

CITY OF DOVER

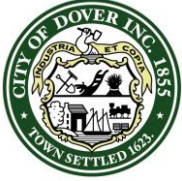
ZONING BOARD OF ADJUSTMENT AGENDA

Meeting Type: Regular Meeting
Meeting Location: Council Chambers, 288 Central Avenue, Dover, NH 03820
Meeting Date: **Thursday, January 16, 2014**
Meeting Time: **7:00 pm**

1. ATTENDANCE
2. REMARKS BY CHRISTOPHER G. PARKER, AICP, DIRECTOR OF PLANNING AND COMMUNITY DEVELOPMENT
3. APPROVAL OF PRIOR MINUTES OF DECEMBER 19, 2013
4. HEARING – CONTINUED FROM DECEMBER 19, 2013 MEETING
 - A. * Z 13-20 Mark G. Phillips, 385 Sixth Street (Tax Map D, Lot 16) (Property Owner: Weeden Family Revocable Trust) and 387 Sixth Street (Tax Map D, Lot 15) (Property Owner: Diane I. and Jeffrey A. Weeden), located in the Hotel/Retail (B-4) District, requests a variance from **Section 170-12.A** of the Zoning Ordinance and the B-4 District Table of Use and Dimensional Requirements to permit a self storage facility use where self storage facilities are not permitted in the B-4 District.
5. HEARINGS – NEW
 - A. * Z 14-01 River Valley Development Corp. (Property Owner: The Horizon Trust of New Hampshire), 1.1 acres of vacant land identified as Tax Map 38, Lot 9A-2, located between Dover Bowl and the Meineke Car Care Center at 899 Central Avenue in the Thoroughfare Business (B-3) District, requests a variance from **Section 170-12.A** of the Zoning Ordinance and the B-3 District Table of Use and Dimensional Requirements to permit the construction of a building to be located 25 ft. from the front lot line where a minimum setback of 50 ft. is required.
 - B. * Z 14-02 River Valley Development Corp. (Property Owner: The Horizon Trust of New Hampshire), 1.1 acres of vacant land identified as Tax Map 38, Lot 9A-2, located between Dover Bowl and the Meineke Car Care Center at 899 Central Avenue in the Thoroughfare Business (B-3) District, proposes to construct a mixed use building containing twelve (12) residential units on the upper floors with commercial uses reserved on the first floor. The applicant requests (a) a special exception under **Section 170-12.A** of the Zoning Ordinance and the B-3 District Table of Use and Dimensional Requirements to permit multi-family dwelling units, and (b) a variance from **Section 170-12.A** of the Zoning Ordinance and the B-3 District Table of Use and Dimensional Requirements to allow twelve (12) multi-family dwelling units, where the permitted density of 5,000 sq. ft. per dwelling unit permits only 6 units on this lot.
 - C. * Z 14-03 White Dove Properties, LLC, 24-26 Hanson Street (Tax Map G, Lot 20-41), located in the Urban Density Multi-Residential (RM-U) District, proposes to subdivide the property into two lots, one containing 10,000 gross sq. ft., of which 2,836 sq. ft. is located in the Conservation District, and the other containing 8,084 gross sq. ft., of which 2,413 sq. ft. is located in the Conservation District. Applicant requests a variance from **Section 170-12.A** of the Zoning Ordinance and the RM-U District Table of Use to permit the creation of a lot containing 8,084 sq. ft. where a minimum of 10,000 sq. ft. is required, and from **Section 170-27.D** to permit the creation of two lots that have an area outside the Conservation District of less the minimum required 10,000 sq. ft. lot size.
6. ANNUAL ELECTION OF OFFICERS
7. 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.



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ZONING BOARD OF ADJUSTMENT - MINUTES

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Meeting Time: **7:00 pm**

1. ATTENDANCE

Members Present: Sam Reid (Chair), Otis Perry (Vice Chair), Frank Landford, Bob Hall (Alternate), Jennifer Stone (Alternate)

Members Not Present: Joshua Cote (Alternate), Chris Prior, James Kelley

Staff Present: Timothy Corwin (Assistant City Planner), Diane Britt (Recording Secretary)

The 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 THE SEPTEMBER 19, 2013 AND OCTOBER 17, 2013 MEETINGS

Motion: O.Perry made the motion to accept the September 19, 2013 meeting minutes. Seconded by J.Stone. Vote: U/A F.Landford and S.Reid recused themselves as they were not at the September meeting.

Motion: J.Stone made the motion to accept the October 17, 2013 meeting minutes. Seconded by F.Landford. Vote: U/A

3. HEARINGS – NEW

- A. Z 13-20 Mark G. Phillips**, 385 Sixth Street (Tax Map D, Lot 16) (Property Owner: Weeden Family Revocable Trust) and 387 Sixth Street (Tax Map D, Lot 15) (Property Owner: Diane I. and Jeffrey A. Weeden), located in the Hotel/Retail (B-4) District, requests a variance from **Section 170-12.A** of the Zoning Ordinance and the B-4 District Table of Use and Dimensional Requirements to permit a self storage facility use where self storage facilities are not permitted in the B-4 District.

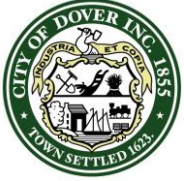
Mark Phillips, 35 Hodgdon Farm Lane, Newington, is the applicant and spoke stating his attorney was not able to be here with him tonight. He explained this land has been on the market for 12-15 years. The 27 acre Weeden farm was in the family for generations and is now held by 14 heirs. In the middle is the 5 acres bought by Diane and Jeff Weeden. He has a Purchase and Sales Agreement on both properties. He explained details of the easement obtained by the City for Venture Drive which goes through the property, the setbacks on the property, and the wetland and wetland buffer which all impact the property. He gave details of his proposed plan to build self storage on the property, with the building closest to the street resembling a barn and horse stables, and storage buildings behind that not visible from the street. He gave a handout to the Board which differentiated between a warehouse and a self storage facility, under state lien law.

S.Reid confirmed with M.Phillips that only a driveway could be built over the utility easement going through the property and that a structure could not be built over the easement.

J.Stone confirmed with M.Phillips that his plan is to build in phases, starting with the storage facility.

