



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT AGENDA

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

1. ATTENDANCE

2. APPROVAL OF MEETING MINUTES OF JULY 17, 2014 AND AUGUST 21, 2014

3. HEARINGS

- A. * Z 14-22 Aimee and Jerry Dion, 3 Earle Street (Tax Map 40, Lot 12), 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 5 ft. from the side lot line where a minimum setback of 15 ft. is required.
- B. * Z 14-23 Margaret E. and William F. Green, 124 Dover Neck Road (Tax Map M, Lot 95B), located in the Rural Residential (R-40) District, requests a variance from **Section 170-12.A** of the Zoning Ordinance and the R-40 District Table of Use and Dimensional Requirements to permit the construction of a single family dwelling to be located 23 ft. from the front lot line where a minimum setback of 40 ft. is required.
- C. * Z 14-24 Patrick M. Murray, 19 Hillcrest Drive (Tax Map 35, Lot 56N), located in the Medium Density Residential (R-12) District. The subject property's current frontage is 90 ft. where 100 ft. is the minimum required. The applicant requests a variance from **Section 170-12.A** of the Zoning Ordinance and the R-12 District Table of Use and Dimensional Requirements to permit a lot line adjustment which would transfer 10 ft. of frontage from 19 Hillcrest Drive to 21 Hillcrest Drive thereby decreasing 19 Hillcrest Drive's frontage to 80 ft. and increasing its non-conformity.
- D. * Z 14-25 Christopher and Melissa Snow, 10 Leathers Lane (Tax Map I, Lot 4), located in the Medium Density Residential (R-12) District. The applicant proposes to subdivide the subject property into three lots and 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 lots to have a minimum front setback of 30 ft., in place of the required build to line of 115 ft., which is equal to the average front setback for all properties within the R-12 District within 500 ft. of the subject property.

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. 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, 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

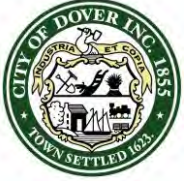
4. REVIEW OF ZONING BOARD OF ADJUSTMENT RULES OF PROCEDURE

S.Reid suggested continued discussion on the minutes.

T.Corwin stated a different approach to the minutes was tried due to the administrative staff having a limited amount of time to accomplish their tasks. Unlike previous minutes, less detail was included, which was unacceptable to B.Hall. He stated it is unsustainable to continue to include the degree of detail that was in the minutes in the past. A balance needs to be found where minutes are completed in a timely manner and contain enough detail that board members are comfortable. He stated it is incumbent upon the Board to review the minutes and let the staff know if an important point is missing.

B.Hall asked why minutes are required if meetings are recorded.

S.Reid stated the statute requires it. He stated the technology may change but the law requires we have them.



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O.Perry stated the statutory requirement for minutes is for the decisions or motions to be documented accurately, not the discussions that precede the motions.

B.Hall asked why meetings are video recorded.

T.Corwin stated meetings are recorded as part of Dover's open government policy and that it is not required by the State. He read an abbreviated section of the Right To Know Law, NH RSA 91.A.2.II which stated minutes should include, among other things, a brief description of subject matter discussed and final decisions.

S.Reid stated any discussion about conditions should be included if they become part of the motion.

B.Hall stated that since recording of a meeting is not required by the State, the minutes should contain the flavor of the discussion that took place before a decision is made.

O.Perry stated the board makes decisions and the issues that were discussed prior to the decision do not have any bearing anymore.

B.Hall disagreed with this and stated discussions could be important on appeal.

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 and recordings of meetings.

B.Hall stated he thinks there is a middle ground between the minutes that were put out for the last meeting and the full transcription.

T.Corwin stated the staff will work on bringing the minutes to an acceptable level of detail.

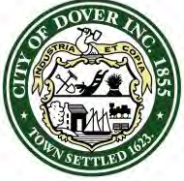
There was further discussion regarding posting of draft minutes and the State requirements.

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".



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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.

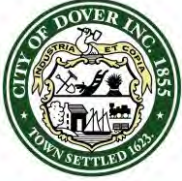
There was discussion regarding the seating of alternates on a rotating basis and on a case by case basis.

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
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Meeting Type: Regular Meeting
Meeting Location: McConnell Center, Room 306, Dover NH 03820
Meeting Date: **Thursday, August 21, 2014**
Meeting Time: **7:00 pm**

1. ATTENDANCE

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

Members Not Present: George Reagan (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 MEETING MINUTES OF JUNE 19, 2014 AND JULY 17, 2014

S.Reid stated that action on the June minutes had been deferred at the last meeting due to requests to add additional detail to these minutes.

O.Perry confirmed with T.Corwin that the June minutes included in the packet for tonight's meeting are the final version of the June minutes that contain B.Hall's comments from the July meeting.

Motion: B.Hall made a motion to accept the June 19, 2014 Regular Meeting Minutes. Seconded by O.Perry. Vote: 4/1 (C.Prior abstained)

Motion: O.Perry made a motion to accept the July 17, 2014 Regular Meeting Minutes. Seconded by F.Landford.

T.Corwin stated he provided board members with a copy of B.Hall's email sent to staff that contained his comments on the July minutes, and asked the board to read the email and see if they agree with the proposed changes.

B.Hall stated he watched the video of the meeting to confirm his comments and feels that they are important points which should be included in the minutes.

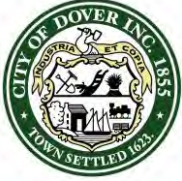
Discussion ensued regarding amending the motion or deferring action on the July minutes until the next meeting.

O.Perry withdrew his motion. F.Landford withdrew his second.

Motion: O.Perry made a motion to defer action on the July Regular Meeting Minutes until the next meeting. Seconded by B.Hall. Vote: U/A

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.



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T. Corwin stated the last portion of the above, "and from Section 170-6..." is not for Zoning Board consideration, and would be permitted with Planning Board approval.

