

**CITY OF DOVER**

## ZONING BOARD OF ADJUSTMENT

### AGENDA

**REVISED**

Meeting Type: Regular Meeting  
Meeting Location: McConnell Center, Room 306, 61 Locust Street  
Meeting Date: **Thursday, August 21, 2014**  
Meeting Time: **7:00 pm**

#### 1. ATTENDANCE

#### 2. APPROVAL OF MEETING MINUTES OF JUNE 19, 2014 AND JULY 17, 2014

#### 3. HEARINGS

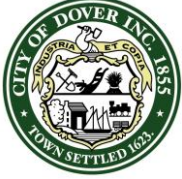
- A. \*Z14-18 STF Development Corp., 35 Dover Point Road (Tax Map K, Lot 37), located in the Medium Density Residential (R-12) District, requests a variance from **Section 170-12.A** of the Zoning Ordinance and the R-12 District Table of Use and Dimensional Requirements to permit (a) 28 multi-family units where multi-family is not a permitted use in the R-12 District, (b) office uses in the proposed building at the front of the lot where office is not a permitted use, (c) a building height of forty (40) ft. where thirty-five (35) ft. is the maximum permitted, and (d) one (1) sign for the office use that would conform to the requirements of the Thoroughfare Business (B-3) District; and from **Section 170-6**, definition of "Lot", to permit more than one (1) principal building on the lot.
- B. \*Z14-19 Robert C. Carrier, 2-4 Florence Street (Tax Map 27, Lot 171), located in the Medium Density Residential (R-12) District, requests a variance from **Section 170-12.A** of the Zoning Ordinance and the R-12 District Table of Use and Dimensional Requirements to permit the construction of an attached carport within 5 feet of the rear lot line where a minimum setback of 30 feet is required.
- C. \*Z14-20 Barlo Signs/Convenient MD (Property Owner: Prime Circle LLC), 15 Webb Place (Tax Map D, Lot 2A), located in the Thoroughfare Business (B-3) District, requests a variance from **Section 170-32.A** of the Zoning Ordinance and the B-3 District Table of Use and Dimensional Requirements to permit (a) a 147 sq. ft. wall sign where the maximum size wall sign permitted is approximately 75 sq. ft., based on the tenant's linear business frontage of approximately 75 ft., (b) total sign area of 241.6 s.f. where approximately 149 s.f. is permitted by right, and (c) a total of three (3) signs where only two (2) are permitted by right per tenant.
- D. \*Z14-21 FMX LLC, 1 Education Way (Tax Map E, Lot 31), located in the Executive Technology Park (ETP) District, requests a variance from **Section 170-32.A** of the Zoning Ordinance and the ETP District Table of Use and Dimensional Requirements to permit two (2) signs where only one (1) sign is permitted by right.

#### 4. REVIEW OF ZONING BOARD OF ADJUSTMENT RULES OF PROCEDURE

#### 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](http://www.dover.nh.gov). A map showing project locations can be found at <http://www.dover.nh.gov/government/city-operations/planning/index>. Follow us on Twitter @DoverNHPlanning and find us on Facebook at <https://www.facebook.com/DoverNHPlanning>.



**CITY OF DOVER**

## ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting  
Meeting Location: Council Chambers, 288 Central Avenue, Dover, NH 03820  
Meeting Date: **Thursday, June 19, 2014**  
Meeting Time: **7:00 pm**

### 1. ATTENDANCE

**Members Present:** Sam Reid (Chair), Otis Perry (Vice Chair), Frank Landford, Chris Prior, Jennifer Stone, Bob Hall (Alternate), George Reagan (Alternate)

**Members Not Present:** Joshua Cote (Alternate)

**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 REGULAR MEETING MINUTES OF MAY 15, 2014

**Motion:** J.Stone made a motion to accept the May 15, 2014 meeting minutes. Seconded by F.Landford. Vote: U/A

The Chair announced that the applicant for item 3.D (Z14-11) has withdrawn his request.

### 3. HEARINGS

- A.** Z 14-16 City of Dover (Property Owner: Cochecho Mills Holdings, LLC), 33 Chestnut Street (Tax Map 31, Lot 4B), located in the Central Business District (CBD) – Transit Oriented Development (TOD) sub-district, requests a variance from **Section 170-32.A** of the Zoning Ordinance and the CBD-TOD District Table of Use and Dimensional Requirements to permit the construction of a 144" tall by 120" wide freestanding sign where freestanding signs are not permitted in the CBD-TOD.

#### *Public Hearing Opened*

Christopher Parker, Director of Planning and Community Development, spoke on behalf of the applicant and owner of the property. He explained that the building is situated 300 ft. back from the road. The sign will have transportation information for the City of Dover. Because of the uniqueness of the lot, it is primarily a parking lot and is unique in the sense that this is a user that is not really commercial in nature, which is what the use is in the CBD. He mentioned that one thing that he did not put in the application, which should have been, is that they would be looking for a variance that would be tied to the building itself and not to the lot itself. If the building at the Transportation Center is no longer utilized we would not expect the owner of the property would be able to utilize the freestanding sign. They would need to be more in keeping with what the underlying zoning encourages. The Dover Main Street organization is donating the sign, which will match the color scheme and architectural feel of the Transportation Center. The plot plan of the lot submitted identifies placement of the sign, which is going up towards the tracks in the green area, which is parallel to the road. This would minimize any impact of blockage of view when pulling out of the lot. He added that they are looking to work with Main Street and create an adopt-a-spot.

S. Reid confirmed with C.Parker that the City does not own the parcel and it is an independent business.

O.Perry questioned the design of the lighting, will it be blinking etc. He also asked why municipal parking isn't part of the sign, now that the City maintains the lot.



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C.Parker stated that it will be ground-mounted flood lighting tied to the lighting of the lot itself and will be geared to just illuminate the sign. He added that they would be happy to add the condition that no flashing or blinking lights are allowed. Signage for municipal parking is an option and would be more than happy to work with the donor and discuss placing that on the sign.

O.Perry stated that he would like to add the design question as a condition.

B.Hall agreed and stated that the sign seems quite large and is wondering why they are squeezing it in on the tiny piece shown, where there is an island area between the exits and entrances. He feels it would fit better in that location.

C.Parker stated that they are placing it where the property owner approved the City to place it. The pad site you are mentioning has been identified for a development on its own. The owner is not interested in encumbering that sign.

J.Stone confirmed with C.Parker that the lighting will be timed and when the last train passes at midnight it will be turned off.

C.Prior questioned the location. He recognizes that the area is dangerous with the crosswalks and traffic. Was there a concern or thought given to the placement of the sign and that it may be a distraction that may cause an impact of safety.

C.Parker stated that it was a big discussion that they had with Main Street. He hopes that by placing the sign at the location shown will actually help encourage people to not cross the road there and not make that area dangerous.

B.Hall questioned sign location as well and confirmed with C.Parker that it will be parallel to the road to minimize any impact or blockage from somebody coming up and down the road.

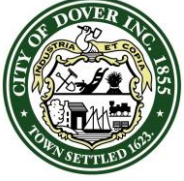
Stephen Piper, 27 Highland Street, stated he sits on the Board of Dover Main Street and also was the contract administrator when the station was built. He feels that a sign has been missing at the Transportation Center since 2001 and this sign would complete the project. The sign will contain the address which is important for 911 and for people using GPS. He stated he felt the sign was needed and is important to the community and to the Transportation Center. When you are driving up Chestnut Street from either direction you want to see the sign, it has to be parallel to the road. My vision was to have it perpendicular to the road in order to see it, but it is double sided for that reason. It has a small footprint and will be landscaped. The other reason for that spot is the electricity could be easier to get to, which is 15ft away. The other parcel would need to be excavated for electrical.

### **STAFF RECOMMENDATION**

T.Corwin stated that staff supports the requested variance for the reasons drafted in the Staff Memo (in file).

O.Perry would like to add a condition that any further addition to the sign, besides what the board approves tonight, has to come back before the board.

Concern and discussion ensued regarding different occupants or businesses that could possibly go in the Transportation Center.



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T. Corwin suggested a condition that would simply say the sign shall primarily advertise the transportation services and no off site advertising, as it needs to be related to the Transportation Center. You could add a condition regarding that the sign will not be flashing, have changeable text, nor be internally lit.

B. Hall added that the word primarily leaves it open ended, it needs to be something more concrete to provide security for a different user. It needs to be related to the condition that the sign would be used for transportation information only.

J. Stone wants to ensure that the transportation center signage is what stays on the top, not a hot dog or coffee shop.

C. Parker stated that it would take a huge overhaul for a kitchen in that space. His goal is to restrict signage, so that a business that would not be attentive to the City, would not comply with the request.

S. Reid would prefer to see a condition that the variance needs to run with the land and prefers a condition that is solely limited to transportation center users and operators of businesses that are related to that use. He thinks it is unfair to make them come back before the ZBA.

C. Prior stated that they are opting to grant the variance to install a 144" tall by 120" wide freestanding sign with the condition that the sign not be flashing, nor have electrical components and be limited to display just transportation and parking services.

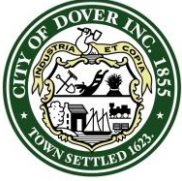
*Public Hearing Closed*

**Motion:** O. Perry made a motion to grant the variance with the language that C. Prior mentioned. Discussion continued. The condition is that the sign shall not flash, have changeable text, nor be internally lit and the sign shall be limited to display transportation, parking information and ancillary uses of the Transportation Center. Seconded by C. Prior. Vote: U/A

- B.** Z 14-14 Jordan & Shannon Plante (Property Owners: Jordan & Shannon Plante), 92 Long Hill Road (Tax Map A, Lot 53G-1), located in the Medium Density Residential (R-12) District, requests a variance from **Section 170-12.A** of the Zoning Ordinance and the R-12 District Table of Use and Dimensional Requirements to permit the construction of a single family dwelling on the existing foundation located approximately 237 ft. from Long Hill Road, where principal buildings are required to be located between 5 ft. and 25 ft. from the front lot line.

*Public Hearing Opened*

Atty. F.X. Bruton represented the applicants. He stated that this was before the Board to grant a variance (Z13-16) for more relief than what is being requested tonight and is more conforming than the last request. This is a request for a variance to build a single family dwelling and utilizing the existing foundation in order to be as close to the road as possible. They also have an existing septic system and well to use. The foundation was inspected and the test was found to be sound, which was provided by the Building Department. He explained that this is a unique shaped lot; it has wetlands and a wetland buffer. He stated that the neighbors are supportive. He explained how each of the criteria for granting a variance is met by this application.



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J.Stone confirmed with Atty. Bruton that the former owners sold the lot to the current owners.

### STAFF RECOMMENDATION

T.Corwin stated the Planning Department recommends the Board approve the variance as requested for the reasons stated in the Staff Memo. (in file)

*Public Hearing Closed*

**Motion:** O.Perry made a motion to grant the variance. Seconded by J.Stone. Vote: U/A

- C. Z 14-15 Jordan & Shannon Plante (Property Owners: Jordan & Shannon Plante), 92 Long Hill Road (Tax Map A, Lot 53G-1), located in the Medium Density Residential (R-12) District, appeals the determination of the Zoning Administrator that a variance is required to construct a single family home on the existing foundation located on the subject property

Discussion ensued regarding whether this item should be tabled or deferred.

S.Reid mentioned that if the previous variance was granted, this request would be moot.

Atty. Bruton stated there is a 30-day appeal period and he explained that the next Zoning Board of Adjustment meeting is on July 17, which is not 30 days from now. He requested this be tabled until the August 21, 2014 meeting and if there is no appeal filed then he will send a letter withdrawing the case.

**Motion:** O.Perry made a motion to table this item. Seconded by F.Landford. Vote: U/A

- D. \* Z 14-11 John L. Eaton Jr. (Property Owners: John & Patricia Eaton), 73 A Old Rochester Road (Tax Map A, Lot 3-1), located in the Medium Density Residential (R-12) District, requests a variance from **Section 170-12.A** of the Zoning Ordinance and the R-12 District Table of Use and Dimensional Requirements to permit the construction of a single family home to be located 50 ft. from the front lot line where the house is required to be located 30 ft. from the front lot line, which is the build to line equal to the average setback for all properties within the R-12 District within 500 ft. of the subject property.

This case was withdrawn.

- E. \* Z 14-12 Tom Schlosser (Property Owner: Gerald Smith), 1 Arbor Drive (Tax Map I, Lot 74R), located in the Medium Density Residential (R-12) District, requests a variance from **Section 170-12.A** of the Zoning Ordinance and the R-12 District Table of Use and Dimensional Requirements to permit the construction of an addition to be located 23 ft. from the rear lot line where a minimum setback of 30 ft. from the rear lot line is required.

*F.Landford recused himself. S.Reid asked B.Hall to sit in on this case.*

*Public Hearing Opened*



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Tom Schlosser, of Thomas Price Builders, represented the applicant. He stated the proposal is to build an addition, 16 ft. x 20 ft., off the rear of the existing single story ranch home. The addition will be located approximately 23 ft. from the rear lot line. The required rear setback in the R-12 District is 30 ft. and, therefore, a variance is being requested. He stated any addition built on this structure would automatically be skewed due to the position of the building on the lot. The proposed addition will be off the kitchen at the rear of the house and will be a dining area. This addition creates needed square footage. Two letters in support of the variance to the Board from the most impacted abutters, Mr. and Mrs. Joseph Noone of 13 Meridian Drive, and Mr. and Mrs. Scott Fahey of 3 Arbor Drive.

Discussion ensued regarding the dimensions of the proposed addition and deck, and it was determined that the scale was off on the drawings, but the closest point to the rear property line is 23 ft.

Frank Landford, 3 Monroe Street, spoke in favor of granting the variance, stating that this addition will give the owners needed square footage.

### STAFF RECOMMENDATION

T. Corwin stated the Planning Department supports the granting of the variance with the only condition being that the addition be constructed in accordance with the plans and materials submitted.

The Chair read the letters of support for the record. (in file)

*Public Hearing Closed*

**Motion:** O. Perry made a motion to grant the variance with the condition that the addition and the deck be constructed with the dimensions and the location as shown on the request.

B. Hall mentioned that due to the drawings being inaccurate, he would like to confirm that this not exceed 23 feet. The setback is not mentioned on the drawing.

Discussion ensued regarding the drawings submitted, the dimensions and encroachment into the rear setback.