B.Hall confirmed with M.Phillips that the part of the proposed building resembling stables will be used for climate controlled storage.

F.Landford confirmed with M.Phillips that the first phase of building would be storage buildings and that not too much leveling of the land would need to be done for that. The commercial building will need significant leveling of



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the land in order to build that.

B.Hall confirmed with M.Phillips that there was significant developable space behind the proposed front commercial building and stated that he was trying to reconcile what was in the paperwork submitted by the applicant with what he visually observed while he was visiting the site.

M.Phillips went on to give more details of his plan, stating an estimate of tax revenue from the development when fully complete to the City of Dover, stating that storage does not create noise, waste, dust, odor or glare, and would not have a negative impact on the neighborhood.

Discussion ensued regarding the variance being requested, the fact that buildings on this property would be built in phases and that storage buildings could be built first and would not be shielded from view by the larger building, what could be built over the easement and the fact that there is significant usable space from easement to back of lot, and the fact that the building nearest the street would not have internal storage or a loading dock.

M.Phillips gave reasons for approval, i.e. storage generates taxes, there is no drain on city services, it would not be detrimental to neighborhood, it would not be a threat to wetlands, and the value of surrounding properties would not be diminished.

S.Reid stated that the Board would need to determine if the proposed use of the land is consistent with the spirit of the current ordinance, not a previous ordinance.

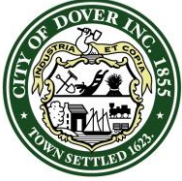
Discussion ensued regarding if other municipalities regarded storage as a retail business and the narrow configuration of the property limiting its use in strict conformance to the zoning ordinance. There were questions regarding the buildable area on the map that M.Phillips provided to board members, paving on the property with the wetlands, and water runoff studies by Beach and Jones.

Public Hearing Open

Jeffrey Weeden, 387 Sixth Street, spoke in favor of granting the variance. He explained that he owns 5 acres which he bought from his grandparents 30 years ago who owned the land. He stated that they had received some money for the easement allowing the City to put a sewer line through it. This divided the land in half and, contrary to what they were told, it did not increase the value of the land. He feels this is a hardship case. He feels M.Phillips has done a nice job with his business.

Nancy Weeden Hager, who is part of the Weeden Family Trust, spoke in favor of granting the variance. She agrees with Jeffrey Weeden that the family has not been able to sell the property for 15-16 years because there is so little that can be done with this parcel. She gave a short history of the property, stating that originally it was farm land, then it was zoned I-4, and now is zoned B-4. She encouraged the Board to give this project consideration.

D.Barufaldi, Director of Dover Economic Development and represents DBIDA, spoke against this variance request. He stated this appears to be a request for a 21-building development, and not a request for a zoning variance, and the proper application could be for a change of zoning. He stated he checked with the Planning Department and the parcel was never zoned I-4. He felt two commercial buildings on Sixth Street would be a better allocation of that space. He gave statistics for Enterprise Park and stated usable land for development in Dover is scarce. He felt storage was not the highest and best use of this land.



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Nancy Weeden Hager spoke again. She stated the family went to the City asking for consideration of their parcel when there was talk that Enterprise Park was going to be expanded, and also for consideration of their parcel for the police station facility. With no buyer for 16 years, the City and the family need to meet halfway.

S.Reid read an email from Linda Merullo who was not in favor of this project, who encouraged the Board to not approve this request because it is not an allowed use in the area.

S.Reid read a letter to him from Christopher Parker, Director of the Planning and Community Development Department, who could not attend the meeting but wanted his testimony to become part of the public hearing and read into the record, stating that he did not believe it was a reasonable request. (Copy in file.)

T.Corwin stated that, in addition to this letter, the Planning Department submitted a staff memo recommending denial of the variance, which he read, after which he brought up five points:

- (1) The area was not zoned I-4 in past. Staff conducted a search and it has been zoned B-4 since 1988 when there was a major rezoning in the city. He sent an email with this info to M.Phillips. T.Corwin stated he believed they had a tax card from 2002 that was not presented to the Board that either had the property listed as I-4 or split zone but the zoning map is controlling and the property was never zoned I-4.
- (2) M.Phillips presented a definition of a self storage facility as set forth in Title 16 of the RSA. If he disagreed with the Planning Department's definition of self storage as "warehousing", he could have appealed that.
- (3) Regarding tax assessments, T.Corwin asked the Dover Assessor to provide tax assessments for the Microtel hotel, which was \$53,556, and the Hampton Inn which was \$106,790, which are permitted uses in the B-4 District. The amount of land that the self storage facility would cover is significantly more than a hotel.
- (4) The applicant made a case for dimensional relief, and the applicant could have asked the Board for relief from a buffer or setbacks for permitted uses in that district. The Planning Department fully supports the development of this property and wants to help the applicant. Buffers could be reduced and the property could accommodate an allowed use.
- (5) This applicant is really looking at a rezoning of the property, as C.Parker stated in his letter.

Discussion ensued regarding if there was adequate space on the front part of the property for a hotel, that the Board has no jurisdiction over the use of the easement area, compliance with five criteria for granting variance, and that only the physical characteristics of the property should be considered for the variance, not the nature of current ownership.

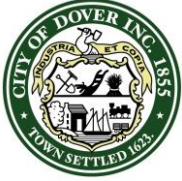
M.Phillips answered questions regarding other uses that he explored for the property and other projects that he has worked on in the past.

Aaron Brown, who owns Atrio Properties and has done marketing for the Weeden family for the over 10 years spoke. He has entertained at least 40 potential sales on this property but economically viable use of the property is the challenge. He stated he had possession of the erroneous tax card that showed the I-4 zone. He stated this parcel is an abutting parcel to the I-4 zone and if it was zoned I-4 this use would be allowed. He stated that the property would sell if the price was low enough. He stated that there was no one present to oppose the application other than representatives of the City.

Public Hearing Closed

S.Reid stated one option that the Board has is to defer action on this until next month and ask that findings of fact be drawn up to consider.

J.Stone felt that the applicant met the five criteria and she would be in favor of approving the variance.



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Motion: J.Stone made the motion to grant the variance. Seconded by F. Landford.

