

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, April 18, 2013**
Meeting Time: **7:00 pm**

1. ATTENDANCE

2. APPROVAL OF PRIOR MINUTES OF FEBRUARY 21, 2013

3. HEARINGS

- A. * Z 13-05 Dana T. & Anna H. Boudreau, 9 Northam Drive (Tax Map 36, Lot 15H), located in the Medium Density Residential (R-12) District, proposes to construct an accessory dwelling unit as an addition to the existing single family home. A portion of the addition will encroach into the minimum required side setback. A variance is required from **Section 170-12.A** of the Zoning Ordinance and the R-12 District Table of Use to permit the addition to be located approximately 11.5 ft. from the side lot line shared with 7 Northam Drive (Tax Map 36, Lot 15G), where a minimum setback of 15 ft. is required.
- B. * Z 13-06 Jennifer & David Coffin, 336 Washington Street (Tax Map G, Lot 10-1), located in the Medium Density Residential (R-12) District, proposes to keep two (2) goats in the existing barn located approximately 15 ft. from the rear lot line. A variance is required from **Section 170-12.A** of the Zoning Ordinance and the R-12 District Table of Use to permit the keeping of goats in the barn - located approximately 15 ft. from the rear lot line - where structures used to shelter farm animals for family use must be located a minimum of 30 ft. from all property lines.

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

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, February 21, 2013**
Meeting Time: **7:00 pm**

1. ATTENDANCE

Members Present: Sam Reid (Chair), James Kelley, Otis Perry, Chris Prior, Jennifer Stone (Alternate), Joshua Cote (Alternate)

Members Not Present: Frank Landford

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

The Vice Chair called the meeting to order at 7:00 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 AND THE JANUARY 17, 2013 MINUTES

Motion: O.Perry motioned to accept the December 20, 2012 meeting minutes. Seconded by C.Prior. Vote: U/A.

Motion: O.Perry motioned to accept the January 17, 2013 meeting minutes as amended. Seconded by J.Kelley. Vote: U/A.

The Chair appointed Jennifer Stone (alternate) to sit on the first case.

3. ELECTION OF OFFICERS

The Chair motioned to move the election of officers until the end of the meeting.

4. HEARING – NEW

- B. *** 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.

Atty. James Schulte, represented the applicant. Dave Paolini from STF Development was on hand to answer any questions. Atty. Schulte gave a brief overview of the proposed plans and discussed the location of the building which will sit back significantly from George Street. He discussed the parking spaces of two spaces per unit, 14 spaces for the building total. He discussed the CBD and RMU districts and pointed out that if the lot was one lot to the east they would not need the variance. He described that the units nearby carry between 4 and 5 units each. The lot being discussed is much larger than some other area lots. The building will be placed toward the front of the property along Hanson Street with parking in the rear with access off George Street. There will be landscaping and screening to provide screening for neighbors. The building will be a significant improvement from the current conditions, and consistent with the neighborhood. Most homes on Hanson and George Streets are duplexes and many have 4 or 5 units. He stated that there would be minimal impact on the neighborhood due to the topography and the elevation.



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - MINUTES

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

J.Schulte confirmed for J.Kelley that the property is at a lower elevation compared to the abutting property and Hanson Street and that the homes on George Street are similar in elevation.

J.Schulte pointed out that parking is to the back and at the same elevation by entering on the ground floor.

J. Schulte confirmed for J.Kelley that there are more parking spaces than required. There would be two per unit and two extras for visitors.

Brian Lapierre, owns 17-19 Hanson Street but his current address is in Somersworth NH. He is concerned about parking on George and Hanson Streets, parking for his building, grading of the street, standing water and water runoff. He is worried about visitor parking and tenants wanting to enter from the front of the building and not the rear of the building where the parking lot will be.

James Moss, represents 15, and 17-19 George Street. He discussed that the proposed lot is a "hole" and by filling in the hole and changing the topography will make the residents at the bottom of the hill suffer. He stated that there is no shortage of apartments in Dover and he would like to see it elsewhere. Because of the change in traffic on Henry Law Avenue, people travel too fast on George Street. With this proposal he feels that surface and ground water will be affected and cause water issues in peoples basements. Essentially George Street will become an entrance to a parking lot. He feels it will change the neighborhood.

Chair Reid questioned Mr. Moss about his comment that it would change the neighborhood and that Atty. Schulte stated that many of the homes are duplexes, 4 or 5 unit buildings.

Mr. Moss stated that he is speaking for himself on George Street, which is primarily single family or duplex homes.

Patrick Kelly, 8 Hanson Street, has no objections to the plans but has questions about a more detailed site plan. He commented on a retaining wall on the lower part of George Street, but due to the topography would like to know more about it, which abuts the property that he has. The higher elevation is on his property and would there be a retaining wall between the properties.

Atty. Schulte stated that if the Zoning Board approves this plan that a Site Review will be necessary and they would have to go to the Planning Board. He invited Mr. Kelly to attend the public hearing. Any questions that Mr. Kelly has would be discussed at the Planning Board meeting.

Kirstan Darvan, a resident of 5B George Street is concerned about the 14 parking spaces. She feels that the traffic flow has changed for George Street due to the changes on Henry Law Avenue. It is already difficult to get out of her driveway with the current cars parked along George Street and she is concerned about increased tenant or visitor traffic. Many people only have one parking spot, which means visitors park on George Street which is narrow and traffic flows both ways. She lives in the building owned by Vincent Duffy which has 4 units which is next door to the proposed lot. When questioned by Chair Reid about the number of parking spaces, she felt that even 12 spaces are too many.

