bedrooms
- Limit the number of units on the entire property to 18 units. This includes 16 townhouse style units and the current single family home which may be converted to a duplex.

J.Stone confirmed with T.Corwin about the square foot limit to stay within the 10,000 sq. ft.

T.Corwin explained that there is no limit to the size of the house, except for height limits.

F.Landford confirmed with Atty. Schulte that the client is acceptable to 16 units plus duplex.

Public hearing closed.

F.Landford said he would rather see 16 three bedrooms units, vs. 12 four bedrooms; traffic would be the same. He feels that ownership vs. rental is up to the builder.

J.Kelley does not feel there is a hardship and does not support the variance. He stated that 12 is enough.

J.Stone agrees and feels it would set precedence. She sees no valid hardship.

W.Colbath mentioned the potential devaluation and agrees with the abutters, that the impact is more with the additional units.

S.Reid commented that the focus is not on the hardship, but more on how it affects the neighborhood, and is it offensive to the neighborhood. He commented that this as it established by the applicant the square footage of uplands is certainly better than some in the neighborhood. He feels that a 12 unit would have the same impact on value as the 16 unit would.

J.Kelley disagreed.

S.Reid stated that he would vote for the variance and let the Planning Board do what it needs to do to enact the protections of the abutters on the drainage, the screening, the traffic, and other issues.

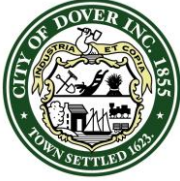
Board discussion ensued.

The Chair asked the Board if they want to defer to the next meeting and issue a finding of fact, or make a motion now.

Motion: J.Kelley motioned to decline. Seconded by J.Stone. Vote: 3/2 (J.Kelley, J.Stone, and W.Colbath voted to approve the motion; F.Landford and S.Reid voted to oppose the motion). Accordingly, the variance request was denied.

There was a brief recess.

4. HEARING – NEW



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Meeting Type: Regular Meeting
Meeting Location: Council Chambers, City Hall, Dover, NH 03820
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- A. * Z 12-25 Thornwood Commons, LLC and Varney Brook Lands, LLC, Thornwood Lane (Tax Map M, Lot 4), located in the Executive Technology Park (ETP) District, and subject to the Residential-Commercial Mixed Use (RCM) Overlay District, has approval to construct 62 residential units which were approved as part of development plan that also included non-residential structures. Per the RCM Overlay District requirements, only 50% of the residential units may be occupied prior to construction of a portion of the non-residential structures. To date, none of the proposed non-residential structures have been constructed. Accordingly, the applicant requests a variance from **Section 170-28.2.E** of the Zoning Ordinance to allow 46 residential units (approx. 75% of the total 62 permitted) to be constructed and occupied where only 31 residential units (50% of the total 62 permitted) are allowed to be occupied prior to construction of the non-residential structures.

Atty. James Schulte represented the applicants. He compared two properties in the district (Cielo Drive, near the Hannaford Supermarket and the congregate care facility). Thornwood acquired the right to build 48 units. The economy has changed since 2006 and the commercial developer on the front parcel had requested an extension of his timing which was approved by the Planning Board. A joint committee was set up to review what is economically viable for the project. The committee will meet in January 2013. There have been many changes to the property including cleanup of the previous environmental issues. Thornwood is trying to reasonably finish and complete this project for the benefit of the property owners as well.

S.Reid asked Atty. Schulte why all 48 units were not requested in the variance.

Atty. Schulte confirmed that they can wait and a new plan would be in place which would allow for 100 residential units later.

J.Kelley commented that he remembers it to be a mix of residential and commercial. He questioned Chad Kageliery's intentions with the project.

Atty. Schulte stated that the intension of the developer is working on what is developable and sellable at this time and he has one year to decide what he will do.

J.Kelley asked when the project is increased, would there be an increase in trash and recyclables at the collection point with Middle Road at the intersection.

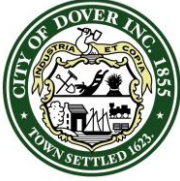
Atty. Schulte responded that it would be a private road owned by the association and that they can hire a private trash pickup service.

J.Stone asked when is the anticipated date of construction for the commercial entity and what would happen if the commercial portion doesn't happen.

Atty. Schulte responded that Chad Kageliery hopes to have completed plans by the end of 2013 and start the development. He also commented that the residential streets would remain private.

T.Corwin stated that when the homes are built they would become legal non-conforming based on new zoning. He discussed that density has also changed in that zone.

Discussion ensued.



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Public hearing open.

Craig Williams, 154 Middle Road, said that he is impacted by lights shining onto his land; he does not see any additional impact with issuing the variance. The homes will be built eventually, and it is a fair request. He supports the variance.

Kent Howard, 2 Jacqueline Drive, in the Sawyer Green development, spoke against the variance. He stated that granting this variance will cause two hardships for the abutters of Jacqueline Drive, Sonya Drive, and Julia Drive which are three cul-de-sacs that are part of this development. Firstly, it would delay the construction of the continuation of Thornwood Lane and through to Dover Point Road. It will cause a continuation of the heavy traffic of construction vehicles using Middle Road, accessing the building sites. It appears that development will take another 2-4 years depending on the number of residential/commercial units. He mentioned that particularly in the early morning hours, there have been as many as 23 construction vehicles between the hours of 7 am and 8:30 am. He stated there is noise from the backup indicators on the vehicles. Secondly, he discussed the marketability concern. He stated that when they purchased their home as a resale, they were told it would be another two to three years before the final construction was completed. It has been more than two to three years and they expected the construction to be completed by now. It will impair their peaceful enjoyment of their home. He feels that the heavy traffic will continue down Thornwood Lane, and Middle Road and it could be upwards to another four years before construction is complete. He is concerned about the single traffic pattern if the road is continued through to Thornwood Lane. He sees a good compromise and feels a provision be made for the extension. He would like to see the completion of the project earlier rather than later.

Atty. Schulte discussed the portion of the road that is not built and that it is not owned by Thornwood Commons. There was a master plan for residential and commercial. The residential portion was sold off to Thornwood Commons. He stated that if the variance is granted, 46 of the 48 units will be completed sooner, and construction will eliminate the construction noise earlier; there would be a hiatus for a year until the commercial construction resumes.

J.Stone confirmed with Atty. Schulte that Thornwood Commons bought the 22 acres on the Middle Road end and that is all that can be built on.

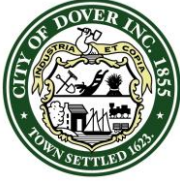
Staff Recommendation:

The Planning Department, per the Planning Staff memo, supports the variance request with the following conditions:

- No more than 46 units can be occupied before construction of the required non-residential portion of the project.
- Amend the Developer's Agreement to reflect the variance.
- ~~The applicant obtains Planning Board approval for any changes to the lot line as shown on the approved plan.~~

Atty. Schulte agreed with the conditions of the approval. He questioned condition #3 about the lot lines.

T.Corwin clarified what he meant with the condition.



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Robert Stowell, Tritech Engineering, who prepared the plans, explained that lot lines were not identified on the plans. He confirmed that when the buildings are sold, an asbuilt plan included limited common area which is recorded at the time of closing, would be filed with the registry of deeds and building locations filed with the building inspector.

Atty. Schulte suggested with Board permission, he would confirm with the Director of Planning as what is needed by them.

Board discussion ensued. After discussion T. Corwin agreed to remove condition #3 as a recommended condition of approval.

Public hearing closed.

Motion: F. Landford motioned to approve the variance for the 46 structures with two conditions as recommended by the Planning Dept. Seconded by S. Reid. Vote: U/A.

Discussion after the motion.

J. Kelley commented that he voted in favor of the variance and is comfortable with Mr. O'Neil's work. He would like to see this project completed as soon as possible.

J. Stone commented she voted to approve but would have liked to have seen representation on the commercial entity.

W. Colbath commented that it started out as one lot and that the Planning Board should not have allowed the property to be split into two lots.