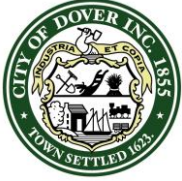
The motion failed for lack of a second.

**Motion:** B. Hall made a motion to grant the variance with the condition that the structure meets the dimensions as shown with the distance to the rear lot line not to be less than 23 ft. Seconded by C. Prior. Vote: U/A

- F.** Z 14-13 Adam Fogg (Property Owners: Jade & Sheryl Fogg and Adam Fogg), 25 Nute Road (Tax Map L, Lot 13), located in the Low Density Residential (R-20) District, requests a variance from Section 170-12.A of the Zoning Ordinance and the R-20 District Table of Use and Dimensional Requirements to permit the construction of a single family home to be located 4 ft. from the side lot line shared with 23 Nute Road where a minimum setback of 20 ft. from the side lot line is required.

*Public Hearing Opened*

Atty. Scott Hogan represented the applicant. He explained that the proposal is to remove the existing structure on the property and replace it with a new two-story modern residential structure to provide a family home where



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extended family could also live. The existing stand-alone garage would also be removed. The family has owned the property since the late 1920s. The structure which exists on the property now has a side setback of 1.2 ft. The proposed structure would have a 4.2 ft. side setback, so the nonconformity is decreased. The intent is to keep the structure as far away from the shoreline as possible. Atty. Hogan read a letter of support from the most immediate abutter at 23 Nute Road and submitted it to the Board. The new structure will use municipal utilities.

Discussion took place regarding the steps that the applicant will be required to take regarding obtaining a Conditional Use Permit and going before the Conservation Commission, the size of the house and location of the garage under the house. A rendering of the house was given to Board members to view.

### **STAFF RECOMMENDATION**

T.Corwin stated the Planning Department takes no position on the application as stated in the Staff Memo. (in file)

There was discussion about the footprint of the house forcing the house to be located where it is and that the house does not have to be the size that is being proposed.

*Public Hearing Closed*

**Motion:** C.Prior made a motion to grant the variance with the condition that the house is to be located no closer than 4 ft. to the side lot line. Seconded by O.Perry. Vote: 4/1 (J.Stone opposed)

### **4. REVIEW OF ZONING BOARD OF ADJUSTMENT RULES OF PROCEDURE**

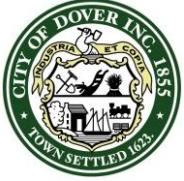
T.Corwin explained that the first document in the Board member's packets is the present operating rules and the red lines represent edits suggested by O.Perry, B.Hall, S.Reid, T.Corwin and the Legal. The second document is the model rules of procedure from the OEP Handbook and the highlighted text is what is not otherwise contained in the existing operating rules.

S.Reid stated he would prefer to have more time to read over the documents. He suggested a change to Article 4 so that it states the Chair and Vice Chair shall be elected at the first regular meeting of each year. He suggested Article 4E state that all officers shall serve until their successors are voted in as officers.

There was discussion regarding the deadline for applications and notices being sent out by certified mail either seven or ten days before the hearing date, and sending notices possibly by both certified mail and by regular mail. The Board decided they want to have the notices sent ten days before the hearing date.

### **5. ADJOURN**

**Motion:** O.Perry made the motion to adjourn at 8:42 p.m. Seconded by B.Hall. Vote: U/A



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## ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting  
Meeting Location: Council Chambers, 288 Central Avenue, Dover, NH 03820  
Meeting Date: **Thursday, July 17, 2014**  
Meeting Time: **7:00 pm**

### 1. ATTENDANCE

**Members Present:** Sam Reid (Chair), Otis Perry (Vice Chair), Frank Landford, Bob Hall (Alternate), George Reagan (Alternate)

**Members Not Present:** Jennifer Stone, Chris Prior, Joshua Cote (Alternate)

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

The Chair called the meeting to order at 7:01 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 REGULAR MEETING MINUTES OF JUNE 19, 2014

**Motion:** O.Perry made a motion to approve the June 19, 2014 minutes. Seconded by F.Landford.

B.Hall stated he thought the minutes were not complete enough and needed more details inserted. He gave specifics in an email to T.Corwin and S.Reid.

B.Hall stated there were some numbering issues in the minutes, for item 3A he would like more details regarding discussion on the location and orientation of the sign and he thought the final motion included that the sign must conform to the design presented, and for item 3C he would like more information about why this item was tabled. He feels more details should be included.

Lengthy discussion continued regarding what should be included in the minutes of a meeting.

S.Reid stated he thought the minutes should be tabled and the Board will look at them again at the next meeting.

F.Landford withdrew his second.

O.Perry withdrew his motion to approve the minutes.

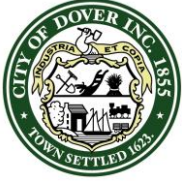
**Motion:** O.Perry made a motion to refer the minutes back to the staff and review at the next meeting. F.Landford seconded. Vote: U/A

*The Chair stated this will be discussed further later in the meeting.*

### 3. HEARINGS

- A. \*Z 14-17 Calvin & Marta Cole (Property Owner: Cole Family Revocable Trust), 36 Hillcrest Drive (Tax Map 35, Lot 56-L), located in the Medium Density Residential (R-12) District, requests a variance from **Section 170-12.A** of the Zoning Ordinance and the R-12 District Table of Use and Dimensional Requirements to permit the construction of a bulkhead within 17 feet of the front lot line where a minimum setback of 25 feet is required.

*Public Hearing Opened*



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Calvin Cole, the applicant, spoke, stating he wants to put in a bulkhead. The house is on a corner lot and the location where the bulkhead will be is at the end of the house around the corner but it qualifies as the front yard because of the street being there. This is the most practical and logical place to put a bulkhead. Putting it at the back of the lot would require a variance also. The house is a ranch style home and it pretty much covers the allowable building area. At the other end of the house equipment could not be brought in there because it is on the side of a hill and trees are in the way. The only way to the cellar now is through the kitchen. He would like to upgrade the heating system and would like to have the bulkhead to facilitate this. Storage space in the cellar is also hard to access at this point. He mentioned that he spoke with the neighbor across the street who has no objection to this but he was not able to get a note from him stating this.

G.Reagan asked if Mr. Cole had looked at different styles of entryways to the basement other than that style of bulkhead.

Mr. Cole stated it needs a roof over it and he did not see any other way of accomplishing the task.

### **STAFF RECOMMENDATION**

T.Corwin stated that staff supports the variance request for the reasons explained by the applicant and as set forth in the Staff Memo.

*Public Hearing Closed*

F.Landford stated he looked at the site and he agrees that the place where the applicant wants to put the bulkhead is the most common sense place.

**Motion:** O.Perry made a motion to grant the variance. Seconded by F.Landford.

S.Reid stated that the City Planner has asked that the Board state that they believe the applicant meets all the conditions for a variance when making a motion to grant a variance.

**Motion:** O.Perry amended the motion that the variance be granted because the applicant has met all the conditions for the variance. Seconded by F.Landford . Vote: U/A

### **4. REVIEW OF ZONING BOARD OF ADJUSTMENT RULES OF PROCEDURE**

S.Reid suggested continued discussion on the minutes.

T.Corwin stated it is incumbent upon the Board to review the minutes and let the staff know if an important point is missing. The Board needs to be comfortable with the minutes but the minutes have to be as concise as possible while covering the important points. He read an abbreviated section of the Right To Know Law, NH RSA 91.A.2.II. O.Perry stated that it is not necessary for discussions that precede the motions to be in the minutes, but the motions need to be accurate.

T.Corwin stated that if an application is denied or is contested special care may need to be taken to have a more complete record in the minutes.

Discussion continued regarding minutes.



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Discussion regarding the Rules of Procedure.

Regarding email accounts, S.Reid suggested the rules should read, "Board members may obtain a City of Dover email address or use their own account only to facilitate communications regarding meetings, agendas and the dissemination of information". He stated, in order to make it clear when the Public Hearing is opened, he would like the language to read, "The Chair shall open the Public Hearing by reading the public notice". He suggested making the Amendment of Rules (currently Article 6) the last Article, and have Joint Meetings and Hearings be Article 6.

There was discussion regarding Non-Public meetings (which require minutes) and will be #4, and meetings for advice with attorneys (which do not require minutes) which will be #5. T.Corwin will get clarification from the City Attorney on this.

The language, "Meetings shall be held in the municipal building", will be changed to "...in a municipal building".

There was discussion regarding public notice for meetings being posted in two public places and naming those two places, the City website and the City Hall bulletin board.

B.Hall wants added to the Rules of Procedure that the Board has the ability to have an appraisal done at the expense of the applicant.

There was discussion regarding the seating of alternates on a rotating basis and on a case by case basis.

O.Perry wanted to add to the section Changes to Agenda and Special Announcements (Section 5, 3D) that the seating of alternates is announced prior to the opening of the public hearing. He also wanted the language, "appointed by the Chair" to be changed to "designated by the Chair".

T.Corwin will make the requested changes to the Rules of Procedure and there will be further discussion at the next meeting.

### **5. ADJOURN**

**Motion:** O.Perry made a motion to adjourn at 7:56 p.m. Seconded by B.Hall. Vote: U/A



**CITY OF DOVER**

## ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z14-18)

Application Type: Variance  
Applicant: STF Development Corp.  
Owner: STF Development Corp.  
Location: 35 Dover Point Road (Tax Map K, Lot 37)

**INTENT:** The applicant proposes to construct 18 townhouse style residential units and a 6,000 s.f. mixed use building with 10 residential units on the 2nd and 3rd floors. Variances are required to permit the multi-family and office uses which are not permitted in the R-12 District, to permit a building height of 40 ft. where 35 ft. is the maximum permitted, and to permit a sign for the office use that meets the B-3 District standards instead of the R-12 District standards.

**UNITS PROPOSED:** 28 multi-family units

**AGENDA ITEM #:** 3-A

**ZONING DISTRICT:** R-12

**EXISTING LAND USE:** Vacant

**PROPOSED LAND USE:** 28 Multi-Family Units and Office

**SURROUNDING LAND USE:** Commercial and Residential

**PREVIOUS ZBA ACTION:** Case Z05-14 – variance granted to permit a 28 unit congregate care facility; Case Z06-02 – variance to permit building height of 45 ft. denied; Case Z12-03 - modification of 2005 variance granted to permit a 32 unit facility having one floor restricted to age 55, two floors with no age restrictions.

**PLANNING BOARD APPROVAL REQUIRED:** Yes

**ATTACHMENTS:** Application, narrative, site plan

**APPLICATION IS COMPLETE:** Yes

**NOTICES AS REQUIRED:** Yes

**STAFF RECOMMENDATION:**  
The Planning Department recommends that the requested variances be approved.

### Summary of Request and Background

The subject property is currently vacant except for a building foundation that was installed for a planned 28 unit congregate care facility, which was allowed by a variance granted in 2005 (Case Z05-14). In 2012, the Zoning Board approved a modification of the 2005 variance approval to allow for an increase of units to 32, and to remove the requirement for congregate care with the condition that the units on the first floor of the three story building be occupied by residents age 55 or older. The applicant's new proposal is to construct 18 townhouse style residential units and a 6,000 s.f. mixed use building at the front of the lot with 10 residential units on the 2nd and 3rd floors. None of the residential units are proposed to be age restricted. Variances are required to permit the multi-family and office uses which are not permitted in the R-12 District. The applicant also requests variances from the R-12 District Table of Use to permit a building height of 40 ft. where 35 ft. is the maximum permitted, and to permit a sign for the office use that meets the B-3 District standards instead of the R-12 District standards.\*

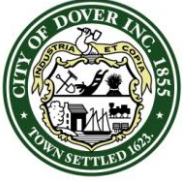
### Reason for Staff Recommendation

Staff supports the requested variances. Given market conditions, congregate care is now significantly more difficult to finance and demand may be limited. The request to permit multi-family units unencumbered by any age restriction is a reasonable accommodation consistent with the spirit of the 2005 variance. The applicant has also reduced the scope of the variance by eliminating 4 units (32 are approved, only 28 are now proposed). The applicant's other variance requests for office, for a sign that meets the B-3 District requirements, and to a permit a building height of not more than 40 ft., are all consistent with the requirements for the B-3 District which is located directly across the street. From a planning perspective, the development of a mixed use project along Dover Point Road is desirable. The proposed townhouses are also desirable in that they complement the existing townhouses at 39 Dover Point Road and will help to create a more cohesive neighborhood in this area. The addition of residents to this area will help to spur nearby commercial investment.

### Recommendation

The Planning Department recommends that the requested variances be approved.

\*Note that the variance request to permit more than one (1) principal building on the lot is not required. More than one (1) principal building is permitted for non-residential and multi-family developments with Planning Board approval, which this proposal will require. See Section 170-6, definition of "lot".



**CITY OF DOVER**

## ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z14-18)

Application Type: Variance  
Applicant: STF Development Corp.  
Owner: STF Development Corp.  
Location: 35 Dover Point Road (Tax Map K, Lot 37)

BELOW IS A STREET VIEW OF THE LOCATION OF THE SUBJECT PROPERTY



BELOW IS AN AERIAL VIEW OF THE LOCATION





City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Adopted: August 16, 2012]

Office Use Only Case #: Z14-18 Date Received: AUG 04 2014
Amount Paid: \$ Time Received: By

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: STF Development Corp. Phone # 603-781-1636

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

E-Mail Address: crownpoint62@yahoo.com

PROPERTY OWNER (if different from applicant): STF Development Corp.

Address: Phone #

E-Mail Address:

PROPERTY/PARCEL INFORMATION

Address: 35 Dover Point Road

Brief Directions: Across from Thornwood, just before cemetery

Zoning District: R-12 Assessor's Map # K Lot(s) # 37

TYPE OF APPEAL: (Please check one)

- [xx] Variance from Section 170-!2A 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:

The applicant has approvals to build a 15,600 SF three story building with 32 residential units. The applicant seeks to amend the prior approvals to replace the single large building with three smaller buildings. Two of the new buildings would contain a total of 18 townhouse residences. The third building would have 6,000 square feet of office space on the ground level, and 10 residential units on the second and third floors. The residential units will be reduced from 32 to 28.

# VARIANCE REQUIREMENTS

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

### **A. Variance Requested**

A variance is requested from Section(s) 170-12A and Table of Uses for R-12 / of the Zoning Ordinance to permit:

Having more than one principal structure on a lot; to permit office use; and to permit a sign that would conform to what is allowed in the adjacent B-3 zone, but which is larger than is allowed in the R-12 zone.