Atty. Schulte responded to the concerns. The City allows for 4 units and the increased use for this property is consistent with what was there. As long as enough parking spaces are provided, it should keep people from parking on the streets.



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - MINUTES

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

S.Reid asked Atty. Schulte about the drainage. Atty. Schulte stated it needs site review because it is more than 4 units. He discussed engineering will have to review the drainage and that they will not aggravate the existing conditions. He explained that the engineering and drainage analysis must be done as part of the site review process.

Recommendation

The Planning Department recommends the Board 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.

T. Corwin noted that drainage and other site issues for this project would be resolved through the Planning Board site plan approval process. For the record, the parking requirement is 3 spaces per unit, and a preliminary discussion was held with the Planning Director that a waiver request would be suitable which would allow less than the 3 spaces per unit.

J.Kelley commented that with the needs of the construction, he feels uneasy about the variance request. He went on to ask who would pay for damages caused by runoff to neighborhood homes if they occur.

J.Stone asked why the zone meanders around the neighborhood and is it to protect those homes from damages.

B.Lapierre spoke about businesses in the area up on Central Avenue which include the Masiello group and the gas station, and suspects that the zoning line is where the businesses are.

Atty. Schulte commented that if this was a 4 unit structure instead of a 6 unit, parking would only be 2 per unit and it bumps up after that.

T.Corwin added that they are permitted by special exception to have 4 units so there would be at least 8 additional spaces by right.

Tom Duffy, spoke on behalf of his brother who owns the abutting property at 5 George Street, (lives at 59 1/2 Fourth Street) is not opposed to the plan because it pushes the building off of George Street; they are concerned about water runoff. While the Planning Board will discuss the engineering portion of the plan in regards to the retaining walls, water runoff, and traffic study, he is concerned with the parking and it should be handled by the Planning Dept. T.Duffy wanted to verify that the Zoning Board has not diminished the 3 space requirement down to 2.

Chair Reid confirmed that the Zoning Board was not being asked to reduce the parking requirement.

J.Schulte stated there would be 8 parking spaces for 4 units (2 per unit). They had discussed with the Planning Director and it was suggested pushing the building back towards Hanson Street. They can make the building three stories tall and it will fit in with the street scape on Hanson and George Streets.



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - MINUTES

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

Vincent Duffy asked about outside green space. He is not opposed to a 4 unit, but if there are children where would the children play and where would the adults recreate. He is all for the increased parking but concerned about the green space, and the traffic flow since Henry Law Avenue has become one way. George Street has become a thoroughfare road. He would like to see the traffic stopped from entering George Street from Central Avenue.

T.Corwin confirmed that a requirement for a four unit dwelling is to provide a certain amount of green space as part of the special exception. But the special exception green space criteria are not applicable in this case. If this were a 4 unit application the applicant would need special exception approval, but as long as they meet the criteria they would be permitted by right.

V.Duffy asked for the green space location. He spoke about the area being wet and marshy. He asked if the land is raised for foundation work it will change the drainage and what happens to his property.

T.Corwin stated that these concerns are not relevant to the variance request, rather these concerns would be better addressed at the Planning Board.

Public hearing closed. 7:56 pm

J.Kelley commented that it would be easier for the tenants and visitors to park on the Hanson Street side to save themselves climbing stairs.

C.Prior commented that he likes the parking plan especially because it forces the people to drive around to the back and enter from the back.

Motion: O.Perry motioned to grant the variance subject to the conditions set forth by the Planning Dept. Seconded by C.Prior. Vote: 4/1 (*J.Kelley opposed*).

- C. * 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.

Chris Berry, Berry Surveying and Engineering represented the applicants. The property is on the Silver Street Extension. He discussed the boundary lines and referenced that the road width varies from 50 feet to as much as 55 feet with varying widths. When you are on the center line of the street visually looking at the property, you would have no idea that the addition is closer than it should be to the street. The applicant had received a building permit, continued with construction and a plot plan was presented that the property had a 5 foot front line setback, showed as a variable width of 5 to 25 feet and proceeded in that fashion. The plane of the house and the right of way line are not parallel. The irony is if this was new construction, by right you could build right up to five feet from the lot line. Because it was an existing structure, it requires 10 feet. This does not diminish the property values of other homes on the street. Tom Clark, Building Official, was on hand to answer any questions.



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - MINUTES

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

Ken Berry, a licensed land surveyor for Berry Surveying & Engineering, spoke about the uniqueness of the bounds of this property, based on the property lines on the southern side which used to be Knox Marsh Road, and is now known as Silver Street Extension, the line on the plan is the 50 foot right of way line. They found a monolith, the legal right of way width is greater than 50 feet. Looking at the plans, Mr. Hagman's back yard used to be Long Marsh Road which was cut off due to the development of the Spaulding Turnpike. The monolith on the corner was 2.2 feet short. (*A monolith is a granite stone in the corner of the property*).

Tom Clark confirmed that Mr. Hagman had dropped off the permit application along with a plot plan showing the proposed location. He issued the building permit, and with a normal turn of events, they received the foundation certification and it came back showing it was only 7.8 feet off the property line where Section 170-41D says it has to be 10 feet. In the legend it says between 5 and 25 which was the build-to lines for new construction. Mr. Hagman submitted the correct one, but it was not caught at the permit stage. It was caught at the foundation certification stage. The second mistake is that 10 feet applies to non-conforming structure, and build to lines. This home is now a conforming structure despite the age of the home, because it is more than 5 feet back. If you build a conforming house at the 5 feet any additions can't be closer to the road than 25 feet.