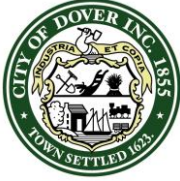
5. RE-HEARING REQUEST – Z 12-09 ROBERT E. FISHER, 49 LITTLEWORTH ROAD (TAX MAP G, LOT B)

S. Reid presented the letter submitted by Attorney Robert E. Fisher requesting a re-hearing on the above mentioned case. Due to a number of reasons that Atty. Fisher stated in his letter, S. Reid supports the request for a re-hearing. He acknowledged that he did not complete the finding of facts sheet because of lack of testimony. He will ask that the Planning staff to propose some findings of facts before the meeting on January 17, 2013.

Motion: F. Landford motioned to approve the re-hearing request. Seconded by J. Stone. Vote: U/A.

6. ADJOURN:

Motion: J. Stone motioned to adjourn at 9:52 p.m. Seconded by W. Colbath. Vote: U/A.



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Meeting Time: **7:00 pm**

1. ATTENDANCE

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

Members Not Present: Sam Reid (Chair), Joshua Cote (Alternate)

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

The Vice Chair called the meeting to order at 7:02 p.m. He opened the meeting, introduced the Board and staff members to the audience, and described the process used to hear cases.

2. APPROVAL OF PRIOR MINUTES OF DECEMBER 20, 2012

Motion: O.Perry motioned to accept the December 20, 2012 minutes. Seconded by J.Kelley. C.Prior made corrections to page 2, where J.Kelley asked T.Corwin about the density;

Page 4, **Motion:** J.Kelley motioned to deny the variance (Landford and Reid objected to the motion and W.Colbath was in favor of the denial. Motion was to deny the motion per J.Kelley;

On page 5, T.Corwin stated that when the homes “are built” they would become legal non-conforming – strike (that);

On Page 5, (in the Ken Howard paragraph) J.Kelley asked when the project is increased, would there be an increase in trash and recyclables, it should read “the collection of at the intersection of middle road.”

Last paragraph, page 5, It creates two hardships. The first is the construction of Thornwood; There would be a noise concern. If the road is continued through to Thornwood.

Motion: O.Perry motioned to withdraw the motion to approve the minutes until they have been corrected. J.Kelley tabled the minutes and any revision until the next meeting. Seconded by J.Stone. Vote: U/A.

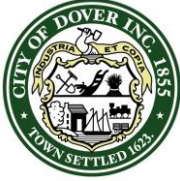
The Chair appointed Jennifer Stone (alternate) to vote on all cases this evening.

3. ELECTION OF OFFICERS

MOTION: KELLEY MOVED TO REFER ELECTIONS TO THE NEXT MEETING. VOTE: U/A.

4. HEARING – NEW

- A. * Z 13-02 Mattress Firm, Inc. (Property Owner: Prime Circle, LLC), 15 Webb Place (Tax Map D, Lot 2A), located in the Thoroughfare Business (B-3) District, proposes three (3) signs for its proposed retail store in the multi-tenant commercial building located on the subject property: a panel on an existing freestanding sign, a wall sign on the front of the tenant space, and a wall sign on the side of the building that faces Indian Brook Drive. A variance is required from **Section 170-32.A** of the Zoning Ordinance and the B-3 District Table of Use to permit three (3) signs where a maximum of two (2) are permitted. be occupied prior to construction of the non-residential structures.



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F.X. ? of Bruton & Berube spoke – Sign A, Sign C (pilon sign), and Sign B on side of building. He spoke about the two frontages on road frontages. The building does have signs on the side and they feel the proposed signs would be in keeping with the current signage. They are proposing signage on the side of Indian Brook Drive, and would be in consistent of the ordinance. They do not feel that any of the abutters property would be diminished in any way. They feel the property is unique in its location, at the intersection of Indian Brook Drive, and Rochester Road and unique in the lanes of traffic having either 7 or 9 lanes of traffic on either side. They feel the use is reasonable and they feel it is critical that a good balance of visibility has to the property.

Otis asked about sign B, would be fixed to the building or freestanding. F.X. confirmed it is flush to the building.

C.Prior asked about the distance between signs B & C – F.X. confirmed at least 75 feet.

W.Colbath asked for the purpose of the sign B – to increase the visibility of the tenants business and do it in a way that the other tenants have. The other tenants have frontage on two streets, and only have two signs.

J.Kelley asked about the pilon sign which is vertical. He asked if the other tenants would be requesting additional signage.

C.Prior asked if the tree is going to be removed so the new sign would be in line of site. F.X. explained it is a possibility but the location is specific due to the electrical location.

J.Kelley with Fx that it would be a lit sign similar to other signs on the buildings.

F.Landford asked about size in comparison to the Five Guys Signs. – it is 58-59 sq.feet, and probably smaller than Five Guys. The allowance is 75 sq.ft. It would not max out the size, but is appropriate in size.

Colbath asked what is the purpose. Fx stressed it is the visibility of the property. It would be critical to the applicants.

Staff Recommendation:

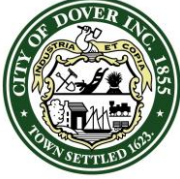
Provided that the applicant satisfactorily demonstrates compliance with the five (5) variance criteria, the Planning Department supports the variance request and recommends the Board hold the public hearing. A sign permit will be required.

(tom clark interepreted to Tim corwin 170.32.c.17.b – “one wall sign shall be permitted on each frontage”. The zoning board has interpreted the request differently in the past.

O.Perry asked Corwin what is different in this application compared to the Chevrolet sign. Corwin - It is a very different case, they would be entitled to the third sign if they were in the Five Guys spot. 170.32.c.17.b is a bonus not a restriction. What the applicant is asking for is a third sign. They meet the size requirement, but not the number of signs. It's not a requirement, it's a limitation on that bonus.

Prior asked if every tenant can now request a sign on the side facing Webb Place. No.

O.Perry asked who owned the tree and if it's in the right of way. It would make no sense to allow the sign and



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not be allowed to cut the tree.

Colbath – with regards to clark’s characterized – he thinks corwins interpretation is correct, but clark’s characterization is incorrect. 828 Central Avenue, corner of Glenwood in the office district. Office only allows one sign per tenant; clark had interpreted that multiple tenants, can take advance of two wall signs.

Public hearing closed.

Moton: Otis moved to grant the variance with a condition that the tree cannot be cut down. Seconded by J.Kelly.

Vote: 3/2 opposed was colbath, stone.

5. ADJOURN:

Motion: otis motioned to adjourn at 7:50 p.m. Seconded by frank Vote: U/A.

DRAFT



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z13-03)

Application Type: Variance
Applicant: STF Development Corp.
Owner: STF Development Corp.
Location: 1 George Street (Tax Map 20, Lot 37)

INTENT: Applicant proposes to remove the existing structures and to construct a multi-family building containing six (6) dwelling units. The proposed building will front on Hanson Street. A parking lot will be constructed to the rear of the building with vehicular access onto George Street. A variance is required to permit a multi-family building containing six (6) dwelling units, where a maximum of only four (4) dwelling units per multi-family building is permitted by special exception in the RM-U District.

UNITS PROPOSED: N/A

AGENDA ITEM #: 4-A

ZONING DISTRICT: RM-U District

EXISTING LAND USE: Residential

PROPOSED LAND USE: Residential

SURROUNDING LAND USE: Residential and Commercial

PREVIOUS ZBA ACTION: None

PLANNING BOARD APPROVAL REQUIRED: Yes

ATTACHMENTS: Application with attached narrative, tax map, zoning map, and site plan

APPLICATION IS COMPLETE: Yes

NOTICES AS REQUIRED: Yes

STAFF RECOMMENDATION:
The Planning Department supports the variance request.