B.Hall stated he studied this case and does not feel this is a zoning issue. He thinks this needs to go to the Planning Board, as it is not a minor change but is a major change on a large property which if zoned differently could be much more valuable to the family and to the developers instead of force-fitting something on the property, which was what appeared to be happening.

J.Stone stated she thought the Board needed to be consistent about applicants meeting the five criteria, citing approval of a variance two months ago on Route 108. She stated because the property has not sold for 16 years it does demonstrate a hardship along with the easement going through it.

F.Landford stated he was in agreement with most of what J.Stone said. There is a hardship because of the easement. He asked why the City has not included it in the ETP if it is that important of a piece. He was in favor of this development as it is written.

O.Perry stated he was on the fence. He said if the variance was for the J.Weeden parcel and the parcel to the east of it going back, he could support the variance.

S.Reid stated it was inconsistent with the spirit of the ordinance and felt that the recourse would be to go before the Planning Board asking for it to be rezoned I-4. He stated factors that should not be taken into consideration for granting the variance.

Motion: O.Perry made the motion to amend the motion to grant the variance for the back part of the parcel but not the section to the east. There was no second. The motion fails for a lack of a second.

T.Corwin suggested that staff draft a memo and that a motion be made to defer action until the next meeting.

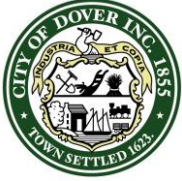
Motion: O.Perry made the motion to defer action until the next meeting. Seconded by B.Hall. Vote: U/A.

Brief recess at 8:41 p.m. and meeting resumed at 8:47 p.m.

- B. Z 13-21 James and Pamela Pidgeon (Property Owner: Kevin McDevitt), 103 Silver Street (Tax Map 10, Lot 117), located in the Urban Multi-Residential (RM-U) District, requests a variance from **Section 170-12.A** of the Zoning Ordinance and the RM-U District Table of Use and Dimensional Requirements to permit a "tea house" eating and drinking establishment in connection with the existing bed and breakfast use, where eating and drinking establishments are not permitted in the RM-U District, and to amend conditions of approval for the prior variance granted for the bed and breakfast use (Case H87-22), to permit the serving of lunch to the public.**

James and Pam Pidgeon, 103 Silver Street, the applicants, stated that they opened the Silver Fountain Inn on July 1, 2013. Winter is slow for Bed & Breakfast. They knew of a tea house in Limerick, Maine and that is where the idea came from. There would be minimal impact to the area from the tea house. It will be by reservation only. There should be no parking or traffic issues. The tea house would be open for 4 hours, 11 a.m. to 3 p.m.

S.Reid asked if they had a menu. P.Pidgeon had a sample menu which was passed around to the board members. They explained it would be a three tier menu with sandwiches, salads and petit fours.



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S.Reid asked how the food would be delivered.

J.Pidgeon stated they would buy the food at BJs and prepare it themselves. There would be no fried food. The word "lunch" was discussed and it was decided it would be omitted and it would be called a "tea house".

P.Pidgeon explained the seating arrangement would be for approximately 18-20 people. There would be seating by reservation only each day.

There was discussion about the number of rooms in the house, the number of rooms for guests, the Pidgeons live on the property and own the business, the property is owned by someone else at the present time but the Pidgeon's goal is to own the property at some point in the future, and they have a liquor license so that guests may buy wine, but there is no bar and there will not be a bar in the future open to the public.

B.Hall confirmed with T.Corwin that by granting the variance it would not open the door for a use that was not intended and that conditions will be added to protect from this happening.

P.Pidgeon and J.Pidgeon stated they are happy to have the Board add conditions to the variance.

Public Hearing Open.

Gloria Perrine, 107 Silver Street, stated that she and some of her neighbors that she has spoken to were concerned about children walking home and cars entering and leaving the inn. She would like a condition to be added to not allow a full service restaurant in future that would be open late.

Tom Nelson, 108 Silver Street, stated he has lived across the street from the inn for 13 years. His concerns have been addressed at this meeting. He feels it would be good for the neighborhood and he and his wife are in favor of granting the variance.

T.Corwin read the reason for staff recommendation for approval from the Staff Memo.

STAFF RECOMMENDATION:

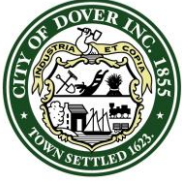
The Planning Department recommends the Board approve the variance for the tea house use subject to the following conditions:

- Hours of operation shall be limited to Monday through Friday, 11 AM – 4 PM.
- Parking shall be reviewed by the Technical Review Committee.
- Seating capacity shall be determined by Inspection Services with input from the Technical Review Committee, but in no case shall exceed 20 persons.

T.Corwin stated other conditions may be added at the Board's request.

O.Perry stated he would like to see a condition that the tea house only be allowed as an adjunct to the bed and breakfast.

Discussion ensued regarding enforcement of conditions, the days of the week and hours of operation for the tea house, attendance would be by reservation only, the menu would be consistent with exhibit A, and food would be delivered by personal vehicle or common carrier only.



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J.Stone confirmed with P.Pidgeon that the hours of operation would be 11 AM – 4 PM.

Public Hearing Closed.

O.Perry stated he would like to make a motion to approve the variance with the following conditions: Hours of operation 11 AM – 4 PM, parking to be reviewed by the Technical Review Committee, seating to be determined by the Building Inspection Services, no fried food to be serviced, use of the bed and breakfast be required for the tea house to operate, and the tea house would serve by reservation only.

B.Hall wanted to add that the menu be consistent with a traditional tea house menu.

Motion: O.Perry made the motion to approve with conditions. B.Hall seconded. Vote: U/A

- C. Z 13-22 Miguel Aponte-Rios/Ratchet Head, LLC (Property Owner: Jewett Management, Inc.), 30 Crosby Road, Unit 11 (Tax Map G, Lot 31-3), located in the Rural Restricted Industrial (I-2) District, requests a special exception under **Section 170-12.A** of the Zoning Ordinance and the I-2 District Table of Use and Dimensional Requirements for a “do it yourself” automobile garage club, which is permitted by special exception in the I-2 District as an “auto service” use.