Public Hearing Open

Attorney James Schulte represented STF Development Corp. He gave handouts to board members. He explained that in 2005 a variance was obtained by them to build a congregate care building with 28 units. The property was not able to be developed as congregate care due to changes in federal funding requirements as well as other reasons, and another variance was obtained in 2012 to have 32 residences in the building. At that time as a condition of approval the building was to be only residential. There was a provision that units on the ground floor were to be age restricted to 55 or over. They got site review approval from the Planning Board and excavation was started for the foundation but it did not proceed any further. He described the businesses, condominiums and developments in the area and stated this property is at the end of the R-12 zone and is surrounded by commercial uses. They have modified their proposal to be mixed use with office space on the ground floor and residential units above. The proposed building is to be 100 x 60 feet and the highest point of the building would be 37-1/2 feet. He explained the parking plan for the residents and the office space. He explained their reasons for requesting multi-family use, office use, height of building, and the sign for the office use. He stated this proposal would fit in with the character of the neighborhood.

O. Perry asked that the record show that in the past he assisted the owners to get funding for the congregate care building. He has not been associated with this project since.

C. Prior confirmed with J. Schulte that the property line might need to be adjusted with the Planning Board in order to meet the setback from the property line.

There was discussion about density, the number of one and two bedroom units being proposed, and the amount of parking could be reduced in order to meet the open space requirement.

C. Prior noted that on the plan the building as designed and submitted is encroaching on the side setback.

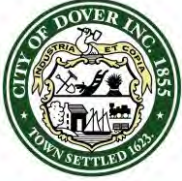
T. Corwin stated that this plan will be in our file and in the future it could create confusion. As a condition of approval, he suggested that the applicant submit a revised conceptual plan that does not have the obvious inconsistencies, with notes that a CUP may be applied for regarding reduced parking, and that the applicant will meet the side setback or apply for a minor lot line adjustment.

B. Hall stated he is not sure what the applicant is asking for because of what was submitted and what was handed out tonight.

J. Schulte went over the applicant's four requests for 28 residential units, office use, signage, and the height of the building.

There was discussion if the variance is granted tonight it would replace any previous variance and that the applicant would accept that, and that the applicant does not want an internally lit sign.

T. Corwin stated that two emails were received by staff from Chris Wayne of 26 Dover Point Road and Christina Wong of 26 Dover Point Road, who are concerned that 28 residences would put a burden on Dover Point Road.



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Marilyn Follansbee, 25 Dover Point Road, stated when the first condominiums went in she had no objection. What she does not like is a big building out front. She was told no businesses would go in there. She would like to see the height of the building to stay within 35 ft. The sign will be in good taste. She fought hard to keep businesses off that side of Dover Point Road. She stated the gas station is an abomination.

David Martin, 10 Linda Avenue, stated he supports the variance that was given in 2012. He opposes allowing commercial use on the first floor and supports age restricted residences on the first floor.

STAFF RECOMMENDATION

T. Corwin stated that staff supports the requested variances. He read the portion of the Staff Memo that states the reasons for the staff recommendation. He drafted some proposed conditions and read them for the board's consideration. For the office use he suggested a condition that the office be limited to the ground floor of the mixed use building. For the sign variance, the suggested condition is that it be no larger than 75 sq. ft., have no internal illumination, and that each tenant panel on the proposed sign shall obtain a sign permit. For the height variance, he suggested a condition of approval that states that the variance is granted for the proposed mixed use building only, and the mixed use building is permitted to be no taller than 37-1/2 ft., and shall be designed consistent with the architectural renderings provided by the applicant. Conditions of approval that are applicable to all four variances are: (1) the applicant shall provide an updated site plan to the Planning Department and he suggested removing all the notes except for the one which states that the project complies with the applicable side yard setback or shall seek relief if required, and (2) these variances replace all prior variances for this property and the applicant agrees to abandon the previous variances.

There was discussion regarding the side setback issue and that the applicant has not requested and the board is not granting any relief for the side setback.

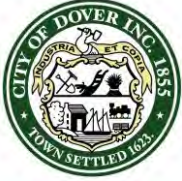
Public Hearing Closed

T. Corwin stated that by approving the concept tonight the board is significantly reducing the future development potential that is available as a practical matter with the existing variance.

Motion: C. Prior made a motion to replace any prior existing variance with the following: To grant a variance (a) to permit 28 multi-family units, (b) to permit office use in the proposed building at the front of the lot with commercial use on the first floor only, (c) to permit the building height of that building containing the office use to a height not to exceed 37-1/2 ft. and having a roof line consistent with the surrounding dwellings, and (d) to permit one sign for the office use that would conform with the requirements of the B-3 district not to exceed 75 sq. ft. and not to be internally illuminated.

Discussion ensued regarding other conditions to be added. Additions are that (1) each tenant panel will apply for a sign permit, and (2) a final updated site plan will be provided to the Planning Department depicting accurate notes. Seconded by B. Hall with the appropriate comments that were made. Vote: 5/0 - Passed

- 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.



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Public Hearing Open

Robert Carrier, 2 Florence Street, stated he would like to construct a carport to ease the parking. He has a two-car garage that is attached to the existing duplex and the carport would be constructed to the left of this. Because of how the duplex was constructed on the lot he needs a variance for the rear setback. On the perimeter of his lot is a six-foot fence, so there is no obstructed view or anything that the neighbors would complaint about. There would be a small amount of paving in the area which would be incorporated into his existing driveway.

C.Prior confirmed with R.Carrier that the carport will be attached to the existing two-car garage, and it would be 14 ft. wide to accommodate one car.

R.Carrier stated it would have a shingled roof and the underneath would be concealed probably with perforated vinyl covering, and have a clapboarded gable end.

S.Reid confirmed with R.Carrier that the closest neighbor's house which is on the Broadway side is about 60 feet from the carport.

O.Perry asked what side of the house this carport would be on.

R.Carrier stated when facing the duplex the carport will be off the garage on the left side of the house. He also stated that he did not want to have a massive garage next to the house, but wanted some open space with a roof over it.

B.Hall confirmed with him that he is presently parking there. R.Carrier stated he would continue to do that if the variance is not granted.

Dave Martin, 10 Linda Avenue, stated he thinks 5 ft. is adequate and he would recommend approval.