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

Please demonstrate compliance with the following:

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

See attached.

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

See attached

3. Granting the variance would do substantial justice because:

See attached

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**

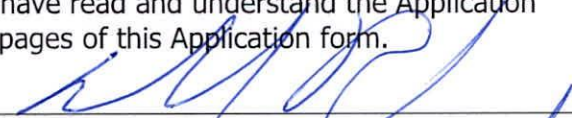
5B. If the criteria in subparagraph 5A above are not established, explain how, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable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

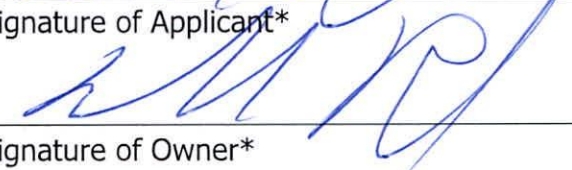
# SIGNATURE PAGE

**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.

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

  
\_\_\_\_\_  
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: 8/1/14

## VARIANCE REQUIREMENTS:

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

The applicant is requesting three variances supplement existing variances in order to allow a mixed use development of this property. The proposed changes will result in a project which would be similar to the nearby development at Centennial Place. The property is currently zoned R-12. It is located at the end of a residential zone which itself lies between two commercial zones. There are 6 townhouses located between this property and the cemetery, and there is a business zone on the south side of the cemetery. The property located across Dover Point Road is zoned either B-3 or is in the RCM overlay district for Thornwood Farms. Nearby uses include several automobile dealerships, a commercial office and retail strip mall, restaurants, a large office building, a car wash, a convenience store, several townhouse residential developments, and another lot which has been approved for a convenience store with gasoline service.

This property has previously received variances for 32 residential units in a single large building with a foot print of 15,634 square feet. With one exception, the applicant is proposing that the existing zoning and planning approvals for this lot be modified so that the property can be developed in accordance with the standards applicable to the B-3 zone, and the scale of the buildings on the lot can be reduced to be more in keeping with the neighborhood. While this property is not itself located in the B-3 zone, it is located next to properties in the B-3 zone and that zone heavily influences the potential uses of this lot.

The applicant is proposing that instead of constructing 32 residential units in a single building that there be three buildings on this property containing a total of 28 residential units, together with 6,000 square feet of office space. Two of the buildings would be for townhouse residential use, and would contain a total of 18 units.

The third building would have 6,000 square feet of office space on the ground level and 10 residential units on the second and third floors.

The applicant is requesting a variance to allow three buildings on one lot where the R-12 zone allows only one principal building on a lot and to allow office use which is not allowed in the R-12 zone.

The applicant is also requesting a variance to allow a sign that would comply with B-3 zone requirements, but which would be larger than the size allowed in the R-12 zone. The larger sign would be for the offices in the front mixed use building.

The ZBA has previously granted variances for the density of the residential use and for multi-family use, and since the applicant is reducing the number of residential units, no new variance is required for the number of units or for multi-family use. The single large building which was previously approved by the ZBA and the Planning Board was proposed to have a height of 40 feet, and the new buildings will comply with that limitation.

Prior approvals from the ZBA included a condition that ground floor units in the large building would be age restricted. Since the proposed residential units will either be townhouse 3 story units or units located on the second and third floors of the mixed use building, the applicant requests that the condition for age restricted units be removed.

The vehicular egress from this property will be shared with the six existing townhouses located next to the cemetery. At some point when the Thornwood property is further developed there will be a traffic light at that intersection.

The approved large 32 unit residential building is out of scale for this neighborhood. The proposed buildings will be smaller and will be designed with a compatible diversity of appearance that will be more consistent with the other residential and office uses in this neighborhood. This campus style, mixed use approach to development will have reduced visual impact on abutters and users of Dover Point Road and will allow a reduction in the amount of paving required for parking because the mixed uses will allow for shared parking with ample spaces for visitors on nights and weekends. The townhouses will be located to the rear of the parcel, and the mixed use office/residential building located near the road will help to shield the townhouses from Dover Point Road.

**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 have new development be compatible with the general appearance and uses in the neighborhood. Although this lot is zoned R-12, it lies at the end of that zone and opposite commercial zones. Other nearby properties have mixed use multifamily townhouse development with office use. Granting this revision to the previously granted variance will allow the property to be developed with the fewer residences than previously approved in buildings that are not as massive as the approved 32 unit building.

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

The proposed development is more consistent with the scale of existing buildings in the neighborhood and with the mixed usage that is encouraged in the adjacent B-3 zone. The reduced size of the individual buildings (compared to the previously approved building) will have less visual impact on the neighborhood, and the mixed use of offices and residences allows for shared parking. This will reduce the amount of impervious surface required for the property. The townhouses will be similar to those on the adjacent lot. The proposed mixed use development is consistent with the surrounding neighborhood.

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

The ZBA and the Planning Board previously approved this property for construction and use of a 15, 634 square foot, three story building with a large parking area. The proposed buildings have a reduced size and scale and are more similar to existing properties in the neighborhood. This mixed use development is allowed in the adjacent B-3 zone. The number of residences is being reduced from 32 to 28, and the overall impact on the neighborhood will be reduced compared to the impact from the previously approved large building.

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

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

This is a large lot which is located across from the B-3 and ETP zones (with the RCM overlay district). It is located at the end of a section of residential development, and is separated from the cemetery by a single lot which contains six townhouses. This property has previously been approved for the development of a 32 unit residential building with a foot print of 15,634 square feet. This request is to modify the conditions of the variance previously granted and to reduce the number of residential units. The revisions will be consistent with the special conditions of this property.

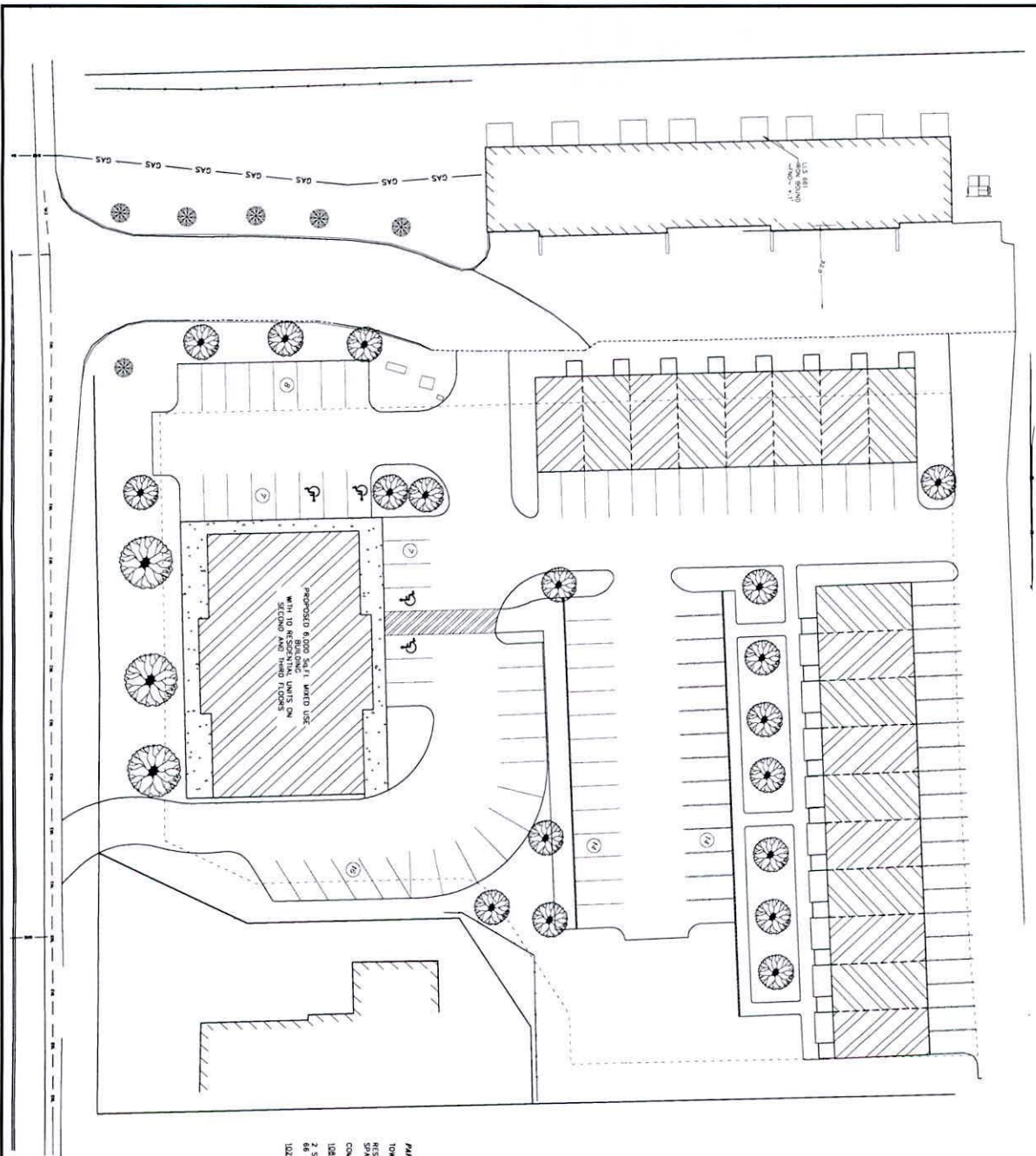
**(ii) No fair and substantial relationship exists between the general purposes of the ordinance provision and the specific application of that provision to the property because:**

The general purpose of the ordinance is to provide for use of the property that is consistent with the neighborhood. The neighborhood consists of residential uses, various commercial and office uses, and several mixed office and residential uses. The ZBA has previously granted a variance for multi-family use of this property. The requested amendment is to modify that variance to allow three smaller buildings in place of the previously approved large building, and to allow office use in the building located closest to Dover Point Road.

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

The ZBA and the Planning Board have previously approved the development of this property for a residential building with a foot print of 15,634 square feet. The applicant is reducing the number of residential units, is providing some first floor office use, is reducing the amount of pavement through shared parking, and is reducing the size and scale of the previously approved large building.



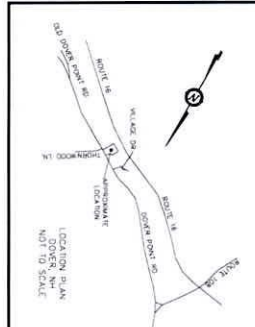


**PARKING REQUIREMENTS:**  
 TOWNHOUSES: 3 SPACES PER UNIT REQ. 184.3 = 54 SPACES  
 RESIDENTIAL UNITS IN COMMERCIAL BUILDING: 3 SPACES PER UNIT REQ. 104.3 = 30 SPACES  
 COMMERCIAL SPACE: 6,000 SQ. FT. x 250 SQ. FT./SPACE = 24 SPACES  
 TOTAL SPACES REQ.  
 2 SPACES AT EACH TOWNHOUSE UNIT PROPOSED (18)  
 66 SPACES PROPOSED IN PARKING AREAS  
 TOTAL SPACES PROPOSED

**PROJECT INTENT:**  
 THE INTENT OF THIS PROJECT IS TO DEVELOP 18 TOWNHOUSE STYLE UNITS WITH 10 RESIDENTIAL UNITS ON THE SECOND AND THIRD FLOORS OF THE FIRST FLOOR AND 12 RESIDENTIAL UNITS ON THE SECOND AND THIRD FLOORS OF THE SECOND FLOOR.

**NOTES:**  
 1) OWNER: SIT DEVELOPMENT CORP.  
 2) TAX MAP K, LOT 37  
 3) LOT AREA: 81,271 SQ. FT., 2.04 AC.  
 4) SCED ROOM #191, FLOOR 104  
 5) ZONING: R-17 (DYNAMIC RESIDENTIAL)  
 SETBACKS: 25.0'  
 SIDE YARD: 15.0'  
 MIN. LOT COVER: 5.0%  
 MIN. LOT FRONTAGE: 100.0'  
 MAX. BUILDING HEIGHT: 35.0'  
 MAX. ST. COVERAGE: 30.0%

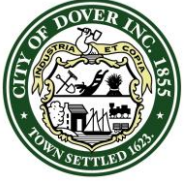
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 MAX. BUILDING HEIGHT: 35.0'  
 MAX. ST. COVERAGE: 30.0%



**BERRY SURVEYING & ENGINEERING**  
 335 SECOND CROWN POINT ROAD  
 BARRINGTON, NH 03825 [332-2863]  
 SCALE: 1 IN. EQUALS 20 FT.  
 DATE: JULY 1, 2014  
 FILE NO.: DB 2014-047

CONCEPTUAL MIXED USE SITE PLAN  
 FOR  
 SIT DEVELOPMENT  
 DOVER POINT ROAD  
 DOVER, NH  
 TAX MAP K, LOT 37

REVISION	DATE	DESCRIPTION



**CITY OF DOVER**

## ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z14-19)

Application Type: Variance  
Applicant: Robert C. Carrier  
Owner: Robert C. Carrier  
Location: 2-4 Florence Street (Tax Map 27, Lot 171)

**INTENT:** The property is improved with a two family home. The applicant desires to install a carport onto the east side of the home. A variance is required to permit the carport to be located within 5 feet of the rear lot line where a minimum setback of 30 feet is required.

**UNITS PROPOSED:** n/a

**AGENDA ITEM #:** 3-B

**ZONING DISTRICT:** R-12

**EXISTING LAND USE:** Two Family Residential

**PROPOSED LAND USE:** Two Family Residential

**SURROUNDING LAND USE:** Residential

**PREVIOUS ZBA ACTION:** None

**PLANNING BOARD APPROVAL REQUIRED:** No

**ATTACHMENTS:** Application, plot plan

**APPLICATION IS COMPLETE:** Yes

**NOTICES AS REQUIRED:** Yes

**STAFF RECOMMENDATION:**  
The Planning Department recommends that the requested variance be approved.

### Summary of Request and Background

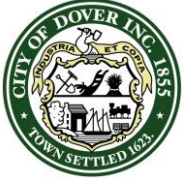
The subject property is improved with a two family dwelling with an attached two car garage. The applicant desires to install a carport onto the east side of the home. It will be located within five (5) ft. of what staff has determined to be the rear lot line (see plot plan submitted with application). Accordingly, the carport requires a variance from Section 170-12.A of the Zoning Ordinance and the R-12 District Table of Use and Dimensional Requirements to be located within 5 feet of the rear lot line where a minimum setback of 30 feet is required.