Miguel Aponte-Rios, the applicant, spoke. He stated he has been a photographer and film maker for the past 25 years and about three years ago, when he became involved in motor sports in New England, he saw the need for a place to go where people could go to work on their cars, a space that could be rented by the hour, as well as a place to share knowledge.

S.Reid complimented the applicant on the booklet that he submitted with his application which the Board members have received.

B.Hall asked the applicant if there would be appropriate fire prevention equipment there, and if there would be enough parking.

M.Aponte-Rios stated there would be fire extinguishers on site and there would be a cabinet where flammables would be stored. He explained that there will be a website reservation system so the traffic coming and going will be controlled. If a vehicle has to be stored, it will be stored inside. He stated his organization is very organized and clean and very professional looking.

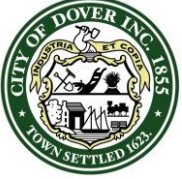
T.Corwin noted that the building, being a commercial building, has a sprinkler system.

B.Hall stated that there are different levels of fire suppression especially since there would be gasoline in the building.

T.Corwin asked M.Aponte-Rios if there were floor drains presently in the building.

M.Aponte-Rios stated they are in the process of installing one with an oil/water separator which he thought was required. Washing of cars will not be permitted in the building.

Kelly Jewett, wife of M.Aponte-Rios, spoke, stating that their plumber was meeting with someone to go over installation of an oil/water separator.



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S.Reid asked K.Jewett if she was familiar with what type of sprinkler system was in the building.

K.Jewett stated that it was a standard sprinkler system and that they have obtained two automobile special exceptions for that location and did not have to change the sprinkler system.

T.Corwin stated there is clear compliance with the special exception criteria and the Planning Department supports this application. He stated he left in the conditions in the staff memo that only two vehicles will be in the building at any one time and there will be no more than five vehicles at the site at any one time. T.Corwin stated he drove by the building and there appeared to be adequate parking.

S.Reid confirmed with M.Aponte-Rios that he understood the above conditions.

Public Hearing Open. Nobody spoke. Public Hearing Closed.

Motion: O.Perry made the motion to approve with conditions. Discussion on the motion.

B.Hall requested to add the following conditions: (1) A fire protective suppression system meet the requirements of the regulatory authority for fire suppression systems depending on the use of the building, (2) No partially built cars be parked at the parking lot, and (3) The appropriate oil/water separation system be installed.

Seconded by B.Hall. Vote: U/A

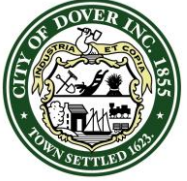
T.Corwin stated that an email was sent out yesterday regarding a workshop for 2/20/14 6 p.m. that he and the City Attorney are working on and he asked that board members put it on their calendar. The focus will be on the five variance criteria and recent case law. He stated there will also be a fall workshop.

B.Hall stated that the August Zoning Board meeting minutes are still draft and have never been approved because he and O.Perry were not there to vote, so it was put off.

T.Corwin stated he would look into that.

4. ADJOURN

Motion: O.Perry made the motion to adjourn at 9:38 p.m. Seconded by B.Hall. Vote: U/A



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z14-01&02)

Application Type:	Variance and Special Exception
Applicant:	River Valley Development Corp.
Owner:	The Horizon Trust of New Hampshire
Location:	Off Central Avenue (Tax Map 38, Lot 9A-2)

INTENT: The Applicant proposes to construct a 50 ft. by 68 ft. building with office/retail on the first floor, and with twelve (12) residential units on the second, third & fourth floors. A variance is required to permit the building to be located 25 ft. from the front lot line where a minimum of 50 ft. The proposed multi-family residential requires special exception approval and a variance is required to permit twelve (12) units where only six (6) are permitted.

UNITS PROPOSED: Twelve (12) multi-family dwelling units with commercial uses reserved on the first floor.

AGENDA ITEM #: 3-A and 3-B

ZONING DISTRICT: B-3 District

EXISTING LAND USE: Vacant

PROPOSED LAND USE: Commercial

SURROUNDING LAND USE:
Commercial

PREVIOUS ZBA ACTION: None

PLANNING BOARD APPROVAL REQUIRED: Yes

ATTACHMENTS:

- ZBA Application
- 1/1/14 letter from Berry Surveying
- Narrative for variance
- Narrative for special exception
- Site plan
- Elevation
- First level plan and upper level plan

APPLICATION IS COMPLETE: Yes

NOTICES AS REQUIRED: Yes

STAFF RECOMMENDATION:
The Planning Department supports the Applicant's requests with conditions.

Summary of Request and Background

The property is a vacant 1.1 acre parcel of land located between Meineke Care Care Center at 899 Central Avenue and Dover Bowl. It is encumbered by a large area of wetland and wetland buffer. The applicant proposes to construct a 50 ft. by 68 ft. building with office/retail on the first floor, and twelve (12) residential units on the second, third & fourth floors. Residential uses are permitted in the B-3 District by special exception provided (a) that the units are located in the second floor or higher, and (b) that for each dwelling unit, the lot -- *excluding wetlands* -- shall contain at least five thousand (5,000) sq. ft.. A variance is required from Section 170-12.A and the B-3 District Table of Use to permit the building to be located 25 ft. from the front lot line where a minimum of 50 ft. is required. In addition, a special exception pursuant to Section 170-12.A is required to permit the multi-family dwelling units, and a variance from the multi-family special exception density requirements in the B-3 Table of Use is required to permit twelve (12) units where only six (6) are permitted.

Reason for Staff Recommendation

Staff believes that the request for a variance from the 50 ft. front setback is reasonable in light of the unique conditions of the property. Given that the property is located off of a right-of-way and not a City street, and is adjacent to an underutilized shopping center plaza with substantial excess parking, enforcement of the 50 ft. setback would not serve any substantial public purpose. In this case, the proposed 25 ft. setback is sufficient and helps to keep the development out of the wetland buffer as much as possible.

Staff also supports the special exception request for which there are only two criteria. The applicant meets the first (location of the multi-family dwelling units on the second floor or above) and requests a variance from the second. As a result of a meeting with Planning Department staff, the applicant has agreed to reduce the number of proposed dwelling units to 10 (down from 12). Staff is comfortable not opposing this request since by right, the applicant would be permitted 6.7 dwelling units, and if the wetlands were included in the density calculations, the applicant would be permitted 9.5. Given the limited scope of the variance, therefore, staff feels that the request is consistent with the spirit of the ordinance, and is supportive of the development of this underutilized area.