STAFF RECOMMENDATION

T.Corwin stated staff supports this request for the reasons stated by the applicant. There is clearly a unique configuration of the lot that prevents the carport from being constructed without a variance. There is a solid 6 ft. vinyl fence that separates the property and impact would be very minimal. He stated an email from an abutter was received by the Planning Director in support of the variance request.

Public Hearing Closed

Motion: O.Perry made a motion to grant the variance because the applicant has met all the conditions for the variance. Seconded by B.Hall. Vote: 5/0

- 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 sq. ft. where approximately 149 sq. ft. is permitted by right, and (c) a total of three (3) signs where only two (2) are permitted by right per tenant.



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Public Hearing Open

S.Reid asked for clarification as to what “by right” meant.

T.Corwin stated it is “by right” under the Zoning Ordinance.

Tim Sullivan, of Barlo Signs from Hudson, New Hampshire, represented the applicant. He stated three variances are being sought. The property is on the corner of Indian Brook Drive and Central Avenue next to Five Guys. It is a congested area of town and traffic counts are about 25,000 vehicles in each direction at that intersection per day. He stated the entrance is well down Central Avenue where it loops around and comes in the back part of the property. They are proposing a wall sign which will be 147 sq. ft. for proper visibility from the intersection which is about 200 ft. back from the majority of the traffic. He said he feels the sign is in keeping with the sizes of other signs on the property. The letter height will be similar to that on the Five Guys’ sign. Convenient MD will occupy about 5,800 sq. ft. and will have about 45% of the overall frontage of the plaza. The second variance is for signage on the Indian Brook Road side, the main thoroughfare when getting off the highway, which would be an 80 sq. ft. sign. He explained that a variance was granted in the past for a 75 sq. ft. sign at the front of the property but he feels this is too small. It will be an internally illuminated sign. The third variance is for a panel on the tenant directory.

Max Puyanic, CEO of Convenient MD, stated they are an urgent care practice, non-hospital affiliated, there are facilities in Windham and Concord, and they are in the process of opening up in some other communities. He gave an overview of the doctors, nurses, radiology technologists and medical assistants who work for the company, the patients who come to their facilities, and the scope of their urgent care services. He stated patients will typically travel some distance to be seen at their facilities because they offer a very cost effective alternative to emergency room visits. He explained that their patients are usually in some degree of stress and many times are not familiar with the area, and that is the reason signage is so important. He stated the company gives back to the community in many ways.

O.Perry asked what the hours of operation would be.

M.Puyanic stated they are open 9 a.m. to 9 p.m. 7 days a week.

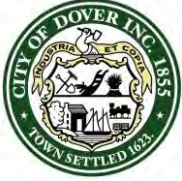
S.Reid asked for clarification of the three variances that were obtained previously for that location.

T.Sullivan stated the variances were for three signs.

C.Prior stated there was a variance for the sign on Indian Brook Road.

F.Landford stated it was for the front sign, the sign on Indian Brook Road and for the sign on the directory.

T.Corwin explained it was a single variance to permit the three signs in the past. He stated to do what they want to do they are requesting three variances that would permit a 147 sq. ft. wall sign above the entrance and would permit a total sign area between the two signs of 241.6 sq. ft.



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There was discussion regarding the requirement in the B-3 zone that all signs together cannot be more than 2 sq. ft. per 1 ft. of business frontage. The total square footage for the signs in the previously granted variance did not exceed this. It was confirmed that if the variance is not approved tonight the applicant could install signs as per the previously granted variance. It was confirmed that the previous variance was for three signs.

O.Perry asked the applicant if there was a way to redesign the front sign to take up less space.

T.Sullivan stated that "Convenient" is part of their trademark for their locations.

S.Reid stated he was concerned about granting this variance when others have abided by the regulations in the past. He questioned whether there was a hardship with the three signs and the square footage.

T.Sullivan responded that signage was important to people trying to find an urgent care facility, whereas retail establishments did not have that concern.

B.Hall stated he thought most people would be able to find the facility with the lit sign along with the tenant directory and he did not see the need for the larger sign.

T.Sullivan stated the panel in the tenant directory is under 2 ft. tall and the letters are 8 and 6 inches in size. The sign is positioned beyond where the proper turn would be and is unreadable from the intersection.

B.Hall asked if they did not have a sign on the Indian Brook Road side of the building, then what size could they make this sign.

T.Corwin explained that each wall sign can only be 1 sq. ft. per 1 ft. of business frontage. The length of their frontage at the property would allow them to have a wall sign three times the size of the other three tenants.

C.Prior wanted to know in the B-3 zone on Indian Brook Road what the maximum signage for all tenants in that building would be.

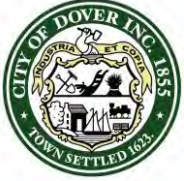
T.Corwin stated the tenant on the corner is the only one permitted by right to have an extra sign. The size of each tenant's sign is dictated by their frontage along Indian Brook Road. Theoretically, the applicant could take one of the two signs that they are permitted by right and put it on the Indian Brook side.

O.Perry asked T.Corwin if they stay within the size limits by right are they allowed three signs by the previous variance?

T.Corwin confirmed that the sign package under that variance allowed for a 75 sq. ft. sign on the front of the building (the maximum they are permitted under the ordinance), and on the Indian Brook side for that unit they were allowed a 60 sq. ft. sign, and the panel sign.

T.Sullivan suggested that a condition of approval could be based on an urgent care facility.

S.Reid stated that variances run with the land and are not tied to an entity, so that would not be possible.