Summary of Request and Background

The property is located close to Central Avenue, has frontage on both George Street and Hanson Street, and is currently improved with a two-family dwelling and related accessory structures, all of which are in a severely deteriorated condition. Although located in the Urban Multi-Family Residential (RM-U) District, the property borders the Central Business District – General (CBD). The applicant proposes to remove the existing structures and to construct a multi-family building containing six (6) dwelling units. The front of the building will face Hanson Street and will be located relatively close to the front lot line along Hanson. A fourteen (14) space parking lot will be constructed to the rear of the building with vehicular access onto George Street. A variance is required to permit a multi-family building containing six (6) dwelling units, where a maximum of only four (4) dwelling units is permitted by special exception in the RM-U District.

Reason for Staff Recommendation

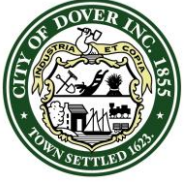
The property directly borders the CBD which has no limitation on residential density. Therefore, the proposed increase of 2 units over the 4 is modest compared to the potential for a significantly denser development just next door. Indeed, staff considers the 6 unit building to be a reasonable transition from the 4 unit density limit in the RM-U District (located on the east side of the property) to the unlimited density in the CBD (located on the west side of the property). It is also notable that rather than placing the building in the middle of the lot, the applicant proposes to place the building close to front lot line on Hanson Street. The significance of this is that while the applicant is seeking the “benefit” of the CBD by seeking an increase in density, it is also willing to meet one of the core principles of the CBD which is to place buildings close to the street. Indeed, the placement of the building close to Hanson Street is in keeping with the appearance and placement of other structures along both Hanson and George Street. Staff notes that the property itself is larger than many of the other properties in this neighborhood, which will further limit the impact of having 2 additional units over the 4 that would be permitted by right by special exception. Finally, the applicant has taken steps to reduce the impact of the parking lot on the abutting property at 5 George Street by angling the location of the parking lot to avoid direct glare to abutters and by providing a vegetative buffer along the side lot line.

Recommendation

The Planning Department recommends the Board hold the public hearing and approve the variance request on the following conditions:

- A vegetative buffer at least seven (7) ft. in height is installed and maintained along the side lot line shared with 5 George Street.
- The parking lot shall be angled, as shown on the plan submitted, to avoid direct glare to abutters.
- Consistent with the standards of the Central Business District, located adjacent to the subject property, the building shall be located as close to the front lot line along Hanson Street as is reasonably possible given the site constraints and steep slope.

Note that drainage and other site issues for this project will be resolved



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z13-03)

Application Type:	Variance
Applicant:	STF Development Corp.
Owner:	STF Development Corp.
Location:	1 George Street (Tax Map 20, Lot 37)

through the Planning Board site plan approval process.



City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Adopted: August 16, 2012]

Office Use Only	Case #:	<u>Z 13-03</u>	Date Received:	<u>FEB 04 2013</u>
	Amount Paid:	\$ <u>300.00</u>	Time Received:	<u>[Signature]</u>
	<u>CL# 14654</u> *600.00	+ <u>CL# 14652</u> *300.00		

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: STF Development Corp. Phone # 603-742-2121

Address of Applicant: 242 Central Avenue, Dover, NH 03820

E-Mail Address: Dave@century21central.com

PROPERTY OWNER (if different from applicant): Same

Address: _____ Phone # _____

E-Mail Address: _____

PROPERTY/PARCEL INFORMATION

Address: 3 - 5 George Street

Brief Directions: Property lies between George Street and Hanson Street. Current address is 3 - 5 George Street.

Zoning District: _____ Assessor's Map # 20 Lot(s) # 37

TYPE OF APPEAL: (Please check one)

- 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 construct 6 residential units and parking for those units.

VARIANCE REQUIREMENTS

THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY

A. Variance Requested

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

Six residential units where four are allowed in the RMU zone.

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:

See attached.

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

See attached.

3. Granting the variance would do substantial justice because:

See attached.

VARIANCE REQUIREMENTS:

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

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 applicant proposes to construct 6 residential units on this property in a neighborhood which contains many rental units and condominium units. This property is located at the boundary of the RMU and the CBD zones. If the zone line were on the other side of this property - as it certainly could be - then this would be a permitted use. Allowing 6 units on this land will not change the character of the neighborhood. Adequate parking will be provided. There will be no adverse impact on health or safety.

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 uses which are compatible with the neighborhood. Residential use is permitted in both the RMU and the CBD zones. However, residential use in the RMU zone is limited to 4 units per lot while the CBD zone allows more residences per lot. This property is located right next to the boundary between the RMU and the CBD zones and is the first property in the RMU zone. If the zone line were located on the other side of this property, then this use would be permitted. This neighborhood has rental residential units and condominium units, including condominiums which are substantially larger than this proposed 6 unit project. This property is a large lot for the neighborhood, and is large enough for 6 units, and the density is consistent with the neighborhood.

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 consistent with other uses in the neighborhood. Residential use is allowed in both the RMU and the CBD zones. The proposed use is consistent with other uses in the neighborhood and will not cause any detriment to the general public. The proposed use will allow the same type of use that is permitted on the adjacent lot.

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

The proposed residential use is consistent with other uses in the neighborhood, and is expressly permitted on the adjacent lot. This existing structure on the property is in poor condition. It will be removed and replaced with new construction. The new building will sit back from George Street, and will be close to Hanson Street. There is a substantial height difference between Hanson Street and the location where the new building will be located so that there will be minimal impact on properties on Hanson Street.

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 is larger than other lots in the neighborhood. The property is immediately adjacent to the CBD zone, and the zone line could have been drawn on the other side of this lot. The property abuts lots in the CBD zone where this proposed use is allowed as a matter of right. There is a substantial height difference between the level of Hanson Street and the location where the new building will be constructed, and the new building will be set back from George Street. The topographic condition of the property allows for this 6 unit building with minimal impact on either George Street or Hanson Street.

(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 residential uses which are consistent with the neighborhood. The proposed use is consistent with neighborhood uses, and would be expressly allowed on the adjacent property. The topography and configuration of this lot minimizes the impact of the new building.

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

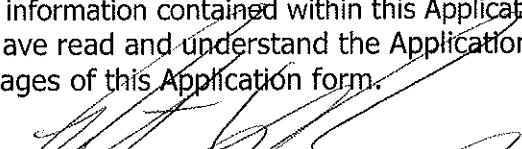
The proposed residential use is consistent with other properties in the neighborhood and would be allowed as a matter of right on the adjacent property.

SIGNATURE PAGE

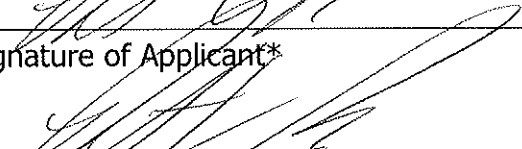
THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS

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

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



Signature of Applicant*



Signature of Owner*

*Both Signatures Required

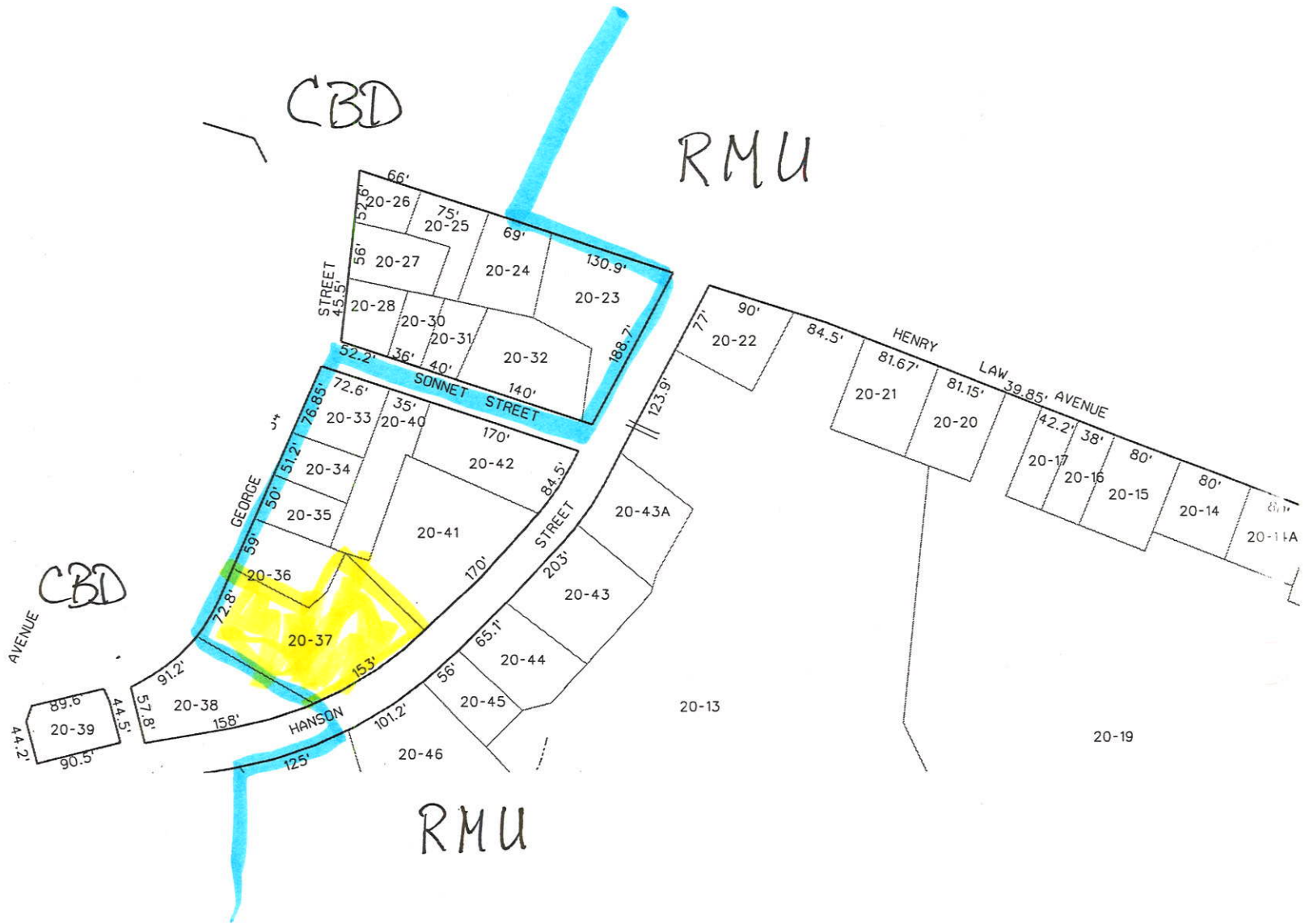
AUTHORIZATION TO ENTER SUBJECT PROPERTY

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

Signature of Property Owner: _____

Date: _____



CBD

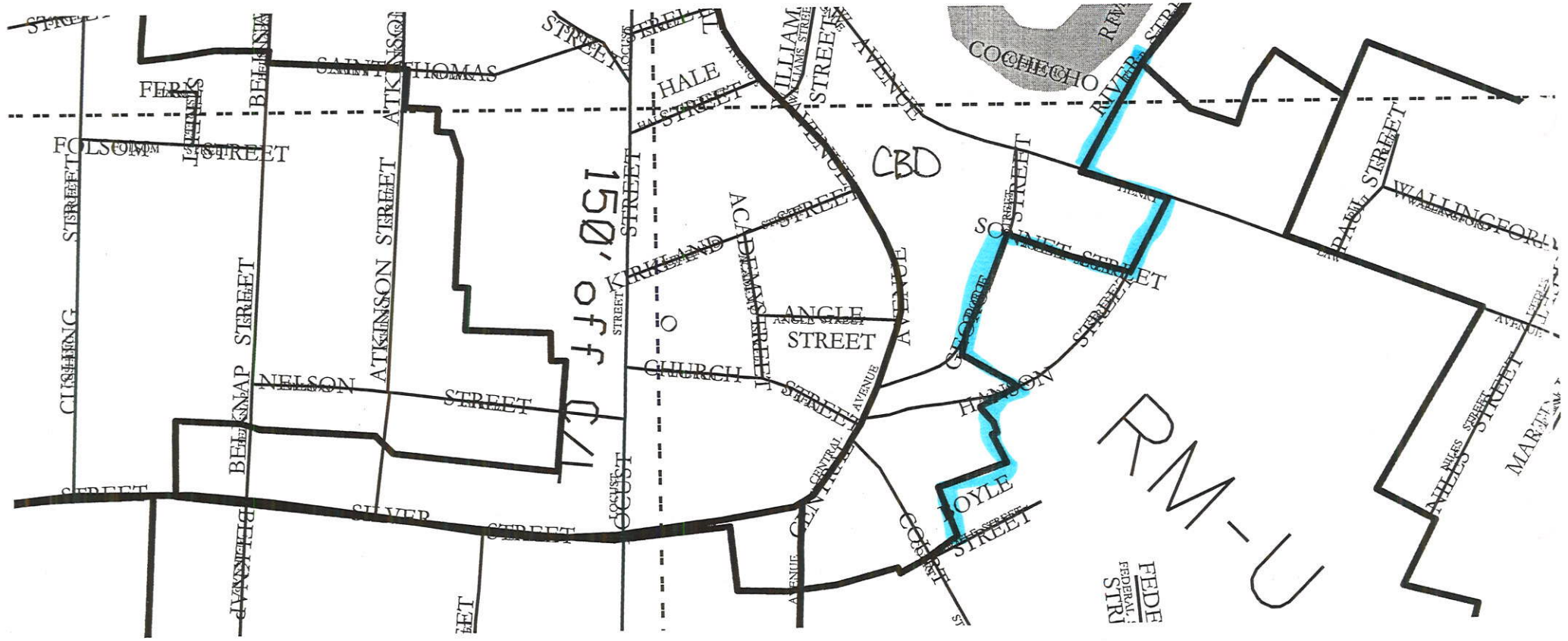
RMU

CBD

RMU

Z13-03

CBD



213-03

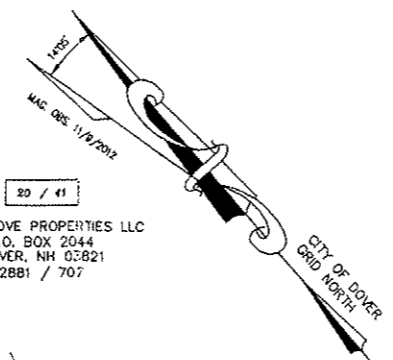
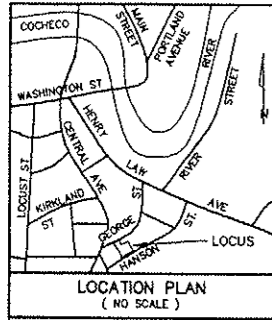
Z13-03

ABUTTERS LIST
for
Tax Map 20, Lot 37 - George Street
(prepared 2/1/13)

<u>Map / Lot</u>	<u>Owner</u>	<u>Address</u>
20 / 13	Guard House, LLC	670 No. Commercial St., Ste 303 Manchester, NH 03101
20 / 33, 20 / 34	Odile B. Moss	PO Box 1061 Dover, NH 03821
20 / 35	9-11 George Street, LLC	32 Depot Square, Ste 2 Hampton, NH 03842
20 / 35-1	Joseph T. & Jennifer Rhodes	9 George Street Dover, NH 03820
20 / 35-2	Paul & Rebecca Summers	3331 US Route 3 Thornton, NH 03285
20 / 36, 20 / 40	Vincent A. Duffy	PO B ox 301 Dover, NH 03821
20 / 37	STF Development, LLC	242 Central Avenue Dover, NH 03820
20 / 38	Patrick Kelly	44 Summer Street Dover, NH 03820
20 / 39	233 Central Avenue, Inc.	233 Central Avenue Dover, NH 03820
20 / 41	White Dove Properties, LLC	PO Box 2044 Dover, NH 03821
20 / 42	Robert D. & Kelly A. Callan	30B Hanson Street Dover, NH 03820
20 / 43	Gerald W. & Elizabeth W. Small Scott W. & Diedre D. Whall	33 Hanson Street Dover, NH 03820