Public hearing open.

Mr. Hagman spoke to the Board and thanked Tom Clark for clarifying the chain of events.

Recommendation

The Planning Department recommends the Board grant the variance as requested. Corwin discussed if it were new construction it could be built right up to 5 feet.

The Chair appointed Joshua Cote (Alternate) to sit on this case.

Public hearing closed.

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

3. ELECTION OF OFFICERS

The Chair entertained nominations for President.

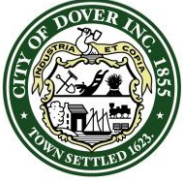
J.Kelley nominated Sam Reid as Chair. There were no other nominations for Chair. With a show of hands Sam Reid was elected as Chair of the Zoning Board. Vote: U/A.

S.Reid expressed F.Landford's willingness to serve as Vice-Chair. The Chair entertained nominations for Vice-Chair.

J.Cote nominated O.Perry as Vice-Chair. There were no other nominations. With a show of hands Otis Perry was elected as Vice-Chair of the Zoning Board. Vote: U/A.

4. ADJOURN:

Motion: J.Kelley motioned to adjourn at 8:25 p.m. Seconded by O.Perry. Vote: U/A.



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z13-05)

Application Type:	Variance
Applicant:	Dana T. & Anna H. Boudreau
Owner:	Dana T. & Anna H. Boudreau
Location:	9 Northam Drive (Tax Map 36, Lot 15H)

INTENT: Applicants propose to construct a 560 sq. ft. addition to the existing single family home, to be used as an accessory dwelling unit. A portion of the addition will encroach into the minimum required side setback. A variance is required to permit the addition to be located, at its closest, approximately 11.5 ft. from the side lot line shared with 7 Northam Drive, where a minimum setback of 15 ft. is required.

UNITS PROPOSED: 1 single family and 1 accessory dwelling unit

AGENDA ITEM #: 3-A

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: No

ATTACHMENTS: Application with attached narrative, floor plan, section, elevation, and plot 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 towards the end of a cul-de-sac in a residential neighborhood and is currently improved with a single family home. The applicants propose to construct an addition to the home with the intent of using the addition as an accessory dwelling unit, in conformance with the accessory dwelling unit regulations set forth in Section 170-24 of the Zoning Ordinance. A small portion of the 560 sq. ft. addition will encroach into the 15 ft. minimum required setback along the side lot line shared with 7 Northam Drive. A variance is required to permit the addition to be located, at its closest, approximately 11.5 ft. from the side lot line.

Reason for Staff Recommendation

It is staff's view the proposed accessory dwelling unit, which is a permitted use in the R-12 District, has been designed at a modest size and located on the lot in a context sensitive manner. If the addition were able to be moved forward to more closely meet the minimum setback, it would stick out in front of the house creating a noticeable disruption to the look and feel of the neighborhood. Assuming the neighbors are comfortable with the proposal, staff believes that this is a reasonable and benign request.

Recommendation

Provided that the applicant demonstrates compliance with the five (5) variance criteria, the Planning Department recommends the Board hold the public hearing and approve the variance request.



City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Adopted: August 16, 2012]

Office Use Only Case #: 213-05 Date Received: MAR 20 2013
Amount Paid: \$ Time Received:

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: Dana T. Boudreau & Anna H. Boudreau Phone # 742-7287

Address of Applicant: 9 Northam Drive, Dover, NH 03820

E-Mail Address:

PROPERTY OWNER (if different from applicant): Same

Address: Phone #

E-Mail Address:

PROPERTY/PARCEL INFORMATION

Address: 9 Northam Drive

Brief Directions: On right hand side of Northam Drive, before cul de sac.

Zoning District: R-12 Assessor's Map # 36 Lot(s) # 15H

TYPE OF APPEAL: (Please check one)

- X Variance from Section 170-12B 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 an accessory dwelling unit (in law apartment) as an addition to the existing single family home. A portion of the addition will encroach into the side setback.

VARIANCE REQUIREMENTS

THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY

A. Variance Requested

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

The construction of an addition to the existing residence to add an accessory dwelling unit (in law apartment). A portion of the addition will encroach up to 3.5 feet into the side setback. The rear corner of the addition will be 11.5 feet from the sideline where 15 feet is required.

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.

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

See attached.

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:

See attached.

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:

See attached.

and

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

See attached.

OR

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

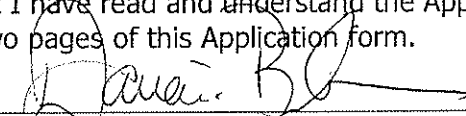
SIGNATURE PAGE

THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS

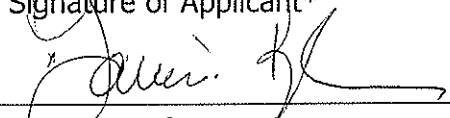
I, the undersigned Applicant, hereby certify that the information contained within this Application is complete and accurate, and I acknowledge that I have read and understand the Application Instructions, which are set forth on the first two pages of this Application form.