**CITY OF
DOVER**

ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting
Meeting Location: McConnell Center, Room 306, Dover NH 03820
Meeting Date: **Thursday, August 21, 2014**
Meeting Time: **7:00 pm**

STAFF RECOMMENDATION

T. Corwin stated the purpose of the variance process is to account for unique conditions of a property. There may be certain properties where there are unique characteristics of the property and it does not make sense to apply any particular zoning ordinance provision to that property. Everything he has heard here was related to this applicant and that is not what the variance process is intended to address. Once a variance is granted it runs with the land regardless of the tenant. The Planning Department's view is because they are an urgent care business is immaterial to the request. They stated they want to emphasize their trademark, but the Zoning board is not here to facilitate their business plan of promoting their brand. This application suggests a zoning amendment, not variance relief. He stated he thought this site does not meet their needs. The Planning Department does not see anything unique about the access to the building and directional signs are allowed at the entrance and exit. If the variance is granted, the wall sign will be six times the size of other signs on the building. Previous tenants have never requested bigger signs through a variance. That is clear evidence that there is nothing unique about this property. It is not appropriate for the variance process and the Planning Department is strongly opposed.

M. Puyanic stated he is aware of other towns who include conditions for approval for variances and suggested that the variance could be conditional upon an urgent care use. He stated other towns have not been as restrictive on signage. He thinks the location is appropriate but the entrance is their concern because it is not close to the front of the building.

S. Reid asked T. Corwin to address his first concern regarding a condition of approval tied to the use.

T. Corwin stated the issue is that the variance is driven by the needs of this tenant, not by the unique characteristics of the property.

Public Hearing Closed

S. Reid stated that the number of letters in their trademark limits the visibility of the sign to some extent.

C. Prior stated he thought the sign on Indian Brook Road is far more important than the sign on the front because of patients coming off the highway.

B. Hall stated he agreed and thought the sign at the front of the building won't be pulling people in from the intersection as much.

Motion: O. Perry made a motion to deny the variance based on the testimony given that did not prove evidence of a hardship. Seconded by C. Prior. Vote: 5/0 - Denied

- 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.

C. Prior recused himself because knows several people who work at Formax.

Public Hearing Open



**CITY OF
DOVER**

ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting
Meeting Location: McConnell Center, Room 306, Dover NH 03820
Meeting Date: **Thursday, August 21, 2014**
Meeting Time: **7:00 pm**

T.Corwin stated he would like to give context about the way the hearing notice was drafted. He thinks it suggests a greater amount of relief than is being considered. If Education Way were a public street no variance would be needed and it would be permitted by right, but Education Way is not a public street.

Ryan Lindsay, a member of FMX, LLC and an owner of Formax, stated he would like to put two identical signs on the building because of the way the building is situated and he thinks one at each corner is needed for it to be viewed properly. The signs will be relatively small at 35 sq. ft. each and will be halo-lit.

STAFF RECOMMENDATION

T.Corwin stated that the area of the two signs together is less than what they would be permitted to have by right for a single sign on Sixth Street.

There was discussion about having one large sign on Education Way, that the size of the sign is governed by frontage, and that the company only has frontage on Sixth Street.

Public Hearing Closed

Motion: O.Perry made a motion to approve the variance for two signs with the design, location and size as shown on application. Seconded by B.Hall. Vote: 4/0

4. REVIEW OF ZONING BOARD OF ADJUSTMENT RULES OF PROCEDURE

S.Reid asked the board to decide if the rules of procedure could be deferred until the next meeting.

T.Corwin handed out two documents - Document #1 is the final draft with the City Attorney's edits and Document #2 is the final City Attorney's version with all the changes accepted.

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

S.Reid mentioned the legal seminars scheduled for September 3, 10 & 17, 2014 being held from 7-9 p.m.

T.Corwin explained the sign up procedure and gave more details about these seminars.

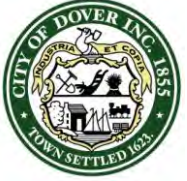
S.Reid announced that Jennifer Stone has resigned because she accepted a job in the Dover school system. Josh Cote resigned as well because he is busy with school. He stated B.Hall has submitted a request to be a full member.

T.Corwin stated he knows of someone who has submitted an application to be appointed to the Zoning Board of Adjustment and the Appointments Committee will be meeting soon to discuss that.

B.Hall stated he likes the aerial and street views that are being added to the variance packages.

5. ADJOURN

Motion: O.Perry made a motion to adjourn at 9:14 p.m. Seconded by C.Prior. Vote: U/A



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z14-22)

Application Type:	Variance
Applicants:	Aimee and Jerry Dion
Owner:	Aimee and Jerry Dion
Location:	3 Earle Street (Tax Map 40, Lot 12)

INTENT: The property is improved with a single family home. The applicant desires to add an addition to the home that will be located within 5 feet to the side lot line shared with Lot 40-10A, a vacant parcel owned by the City of Dover. A variance is required from the R-12 District dimensional regulations which require a minimum side setback of 15 ft.

UNITS PROPOSED: N/A

AGENDA ITEM #: 3-A

ZONING DISTRICT: R-12

EXISTING LAND USE: Residential

PROPOSED LAND USE: Residential

SURROUNDING LAND USE:
Residential

PREVIOUS ZBA ACTION:
Cases Z05-35 and Z06-03: ZBA denied variance requests to permit a two lot subdivision where one of the lots would not have met the minimum frontage requirement.

PLANNING BOARD APPROVAL REQUIRED: No

ATTACHMENTS: Application, plot plan, architectural schematics

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 single family residence and shares a side lot line with Lot 40-10A, which is a vacant parcel owned by the City of Dover. Both the subject property and Lot 40-10A abut Willand Pond. The applicant desires to add an addition to the home that will be located within 5 feet to the side lot line shared with Lot 40-10A. A variance is required from Section 170-12.A of the Zoning Ordinance and the R-12 District Table of Use and Dimensional Regulations which require a minimum side setback of 15 ft.

Reason for Staff Recommendation

As set forth in the applicant’s application, there are a number of site constraints that limit where an addition to the home can be placed. Staff met with the applicant several times to discuss options that would eliminate the need for the variance, but were unable to find a sensible alternative. Given the modest size of the house, the modest size of the addition, and the likelihood that the abutting City parcel will remain undeveloped, it is staff’s view that the proposal will have no negative impact on the neighborhood or abutting properties.

Recommendation

The Planning Department recommends that the requested variance be approved.