ABUTTERS LIST (con't)
for
Tax Map 20, Lot 37 - George Street
(prepared 2/1/13)

<u>Map / Lot</u>	<u>Owner</u>	<u>Address</u>
20 / 43A	Chad E. & Nicole M. Desmarais	35 Hanson Street Dover, NH 03820
20 / 44	Nancy B. McAtavey Revocable Trust Nancy B. McAtavey, Trustee	26 Prospect Street Dover, NH 03820
20 / 45	Glenn M. Fernald	27 Hanson Street Dover, NH 03820
20 / 46	Erik A. & Susan R. Cain	PO Box 815 Dover, NH 03821
20 / 47	Brian & Kathryn A. Lapierre Mona C. & Lew A. McCutcheon	2795 York Street W. Linn, OR 97068
20 / 48, 49 20 / 55B	Berr Par, Inc. c/o Garrison City Management	7 Hanson Street Dover, NH 03820
20 / 50	Alliance Energy Corp.	36 East Industrial Road Branford, CT 06405
23 / 24	Dagel Holdings, LLC	PO Box 5600 Portsmouth, NH 03801
23 / 25	A.L. Prime Energy Consultants, Inc.	18 Lark Avenue Saugus, MA 01906
23 / 26	Lorraine Martuscello Revocable Trust Lorraine Martuscello, Trustee	12 West Concord Street Dover, NH 03820
23 / 27 23 / 28	Jason L. & Katelyn A. Baron	14 George Street Dover, NH 03820
Surveyor:	McEaney Survey Associates, Inc.	24 Chestnut Street Dover, NH 03820

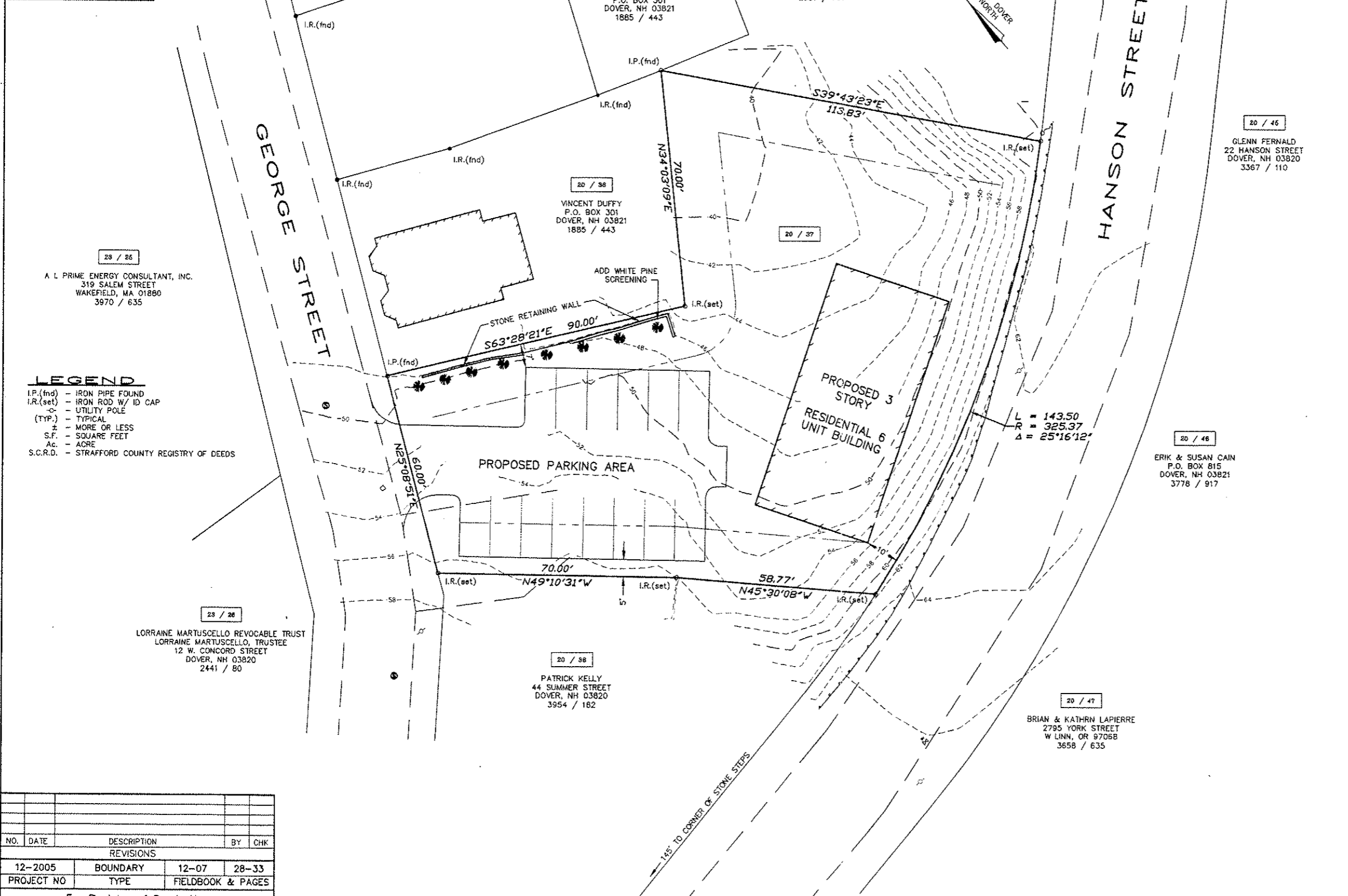


REFERENCE PLANS:

- 1.) PLAN OF LAND OF 9-11 GEORGE STREET CONDOMINIUMS PREPARED FOR THE BIKADIA GROUP, LLC, TAX MAP 20, LOT No. 35, CITY OF DOVER, COUNTY OF STRAFFORD, STATE OF NEW HAMPSHIRE; SCALE: 1" = 10'; DATED: MAY 28, 2003; BY: McENEANEY SURVEY ASSOCIATES, INC.; RECORDED S.C.R.D. PLAN 69-75.

NOTES:

- 1.) OWNER OF RECORD:
STF DEVELOPMENT CORP.
242 CENTRAL AVENUE
DOVER, NEW HAMPSHIRE 03820
S.C.R.D. VOLUME 4059, PAGE 387
- 2.) 20 / 87 DENOTES TAX MAP AND PARCEL NUMBER.
- 3.) THE INTENT OF THIS PLAN IS TO BOUNDARY, TOPOGRAPHIC AND EXISTING CONDITIONS OF THE SUBJECT PARCEL AS OF THE DATE OF THE SURVEY FIELD WORK, NOVEMBER 9, 20012.
- 4.) BASIS OF BEARING AND COORDINATE SYSTEM ARE CITY OF DOVER GRID. VERTICAL DATUM IS NGVD 1988, CONTOUR INTERVAL IS TWO (2) FEET.
- 5.) THE R.O.W. OF GEORGE STREET DETERMINED BY EXISTING MONUMENTATION. THE R.O.W. OF HANSON STREET WAS DETERMINED AS BEING 25' FROM EXISTING CENTERLINE.
- 6.) ZONING DISTRICT IS RMU
- 7.) PARCEL AREA = 18,243 S.F. / 0.43 Ac.