IMPORTANT

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



Signature of Applicant*



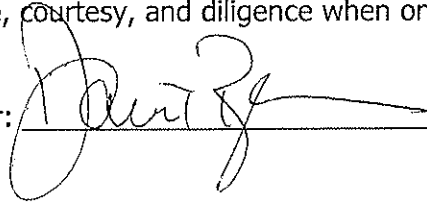
Signature of Owner*

*Both Signatures Required

AUTHORIZATION TO ENTER SUBJECT PROPERTY

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

Signature of Property Owner:



Date: 05-20-2013

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 an accessory apartment for the applicants' mother. The only location for this addition is at the right rear of the existing dwelling, and at that point the addition will be located further back on the lot than the house on the abutting property, which will minimize the impact on that abutter. The zoning ordinance requires that the accessory dwelling be between 300 and 800 square feet and that the addition be constructed so as not to create the appearance of a duplex or multifamily structure. The proposed accessory apartment will be 20 feet by 28 feet, for a total of 560 square feet. The walls of the existing house are not parallel to the lot lines. Therefore, the right rear corner of the addition will be 11.5 feet from the lot line where 15 feet is required. This slight impact into the side setback will not adversely impact health or safety, nor will it cause a fundamental change in the neighborhood.

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 an accessory dwelling unit as an addition to an existing single family residence and to ensure that adequate spacing exists between adjacent structures. The proposed addition is to provide a residence for the applicants' mother. The house on the abutting property is located closer to the street than this addition, so there will remain adequate spacing between the residences even with this slight encroachment on the side set back. If the addition were to be moved closer to the street to reduce the set back encroachment, it would move the addition closer to the adjacent dwelling, would have greater impact on the abutter, and would require substantial changes to the applicants' existing residence.

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 permitted in this zone. One corner of the new addition will intrude 3.5 feet into the side setback. The proposed addition will be situated further back from the street than the abutting residence and adequate spacing will continue to exist between the adjacent structures. All other zoning requirements are met by this proposed addition.

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

The proposed use is permitted in this zone. The encroachment into the side setback is 3.5 feet at the point of greatest intrusion into the setback. There will remain 11.5 feet of open space between the structure and the lot line, which is sufficient for access to the rear of the property. The proposed addition will be situated further back from the street than the abutting residence and adequate spacing will continue to exist between the adjacent structures. There will be minimal impact on adjacent properties.

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

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

The existing residence on this lot does not lie parallel to the lot lines, but sits at an angle to those lot lines. If the existing house was square to those lot lines, then the addition could be built without any encroachment into the set back. The point of the encroachment into the setback is behind the rear of the adjacent dwelling, and will have no impact on that adjacent residence. There is no other location on this lot which would accommodate this addition without requiring substantial changes to the existing dwelling and the loss of existing windows.

(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 adequate spacing between adjacent structures. The proposed addition is a permitted use in this zone. Because the applicant's residence sits further back from the street than the adjacent dwelling, the addition is behind the rear of that adjacent dwelling and so adequate spacing will continue to exist even with this slight encroachment into the side setback.

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

The proposed residential use is permitted in this zone. The set back encroachment is relatively small. Adequate space will continue to exist between the addition and the side line. The addition will be situated behind the rear of the adjacent dwelling.

PLAN - A 1/4" = 1'-0"

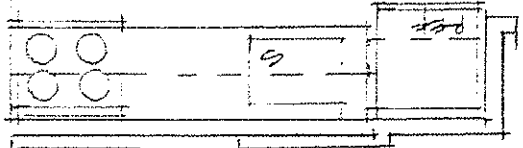
20'-0"

LIVING 15' x 15'

1 DOOR

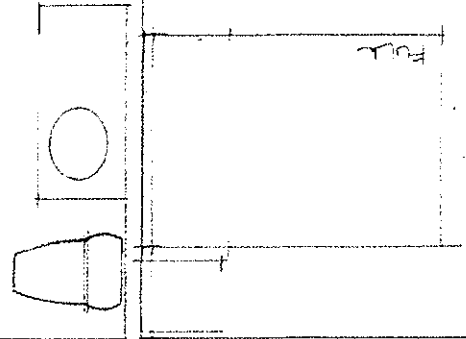
20'-0"

(24'-0") P



BEDROOM 11' x 11'

2 DOOR



Project: Garage in Back of (BATH?)