### Reason for Staff Recommendation

The proposed use is a reasonable and modest addition designed to accommodate a third sheltered vehicle parking space for the two family home. The property is unique in that it has a traditional rectangular shape, but is “missing” its back corner. If the lot lines that comprise the “missing” corner were rotated 180 degrees, the lot would have a rectangular shape and no variance would be required for the proposed addition. With respect to impacts on abutters, a tall fence providing screening sits on the lot line between the subject property and the abutter that would be most immediately impacted by the granting of the variance.

### Recommendation

The Planning Department recommends that the requested variance be approved.



**CITY OF DOVER**

## ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z14-19)

Application Type: Variance  
Applicant: Robert C. Carrier  
Owner: Robert C. Carrier  
Location: 2-4 Florence Street (Tax Map 27, Lot 171)

BELOW IS A STREET VIEW OF THE LOCATION OF THE SUBJECT PROPERTY



BELOW IS AN AERIAL VIEW OF THE LOCATION





City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Adopted: August 16, 2012]

Office Use Only Case #: 214-19 Date Received:
Amount Paid: \$ 396.00 Time Received:
ck# 5300 RECEIVED AUG 04 2014

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: Robert C. Carrier Phone # 603-742-3719

Address of Applicant: 2 Florence St. Dover, N.H. 03820

E-Mail Address: RCCARRIER@COMCAST.NET

PROPERTY OWNER (if different from applicant):

Address: Phone #

E-Mail Address:

PROPERTY/PARCEL INFORMATION

Address: 2 Florence St.

Brief Directions: OFF Broadway St.

Zoning District: R-12 Assessor's Map # 27 Lot(s) # 171

TYPE OF APPEAL: (Please check one)

- Variance from Section 12 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:

Construct a car port where side set back is 15' and complies and rear set back is 30' and I would have 23'

# VARIANCE REQUIREMENTS

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

## A. Variance Requested

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

Construction of a carport addition to a house

## 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:

Both neighbors have a fence buffering them from the carport. Also it will be towards rear of affected abutting lots and not visually impact. Benefit of covering car outweighs visual impact of carport w/ no fence.

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

The lot has a job in it. With out the job the rear set back would not be required. Variance.

3. Granting the variance would do substantial justice because:

It allows use of the property. Tenant does not take any rights or benefits from abutters

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

The fence in place already shields adjoining properties from property and will stay in place to shield carport. The ~~setback~~ surrounding property will be positively impacted by taking this vehicle off the street where it currently parks

**NOTE: please complete EITHER paragraph 5A OR paragraph 5B. Staff recommends that you complete paragraph 5B only if you feel you cannot meet the requirements set forth in paragraph 5A.**

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

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

The house was constructed at an angle. If not for the angle the front of the carport would meet the 15' side setback. If not for the notch in the rear of the lot it would meet the rear setback

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 ordinance is designed to protect adjoining properties from nuisance. The fence in place does that. Also if the carport was detached it would meet rear setback (10'). Adjacent zone COB-06 has setbacks similar to desired.

and

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

Indoor storage of a vehicle which parks on the street is reasonable. The carport will enhance the usability of the property and not detract from adjoining property rights

OR

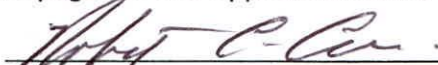
5B. If the criteria in subparagraph 5A above are not established, explain how, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable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

# SIGNATURE PAGE

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

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

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


  
\_\_\_\_\_  
Signature of Applicant\*

  
\_\_\_\_\_  
Signature of Owner\*

\*Both Signatures Required

## AUTHORIZATION TO ENTER SUBJECT PROPERTY

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

Signature of Property Owner:  \_\_\_\_\_ Date: 8/14/14

Property data updated July 31, 2014

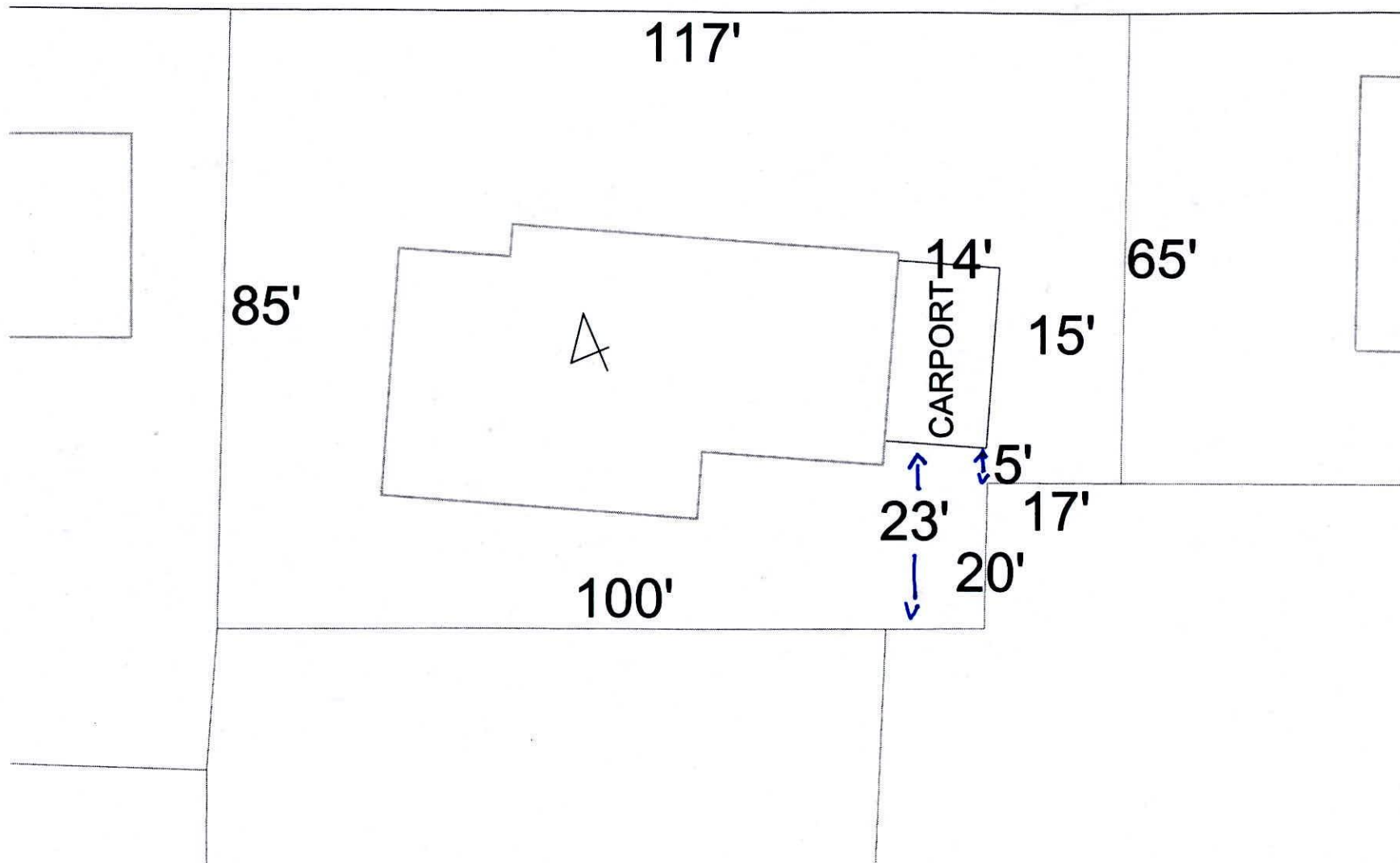
**Subject Properties**

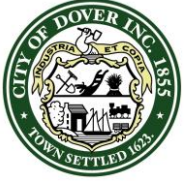
27171-000000 CARRIER ROBERT C 4 FLORENCE ST DOVER NH 03820

**Abutters**

ID	Owner Name	Owner Address	Owner City	Owner State	Owner Zip
27170-000000	THOMPSON WILLIAM H	104 BROADWAY	DOVER	NH	03820
26008-000000	FORD PAUL & KRISTIN	PO BOX 724	GREENLAND	NH	03840
27184-000000	CLICHE JASON B	19 KINGSBURY LN	KENNEBUNK	ME	04043
26007-A00000	121 BROADWAY LLC	340 CENTRAL AVE STE 202	DOVER	NH	03820
27185-000000	LAPOINTE NICOLAS O	197 ATLANTIC AVE	NORTH HAMPTON	NH	03862-2313
27186-000000	LEMELIN CHRISTOPHER	114 BROADWAY	DOVER	NH	03820
27205-000000	BOISSE GARY R	PO BOX 755	SOMERSWORTH	NH	03878-0755
27169-000000	LEXINGTON HILL INVESTMENTS LLC	136 COUNTY FARM RD	DOVER	NH	03820
26009-000000	BACKOWIES THOMAS & EVELYN & KIMBERLY	61 FIELDSTONE DR	DOVER	NH	03820
27183-000000	GORDON SILAS S	1 FLORENCE ST	DOVER	NH	03820
27174-000000	DAY VICTORINE M & RICHARD	10 FLORENCE STREET	DOVER	NH	03820
27182-000000	GOUZOULES ANNE L & BELAKONIS JOSEPH L	5 FLORENCE ST	DOVER	NH	03820-3108
27172-000000	CONLEY CASEY M & LAUREN	6 FLORENCE ST	DOVER	NH	03820
27181-000000	SIEKS DAVID J & CHRISTINE	7 FLORENCE ST	DOVER	NH	03820
27173-000000	CURTIS JEAN R	8 FLORENCE ST	DOVER	NH	03820
27189-001000	ZHENG ZHENG JI & YAN ZHAO EN	9 FLORENCE ST	DOVER	NH	03820
27207-000000	FERRARI THOMAS R REVOCABLE TRUST	381 SHADOW CREEK DR	BRENTWOOD	TN	37027-7870
27166-000000	MINOT-SEABROOK JILL	11 HILL STREET	DOVER	NH	03820
27166-A00000	WOODS KELLY & SCHERER MICHAEL	7 PACIFIC DR	DOVER	NH	03820
27166-A00002	WOODS KELLY &	7 PACIFIC DR	DOVER	NH	03820-5822
27166-A00001	WOODS KELLY &	7 PACIFIC DR	DOVER	NH	03820-5822
27165-A00000	NEVINS SANDRA G & TIMOTHY	17 HILL STREET	DOVER	NH	03820
27206-000000	VANDENBERG JABEN P	4 HILL ST	DOVER	NH	03820
27168-000000	DEMERS MARTHA E	5 HILL ST	DOVER	NH	03820
27167-000000	TRAN LU T & NGUYEN DUOC V	7-9 HILL STREET	DOVER	NH	03820
27187-000000	CRICKMORE ROBERT & DEBRA	4 PEARL ST	DOVER	NH	03820-3117
27188-000000	DIBELLO GEOFFREY & JENNIFER	6 PEARL ST	DOVER	NH	03820
27189-A00000	NADEAU MARGARET M	8 PEARL STREET	DOVER	NH	03820

FLORENCE ST





**CITY OF DOVER**

## ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z14-20)

Application Type: Variance  
Applicant: Barlo Signs/Convenient MD  
Owner: Prime Circle LLC  
Location: 15 Webb Place (Tax Map D, Lot 2A)

**INTENT:** The applicant intends to occupy the tenant space located in between the existing Five Guys restaurant and Sprint store, and proposes to install an 80 s.f. wall sign on the Indian Brook Road side of the building, a 147 s.f. wall sign above the applicant's entrance, and a 14.6 s.f. panel on the existing freestanding sign. Variances are required to permit the 147 sq. ft. wall sign where the maximum size permitted is approximately 75 s.f., total sign area of 241.6 s.f. where approximately 149 s.f. is permitted by right, and a total of three (3) signs where only two (2) are permitted by right.

**UNITS PROPOSED:** n/a

**AGENDA ITEM #:** 3-C

**ZONING DISTRICT:** B-3

**EXISTING LAND USE:** Retail and Restaurant

**PROPOSED LAND USE:** Medical Office, Retail, and Restaurant

**SURROUNDING LAND USE:** Commercial and Office

**PREVIOUS ZBA ACTION:** Case Z13-02 – variance granted to permit three (3) signs where a maximum of two (2) are permitted, per the sign package submitted with the application.

**PLANNING BOARD APPROVAL REQUIRED:** No

**ATTACHMENTS:** Application, tax map, sign renderings (3 pages), aerial photos, property photos, and floor plan

**APPLICATION IS COMPLETE:** Yes

**NOTICES AS REQUIRED:** Yes

**STAFF RECOMMENDATION:**  
The Planning Department recommends that the requested variances be denied.

### Summary of Request and Background

The subject property is located at 15 Webb Place and is improved with a single story multi-tenant commercial building. The applicant – an urgent health care facility - intends to occupy the tenant space located in between the existing Five Guys restaurant and Sprint store. In connection with their proposed use, the applicant proposes to install three (3) signs:

1. an 80 s.f. wall sign on the Indian Brook Road side of the building;
2. a 147 s.f. wall sign above the applicant's entrance; and
3. a 14.6 s.f. panel on the existing freestanding sign for the building.

To allow this signage, the following three (3) variances are required from Section 170-32.A of the Zoning Ordinance and the B-3 District Table of Use:

- a. to permit a 147 sq. ft. wall sign where the maximum size permitted is approximately 75 sq. ft. (wall signs may be no larger than 1 s.f. per 1 lineal ft. of business frontage; here the applicant has approximately 75 ft. of business frontage);
- b. to permit total sign area of 241.6 s.f. where approximately 150 s.f. is permitted by right (total sign area may be no more than 2 s.f. per 1 lineal ft. of business frontage); and
- c. to permit a total of three (3) signs where only two (2) are permitted by right per tenant.

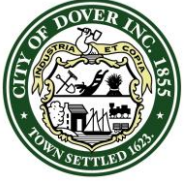
Note that a variance was granted on January 23, 2013 to permit a third sign for this tenant space (Case Z13-02). The applicant could take advantage of this variance if their proposed signage was the same size or less than the signs submitted with the Z13-02 application. However, because each of the applicant's wall signs significantly exceed the size of the Z13-02 signs, and because they are requesting additional variance relief which undermines the basis on which the ZBA granted the 2013 variance, it is staff's determination that the 2013 variance cannot be used for the applicant's proposed signage.