29 / 26
A L PRIME ENERGY CONSULTANT, INC.
319 SALEM STREET
WAKEFIELD, MA 01880
3970 / 635

LEGEND
I.P.(fnd) - IRON PIPE FOUND
I.R.(set) - IRON ROD W/ ID CAP
- UTILITY POLE
(TYP.) - TYPICAL
± - MORE OR LESS
S.F. - SQUARE FEET
Ac. - ACRE
S.C.R.D. - STRAFFORD COUNTY REGISTRY OF DEEDS

23 / 28
LORRAINE MARTUSCELLO REVOCABLE TRUST
LORRAINE MARTUSCELLO, TRUSTEE
12 W. CONCORD STREET
DOVER, NH 03820
2441 / 80

20 / 58
PATRICK KELLY
44 SUMMER STREET
DOVER, NH 03820
3954 / 182

20 / 47
BRIAN & KATHRN LAPIERRE
2795 YORK STREET
W LINN, OR 97058
3658 / 635

20 / 48
ERIK & SUSAN CAIN
P.O. BOX 815
DOVER, NH 03821
3778 / 917

20 / 46
GLENN FERNALD
22 HANSON STREET
DOVER, NH 03820
3367 / 110

20 / 40
VINCENT DUFFY
P.O. BOX 301
DOVER, NH 03821
1885 / 443

20 / 41
WHITE DOVE PROPERTIES LLC
P.O. BOX 2044
DOVER, NH 03821
2881 / 707

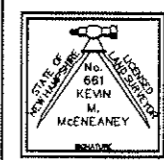
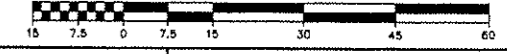
20 / 38
VINCENT DUFFY
P.O. BOX 301
DOVER, NH 03821
1885 / 443

20 / 37

FEB 13 2013

PRELIMINARY SITE PLAN
PREPARED FOR
STF DEVELOPMENT CORP.
TAX MAP 20, LOT No. 37
3-5 GEORGE STREET
CITY OF DOVER
COUNTY OF STRAFFORD
STATE OF NEW HAMPSHIRE

DRAWN BY: KJF FILE: VR CP\2005\12-20051.DWG
SCALE: 1" = 15' DATE: FEBRUARY 13, 2013



McEneaney
Survey
Associates, inc.

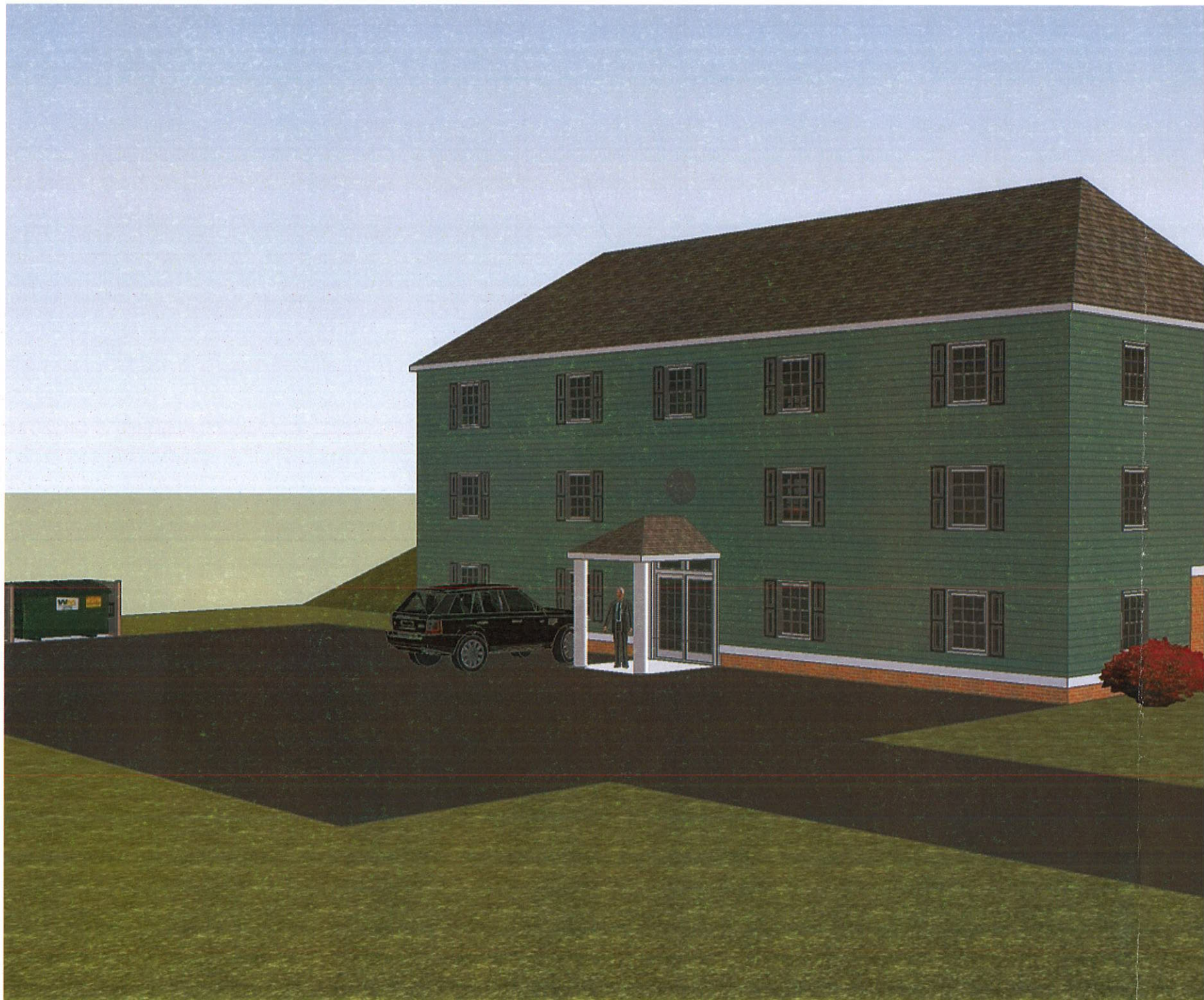
P.O. Box 681 - 24 CHESTNUT STREET
DOVER, NH 03820 (603) 742-0911

SURVEYING - PLANNING - CONSULTING

NO.	DATE	DESCRIPTION	BY	CHK
REVISIONS				
12-2005		BOUNDARY	12-07	28-33
PROJECT NO		TYPE	FIELDBOOK & PAGES	

For Registry of Deeds Use







CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z13-04)

Application Type:	Variance
Applicant:	Eric and Elizabeth Hagman
Owner:	Eric and Elizabeth Hagman
Location:	205 Silver Street (Tax Map 13, Lot 12)

INTENT: The applicants have constructed an addition to the existing nonconforming single family dwelling, which at its closest is located approximately five (5) feet from the front lot line. The Zoning Ordinance permits additions to non-conforming single-family structures provided that the addition is no closer to the lot line than 10 ft., however, the addition is located approximately 7.8 ft. from the lot line. Therefore, a variance is requested from the requirement that the addition be located no closer than 10 ft. from the lot line.

UNITS PROPOSED: N/A

AGENDA ITEM #: 4-B

ZONING DISTRICT: R-12 District

EXISTING LAND USE: Residential

PROPOSED LAND USE: Residential

SURROUNDING LAND USE: Residential

PREVIOUS ZBA ACTION: None

PLANNING BOARD APPROVAL REQUIRED: Yes

ATTACHMENTS: Application with attached narrative, photos (2 pages), and foundation certification

APPLICATION IS COMPLETE: Yes

NOTICES AS REQUIRED: Yes

STAFF RECOMMENDATION:
The Planning Department supports the variance request.

Summary of Request and Background

The property is located on what is formerly known as the “Silver Street Extension”, within the Medium Density Urban (R-12) District. The applicant has constructed an addition onto the existing nonconforming single family residence (at its closest the house is located approximately five (5) feet from the front lot line). Section 170-41.D of the Zoning Ordinance provides that “[a]dditions to nonconforming single-family structures... shall be permitted within the front... setback areas provided that the addition is no closer to the lot line than the existing nonconforming structures, and no closer than ten (10) feet from the lot line.” Although the building permit application indicated the addition would be located no closer than 10 ft. from the front lot line, the foundation certification submitted to the Building Inspector shows the building located at approximately 7.8 ft. from the lot line at its closest.¹ Therefore, a variance is required from Section 170-41.D to permit the addition to be located 7.8 ft. from the lot line where additions to nonconforming structures may be located no closer than 10 ft. from the lot line.