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z14-22)

Application Type: Variance
Applicants: Aimee and Jerry Dion
Owner: Aimee and Jerry Dion
Location: 3 Earle Street (Tax Map 40, Lot 12)

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



BELOW IS AN AERIAL VIEW OF THE LOCATION



(original signed + abutters list)



City of Dover, New Hampshire ZONING BOARD OF ADJUSTMENT APPLICATION

[Adopted: August 16, 2012]

Office Use Only	Case #:	<u>Z14-22</u>	Date Received:	
	Amount Paid:	\$ <u>\$204.00</u>	Time Received:	
		<u>ck # 323</u>		

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: Aimee & Jerry Dion Phone # 603-767-2541

Address of Applicant: 3 Earle Street Dover NH 03820

E-Mail Address: aimee.l.dion@gmail.com

PROPERTY OWNER (if different from applicant): _____

Address: _____ Phone # _____

E-Mail Address: _____

PROPERTY/PARCEL INFORMATION

Address: 3 Earle Street

Brief Directions: Heading towards Somersworth on Rt 108, Earle Street is on your right and is the last street before the Willand Pond boat launch.

Zoning District: R-12 Assessor's Map # 40 Lot(s) # 12

TYPE OF APPEAL: (Please check one)

- Variance from Section 170.12B of the Zoning Ordinance
- Physical Disability Variance (RSA 674:33-V) from Section _____ of the Zoning Ordinance
- Special Exception per Section _____ of the Zoning Ordinance
- Appeal of Administrative Decision regarding Section _____ of the Zoning Ordinance
- Equitable Waiver per Section _____ of the Zoning Ordinance

DESCRIBE BRIEFLY YOUR PLANS FOR THE PROPERTY:

We wish to put a small addition on our home.

VARIANCE REQUIREMENTS

THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY

A. Variance Requested

A variance is requested from Section(s) 170.12B of the Zoning Ordinance to permit:

A very small portion of our proposed project within the 15 foot side setback 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:

The abutting property, Lot 40-10A, is an undeveloped conservation parcel on Willand Pond owned by the City of Dover.

Only 119 square feet (21% of the project) would be within the 15 foot side setback of this property. Allowing this project would increase the value and therefore increase taxes paid on this property.

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

This area would not adversely affect the health, welfare, or safety of Dover residents, per section 170-3. It would not change the spirit of the neighborhood or infringe upon our neighbors.

3. Granting the variance would do substantial justice because:

The requested use is consistent with its current use, as well as the use of surrounding lots. The variance will allow for a rectangular addition that will tie easily into our existing home, thus increasing the value and taxes—as well as being aesthetically pleasing to surrounding lots.

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

The addition as proposed would eliminate some of the overlapping roof lines that exist on the current structure. This would improve the aesthetics of the building from the front (road side). Surrounding properties are wooded and would not be affected.

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:

Our home was originally built as a cottage in the 1920s. Over the years, previous owners have added on to it, creating several rooflines on a what is still a small and modest home. We wish to expand but are limited in the direction we may go. First, since there is no access to the basement from inside the house, we must use an outside entrance located on the north side of the home, which prevents construction on this side. To the northwest (front of the house) are our septic tank and leechfield. To the northeast (rear of the house) is Willand Pond. These factors, along with the floorplan and numerous, unique rooflines, limit our options for expansion. The only option is to build southeast, next to lot 40-10A. The lot line is a diagonal, which has created a challenge in designing an addition that will stay within the 15 foot setback zone. Previously considered was an addition that was angled to follow the 15 foot setback exactly. Unfortunately, this proved to be nearly impossible as well as unaffordable, due to the shape and challenge of the roofs. The proposed plan that we bring before you respects the setback zone as much as possible while still allowing us to expand on our home quite simply and reasonably.

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 requested proposal does not interfere with the current use of our property or the abutting lots. Our request is consistent with the current use, and is consistent with zone R-12.

and

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

The abutting lot is conversation land owned by the City and undeveloped. A portion of an addition to our home that is closer than 15 feet of the side setback would not adversely affect this lot in any way, nor does it affect the City of Dover or its residents. In that regard, it does not go against the purpose of the ordinance. Furthermore, it is reasonable as the special conditions of the property make this request our only viable option.

OR

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

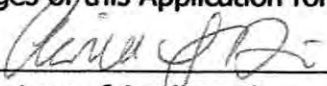
SIGNATURE PAGE

THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS

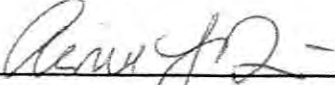
I, the undersigned Applicant, hereby certify that the information contained within this Application is complete and accurate, and I acknowledge that I have read and understand the Application Instructions, which are set forth on the first two pages of this Application form.