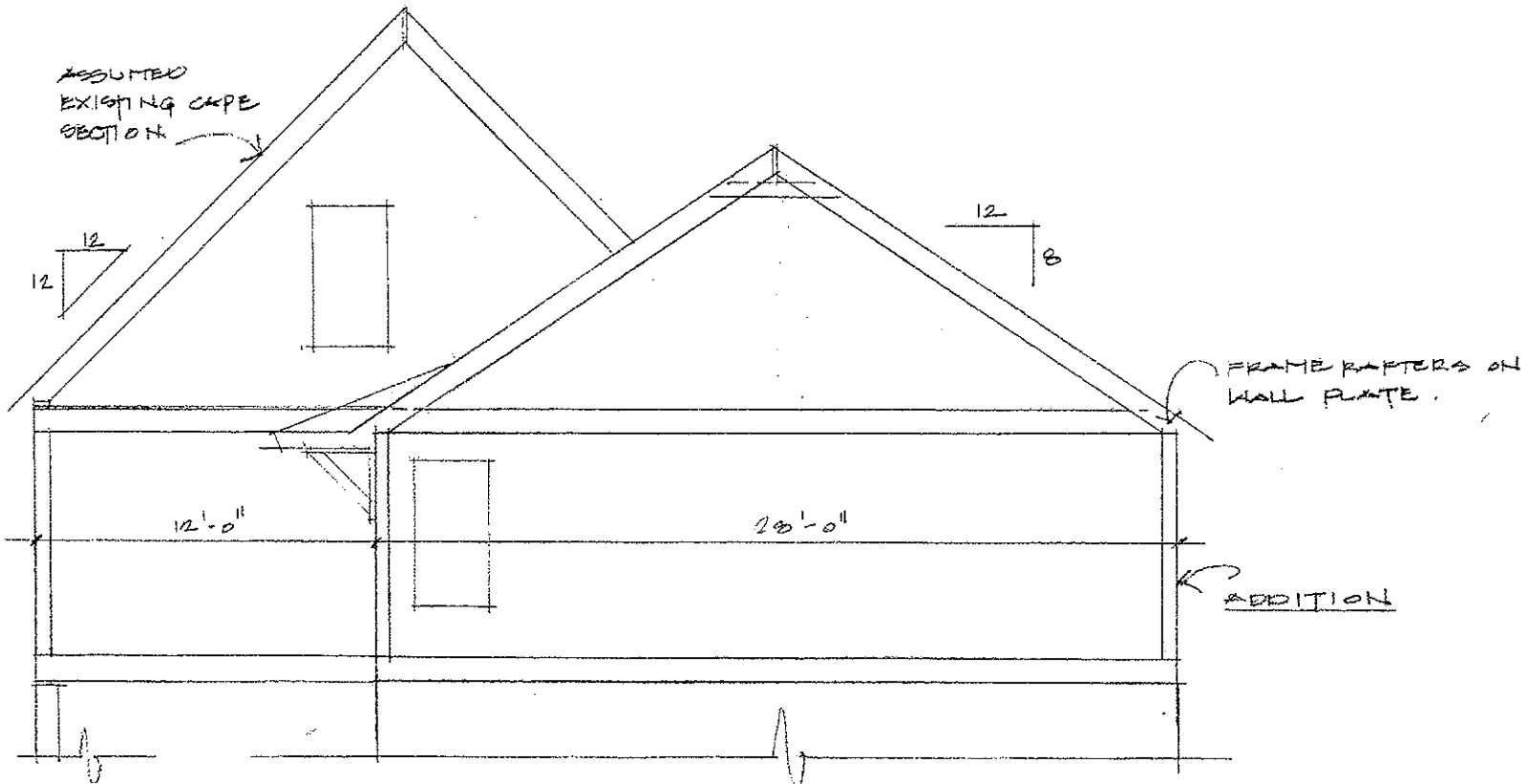
LUCY
GORHAM
Durham
New Hampshire
603-868-5848