### Reason for Staff Recommendation

It is staff's view that there are no special conditions of the property that distinguish it from other properties within the B-3 District that would result in a hardship if the request were denied. Indeed, all other tenants in this building comply with the B-3 District sign regulations and none have asked for a variance. Considering that the applicant's wall sign on the front face of the building is permitted to be nearly double the size of the other wall signs on the building (as a result of the applicant's 75 ft. of business frontage), it is not clear what hardship the applicant will suffer that the other tenants are not. Moreover, the applicant relies in part on the nature of the applicant's use which is irrelevant under NH law to the consideration of hardship (hardship relates to the special conditions of the property itself). The scope of this request far exceeds what is permitted under the Zoning Ordinance and suggests that a petition to the Planning Board for a zoning amendment to change the B-3 District sign regulations would be more appropriate.

### Recommendation

\\cityfiles01\data\Department\Planning\Planning\_Share\Zoning Administration\ZBA\2014 ZBA\8-21-14 Meeting\Staff Memos\Z14-20.docx



**CITY OF DOVER**

## ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z14-20)

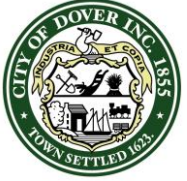
Application Type: Variance  
Applicant: Barlo Signs/Convenient MD  
Owner: Prime Circle LLC  
Location: 15 Webb Place (Tax Map D, Lot 2A)

The Planning Department recommends that the requested variances be denied.

BELOW IS A BIRD'S EYE VIEW OF THE LOCATION OF THE SUBJECT PROPERTY



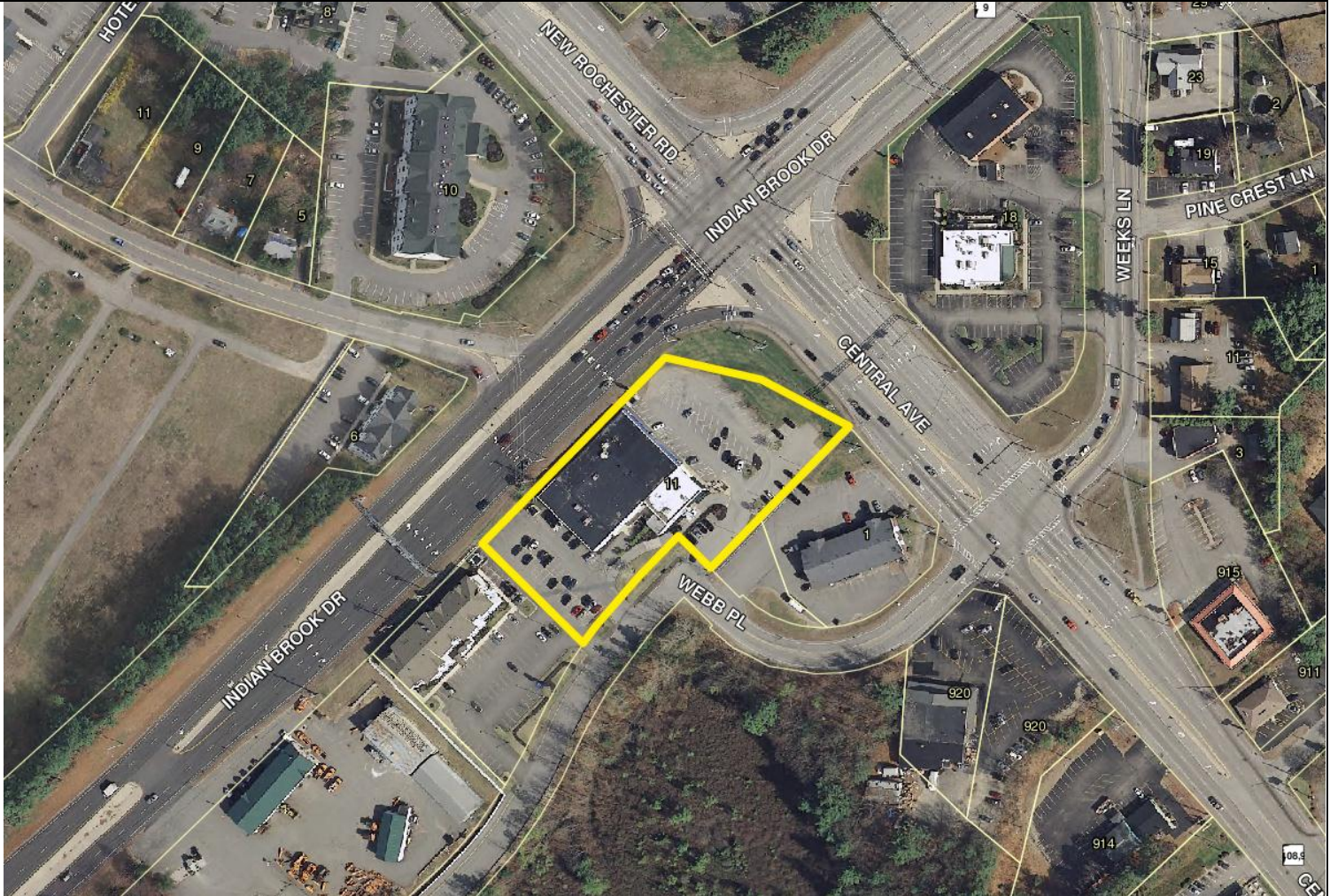
BELOW IS AN AERIAL VIEW OF THE LOCATION



**CITY OF DOVER**

## ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z14-20)

Application Type: Variance  
Applicant: Barlo Signs/Convenient MD  
Owner: Prime Circle LLC  
Location: 15 Webb Place (Tax Map D, Lot 2A)





City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Adopted: August 16, 2012]

Office Use Only Case #: Z14-20 Date Received: AUG 05 2014
Amount Paid: \$ 246.00 Time Received: BB
Ch# 1031

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: BARLO Signs For Conven + MD Phone # 800-227-5674(333)

Address of Applicant: 158 Greeley St. Hudson NH 03051

E-Mail Address: Jenn@barloSigns.com

PROPERTY OWNER (if different from applicant): Prime Circle LLC

Address: 1070 Ocean Blvd Phone # 603-601-6048

E-Mail Address:

PROPERTY/PARCEL INFORMATION

Address: 15 Webb Place

Brief Directions: Intersection of New Rochester RD + INDIAN BROOK

Zoning District: B3 Assessor's Map # 0 Lot(s) # 2A

TYPE OF APPEAL: (Please check one)

- Variance (checked) ART 1X Signs from Section 170-32 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:

INDIAN BROOK Frontage - 80 linear Feet - 80' wall sign proposed
New Rochester RD Frontage - 74'9" linear Feet - 147' wall sign proposed
Existing Pylon Sign - Tenant Panel proposed 146'

# VARIANCE REQUIREMENTS

THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY

## A. Variance Requested

A variance is requested from Section(s) 170-32 of the Zoning Ordinance to permit:

- (1) Wall Sign Larger than permitted  
(3) Signs, where (2) Signs are permitted

## 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:

Clean, clear to scale signage assists the public in wayfinding.  
Signage which properly identifies this urgent care facility  
enhances the public interest.

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

Proposed signage will help identify this new destination business  
which sits deeply back from New Rochester Rd. In keeping with  
the ordinance's purpose to encourage the City of Dover's economic  
and aesthetic quality of life, and the need for adequate business  
identification, proposed signage is consistent with the spirit  
of the ordinance.

3. Granting the variance would do substantial justice because:

Proposed signage will aid motorists trying to navigate the  
unique entrance way to Convent MD from the heavily travelled  
Indian River / New Rochester RD intersection; will give Convent MD  
the identification it needs to identify its storefront while at  
the same time providing signage which is informative and attractive  
to the public.

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

Proposed Signage will enhance surrounding properties in this highly commercial neighborhood.

Well designed quality signage benefits area businesses.

**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:

Convenient MD is an urgent care facility that motorists will seek when they need to quickly locate their destination, motorists who may not be familiar with this location. Convenient MD's fascia and entrance are deeply setback from the intersection of four major roadways - ease in identifying this building is important for motorists to safely navigate this intersection.

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 ordinance only considers the length of a business frontage - it does not consider traffic patterns, sign viewing distances or building setbacks.

and

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

Given the distance that Convenient MD's entrance will be setback, the odd configuration of this site's entrance, and the nature of Convenient MD's services, the proposed use is reasonable.

**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.

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


  
\_\_\_\_\_  
Signature of Applicant\*

*Authorization*  
\_\_\_\_\_  
Signature of Owner\* *Encl. seal*

\*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: 8-3-14



**PROPERTY OWNER AUTHORIZATION  
MUST BE SIGNED BY OWNER OF PROPERTY**

(This verifies that you are authorizing Barlo Signs to submit an application for permits ON BEHALF OF the owner of the property.)

As owner of 19 Webb Place, Dover, NH  
(Fill in Property Address)

I hereby authorize Jennifer Robichaud or \_\_\_\_\_, as an authorized representative of Barlo Signs of Hudson, N.H., to **APPLY FOR SIGN PERMITS** for this site.

I hereby authorize Jenn Robichaud or Authorized Representative of Barlo Signs of Hudson, N.H., to **APPEAR BEFORE THE PLANNING BOARD and/or SIGN REVIEW BOARD and/or the ZBA** for this site.

Property Owner's Signature: 

Printed Name: Ken Linseman For Prime Circle LLC  
Owner Address: 1070 Ocean Blvd.  
Hampton, NH 03842

Phone number: 603-601-6048

*We cannot apply for permits or hearings until we receive your authorization.*

Please FAX this completed & signed form to 603-882-7680, attn: \_\_\_\_\_  
and MAIL ORIGINAL to Barlo Signs, 158 Greeley Street, Hudson, NH 03051.

If you have any questions, please call me at 1-800-227-5674 ext. \_\_\_\_\_ THANK YOU!

Date: July 24, 2014

Reference JOB NAME: \_\_\_\_\_ Job No: \_\_\_\_\_

JOB#:

**ITEM MANUFACTURING**

Barlo  BarloMex  Sub  Other:

**ITEM INSTALLATION**

Barlo  BarloMex  Sub  Other:

**ITEM SCOPE OF WORK**

ITEM A - MANUFACTURE & INSTALL  
(1) SET OF LED LIT CHANNEL LETTERS w/  
PILL

Sign Area: 147 SQ FT

**COLORS**

**LETTERS**

Returns: BLACK BEA

Face: WHITE PLEX W/ INTENSE BLUE  
3630-127 & RED 3630-33 APPLIED VINYL

Trim: 1" BLACK

LEDs: WHITE

URGENT CARE, MD & V

Returns: BLACK BEA

Face: WHITE PLEX W/ 3630-33 RED VINYL  
APPLIED & REVERSE CUT WHITE COPY

Trim: 1" BLACK

LEDs: WHITE

ALL COLORS ARE FOR REPRESENTATION ONLY.  
SEE ACTUAL SAMPLES FOR COLOR MATCH.

**SIGN DISPOSITION**

Store for Barlo  Leave @ Site  Dispose  
 Store for Customer  Chargeable  N/A

**MANUFACTURING INFORMATION**

ILL  Non-ILL  Interior  Exterior

Face-Lit  Back-Lit  Drain Holes:  Y  N

Mat: PLEX Th: 3/16"

Returns Mat: ALUM Th: .040 Depth: 5"

Back Mat: Mill  Wht BEA  Lexan Th: .063

Mylar Size:  1"  2" Metal:

UL Sticker Loc:  Std  Top

LED Manufacturer: SLOAN

Rows of LED: Footage:

Power Supply: Manufacturer:

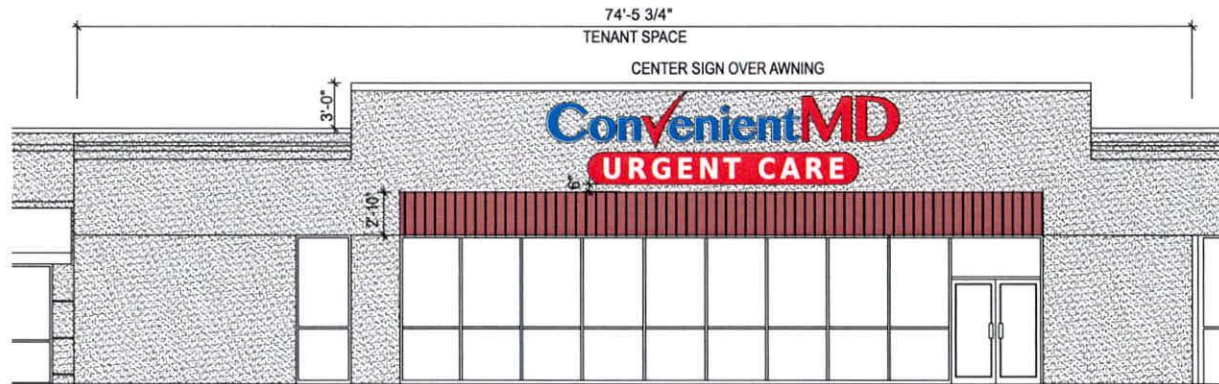
Self Cont.  Remote  Raceway  Wireway

Voltage: Current:

ELECTRIC	Existing	Required
Circuits		
Amp		
Voltage		
U.L.		
Suitable Location: <input checked="" type="checkbox"/> Wet <input type="checkbox"/> Damp <input type="checkbox"/> Dry		
Notes:		
This sign is intended to be installed in accordance with the requirements of Article 600 of the National Electric Code and/or other applicable local codes. This includes proper grounding and bonding of the sign.		