Recommendation

The Planning Department recommends the Board approve the variance from the front setback requirements, the special exception to permit multi-family dwelling units, and the variance from the density requirements provided that no more than ten (10) dwelling units are constructed on the property.



City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Adopted: August 16, 2012]

Office Use Only Case #: ZH-01 & ZH-02 Date Received: JAN 07 2014
Amount Paid: \$ 492.00 Time Received:

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: RIVER VALLEY DEVELOPMENT CORP. Phone # 1-978-815-4590

Address of Applicant: 9 PATRIOT DRIVE, DOVER, NH 03820

E-Mail Address: RVDC1501@COMCAST.NET

Robert McGuire Jr, Trustee of The Horizon Trust of New Hampshire
PROPERTY OWNER (if different from applicant):

Address: ATTN: ROBERT MAGUIRE Jr. Phone #
ONE RAYNES AVE, SUITE 201, PORTSMOUTH, NH 03801

E-Mail Address:

PROPERTY/PARCEL INFORMATION

Address: TAX MAP 38, LOT 9A-2, OFF 50' RIGHT OF WAY OFF CENTRAL AVE.

Brief Directions:

Zoning District: B3 Assessor's Map # 38 Lot(s) # 9A-2

TYPE OF APPEAL: (Please check one)

- XX Variance from Section 170-12 of the Zoning Ordinance
Physical Disability Variance (RSA 674:33-V) from Section of the Zoning Ordinance
x Special Exception per Section 170-12 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:

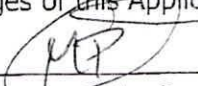
The proposal is to construct a 50'x68' building with office/retail on the first floor, with 12 residential units on the second, third & fourth floors. The project requires a variance for the Front Setback whereas the applicant needs to place the building 25 feet from the front where 50 feet is required. A special exception is being requested to allow residential units within the B3 Zone. In addition a variance for residential density is required whereas the specific density criteria for a Special Exception is not met.

SIGNATURE PAGE

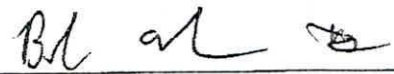
THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS

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:

12/19/13

River Valley Development Corp

Variance Application

Off Central Avenue

Tax Map 38, Lot 9A2

Dover, New Hampshire

APPLICANT'S REQUEST FOR VARIANCES
FACTS SUPPORTING THIS REQUEST

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

The Applicant respectfully submits that the proposed use, with a commercial element on the first floor, and with residential on the three floors above, represents a reasonable use of the property in question. The proposed use is reasonable given the surrounding residential and commercial uses. Granting the front yard setback would preserve wetlands by not requiring the building to be located within the wetlands. Given the shared parking aspect between the commercial and residential uses within the property, and given that the developer is working to obtain parking that either satisfies the three spaces per unit criteria within the Dover Zoning Ordinance, or, in the alternative, a conditional use permit is granted by the Planning Board to allow two spaces per unit, the Applicant believes that the granting of the setback variance and density variance would not be contrary to the public interest. Specifically, the use, as proposed, will not alter the essential character of the locality. Rather, the granting of the variances will maintain the character of the locality, while preserving the wetlands and providing appropriate parking that would be necessary for both the residential and commercial uses.

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

The purpose of the zoning ordinance is to protect the health, welfare and safety of the public and to provide for the encouragement of the most appropriate use of the land. The Applicant respectfully submits that if the variances were granted, the spirit of the Ordinance would be observed as the use in question would permit a use which is suitable for the property, considering the surrounding uses and location of the property and would result in the encouragement of the most appropriate use of the land. Given the close proximity of additional parking, along with the parking that is provided on the property, and given the ability to protect the wetlands and the location of the property away from Central Avenue, the Applicant believes that the granting of the variance would result in an appropriate use of the land. To be contrary to the public interest or injurious to the public rights of others, the variances must unduly and in a marked degree conflict with the ordinance. In this case, granting the variances, the intent of the ordinance would be sustained, with no negative affect upon surrounding properties.

3. Granting the variance would do substantial justice because:

The granting of the variances would do substantial justice in this instance, as denial of the

variances would be a significant burden to the Applicant, as opposed to a lack of any burden to the public. In this instance, there would be no burden to the public with respect to the reduced front setback from fifty feet (50') to twenty-five feet (25'), especially in light of the location of the property. Likewise, there is no burden to the public with respect to the density, as appropriate parking spaces would still be provided to the project, while, at the same time protecting the wetlands within the property and improving the existing right-of-way.

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

The construction of the project, as proposed by the Applicant, will benefit the surrounding properties, as the Applicant intends to improve the existing right-of-way that is currently utilized by some of the surrounding properties. There is no negative aspect to the project, particularly in light of the Applicant's efforts to obtain adjacent parking for the uses within the proposed building. It is believed that all of the surrounding properties have a value associated with them which is premised upon the existing buildings located in the area. In this instance, the proposed use, as submitted by the Applicant, will not be inconsistent with the surrounding uses within the area. The surrounding properties will not be burdened by the proposed uses and the existing right-of-way that serves surrounding properties will be improved. Thus, there will be no diminution of surrounding property values.

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

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

The property is distinguished from other properties in the area in terms of its size and location as created by subdivision which occurred in 1970. Specifically, the property frontage will be along a right-of-way that was utilized when creating the lot as part of the subdivision. The location of this lot is unique from other properties in the area, given the separation from Central Avenue by two (2) intervening lots. The property is also unique given the size of the lot and the amount of wetlands located on the property.

(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 general purposes of the ordinance are to provide for the health, welfare and safety of the general public with encouraging the most appropriate use of the land. These purposes will not be compromised to the extent that the variances are granted to allow for the reduced amount of frontage and to permit the density that has been proposed. The uses, as proposed, will be constructed in a manner that satisfies the applicable site planning goals as outlined by the project engineer. As set forth within Mr. Berry's letter, all proper elements of an appropriate design will be satisfied with respect to the proposed uses on the property, with full review by the Dover Planning Board during site review and in consideration of the necessary conditional use permit. Thus, there is no fair and substantial relationship between the purpose of the Ordinance and the specific application of the frontage and density requirements to this property that would prohibit

the grant of the variances.