IMPORTANT

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



Signature of Applicant*



Signature of Owner*

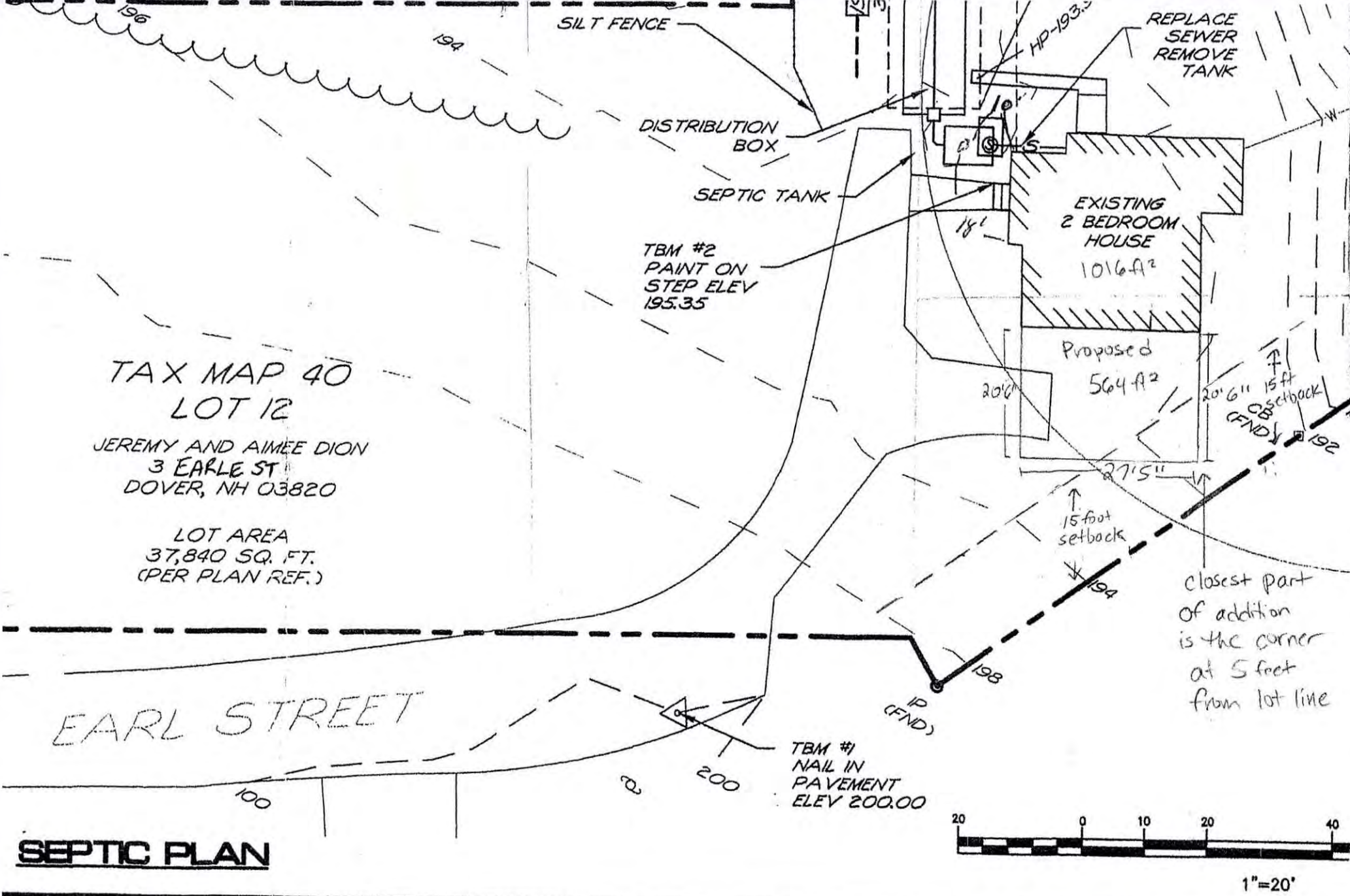
*Both Signatures Required

AUTHORIZATION TO ENTER SUBJECT PROPERTY

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

Signature of Property Owner: _____

Date: _____



TAX MAP 40
 LOT 12
 JEREMY AND AIMEE DION
 3 EARLE ST
 DOVER, NH 03820

LOT AREA
 37,840 SQ. FT.
 (PER PLAN REF.)

EARL STREET

SEPTIC PLAN

SILT FENCE

DISTRIBUTION BOX

SEPTIC TANK

TBM #2
 PAINT ON
 STEP ELEV
 195.35

EXISTING
 2 BEDROOM
 HOUSE
 1016 A²

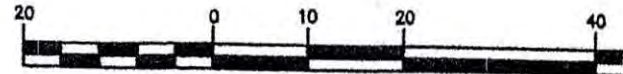
Proposed
 564 A²

REPLACE
 SEWER
 REMOVE
 TANK

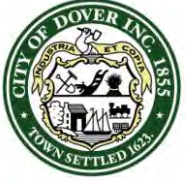
15 foot
 setback

closest part
 of addition
 is the corner
 at 5 feet
 from lot line

TBM #1
 NAIL IN
 PAVEMENT
 ELEV 200.00



1"=20'



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z14-23)

Application Type: Variance
Applicants: Margaret E. and William F. Green
Owner: Margaret E. and William F. Green
Location: 124 Dover Neck Road (Tax Map M, Lot 95B)

INTENT: The applicant proposes to remove the existing single family dwelling and to construct a new home within 23 ft. of the front lot line. A variance is required from the R-40 District dimensional regulations which require a minimum front setback of 40 ft.

UNITS PROPOSED: One single family dwelling

AGENDA ITEM #: 3-B

ZONING DISTRICT: R-40

EXISTING LAND USE: Residential

PROPOSED LAND USE: Residential

SURROUNDING LAND USE:
Residential

PREVIOUS ZBA ACTION:
H84-11: Variance approved, with conditions, to subdivide the parent tract (Tax Map M-95) with lots having frontage only on a private right-of-way.

PLANNING BOARD APPROVAL REQUIRED: No

ATTACHMENTS: Application, supplemental narrative, vicinity map, existing conditions plan, site 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

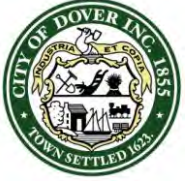
The subject property abuts the Piscataqua River and is improved with a single family residence. The property fronts on a 50 ft. private right-of-way and is partially located within the Conservation District, which extends 100 ft. from the Piscataqua River. The applicant proposes to remove the existing single family dwelling and to construct a new home and related improvements within 23 ft. of the front lot line. A variance is required from Section 170-12.A of the Zoning Ordinance and the R-40 District Table of Use and Dimensional Regulations which require a minimum front setback of 40 ft.

Reason for Staff Recommendation

From a planning and conservation perspective, the proposed location of the single family home is an improvement over existing conditions. While one-half the existing home is located in the 100 ft. Conservation District buffer, the proposed home will be located wholly outside of the 100 ft. buffer. Moreover, although the proposed home is located within 23 ft. of the 50 ft. right-of-way, the home will be located more than 40 ft. from the nearest edge of pavement located within the right-of-way. Therefore, the requested relief results in an improved use of the land from a planning and conservation standpoint, and also meets the spirit and intent of the minimum required 40 ft. setback.

Recommendation

The Planning Department recommends that the requested variance be approved.