EXISTING FRONT ELEVATION - NTS



PARTIAL FRONT ELEVATION

SCALE: 1/8"=1'-0"



OPTION 1 ITEM A - (1) SET LED CHANNEL LETTERS

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

PROJECT APPROVAL - PRESALE		Job Name:	CONVENIENT MD	
Design:	Date:	Location:	15 WEBB PLACE, DOVER	
Sales:	Date:	Client:	Design Specifications Accepted By:	
PROJECT APPROVAL - PROD.		Landlord:	Drawn By:	TIM
Design:	Date:		Sales Rep:	MALT
Estimating:	Date:		Date:	7/24/14
Engineering:	Date:			
Sales:	Date:			
Production:	Date:			
Installation:	Date:			

**REVISIONS**

Date	Comment

**TIME SUMMARY**

0-Art/Eng. _____	5-Neon _____
Arts/Ingenieria _____	Neon _____
1-Pat/Vin. _____	6-Finish _____
Patrones/Vinyl _____	Acabado _____
2-Lot. Fab. _____	7-Paint _____
Letras Fabricacion _____	Pintura _____
3-Screen _____	8-Install _____
Pantalla _____	Instalacion _____
4-Mot. Fab. _____	9-Misc. _____
Fabricacion _____	Miscelaneos _____

**BARLO SIGNS**  
158 Greeley St., Hudson, NH 03051  
(603) 882-2638 Fax (603) 882-7680  
For Service: 800-227-5674

File Name: Dover 140512973 7-24

**B-14-05-12973** SHEET: 1.0

JOB#:

**ITEM MANUFACTURING**

Barlo  BarloMex  Sub  Other: \_\_\_\_\_

**ITEM INSTALLATION**

Barlo  BarloMex  Sub  Other: \_\_\_\_\_

**ITEM SCOPE OF WORK**

ITEM A - MANUFACTURE & INSTALL  
(1) SET OF LED LIT CHANNEL LETTERS w/  
PILL

Sign Area: 80 SQ FT

**GENERAL NOTES**

**COLORS**

**LETTERS**

Returns: BLACK BEA

Face: WHITE PLEX W/ INTENSE BLUE  
3630-127 & RED 3630-33 APPLIED VINYL

Trim: 1" BLACK

LEDs: WHITE  
URGENT CARE, MD & V

Returns: BLACK BEA

Face: WHITE PLEX W/ 3630-33 RED VINYL  
APPLIED & REVERSE CUT WHITE COPY

Trim: 1" BLACK

LEDs: WHITE

ALL COLORS ARE FOR REPRESENTATION ONLY.  
SEE ACTUAL SAMPLES FOR COLOR MATCH.

**SIGN DISPOSITION**

Store for Barlo  Leave @ Site  Dispose  
 Store for Customer  Chargeable  N/A

**MANUFACTURING INFORMATION**

ILL  Non-ILL  Interior  Exterior

Face-Lit  Back-Lit  Drain Holes:  Y  N

Mat: PLEX Th: 3/16"

Returns Mat: ALUM Th: .040 Depth: 5"

Back Mat: Mill  Wht BEA  Lexan Th: .063

Mylar Size: 1" 2" Metal:

UL Sticker Loc:  Std  Top

LED Manufacturer: SLOAN

Rows of LED: Footage:

Power Supply: Manufacturer:

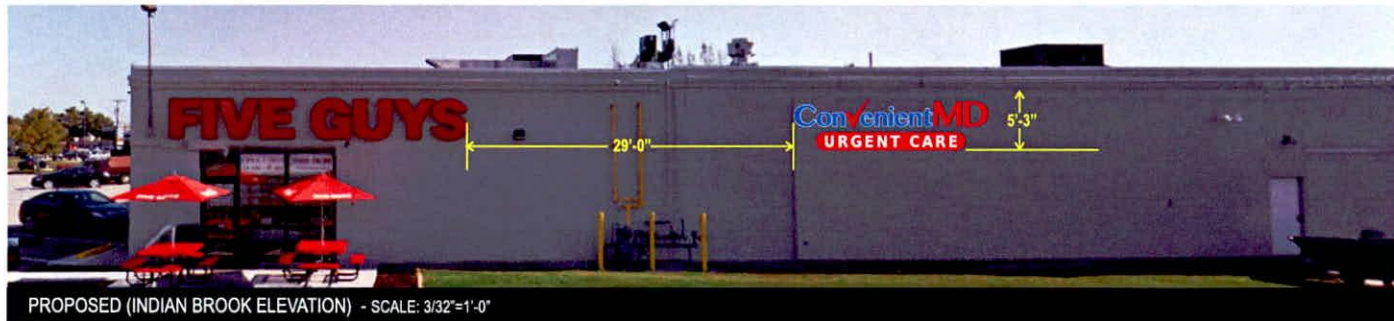
Self Cont.  Remote  Raceway  Wireway

Voltage: Current:

ELECTRIC	Existing	Required
Circuits		
Amp		
Voltage		
U.L.		
Suitable Location: <input checked="" type="checkbox"/> Wet <input type="checkbox"/> Damp <input type="checkbox"/> Dry		
Notes:		
This sign is intended to be installed in accordance with the requirements of Article 600 of the National Electric Code and/or other applicable local codes. This includes proper grounding and bonding of the sign.		



EXISTING (INDIAN BROOK ELEVATION) - SCALE: 3/32"=1'-0"



PROPOSED (INDIAN BROOK ELEVATION) - SCALE: 3/32"=1'-0"



OPTION 1 ITEM B - (1) SET LED CHANNEL LETTERS  
SCALE: 3/8"=1'-0"

REFER TO SHEET 2.1 FOR PROPOSED  
SIGN SHOWN IN APPROVED LOCATION

**REVISIONS**

Date	Comment
7-14	ADDED PLACEMENT NOTE

**TIME SUMMARY**

0-Art/Eng. _____	5-Neon _____
Arts/Ingenueria _____	Neon _____
1-Pat/Vin. _____	6-Finish _____
Patroness/Vinyl _____	Acabado _____
2-Let. Fab. _____	7-Paint _____
Letras Fabricacion _____	Platara _____
3-Screen _____	8-Install _____
Pantalla _____	Instalacion _____
4-Met. Fab. _____	9-Misc. _____
Fabricacion _____	Miscellaneous _____

PROJECT APPROVAL - PRESALE		Job Name: CONVENIENT MD	
Design:	Date:	Location:	15 WEBB PLACE, DOVER
Sales:	Date:	Client:	
PROJECT APPROVAL - PROD.		Design Specifications Accepted By:	
Design:	Date:	Drawn By:	TIM
Estimating:	Date:	Sales Rep:	MALT
Engineering:	Date:	Date:	7/24/14
Sales:	Date:	Landlord:	
Production:	Date:	© COPYRIGHT 2014 THE BARLO GROUP THIS DESIGN CONCEPT IS THE PROPERTY OF THE BARLO GROUP. ALL PRODUCTIONS AND DUPLICATION RIGHTS ARE RESERVED BY THE BARLO GROUP. THIS PRINT IS DESIGNED FOR YOUR PERSONAL USE AND IS NOT TO BE USED WITHOUT YOUR ORGANIZATION BEING CREDITED IN ANY MANNER.	
Installation:	Date:		

**BARLO SIGNS**  
158 Greeley St., Hudson, NH 03051  
(603) 882-2638 Fax (603) 882-7680  
For Service: 800-227-5674

File Name: Dover 140512973 7-24  
**B-14-05-12973**

JOB#:

**ITEM MANUFACTURING**

Barlo BarloMex Sub Other:

**ITEM INSTALLATION**

Barlo BarloMex Sub Other:

**ITEM SCOPE OF WORK**

ITEM C - (2) FACES FOR EXISTING PYLON SIGN

Sign Area: EXISTING

**GENERAL NOTES**

**COLORS**

**FACES**

Face B/G: WHITE LEXAN

Copy: INTENSE BLUE 3630-127  
RED 3630-33 APPLIED VINYL

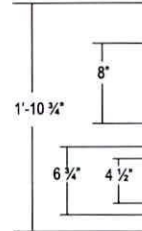
ALL COLORS ARE FOR REPRESENTATION ONLY.  
SEE ACTUAL SAMPLES FOR COLOR MATCH.

**SIGN DISPOSITION**

- Store for Barlo
- Leave @ Site
- Dispose
- Store for Customer
- Chargeable
- N/A

**MANUFACTURING INFORMATION**

TENANT PANEL ONLY



ITEM C - (2) FACES FOR EXISTING PYLON

SCALE: 1"=1'-0"



SITE PHOTO - NTS

**REVISIONS**

Date	Comment

**TIME SUMMARY**

0-Art/Eng _____	5-Neon _____
Arts/Inspection _____	Neon _____
1-Pat/Vin. _____	6-Finish _____
Petronex/Vinyl _____	Acabado _____
2-Lot. Fab. _____	7-Print _____
Letras Fabricacion _____	Printura _____
3-Screen _____	8-Install _____
Plantilla _____	Instalacion _____
4-Mot. Fab. _____	9-Misc. _____
Fabricacion _____	Miscelaneos _____

<b>PROJECT APPROVAL - PRESALE</b>		Job Name: CONVENIENT MD
Design:	Date:	Location: 15 WEBB PLACE, DOVER
Sales:	Date:	Design Specifications Accepted By:
<b>PROJECT APPROVAL - PROD.</b>		Client:
Design:	Date:	Landlord:
Estimating:	Date:	Drawn By: TIM
Engineering:	Date:	Sales Rep: MALT
Sales:	Date:	Date: 7/24/14
Production:	Date:	© COPYRIGHT 2014 THE BARLO GROUP
Installation:	Date:	THE BARLO GROUP IS THE PROPERTY OF THE BARLO GROUP. ALL PRODUCTIONS AND REPLICATIONS ARE RESERVED BY THE BARLO GROUP. THIS PRINT IS FORWARDED FOR YOUR PERSONAL USE AND IS NOT TO BE USED WITHOUT YOUR ORGANIZATION OR COUNCIL'S ANY FURTHER.

**BARLO SIGNS**  
158 Greeley St., Hudson, NH 03051  
(603) 882-2638 Fax (603) 882-7680  
For Service: 800-227-5674

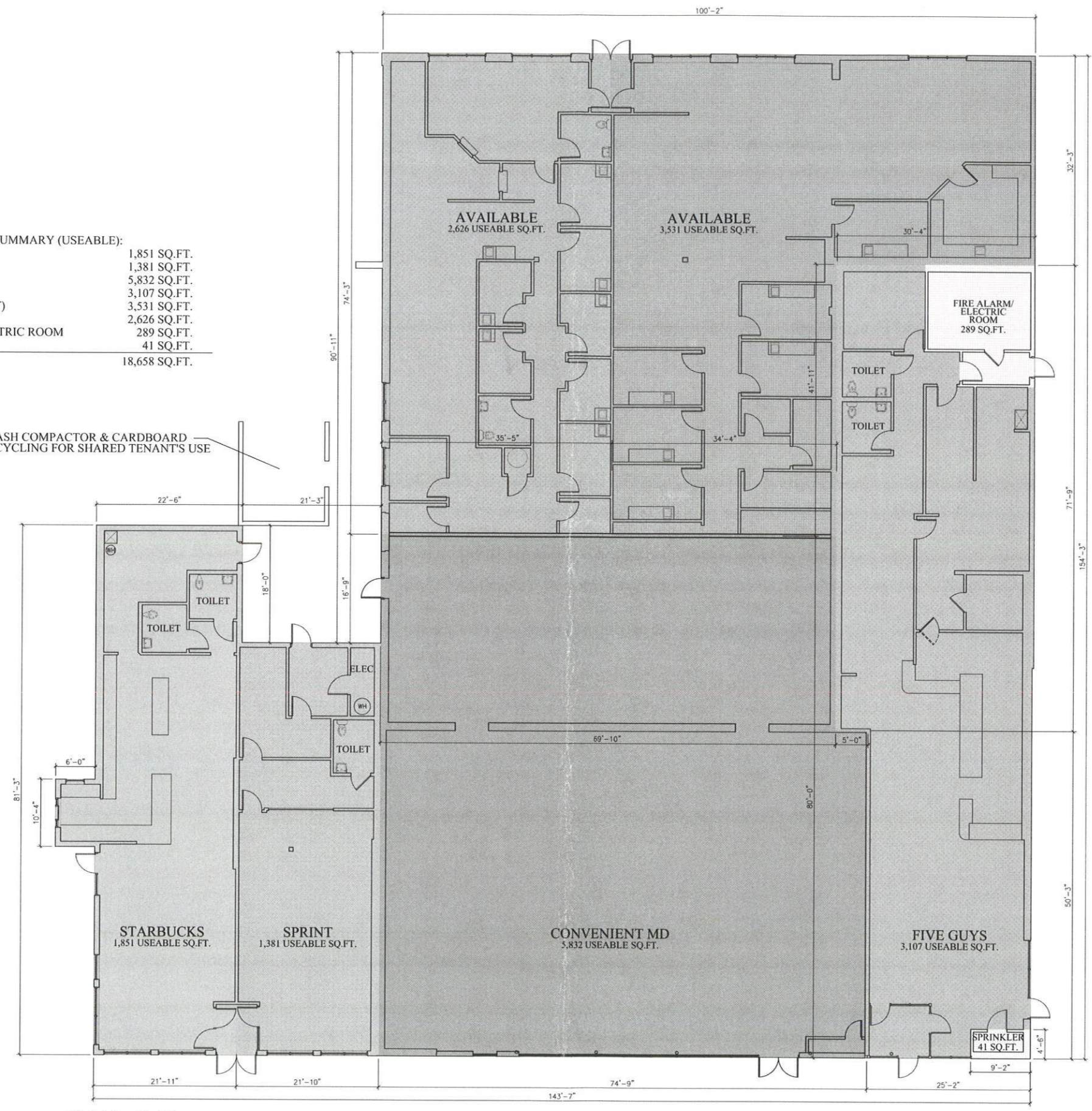
File Name: Dover 140512973 7-24

**B-14-05-12973** SHEET: 3.0

SQUARE FOOTAGE SUMMARY (USEABLE):

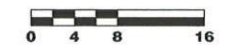
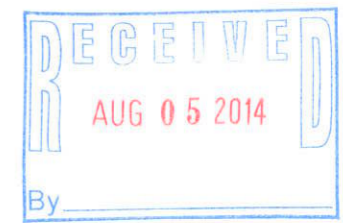
STARBUCKS	1,851 SQ.FT.
SPRINT	1,381 SQ.FT.
CONVENIENT MD	5,832 SQ.FT.
FIVE GUYS	3,107 SQ.FT.
AVAILABLE (RIGHT)	3,531 SQ.FT.
AVAILABLE (LEFT)	2,626 SQ.FT.
FIRE ALARM/ ELECTRIC ROOM	289 SQ.FT.
SPRINKLER	41 SQ.FT.
<b>TOTAL</b>	<b>18,658 SQ.FT.</b>

TRASH COMPACTOR & CARDBOARD  
RECYCLING FOR SHARED TENANT'S USE



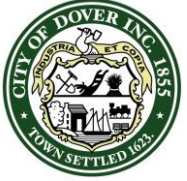
1 FLOOR PLAN

SCALE: 1/8"=1'-0"



PROJECT: 19 WEBB PLACE SUBJECT: NEW HAMPSHIRE DOVER, NH		REV. NO. _____ REVISIONS _____ DATE _____
PROJECT NO.: 1316		DATE: 07/16/14
SHEET NO.: A1		SCALE: 1/8" = 1'-0"

UDELSMAN ASSOCIATES  
 ARCHITECTURE • PLANNING • DESIGN  
 161 FEDERAL HILL ROAD  
 HOLLIS, NEW HAMPSHIRE 03049  
 603-465-6960 FAX 463-6961



**CITY OF DOVER**

## ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z14-21)

Application Type:	Variance
Applicant:	FMX LLC
Owner:	FMC LLC
Location:	1 Education Way (Tax Map E, Lot 31)

**INTENT:** The applicant proposes to install two (2) internally lit wall signs, each having an area of approximately 35 s.f. One sign is proposed to be located on the side of the building facing Sixth Street, and the other is proposed to be located on the side of the building facing Education Way.