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

The proposed use is a reasonable use particularly in light of the location of the property itself, as granting the variances will provide no adverse impact on any surrounding property with respect to the reduced frontage nor will there be an adverse impact on any surrounding property with respect to the reduced frontage and density requested by the Applicant. The property will utilize a shared parking concept between the residential and commercial uses, and, with a potential lease for additional parking spaces located adjacent to the parcel, and considering the location of the parcel from Central Avenue, the Applicant respectfully submits that the proposed uses are reasonable.

River Valley Development Corp
Request for Special Exception
Off Central Avenue
Tax Map 38, Lot 9A2
Dover, New Hampshire

APPLICANT'S REQUEST FOR SPECIAL EXCEPTION
FACTS SUPPORTING THIS REQUEST

A. General Special Exception Requirements

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

The requested use will maintain a commercial element on the first floor, and provide for residential use that is consistent with the local area and will provide for an upgrade to the right-of-way that will assist the public convenience and welfare with respect to utilization of other properties that also use the same right-of-way in the location.

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

The requested use would not create an undue traffic congestion or unduly impair pedestrian safety, as the location of the property is in an area that would utilize its own upgraded right-of-way for access thus provided for safe movement of traffic and pedestrian travel.

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

The proposed use will maintain public water and sewer, but be limited in size and use when comparing other uses located within the area. It is believed by the Applicant that the utilities needed for the structure will not burden the existing facilities, which are already capable of handling large existing uses located on adjacent properties.

B. Specific Special Exception Requirements

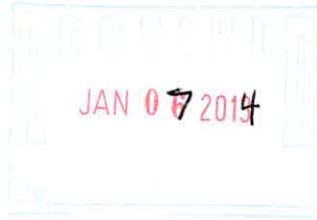
Explain how the proposal meets the specific special exception requirements as may be set forth in the Table of Use for the zoning district in which the subject property is located.

A. The Applicant has requested a variance with respect to the density provision contained within the B3 District requirements, however, the proposal satisfies the only other requirement for a special exception, contained within the B3 District, which requires that dwelling units are allowed only on a second story or higher of a newly constructed structure. This project will have a commercial aspect to the first floor of the structure, with all dwelling units located in the second story or higher, thus satisfying that requirement of the B3 zoning district requirements with respect to the grant of the special exception.



BERRY SURVEYING & ENGINEERING

335 Second Crown Point Road
Barrington, NH 03825
Phone: (603) 332-2863
Fax: (603) 335-4623
www.BerrySurveying.Com



January 2, 2014

Abutters List

Owner of Record

Tax Map 38, Lot 9A-2

Mcguire, Robert A Jr Trustee
Horizon Trust of NH
One Raynes Avenue Ste 201
Portsmouth, NH 03801-3720

Owner on Tax Records

Hyder E Trustee & Mcguire, Robert A Jr Tr
Rye Trust and Horizon Trust of NH
One Raynes Avenue Ste 201
Portsmouth, NH 03801-3720
Book 4011 Page 328

Applicant:

River Valley Development Corp.
9 Patriot Drive
Dover, NH 03820

Abutters

Tax Map 38, Lot 6A

851 Central Avenue LLC
One Broadway 14th Floor
Cambridge, MA 02142

Bruton & Berube, PLLC
Attention: Francis X. Bruton
798 Central Avenue
Dover, New Hampshire 03820