Reason for Staff Recommendation

Staff believes that the variance request is reasonable for the following reasons:

- The location of the addition is not only consistent with the existing setback for the house, but it is also consistent with several other houses on this block which are also located close to the street.
- The addition is 7.8 ft. from the front lot line *only at its closest*; it is setback nearly 10 ft. at its juncture with original structure.
- The addition is no closer to the road than the original house (and is at least 2.5 ft. setback from the front of the original house where it is closest to the front lot line).
- If the entire house was new construction, the front of it would *have to be* located between 5 and 25 ft. from the front lot line (the R-12 District imposes a 5-25 build to line for new construction).

Recommendation

The Planning Department recommends the Board hold the public hearing and grant the variance as requested.

¹ It is staff’s understanding that this error resulted from the applicant’s engineer confusing the setback requirements for additions with the build to requirements for new structures and was under the belief that the 7.8 ft. setback met the requirements of the Zoning Ordinance.



City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Adopted: August 16, 2012]

Office Use Only Case #: Z13-04 Date Received:
Amount Paid: \$ 208.00 Time Received: FEB 06 2013
CL#009005 G. Paul

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: Eric & Elizabeth Hagman Phone # 1-603-978-6213

Address of Applicant: 205 Silver Street, Dover, NH 03820

E-Mail Address: eric.hagman@comcast.net

PROPERTY OWNER (if different from applicant): -Same

Address: Phone #

E-Mail Address:

PROPERTY/PARCEL INFORMATION

Address: 205 Silver Street, Dover, NH 03820

Brief Directions: Take Silver Street until it splits between the N and S Spaulding Turnpike on ramp, go straight onto Silver Street Extension and it is the second house on the right.

Zoning District: R-12 Assessor's Map # 13 Lot(s) # 12

TYPE OF APPEAL: (Please check one)

- X Variance from Section 170.41.D 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:

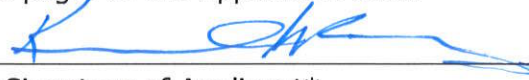
An addition was constructed to the east of the existing house located on Silver Street Extension. It was discovered on or about January 21, 2013 that the addition was constructed 2.2 feet too close to the front property line. Please see attached Variance Narrative and Criteria.

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



Signature of Applicant*



Signature of Owner*

*Both Signatures Required

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: 2/5/13

Variance Narrative

During the month of November 2012, Berry Surveying & Engineering (BS&E) conducted a boundary survey of the property of Eric and Elizabeth Hagman. The boundary survey and an overlay plan demonstrating the location of the proposed addition were published by BS&E on November 19, 2012. The addition proposed as shown on the plan was provided by the Hagman's and was provided to them by New England Homes and dated November 16, 2012. PDF Copies of the published plan were provided to Eric through e-mail on November 19, 2012 and full-size hard copies provided on November 21, 2012.

The published plan lists the Front Setback as 5 Feet which was derived from the Medium Density Residential (R-12) District Table, (Amended: 02-22-12 by Ord. No. 2012-1.25-1. Footnote 5 makes it clear that the build to line established by averaging is to be no closer than 5 feet from the front LOT line. The provisions of Zoning Ordinance 170-41, Nonconforming Structures, subparagraph D states "Additions to nonconforming single-family STRUCTURES, that were made nonconforming by a zoning amendment that changed the front, side or REAR SETBACK requirements, shall be permitted with the front, side or REAR SETBACK areas provided that the addition is no closer to the LOT line than the existing nonconforming STRUCTURE, and no closer than ten (10) feet from the LOT line."

On December 20, 2012 Berry Surveying & Engineering was requested to locate the foundation and complete a foundation certification for the Building Inspector. The foundation was located on December 21st. The Foundation Certification was prepared on December 31, 2012 and forwarded to Eric Hagman by e-mail. On January 21, 2013 we were notified by Eric Hagman that the foundation was over the 10 foot minimum set-back that was required by Dover Zoning Ordinance paragraph 170-41.D., Nonconforming STRUCTURES.

We will address in the required criteria the uniqueness of the front boundary line in relationship to the centerline of Silver Street Extension, formerly Knox Marsh Road, and the variable width of the right-of-way in relationship to the monuments called for in the title and found on site. It is quite uncommon that the monuments are 27.3 feet from the centerline and ROW width being 52.9 feet between the opposite monuments.

In conclusion, we would respectfully request that the Zoning Board of Adjustment grant a Variance to allow the addition to remain as designed and built, 7.8 feet from the boundary line. We want to thank the Board for their consideration.

Sincerely

BERRY SURVEYING & ENGINEERING


Kenneth A. Berry, LLS, JP

Principal: VP – Technical Operations

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

The garage segment of the addition is constructed as an extension of the existing home and residential segment set-back from the plain of the existing home. The easterly corner of the addition is 7.8 feet from what was determined to be the front property line. The width of Silver Street Extension, formerly Knox Marsh Road, was found to be variable in width with found monuments varying on both the southerly and northerly side of the centerline with the total width between found monuments being 52.9 feet. On the northerly side, the stone monument found is located 27.3 feet from the road centerline. If the normal ROW were considered to be 50 feet and the northern ROW limit 25 feet from the centerline, the addition would be 10.1 feet from the line and in conformance with the ordinance. Thus, the addition is offering the same ROW width and setback that would be required to protect the public interest. In addition, for new construction on a vacant lot it is conceivable that the front setback could be five feet and again the addition would be conforming.

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

The ROW width and distance from edge of pavement is met with the current construction that would have resulted if the ROW were found to have been 50 feet based on the centerline of the roadway.

3. Granting the variance would do substantial justice because:

The foundation was poured and addition initiated under the misunderstanding that a 5 foot setback was required and would be a substantial injustice to require the homeowner to move the addition and foundation back 2.2 feet when the construction is already 35.1 feet from the centerline and where under normal circumstances it could be 35 feet a centerline. Under different circumstances, new construction on a vacant parcel could conceivable be 5 feet from the lot line and the addition would be compliant.

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

The addition was constructed 2.2 feet closed to the property line than allowed by the Ordinance. From a visual standpoint, there would be no difference in the existing location and the allowed location, which is further shielded by the fact that the property line is located further from the centerline than it normally would be.

- 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:

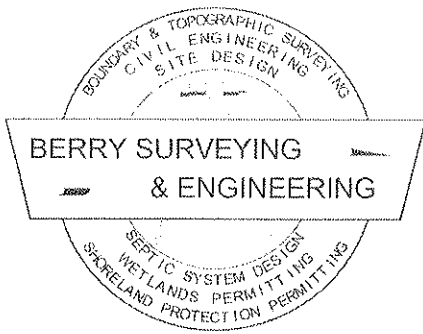
This property has a property line along the frontage that is 27.3 feet from the existing centerline of the roadway where the normal property line would be located 25 feet from the centerline. This is based on historical monuments found in evidence. Property on the southerly sideline of Silver Street Extension are located approximately 25.5 feet from the centerline.

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

As explained above the property line is located an additional distance from the centerline and under normal circumstances the addition as constructed would conform to the ordinance. Enforcement of this specific provision would require moving the addition 2.2 feet when considered from the centerline would be in conformance.

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

As explained the existing location of the addition in relationship to the centerline and normal public interest would be in conformance. For new construction on the parcel, it is conceivable that the front setback line could be as close as 5 feet to the property line. The proposed addition was intended to be an extension of the existing home and has been constructed preserving those lines.