**UNITS PROPOSED:** n/a

**AGENDA ITEM #:** 3-D

**ZONING DISTRICT:** ETP

**EXISTING LAND USE:** Vacant  
(commercial building under construction)

**PROPOSED LAND USE:** Commercial

**SURROUNDING LAND USE:**  
Commercial, Office, Residential

**PREVIOUS ZBA ACTION:** None

**PLANNING BOARD APPROVAL  
REQUIRED:** No

**ATTACHMENTS:** Application, building elevation, sign rendering, plot plan, tax map

**APPLICATION IS COMPLETE:** Yes

**NOTICES AS REQUIRED:** Yes

**STAFF RECOMMENDATION:**  
The Planning Department recommends that the requested variance be approved.

### Summary of Request and Background

The applicant is currently constructing an office building for its use on the subject property. In connection with its use of the building, the applicant proposes to install two (2) internally lit wall signs, each having an area of approximately 35 s.f. One sign is proposed to be located on the side of the building facing Sixth Street, and the other is proposed to be located on the side of the building facing Education Way.

The ETP District sign regulations permit the applicant to have only one (1) sign. Accordingly, a variance is required from Section 170-32.A of the Zoning Ordinance and the ETP District Table of Use and Dimensional Requirements to permit two (2) signs where only one (1) sign is permitted by right.

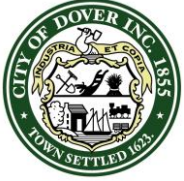
### Reason for Staff Recommendation

Section 170-32.C(17) of the Zoning Ordinance provides a “bonus” for corner lots in nonresidential districts by permitting a wall sign for each frontage. However, to be considered “frontage”, the street that the building abuts must be a public street. Although Education Way looks, feels, and functions like a public street in that it is traveled by hundreds of Measured Progress employees every day, it is in fact a private street. But for the private street designation of Education Way, the applicant would be permitted to have a second sign by right under Section 170-32.C(17).

Moreover, the two signs proposed are of a small scale and their combined size is in fact less than what the applicant would be permitted to have for a single sign (the combined size of the signs is approximately 70 s.f.; by right the applicant can have a single sign of up to approximately 125 s.f., which is equal to 1 s.f. of sign area for every 1 lineal ft. of business frontage on Sixth Street).

### Recommendation

The Planning Department recommends that the requested variance be approved.



**CITY OF DOVER**

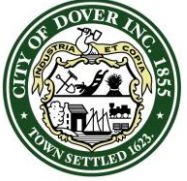
## ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z14-21)

Application Type: Variance  
Applicant: FMX LLC  
Owner: FMC LLC  
Location: 1 Education Way (Tax Map E, Lot 31)

BELOW IS A BIRD'S EYE VIEW OF THE LOCATION OF THE SUBJECT PROPERTY



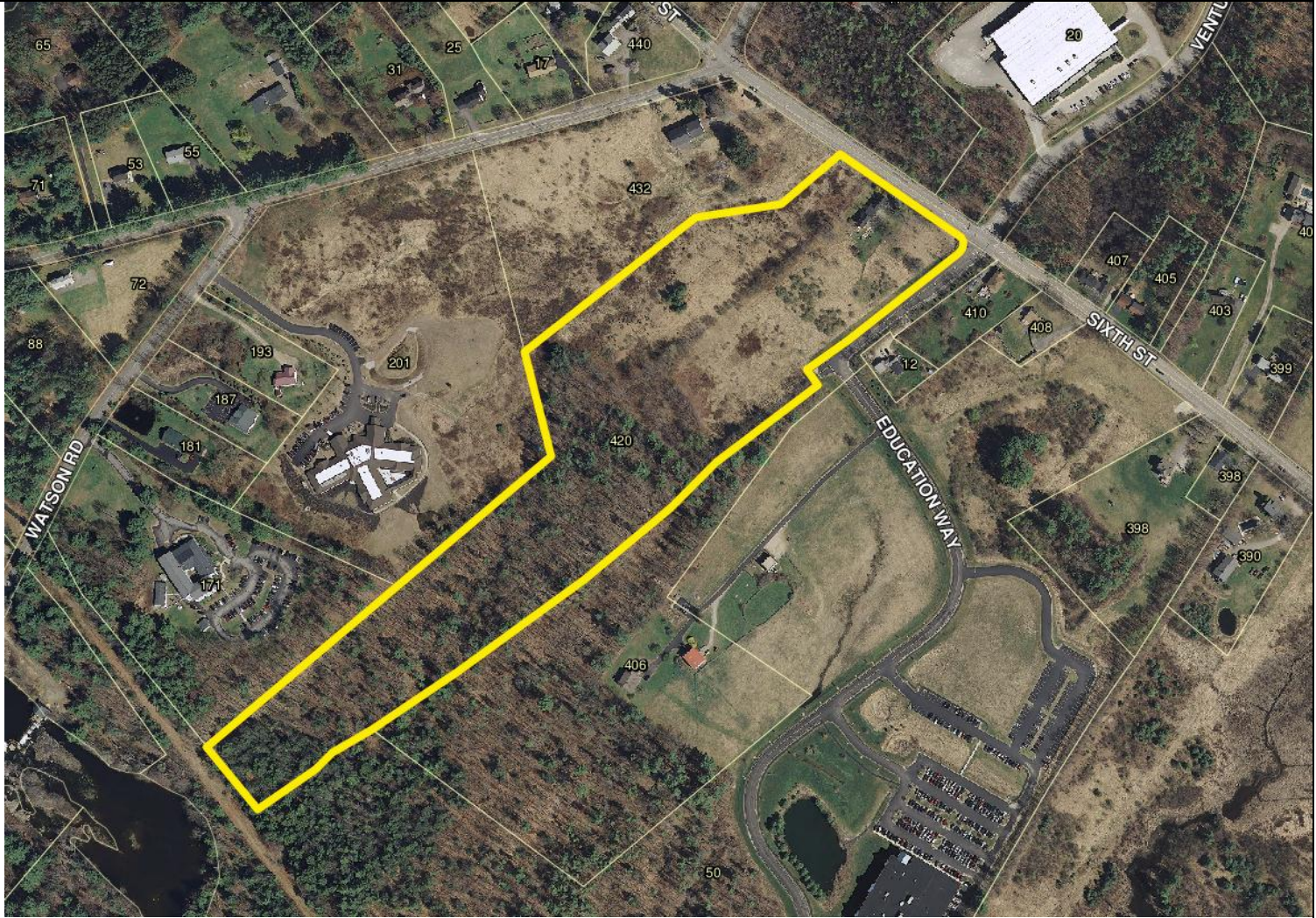
BELOW IS AN AERIAL VIEW OF THE LOCATION



**CITY OF DOVER**

## ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z14-21)

Application Type: Variance  
Applicant: FMX LLC  
Owner: FMC LLC  
Location: 1 Education Way (Tax Map E, Lot 31)





# VARIANCE REQUIREMENTS

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

## A. Variance Requested

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

A sign on building face along Education Way,  
\_\_\_\_\_  
\_\_\_\_\_

## 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:

Education Way appears as a public road. Only Formax  
and Measured Progress would know otherwise.  
\_\_\_\_\_  
\_\_\_\_\_

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

Traveling along Sixth Street from Downtown, a driver  
would expect to see proper signage for the building.  
\_\_\_\_\_  
\_\_\_\_\_

3. Granting the variance would do substantial justice because:

Substantial justice will be met because Measured Progress  
received a similar variance. Also, Code recognizes  
side setbacks from Education Way.  
\_\_\_\_\_  
\_\_\_\_\_

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

The area is commercially zoned and the goal of the district is to promote successful businesses. In addition, denial of variance request will result in a sign closer to residential neighbors.

**NOTE: please complete EITHER paragraph 5A OR paragraph 5B. Staff recommends that you complete paragraph 5B only if you feel you cannot meet the requirements set forth in paragraph 5A.**

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

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

The property is considered a corner lot and Measured Progress designed Education Way with a traffic light to public road standards. If it were public, then no variance would be needed.

**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 ordinance was written to promote signage consistency. The property owner needs to use parcel to abutters equitably.

**and**

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

The signage is reasonable because if the road were public, as it appears, one would be surprised not to see a sign facing education way.

**OR**

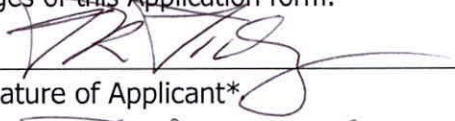
5B. If the criteria in subparagraph 5A above are not established, explain how, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable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

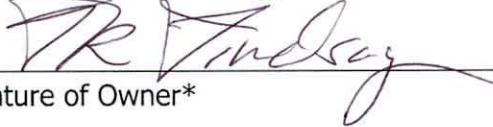
# SIGNATURE PAGE

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

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

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

  
\_\_\_\_\_  
Signature of Applicant\*

  
\_\_\_\_\_  
Signature of Owner\*

\*Both Signatures Required

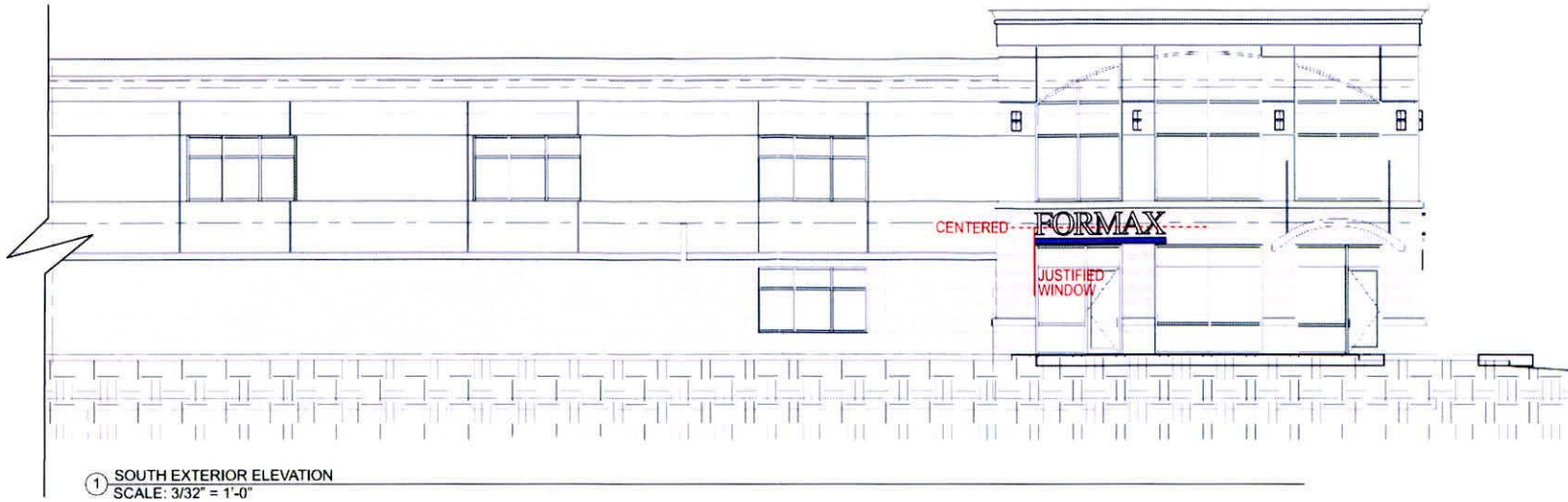
## AUTHORIZATION TO ENTER SUBJECT PROPERTY

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

Signature of Property Owner:  \_\_\_\_\_ Date: 7/29/14



JOB#:


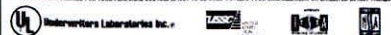


1 SOUTH EXTERIOR ELEVATION  
SCALE: 3/32" = 1'-0"



2 EAST EXTERIOR ELEVATION  
SCALE: 3/32" = 1'-0"

RECEIVED  
AUG 05 2014  
By \_\_\_\_\_

Job Name: FORMAX		 158 Greeley St., Hudson, NH 03051 (603) 882-2638 Fax (603) 882-7680 For Service: 800-227-5674
Location: 1 Education Way, Dover, NH		
Client:	Design Specifications Accepted By: _____ Drawn By: DAYNA	
Landlord:	Sales Rep: MALT Date: 6/12/14	
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		<b>B-14-05-13027</b> SHEET: 1.1

JOB#:

**COLORS**

**LETTERS**  
 Returns: .063 ALUM PTM S/G WHITE  
 Face: 1/8" ALUM PTM S/G WHITE  
 Trim: N/A  
 LEDs: WHITE  
 Raceway: N/A

**BAR**  
 Returns: .063 ALUM PTM S/G PROCESS BLUE  
 Face: 1/8" ALUM PTM S/G PROCESS BLUE  
 Trim: N/A  
 : BLUE  
 .way: N/A

ALL COLORS ARE FOR REPRESENTATION ONLY.  
 SEE ACTUAL SAMPLES FOR COLOR MATCH.



Sign Area: 34.69 SQ FT

ITEM A - (2) SETS OF LED HALO-LIT FABRICATED ALUMINUM LETTERS  
 SCALE: 3/4" = 1'-0"

OPTION 2

FIELD SURVEY REQUIRED  
 (MEASUREMENTS MUST BE VERIFIED)

REVISIONS	
Date	Comment

Job Name: FORMAX  
 Location: 1 Education Way, Dover, NH  
 Design Specifications Accepted By: \_\_\_\_\_  
 Client: \_\_\_\_\_  
 Landlord: \_\_\_\_\_  
 Drawn By: DAYNA  
 Sales Rep: MALT  
 Date: 6/12/14

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Underworld Laboratories Inc.