TAX MAP 38, lot 10A

STATE OF NEW HAMPSHIRE
J.D. MORGAN BUILDING
CONCORD, NH ~~03301~~ 03301

TAX MAP 38, lot 11

ROUTE 125 ASSOCIATES
PO BOX 977
DOVER, NH 03821

TAX MAP 38, lot 12

CHURCHILL FORGE

7 WELLS AVE.

SUITE 14

NEWTON, MA 02459

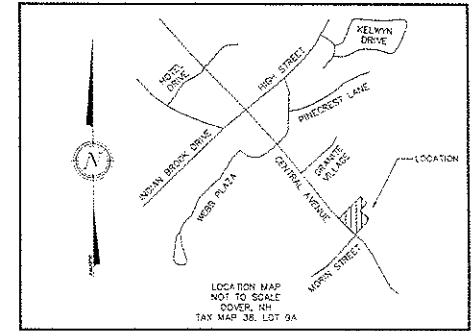
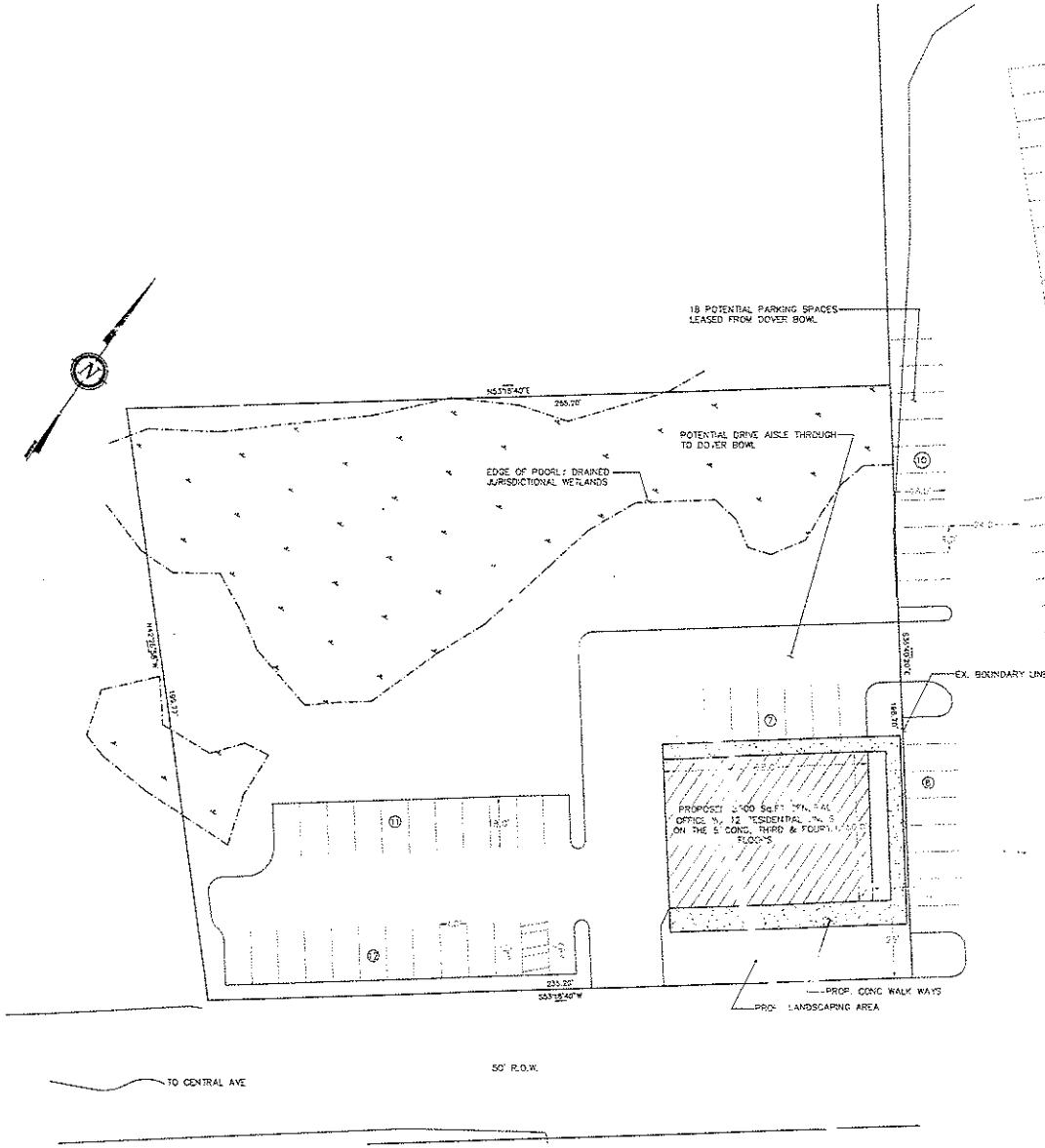


BERRY SURVEYING & ENGINEERING

335 Second Crown Pt. Rd., Barrington, NH 03825
(603) 332-2863 / (603) 335-4623 FAX
www.BerrySurveying.Com

PLAN REFERENCES:

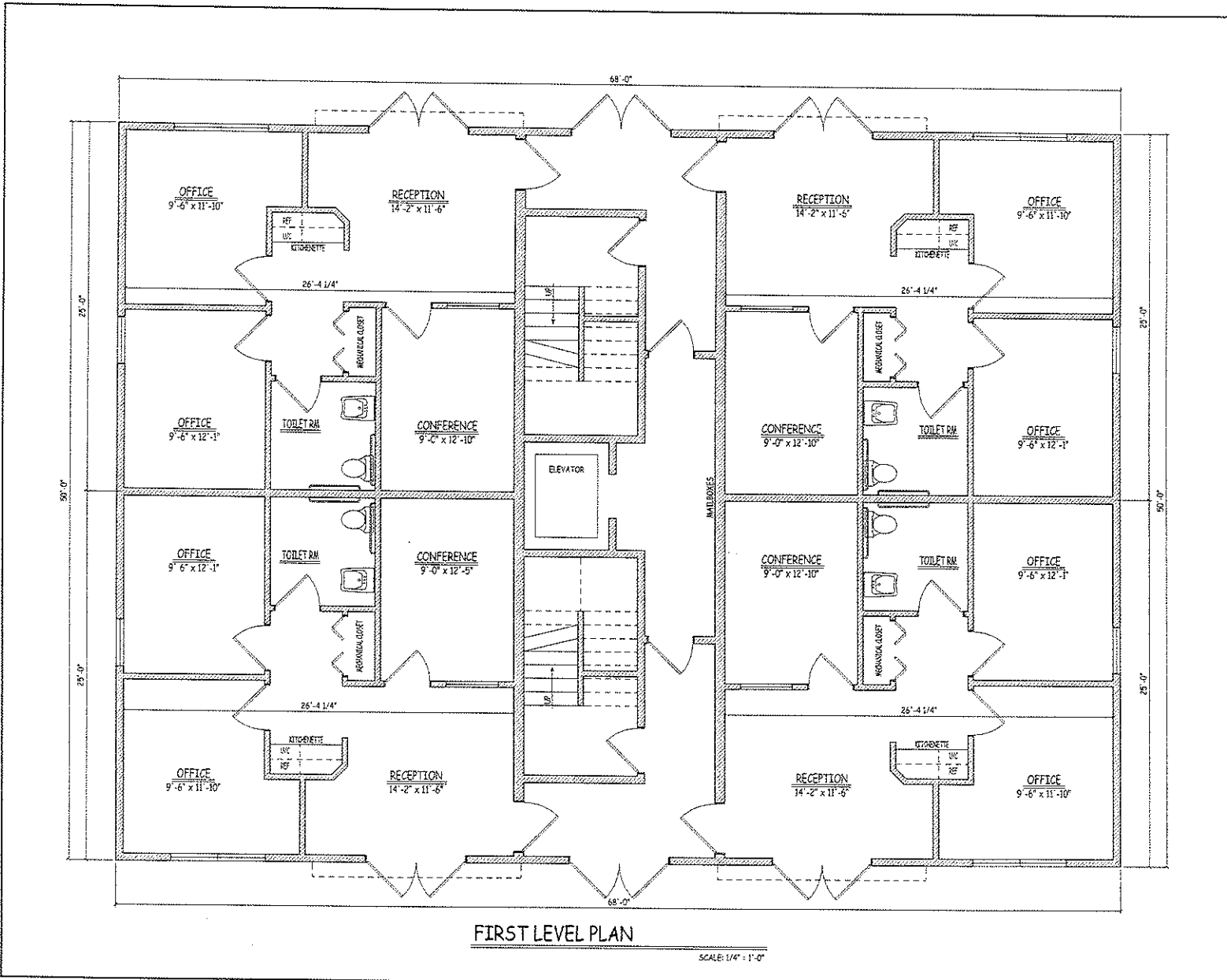
- 1.) "SITE PLAN OF DOVER BOWL, CENTRAL AVENUE DOVER, N.H. MARK F. BOWEN & MICHAEL DOWNS P.O. BOX 1755 DOVER, N.H. BY TERRASCAN, INC. DATED: FEBRUARY 4, 1989 S.C.R.D. PLAN # 36-27
- 2.) "ALTA/ACSM LAND TITLE SURVEY FOR SHAW'S REALTY CO. 851 CENTRAL AVENUE DOVER & ROLLINSFORD, NEW HAMPSHIRE" BY DOUGLET SURVEY INC. DATED: JUNE 30, 2000 S.C.R.D. PLAN # 59-7
- 3.) "ALTA/ACSM LAND TITLE SURVEY FOR SHAW'S REALTY CO. 851 CENTRAL AVENUE DOVER & ROLLINSFORD, NEW HAMPSHIRE" BY DOUGLET SURVEY INC. DATED: JUNE 30, 2000 S.C.R.D. PLAN # 59-6
- 4.) "ALTA/ACSM LAND TITLE SURVEY FOR SHAW'S REALTY CO. 851 CENTRAL AVENUE DOVER & ROLLINSFORD, NEW HAMPSHIRE" BY DOUGLET SURVEY INC. DATED: JUNE 30, 2000 S.C.R.D. PLAN # 59-5
- 5.) "CONDOMINIUM SITE PLAN PREPARED FOR SHAHEEN'S #1 CENTRAL CONDOMINIUMS TAX MAP 36, LOT NO'S 11-1, 11-2 & 11-3 923 CENTRAL AVENUE CITY OF DOVER COUNTY OF STRAFFORD STATE OF NEW HAMPSHIRE" BY MCENEANEY SURVEY ASSOCIATES, INC. DATED: NOVEMBER 4, 2003 S.C.R.D. PLAN # 73-23
- 6.) "ALTA / ACSM LAND TITLE SURVEY OF THE SERVICE MERCHANDISE STORE # 26 SHAW'S PLAZA - CENTRAL AVENUE DOVER & ROLLINSFORD, NH PREPARED FOR SERVICE MERCHANDISE COMPANY, INC. AND LAWYERS TITLE INSURANCE CORPORATION" BY MCENEANEY SURVEY ASSOCIATES, INC. DATED: JUNE 10, 1997 S.C.R.D. PLAN # 50-4
- 7.) "SHAW'S PLAZA EXPANSION DOVER, NEW HAMPSHIRE" BY APPELORE ENGINEERING, INC. DATED: NOVEMBER 28, 1989 S.C.R.D. PLAN # 37A-43
- 8.) "LOT LINE REVISION LOCATED IN DOVER, N.H. PREPARED FOR SHAW'S REALTY CO. AND CRISCOLL REALTY INC. MARCH 1984" BY KIMBALL CHASE COMPANY, INC. DATED: OCTOBER 10, 1984 S.C.R.D. PLAN # 17E-90
- 9.) "SUBDIVISION OF LOTS A B & C HYDRA MANAGEMENT OF DOVER DOVER-ROLLINSFORD N.H." BY G.L. DAVIS & ASSOCIATES DATED: SEPTEMBER 1, 1976 S.C.R.D. PLAN # 17A-69