BERRY SURVEYING & ENGINEERING

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Fax: (603) 335-4623
www.BerrySurveying.Com

February 5, 2013

Abutters List

Owner of Record

Tax Map 13, Lot 12

Hagman, Eric B. & Elizabeth Hagman
205 Silver Street
Dover, NH 03820

Book 2618 Page 539

Abutters

Tax Map 11, Lot 2

Profero Management & Holdings LLC
c/o Career Education Corp Attn AP
P O Box 681189
Schaumburg, IL 60168-1189

Book 2126 Page 381

Tax Map 11, Lot 1

Torr, Ann & Franklin Rev Trusts
Torr, Ann & Franklin Trustees
1 Old Littleworth Rd
Dover, NH 03820

Book 3658 Page 745

Tax Map 13, Lot 11

Feeney, Eleanor Morris &
Bernstein, Jeffrey
P O Box 83
Dover, NH 03821

Book 1805 Page 65

Tax Map 13, Lot 5

Smith, Peter K. & Barbara
34 Sandown Rd
Chester, NH 03036

Book 3790 Page 915

Tax Map 13, Lot 4

City of Dover
288 Central Ave
Dover, NH 03820

Tax Map 13, Lot 7

McIntosh, Edward D. &
Picard, Teresa E
192 Silver Street
Dover, NH 03820

Book 3378 Page 809

Tax Map 13, Lot 6

Hardy, Marie
200 Silver Street
Dover, NH 03820

Book 3975 Page 264

Tax Map 13, Lot 9

Mone, Paula
Mone Patrick
202 Silver Street
Dover, NH 03820

Book 1085 Page 780

Tax Map 13, Lot 10-A

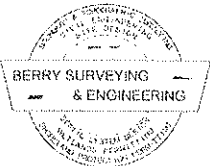
Mcdonough, Joanne A. & Stephen J.
204 Silver Street
Dover, NH 03820

Book 2512 Page 99

Tax Map 13, Lot 10

Smith, Timothea A.
206 Silver Street
Dover, NH 03820

Book 3245 Page 756



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www.BerrySurveying.Com

Tax Map 13, Lot 19

Peduzzi, Beverly F. &
Peduzzi Daniel C.
9 West Knox Marsh Rd.
Dover, NH 03820

Book 2125 Page 566

Tax Map 13, Lot 18-A

Ahrens, William C.
7 West Knox Marsh Rd.
Dover, NH 03820

Book 3124 Page 671

Tax Map 13, Lot 17

Boyle, Nancy Reynolds Living Rev Trust
Boyle, Nancy Reynolds Trustee
4 Chandler Way
Dover, NH 03820

Book 2533 Page 693

Tax Map 13, Lot 16

Bedrosian, Gail L.
2 Old Littleworth Road
Dover, NH 03820

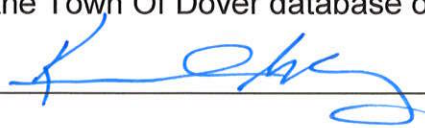
Book 2254 Page 476

Professionals:

Kenneth A. Berry, LLS, JP
Christopher R. Berry, SIT
Berry Surveying & Engineering
335 Second Crown Point Road
Barrington, NH 03825

I, the undersigned, acknowledge that it is the responsibility of the applicant or his/her agent to fill out this form completely and submit to the Department of Development Services by the application deadline. I certify that the names and addresses listed above have been verified against the Town Of Dover database on February 5, 2013.

Applicant or Agent signature: _____



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Photograph #1 – Existing House & Addition



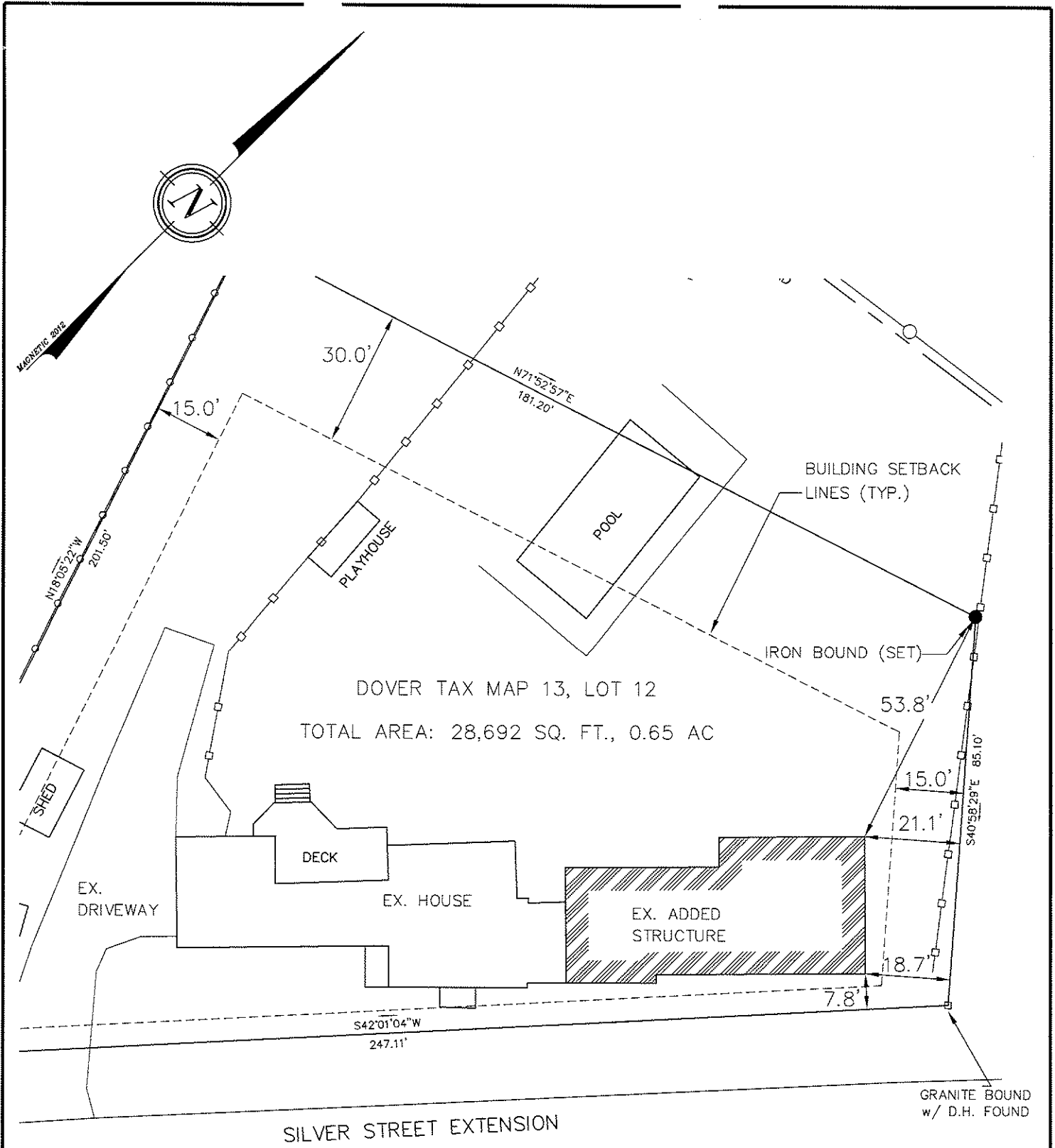
Photograph #2 – Existing House & Addition



Photograph #3 – Addition



Photograph #4 – Existing Garage & House



I HEREBY CERTIFY THAT THE BUILDINGS AND LOT LINES OF THIS INSPECTION ARE APPROXIMATELY LOCATED ON THE GROUND AS SHOWN HEREON. THIS HOUSE DOES CONFORM TO THE ZONING ORDINANCE OF THE CITY OF DOVER

THIS IS NOT A BOUNDARY SURVEY

FOUNDATION CERTIFICATION
 FOR
 ERIC & ELIZABETH HAGMAN
 SILVER ST. EXT.

ZONING : R-12
 TAX MAP : 13
 LOT : 12