**BARLO SIGNS**  
 158 Greeley St., Hudson, NH 03051  
 (603) 882-2638 Fax (603) 882-7680  
 For Service: 800-227-5674

File Name: Formax 140513027  
**B-14-05-13027** SHEET: 1.0A

RECEIVED  
 AUG 05 2014  
 By \_\_\_\_\_

SEE SHEET 1.1 FOR SIGN SITE ELEVATIONS



## ZONING BOARD OF ADJUSTMENT RULES OF PROCEDURE

### **Article I. Name**

The name of the board is the Dover Zoning Board of Adjustment.

### **Article II. Authority and Duties**

- A. These Rules of Procedure are adopted under the authority of New Hampshire RSA 676:1 and Chapter 5 (Boards, Commission, and Committees) and 170 (Zoning Ordinance) of the Code of the City of Dover, New Hampshire.
- B. The Zoning Board of Adjustment shall have duties and responsibilities pursuant to RSA 672-677. The members shall also perform the duties of a Building Code Board of Appeals pursuant to RSA 674:34.

### **Article III. Membership**

- A. **Membership.** The Zoning Board of Adjustment shall consist of five (5) members and up to three (3) alternates, appointed by the City Council, in a manner prescribed by the Council, pursuant to RSA 673:3 and 673:5.
- B. **Terms of Membership.** Members shall be appointed to terms of three (3) years pursuant to RSA 673:6.
- C. Alternates should attend all meetings to familiarize themselves with the workings of the Board so that they are ready to serve whenever a regular member is unable to fulfill his or her responsibilities. Alternate members shall substitute for regular members on any case when a regular member is absent or disqualified pursuant to RSA 673:14 and the Chair designates them to do so.
- D. Members must reside in Dover, New Hampshire and are expected to attend each meeting of the Board to fulfill their duties and responsibilities. Any member unable to attend a meeting shall notify the Chair or Clerk as soon as possible.

- E. Voting members shall be announced by the Chair prior to the consideration of the agenda item. Alternate members who are not voting may fully participate during the presentation of applications and the public hearing. Once the Board moves into deliberations, alternates may no longer participate.
- F. **Attendance, Vacancies and Removal.** All appointments to the Board shall serve for the terms appointed and until a successor shall have been appointed and qualified. Members who fail to attend four (4) meetings out of any twelve (12) consecutive meetings held without due cause may be recommended by the Board for replacement by the City Council. Such failure to attend shall be deemed sufficient cause for the City Council to remove the member pursuant to RSA 673:13. Appointments made to fill any vacancies shall be for full terms to begin the date of appointment by the appointing authority unless otherwise provided in state statute.

#### **Article IV. Officers and Staffing**

- A. A **Chair** shall be elected at the first regular meeting of the Board each new calendar year by a majority vote of the Board. The Chair shall preside over all meetings and hearings, appoint such committees as directed by the Board and shall sign documents on behalf of the Board.
- B. A **Vice-Chair** shall be elected at the first regular meeting of the Board each new calendar year by a majority vote of the Board. The Vice-Chair shall preside in the absence of the Chair and shall have the full powers of the Chair on matters that come before the Board during the absence of the Chair.
- C. If the Chair and the Vice-Chair are not present, or cannot sit on a case due to a conflict of interest, then the Board shall elect a temporary Chair from its members for that particular case or meeting.
- D. The **Clerk** shall be the staff person designated by the Director of Planning and Community Development. If the City does not provide a staff person to perform the duties of the Clerk, then the Board may elect a temporary Clerk by majority vote of the Board in January who shall serve as Clerk until approval and funding can be obtained to hire a dedicated Clerk as an employee of the City pursuant to RSA 673:16.I. The Clerk shall maintain a record of all meetings, transactions, and findings of the Board, as approved by the Board.
- E. All officers shall serve a term that expires at the first regular meeting of the Board each new calendar year and shall be eligible for re-election.

## **Article V. Procedures**

### **A. Meetings.**

1. Regular meetings shall be held at a municipal building at 7:00 p.m. on the third Thursday of the month. Other meetings may be held on call of the Chair provided public notice and notice to each member is given in accordance with RSA 91-A:2,II.
2. A maximum of six (6) applicant related items, which includes the combination of new applications and old business, shall be placed on the agenda for each monthly meeting, unless the Chair approves additional items. If no applications have been submitted to the Planning Department and there is no Other Business, the regularly scheduled monthly meeting may be canceled by the Chair.
3. The order of business for regular meetings of the Board shall be as follows:
  - a. Call to order by the Chair
  - b. Board and Staff Introductions by the Chair
  - c. Approval of minutes from the previous meeting
  - d. Changes to the Agenda/Special Announcements
  - e. Old Business
  - f. New Business – Disposition of new applications under consideration
  - g. Other Board Business
  - h. Adjournment
4. Nonpublic meetings. If required, the Board may conduct nonpublic meetings pursuant to the laws of the State of New Hampshire. The Chair shall conduct nonpublic meetings utilizing the Checklist prepared by General Legal Counsel for nonpublic meetings.

**B. Appeals.** Appeals from an administrative decision taken under New Hampshire RSA 676:5 shall be filed with the Planning Department within thirty (30) days of the date of the decision. Any appeal made after this deadline will not be considered timely. The Zoning Board of Adjustment reserves the rights to waive this deadline under any special circumstances as it sees fit.

### **C. Quorum and Alternates.**

1. A quorum for all meetings of the Board shall be three (3) regular members, which includes alternates sitting in place of regular members, as designated by the Chair on a case by case basis before the public hearing.

2. If any regular Board member is absent from any meeting or hearing, or disqualifies himself from sitting on a particular case, the Chair shall designate one of the alternate members to sit in place of the absent or disqualified member, and such alternate shall be in all respects a full member of the Board while so sitting.
  3. Alternates shall be activated on a rotating basis from those present at a particular meeting. When an alternate is needed, the Chair shall select the alternate who has not been activated for the longest time and if there are two or more alternates who meet that criteria, the alternate who has served the longest shall be activated. If two or more alternates still both meet that criteria, the selection shall be made by the flip of a coin.
  4. If there are less than five (5) members (including alternates) present, the Chair shall give the option to proceed or not to the applicant. Should the applicant choose to proceed with less than five (5) members present, that shall not solely constitute grounds for a rehearing should the application fail.
- D. **Parliamentary Authority.** The parliamentary authority for the Board is *Robert's Rules of Order Revised, 11<sup>th</sup> ed*, except as provided by these rules or local, state or federal law.
- E. **Minutes.** Minutes shall be kept for all meetings of the Board. The minutes shall include the names of the members in attendance, all actions and motions coming before the Board including the votes of the members, and a summary of all discussions. Draft minutes shall be provided to the City Clerk within five (5) business days of each meeting for posting on the City website in draft form. Draft minutes shall be clearly marked "DRAFT". Draft minutes, with or without revisions, shall be approved by the Board at the next meeting of the Board or as soon as possible. Final approved minutes shall be provided to the City Clerk for posting on the City website.
- F. **Recording of Meetings.** A video recording shall be made of all Board meetings. If video is not available, meetings shall be recorded using audio equipment. All recordings shall be provided to the City Clerk within five (5) business days of the meeting.
- G. **E-mail accounts.** Board members may obtain a City of Dover e-mail address or use their own account to facilitate communications regarding meetings, agendas and the dissemination of information. Board members shall refrain from using e-mail to discuss the substance of any issue before or expected to be before the Board. Members shall not use email with other members where the e-mail discussion directly or indirectly involves a quorum of the Board. It is recommended that Board Members refrain from using the "reply all" feature of the email. In addition Board members shall refrain from conducting the official business of the Board outside the view of the public and the press unless permitted by state law.

## H. Member Disqualification

1. If any member finds it necessary to disqualify himself/herself from sitting in a particular case, as provided in RSA 673:14, the member shall notify the Chair as soon as possible so that the Chair can designate an alternate to sit in the disqualified member's place. When there is uncertainty as to whether a member should be disqualified to act on a particular application, that member or another member of the Board may request the Board to make a non-binding vote on the question of disqualification; only the member can disqualify himself or herself. Any such request shall be made before the beginning of the public hearing. The Board's vote shall be advisory and non-binding.
2. Either the Chair or the member disqualifying himself/herself before the beginning of the public hearing on the case shall announce the disqualification. A disqualified member shall not sit with the Board during the public hearing and during all deliberations on the case.

## I. Applications and Decisions

1. **Applications.** Each application for a hearing shall be made on forms approved by the Board and provided by the Planning Department to the applicant. At each meeting of the Board, the Clerk shall provide the Board with all applications received by the Planning Department which have been received no less than twenty-one (21) days before the date of the hearing.

All application forms for the Zoning Board of Adjustment, and any revisions thereto, shall be adopted by resolution of the Board and shall become part of these Rules of Procedure.

2. **Public Notice.** Public notice of hearings on each application shall be given in the Foster's Daily Democrat and shall be posted in two (2) public places not less than ten (10) days before the date of the hearing. Notice shall include the applicant's name, description of the subject property, action desired by the applicant, provisions of the zoning ordinance concerned, the type of relief being sought and the date, time and place of the hearing. Personal notice of the hearing shall be made by certified mail to the applicant and all abutters not less than ten (10) days before the date of the hearing. Notice shall also be given to the Planning Board, City Clerk and other parties deemed by the Board to have special interest in the application. The applicant shall pay in advance for the cost of all required notice.

The applicant must post at their property in clear view from the Street, the poster provided to them by the Planning Department. The poster must be posted no later than five (5) days before the hearing at which their application will be presented. If the poster is not posted, the Board may deem that as cause to disqualify the application.

**J. Public Hearing.** The conduct of public hearings shall be governed by the following rules:

1. The Chair shall open the public hearing by reading the public notice referring to the application. If there are less than five (5) members of the Board sitting on a particular application, the Chair shall give the applicant the option of postponing the hearing until there is a full Board. If the applicant elects to proceed with less than a full Board (less than five (5) members, but not less than a quorum defined as three (3) members), that fact will not be grounds for a rehearing in the event the application is denied.
2. Members of the Board may ask questions at any point during testimony after recognition from the Chair.
3. Any party to the case who wants to ask a question of another party to the case must do so through the Chair.
4. Everyone who speaks and is not a member of the Board or an advisor to the Board, shall be required to state his or her name and address and indicate whether he or she is a party to the case, an abutter or an agent or counsel to a party or an abutter.
5. The applicant (or the applicant's counsel or agent) shall be called by the Chair to present the application to the Board. Thereafter, those (or their counsel or agent) in favor of the application shall be allowed to speak. Once those in attendance in favor of the application have spoken, the Board shall hear those (or their counsel or agent) in opposition to the application. After those in opposition to the application have spoken, the applicant (or the applicant's counsel or agent) shall be allowed to speak in rebuttal. Once they have spoken in rebuttal, those in opposition (or their counsel or agent) shall be allowed to speak in final rebuttal. Upon completion of the final rebuttal, questioning by the Board Members and presentation by the staff of the City's comments, if any, the public hearing shall be declared closed; and the Board shall deliberate on the application or defer action on the application to a later date and schedule a date for continuance. After close of the public hearing no further comment from applicant, abutter, or any other member of the public shall be taken.
6. Any person who wants the Board to compel the attendance of a witness shall present his or her request in writing to the Chair not later than three (3) days prior to the public hearing.

**K. Decisions.** Decisions of the Board shall be governed by the following rules:

1. Any decision made by the Board that is in favor of the applicant shall require three (3) votes; this applies to the approval of any conditions.
2. The application shall be approved or denied based upon a majority vote by the members of the Board. In the event an application is heard by only three (3) members, an affirmative vote shall require all three (3) votes.
3. The Board shall decide all cases within 31 days of the close of the public hearing and shall approve, approve with conditions, or deny the appeal.
4. All decisions shall be documented on a form that is approved by the ZBA. If the appeal is denied, the notice shall include the reasons therefore.
5. Notification of the decision shall be sent to the applicant and shall be filed in the records of the Board and shall be available to the public within five (5) business days.

**L. Voting:** The Chair may assign the task of drafting a motion to a Board member, or may be made by any voting member. Should a motion result in a tie vote or not receive the necessary three (3) votes to decide in favor of the applicant, the opposite of the failed motion does not automatically prevail. The Board must put forth a new motion to affirmatively set forth a decision.

**M. Reconsideration by the Board:** The Board may reconsider a decision to grant or deny an application or grant or deny a motion for rehearing provided such reconsideration is within the appeal period of the original decision as per *74 Cox Street, LLC v. City of Nashua*, September 21, 2007. Motions for Rehearing can only be received at the Planning Department during normal business hours. (See *Cardinal Development v. Winchester*, October 2008.)

**N. Motions for Rehearing:** If the Board grants a motion for rehearing, the new public hearing shall be held within thirty (30) days of the decision to grant the rehearing provided all notice fees are paid and an updated abutters list is submitted by the party requesting the rehearing. Notification of the rehearing shall follow the procedures set forth in RSA 676:7.

**Article VI. Joint Meetings and Hearings**

A. RSA 676:2 provides that the Board may hold joint meetings or hearings with other "land use boards", including the Planning Board, and that each Board shall have discretion as to whether or not to hold a joint meeting with any other land use board.

- B. Joint meetings with any other land use board may be held at any time when called jointly by the Chair of the two Boards.
- C. A public hearing on any application before the Board of Adjustment will be held jointly with another board only under the following conditions:
  - 1. The joint public hearing must be a formal public hearing on applications to both boards regarding the same subject matter; and
  - 2. If the other board is the Planning Board, RSA 676:2 requires that the Planning Board Chair shall chair the joint hearing. If the other board is not the Planning Board, then the Board of Adjustment Chair shall chair the joint hearing; and
  - 3. The provisions covering the conduct of public hearings, set forth in these rules, together with such additional provisions as may be required by the other board, shall be followed; and
  - 4. The other board shall concur in these conditions.

**Article VII. Amendment of Rules.**

These Rules of Procedure may be amended by a majority vote of the members provided that such amendment is presented at one (1) meeting immediately preceding the meeting at which the vote is to be taken.