2.25.13

BOUDREAU RESIDENCE

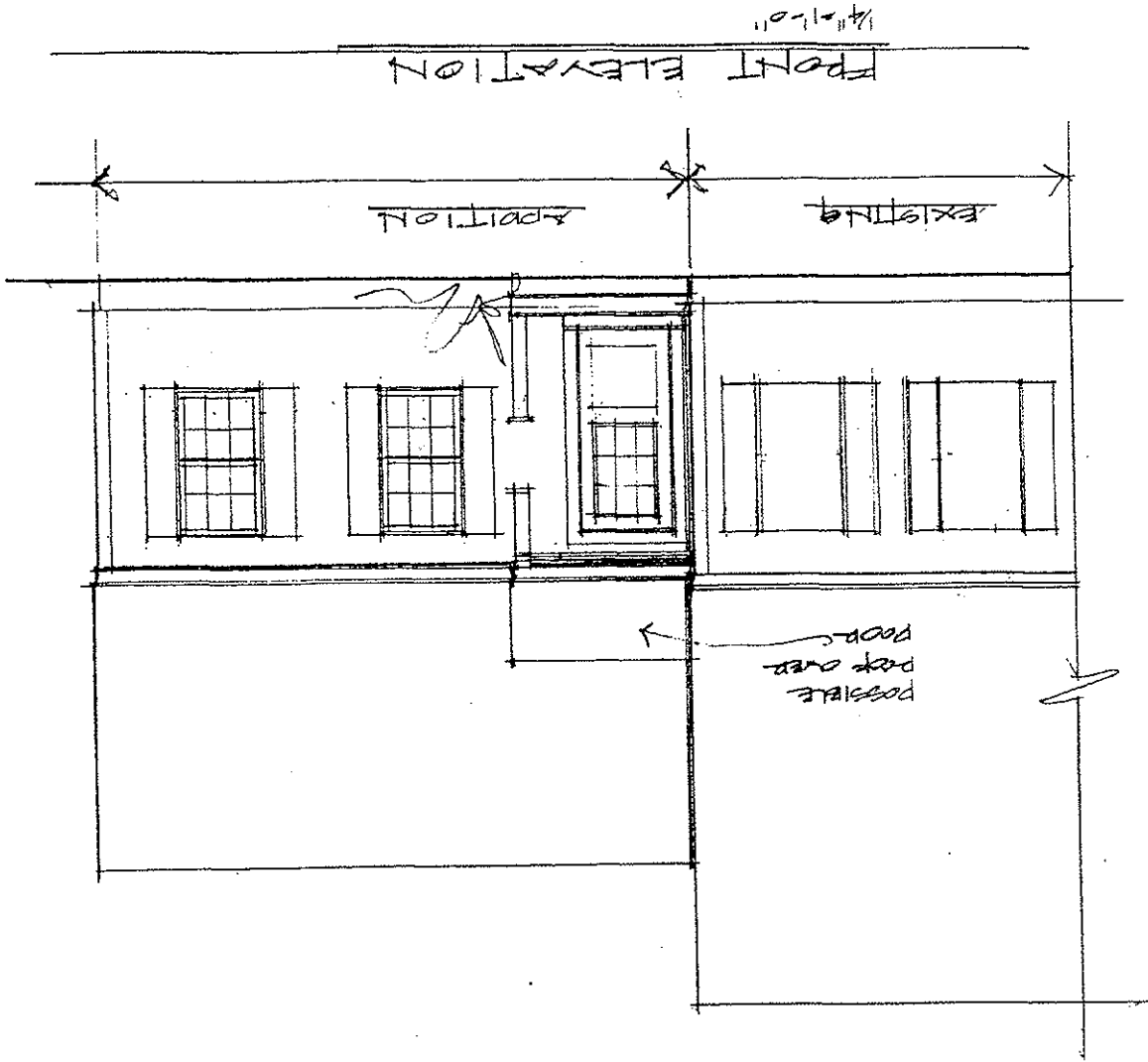
9 NORTH MAIN ST
DOVER, NH

1304



PRELIMINARY SECTION STUDY-B (RECOMMENDED)

1/4" = 1'-0"



	1304	BOUDREAU RESIDENCE 9 NORTHAM DOVER, NH	2.25.13	LUCY GORHAM Durham New Hampshire 603-868-5848
--	------	--	---------	---

No.	Central Angle	Radius	Arc Length	Chord Length	Chord Bearing
C1	27°02'08"	81.70	38.55	38.19	S14°17'51"W

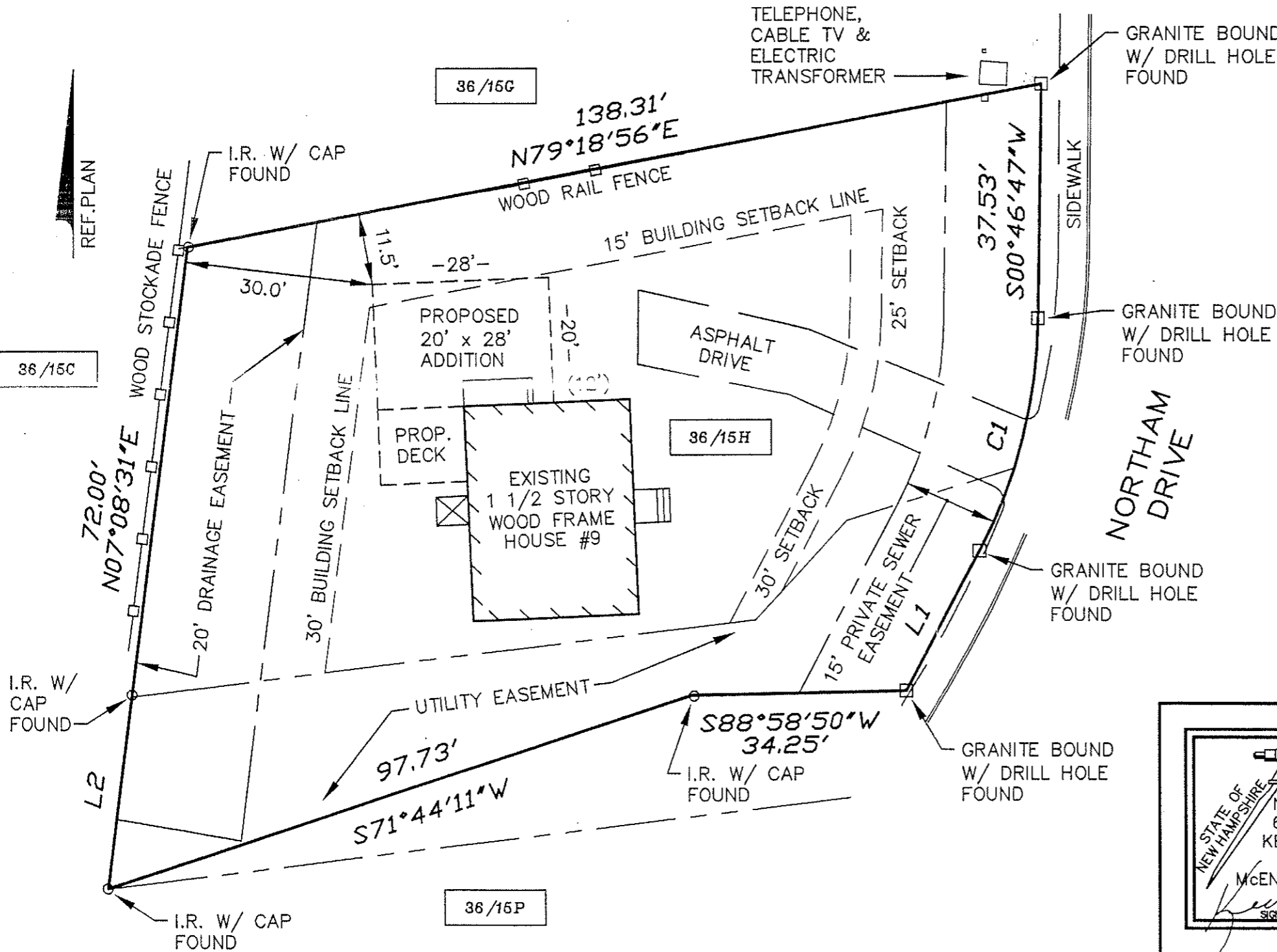
No.	Bearing	Distance
L1	S27°48'55"W	25.19'
L2	N07°08'31"E	31.21'

REFERENCE PLAN:

1.) LOT LINE ADJUSTMENTS - NORTHAM HEIGHTS SUBDIVISION LOTS 5 & 6, NORTHAM DRIVE, DOVER, NEW HAMPSHIRE. SCALE: 1" = 40'; DATED: NOV. 6, 1989; BY: CIVIL CONSULTANTS. RECORDED S.C.R.D. PLAN 32-131.