CITY OF DOVER

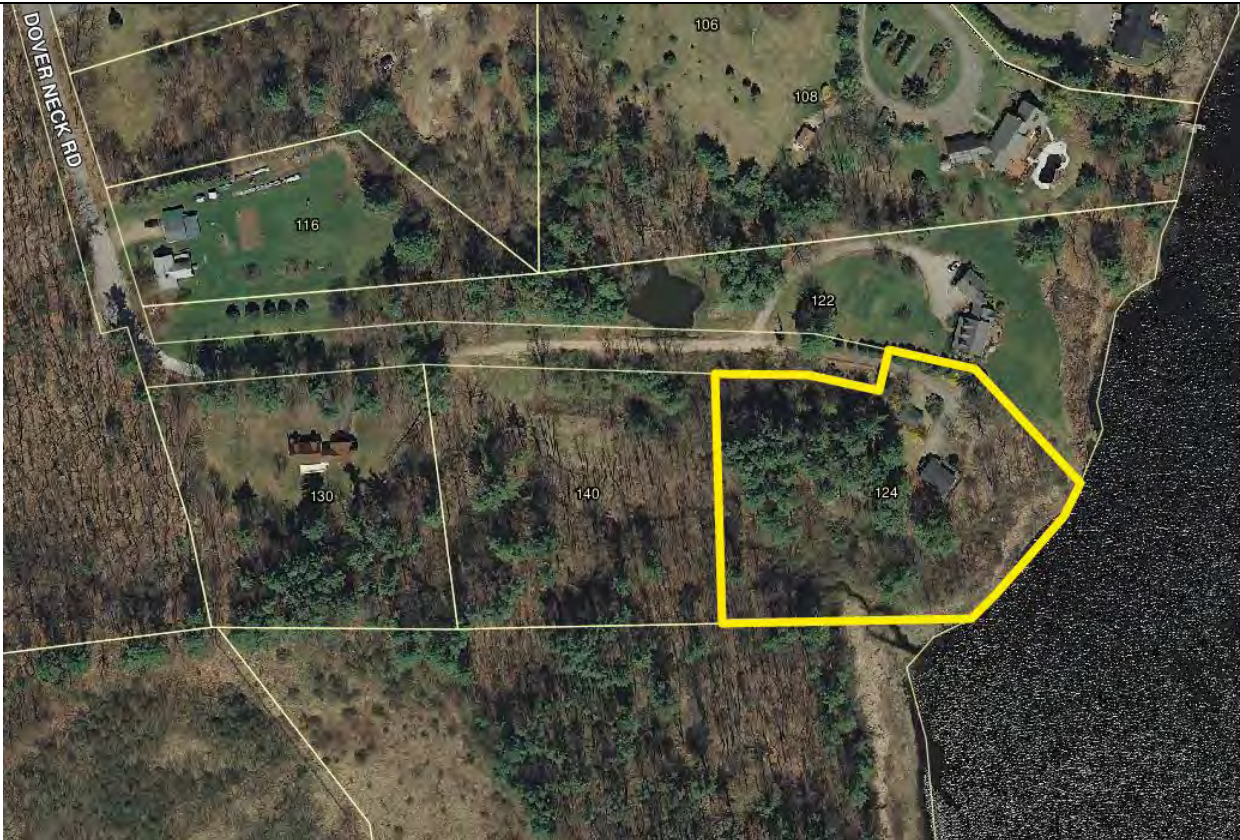
ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z14-23)

Application Type: Variance
Applicants: Margaret E. and William F. Green
Owner: Margaret E. and William F. Green
Location: 124 Dover Neck Road (Tax Map M, Lot 95B)

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, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Adopted: August 16, 2012]

Office Use Only Case #: 214-23 Date Received:
Amount Paid: \$276.00 CE# 3090 Time Received:



APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: Margaret E. and William F. Green Phone # (978) 470-8762

Address of Applicant: 21 Algonquin Ave., Andover, MA 01810

E-Mail Address:

PROPERTY OWNER (if different from applicant): Same

Address: Phone #

E-Mail Address:

PROPERTY/PARCEL INFORMATION

Address: 124 Dover Neck Road, Dover, NH 03820

Brief Directions:

Zoning District: R-40 Assessor's Map # M Lot(s) # 95B

TYPE OF APPEAL: (Please check one)

- X Variance from Section 170-12 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:

The Applicants' wish to raze the existing single story house and move it further away from the Piscataqua River, and build a three-bedroom singly family home.

MARGARET E. AND WILLIAM F. GREEN
124 Dover Neck Road
Map M, Lot 95B

APPLICATION FOR VARIANCE

Introduction

The property subject to this application is located at 124 Dover Neck Road and is depicted on the City's Tax Maps at Map M, Lot 95B. The property is within the R-40 zoning district. The property is comprised of 2.1 acres +/-, with a significant portion of the property containing a steep slope conservation area. (See a copy of the attached Board of Adjustment Site Plan, hereinafter the "Altus Plan"). The property abuts the Piscataqua River. A portion of the lot is within the tidal waters and encumbered by a 75' conservation easement from the tidal marsh. The existing structure sits within the 100' Tidal River Conservation District.

The parcel is unique give the Steep Slope Conservation District and 100' Tidal River Conservation District areas upon the parcel, and as to its access as it shares access with three other surrounding parcels which share the use of a 50' access right of way. The access easement area is owned together by the Applicants and the owners of the three other parcels. The access way is depicted on the Altus Plan as well as the enclosed vicinity map dated September 29, 2014, herein referred to as the "Vicinity Map."

The Applicants wish to raze the existing single story house, remove the existing septic system, and build a new house further away from the Piscataqua River, and build a three-bedroom single family home, while removing certain small structures from the Steep Slope Conservation District area.

The rotted wood stairs leading from the developed portion of the site down to the wetlands and waterfront will be reconstructed. Providing a designated stairway/access to the waterfront will minimize erosion and impacts to the vegetation on the steep slope due to pedestrian access.

The new septic system will meet current design standards and will replace an obsolete system that appears to have been constructed prior to NHDES-SSB regulations. The new system will be sited a minimum of 150-feet from the tidal marsh.