- NOTES:**
- 1.) OWNER: A. ROBERT MCGUIRE, JR. TRUSTEES OF THE HORIZON TRUST OF NEW HAMPSHIRE ONE RAINES AVENUE STE 201 PORTSMOUTH, NH 03801
 - DEVELOPER: RIVER VALLEY DEVELOPMENT CORP 9 PATRIOT DRIVE DOVER, NH 03820
 - 2.) DOVER TAX MAP 36, LOT 9A-2

REVISION	DATE	DESCRIPTION
SITE PLAN / ZBA PLAN FOR RIVER VALLEY DEVELOPMENT CORP CENTRAL AVENUE DOVER, NH 03820 TAX MAP 36, LOT 9A-2		
BERRY SURVEYING & ENGINEERING 335 SECOND CROWN POINT RD. BARRINGTON, N.H. 332-2863		
SCALE : 1 IN. EQUALS 20 FT.		
DATE : JANUARY 1, 2013		
FILE NO. : DB 2013 - 091		

JAN 06 2014



FIRST LEVEL PLAN

SCALE: 1/4" = 1'-0"

CONSULT YOUR DESIGN AND/OR CONSULTANT FOR ALL INFORMATION REGARDING THIS PLAN. THIS PLAN IS NOT TO BE USED FOR ANY OTHER PROJECT WITHOUT THE WRITTEN CONSENT OF THE ARCHITECT. ANY REVISIONS TO THIS PLAN MUST BE APPROVED BY THE ARCHITECT. ANY REVISIONS TO THIS PLAN MUST BE APPROVED BY THE ARCHITECT.



RIVER VALLEY DEVELOPMENT

DRAWN BY: AS
 CHECKED BY: PD
 DATE DRAWN: 12/18/13
 DATE ISSUED:
 SCALE: 1/4" = 1'-0"
 JOB NO.: 13255M

REVISIONS	
NO.	DESCRIPTION
1	12/18/13 PRELIMINARY PLANS RELEASED FOR REVIEW

2

214-03

From: FX Bruton [mailto:fx@brutonlaw.com]
Sent: Monday, January 13, 2014 3:29 PM
To: Corwin, Timothy
Cc: Jeff White; Robert J. Stowell; Douglas J. LaRosa
Subject: White Dove Properties, LLC

Tim,

Please accept this correspondence as our requests to withdraw the variance application recently submitted on behalf of White Dove Properties, LLC. We understand that the application fee, less costs for abutter notice, will be reimbursed. The funds can be sent to my office. Thank you for your assistance with respect to the above.

Francis X. Bruton, III, Esquire

Bruton & Berube, PLLC
798 Central Avenue
Dover, New Hampshire 03820
P: (603) 749-4529
F: (603) 343-2986

www.brutonlaw.com

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