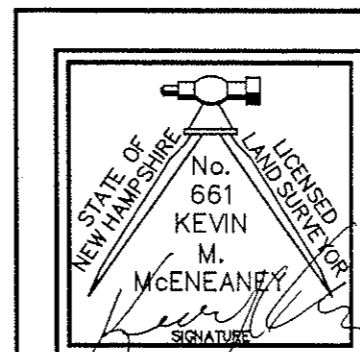
NOTES:

- OWNERS OF RECORD:
DANA T. BOUDREAU
ANNA H. BOUDREAU
9 NORTHAM DRIVE
DOVER, NEW HAMPSHIRE 03820
S.C.R.D. VOL. 1509, PAGE 606
- ZONING DISTRICT IS R-12
BUILDING SETBACK REQUIREMENTS:
FRONT = 25 FEET (30 FEET PER DEED)
SIDE = 15 FEET
REAR = 30 FEET
- THE INTENT OF THIS PLAN IS TO SHOW THE LOCATION OF A PROPOSED ADDITION TO THE EXISTING DWELLING LOCATED ON THE SUBJECT PARCEL.



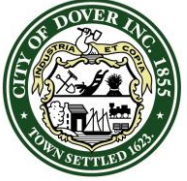
SKETCH PLAN
FOR
DANA & ANNA BOUDREAU
9 NORTHAM DRIVE
DOVER, NEW HAMPSHIRE

1" = 15' NOVEMBER 21, 2012
0 7.5 15 22.5 30



McEneaney
Survey
Associates, inc.

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



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z13-06)

Application Type:	Variance
Applicant:	Jennifer & David Coffin
Owner:	Jennifer & David Coffin
Location:	336 Washington Street (Tax Map G, Lot 10-1)

INTENT: The property is improved with a single family dwelling and a large wooden barn. Applicants propose to keep two (2) goats for family use in the existing barn. A variance is required to permit the keeping of goats in the barn due to the requirement that structures used to shelter farm animals for family use must be located a minimum of 30 ft. from all property lines, whereas the barn is located, at its closest, approximately 15 ft. from the rear lot line.

UNITS PROPOSED: N/A

AGENDA ITEM #: 3-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: No

ATTACHMENTS: Application, subdivision plan, tax map

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 a corner lot located at Washington Street and Taylor Road, and is improved with a single family house and a large barn which appears to be at least a century old. Applicants propose to keep two (2) goats for family use in the barn, which sits at its closest approximately 15 ft. from the rear lot line (which would be considered the side lot line for the adjacent property at 6 Taylor Road). The R-12 Table of Use and Dimensional Requirements mandates that structures used to shelter farm animals for family use must be located a minimum of 30 ft. from all property lines. Therefore, a variance is required to permit the keeping of goats in a structure located 15 ft. from the property line where 30 ft. is required.

Reason for Staff Recommendation

The keeping of two (2) goats on this property for family use is a permitted use in the R-12 District. It is staff's view that using the barn to house the two goats is a reasonable use of a large existing structure which was historically used for agricultural purposes. Assuming the neighbors are comfortable with the proposal, staff believes that this is a reasonable and benign request.

Recommendation

Provided that the applicant demonstrates compliance with the five (5) variance criteria, the Planning Department recommends the Board hold the public hearing and approve the variance request.



City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Adopted: August 16, 2012]

Office Use Only	Case #:	<u>Z13-06</u>	Date Received:	<u>APR - 2 2013</u>
	Amount Paid:	\$ _____	Time Received:	_____

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: Jennifer + David Coffin Phone # 207-576-7763

Address of Applicant: 336 Washington St. Dover, NH 03820

E-Mail Address: Jen@shuds.com

PROPERTY OWNER (if different from applicant): _____

Address: _____ Phone # _____

E-Mail Address: _____

PROPERTY/PARCEL INFORMATION

Address: 336 Washington St. Dover, NH 03820

Brief Directions: Head out of town on Washington. House is #336 on left hand side approx. 1 mile.

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

TYPE OF APPEAL: (Please check one)

- Variance from Section 8 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 plan to have two nigerian dwarf goats. We will have fenced area for them as well as a barn to house them.

VARIANCE REQUIREMENTS

THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY

A. Variance Requested

A variance is requested from Section(s) 8 of the Zoning Ordinance to permit:

"all shelters + enclosures shall be 30' from property line." Our barn is approx 16' from property line.

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:

We are zoned to have goats it is the 30' set back that is our concern. Our goats will not have any negative impact to the public. nor will it have any impact on the character of the neighborhood or pose any threat to the health, safety or welfare of the public.

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

We are complying with the spirit of the ordinance as it states in section 8 of the R-12 zoning ordinance we are allowed to have up to 6 goats or sheep given we have enough lot space. The only concern we have is our barn, where the 2 goats will sleep in less than 30 feet from property line. It is approx 16'.

3. Granting the variance would do substantial justice because:

We believe that since we are allowed goats on our property we are putting a reasonable use of our barn. The barn has been historically used to house farm animals. Also the barn is very large and not suitable for much else.

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

This variance will not effect any surrounding property. The goats will be on our land and in our barn. There will be no negative impacts to our abutters.

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:

We have adequate outdoor space that complies with the ordinance and a large enclosed barn that has been historically used for farm animals.

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 outdoor enclosed area for the goats complies with the ordinance. The barn that will be used for their indoor shelter is completely enclosed.

and

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

We have a barn that was historically used for animal shelter.

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:

Z12 09R

FISHER & FULLER

ATTORNEYS-AT-LAW

600 CENTRAL AVENUE
DOVER, NEW HAMPSHIRE

MAILING ADDRESS:
P.O. BOX 70
DOVER, NEW HAMPSHIRE
03821-0070
603-742-6131

LEWIS J. FISHER
1937-1977
HAROLD D. MORAN
1949-1986

FAX NO.
603-749-0542

ROBERT E. FISHER
SARAH FISHER FULLER

December 6, 2012

Timothy J. Corwin, Assistant City Planner
City of Dover
Department of Planning and Community Development
288 Central Avenue
Dover, NH 03820

Re: Z-12-09 Robert E. Fisher/Ann E. Tucker Revocable Trust, 49 Littleworth Road (Tax Map G, Lot B)

Dear Mr. Corwin:

Could you kindly consider this letter to be a Motion for Rehearing for the following reasons:

1. The Board did not specify the facts justifying its decision.
2. The Board ignored the fact that the lot was large.
3. The Board ignored the fact that the lot was located across the street from an industrial zone.
4. The Board ignored the fact that no one spoke against the granting of the variance.
5. The Board did not specify any facts that granting the variance would be contrary to the public interest, in violation of the spirit of the ordinance, not result in substantial justice or not result in diminution of surrounding property values.

December 6, 2012

6. The Board did not find that the special conditions mentioned above distinguished it from other residential properties in the zoning district.
7. The Board did not find that there was a relationship between the general purpose of the statute and the proposed use.
8. The Board did not find that the proposed use was unreasonable.
9. 3 members of the Board, namely, Otis Perry, Sam Reid and Bill Colbath was biased against the Plaintiff and were familiar enough with myself that they should have recused themselves.
10. The 3 page Denial Statement is inadequate as a matter of law and cannot justify the denial of the variance application.

For the reasons mentioned, I request that a Rehearing be granted and that the variance application be granted.

Very truly yours,



ROBERT E. FISHER

REF/cg

CHRISTOPHER G. PARKER, AICP
Director

c.parker@dover.nh.gov



288 Central Avenue
Dover, New Hampshire 03820-4169
(603) 516-6008
Fax: (603) 516-6049
www.dover.nh.gov

City of Dover, New Hampshire
DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

Zoning Board of Adjustment
NOTICE OF DECISION

November 20, 2012

Robert E. Fisher
PO Box 70
Dover, NH 03821-0070

Re: Z 12-09 Robert E Fisher/Anne E. Tucker Revocable Trust, 49 Littleworth Road (Tax Map G, Lot B)

Dear Applicant:

Please be advised that the Zoning Board of Adjustment, at a public hearing held on November 15, 2012, voted **5-0** to **deny** your request for 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.

Please see the attached Order outlining the basis for the Board's decision. Any person affected directly by this decision has a right to appeal this decision to the Zoning Board of Adjustment. If you wish to appeal, you must act within thirty days of the date following the date of the Board vote. See New Hampshire Statutes, RSA Chapter 677 (Rehearing & Appeal Procedures) for more details.

If you have any questions, please do not hesitate to contact me by phone at (603) 516-6008 or by email at t.corwin@dover.nh.gov.

Sincerely,

Timothy J. Corwin
Assistant City Planner

Cc: Anne E. Tucker Revocable Trust, property owner
Christopher G. Parker, Planning Director

Case # Z12-09

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

The Zoning Board of Adjustment for the City of Dover, New Hampshire, having held a public hearing on 11-15-12, to consider an application for a Variance submitted by Robert F. Fisher for the property located at 49 Littleworth Rd. and having heard all the arguments presented at the hearing, makes the following **FINDINGS OF FACT**, and draws the following **CONCLUSIONS** to each of the required criteria:

1. Did the Applicant provide proof that demonstrates the variance will not be contrary to the public interest? Yes ___ No ___

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

2. Did the Applicant provide proof that demonstrates how a variance observes the spirit of the ordinance? Yes ___ No X

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

3. Did the Applicant provide proof that demonstrates how a variance will result in substantial Justice? Yes ___ No X

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

4. Did the Applicant provide proof that demonstrates the variance will not diminish the values of surrounding properties? Yes ___ No X

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

5A. The Applicant was to provide proof that literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

i. Did the Applicant demonstrate that special conditions of the property exist that distinguish it from other properties in the area? Yes ___ No X

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

ii. Did the Applicant demonstrate that no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property? Yes ___ No X

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

iii. Did the Applicant demonstrate that the proposed use is a reasonable one?

Yes No

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

OR

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

Yes No

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

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

Ordered this 14th day of December, 2012

Anna R. Reid
Zoning Board of Adjustment
Chairperson