The access easement area depicted on the Altus Plan is a separate parcel from the Applicants' parcel. As such, the limits of the access easement area represent the boundary line between the two parcels. In order to avoid encroachment within the Steep Slope Conservation District or the 100' Tidal River Conservation District, the new structure will not meet the front yard setback of 40', as it will be 23' from the boundary line of the access easement area. The encroachment in this case, however, is unique itself in that the structure to be built does not encroach upon the actual portion of the access easement used for such access.

In order to satisfy all of the environmental constraints and the view easement, the house was sited encroaching into the front yard setback. This location sites the house and the associated site improvements on the flattest portion of the site. Clustering all of the development in a small area minimizes the overall sitework disturbances which minimizes the potential for erosion. It also keeps the steep slopes stabilized which also reduces the potential erosion.

The development proposal provides a significant environmental enhancement over the existing conditions. The septic system will be improved; the building will be replaced further from the sensitive resource. Sheds and other out buildings will be removed from the resource area. The driveway will be relocated and the swale will be stabilized. The concentrated runoff along the existing driveway will be controlled with a stone lined swale and dissipated with a level spreader.

The runoff from the new driveway will be controlled with a closed drainage system and a riprap outlet structure to an area upslope of the steep bank to avoid erosive conditions on the slope. Stone drip edge will be installed along the building foundation to treat and dissipate roof runoff at the source.

For the reasons set forth herein, the Applicant respectfully submits that the grant of the variance is reasonable and can be supported by the following evidence:

Variance Requirements:

1. Provide Proof that demonstrates the variance will not be contrary to the public interest.

The Applicant respectfully submits that the proposed use represents a reasonable use of the property in question. By permitting the use, the public interest is served by permitting orderly development in an area that will not encroach upon the Steep Slope Conservation District or the 100' Tidal River Conservation District. In addition, the new construction will result in the removal of an existing structure from the 100' Tidal River Conservation District. Further the location of the structure will be located more than 40' from the actual portion of the access easement used for such access. Allowing the location of the single-family residence as depicted on the Plan represents a context sensitive design, given the location of the Steep Slope Conservation District and the 100' Tidal River Conservation District. As such, the proposed use will not be contrary to the public interest, as the use will not "alter the essential character of the locality."

2. Provide proof that demonstrates how a variance observes the spirit of the Ordinance.

The Applicant respectfully submits that if the variance was granted, the spirit of the ordinance would be observed as the use in question is suitable, considering configuration of the lot, the location of the Steep Slope Conservation District and the 100' Tidal River Conservation District, and the surrounding properties, and therefore result in an encouragement of the most appropriate use of the land. In addition, by allowing the location of the single-family residence

as depicted on the Plan, the existing structure is removed from the 100' Tidal River Conservation District. Further, the proposed use is consistent with the purpose behind the Rural Residential District, which mainly is to provide for conventional single-family neighborhoods in a rural setting. To be contrary to the public interest or injurious to the public rights of others, the variance must unduly and in a marked degree conflict with the ordinance, such that it violates the ordinance's basic zoning objectives. It is respectfully submitted, that given the reasons set forth above, the granting of the variance will promote the ordinance's basic zoning objectives.

3. Provide proof that demonstrates how a variance will result in substantial justice.

The grant of the variance would due substantial justice because it would allow the Applicants' property to be utilized in a similar fashion to other properties located within the area, by allowing the location of a structure in a location that protects the Steep Slope Conservation District area, is consistent with the intent of the ordinance, and would remove an existing structure from the 100' Tidal River Conservation District. This test considers whether the benefit to the Applicants outweighs the burden to the public. In this instance, given the proposed location of the structure, there will be no burden to the public whatsoever. Accordingly, the benefit to the Applicant would exceed the burden to the public, thus resulting in substantial justice being done.

4. Provide proof that demonstrates the variance will not diminish the values of the surrounding properties.

It is respectfully submitted that all of the surrounding properties have a value associated with them that is premised upon the existence of the same type of buildings to be located upon the Applicant's property. In this instance, the location of the structure in the area sought by the Applicant will have no negative affect upon any abutter, with respect to its property, as the use will be consistent with other uses in the near vicinity, and consistent with the intent of the existing zoning. The Applicants will be moving the driveway away from the property line and the abutters house which will improve their quality of life and will create a larger buffer between the two uses.

5A. Provide proof that literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship. Unnecessary hardship standards are:

(i) Special conditions of the property that distinguish it from other properties in the area; and

As one can see from the Plan, the parcel in this case has a Steep Slope Conservation District area and a 100' Tidal River Conservation District. The property is also accessed by an access easement shared with three other surrounding parcels. These elements of the property create a small portion of land that can be utilized in order to protect the aforementioned districts.

(ii) No fair and substantial relationship exists between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and

The general purpose of the ordinance is to promote orderly development and to protect the health, safety and general welfare of the public. In this instance, the Applicant seeks locate a single-family residence in the area depicted on the Plan. As set forth herein, the location of the intended structure will protect the Steep Slope Conservation District and the 100' Tidal River Conservation District, while removing an existing structure from the 100' Tidal River Conservation District. As such, the purpose of the ordinance and the specific restriction itself will be preserved given that the protection of the Steep Slope Conservation District and the 100' Tidal River Conservation District by permitting an encroachment as to the front yard setback, which has no negative impact upon the access easement area. Thus, the Applicant respectfully submits that there is no relationship at all between the general public purpose of the ordinance, and the specific application, which would require a structure to be built within the Neck.

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

The proposed use is reasonable because it provides for the location of the single-family residence within an area that is "context sensitive," given protections afforded to the Steep Slope Conservation District and the 100' Tidal River Conservation District. The location of the proposed structure is reasonable in light of all of the considerations set forth herein.

SIGNATURE PAGE

THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS

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

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



Signature of Applicant* *Attorney for Applicant*



Signature of Owner* *Attorney for Owner*

*Both Signatures Required

AUTHORIZATION TO ENTER SUBJECT PROPERTY

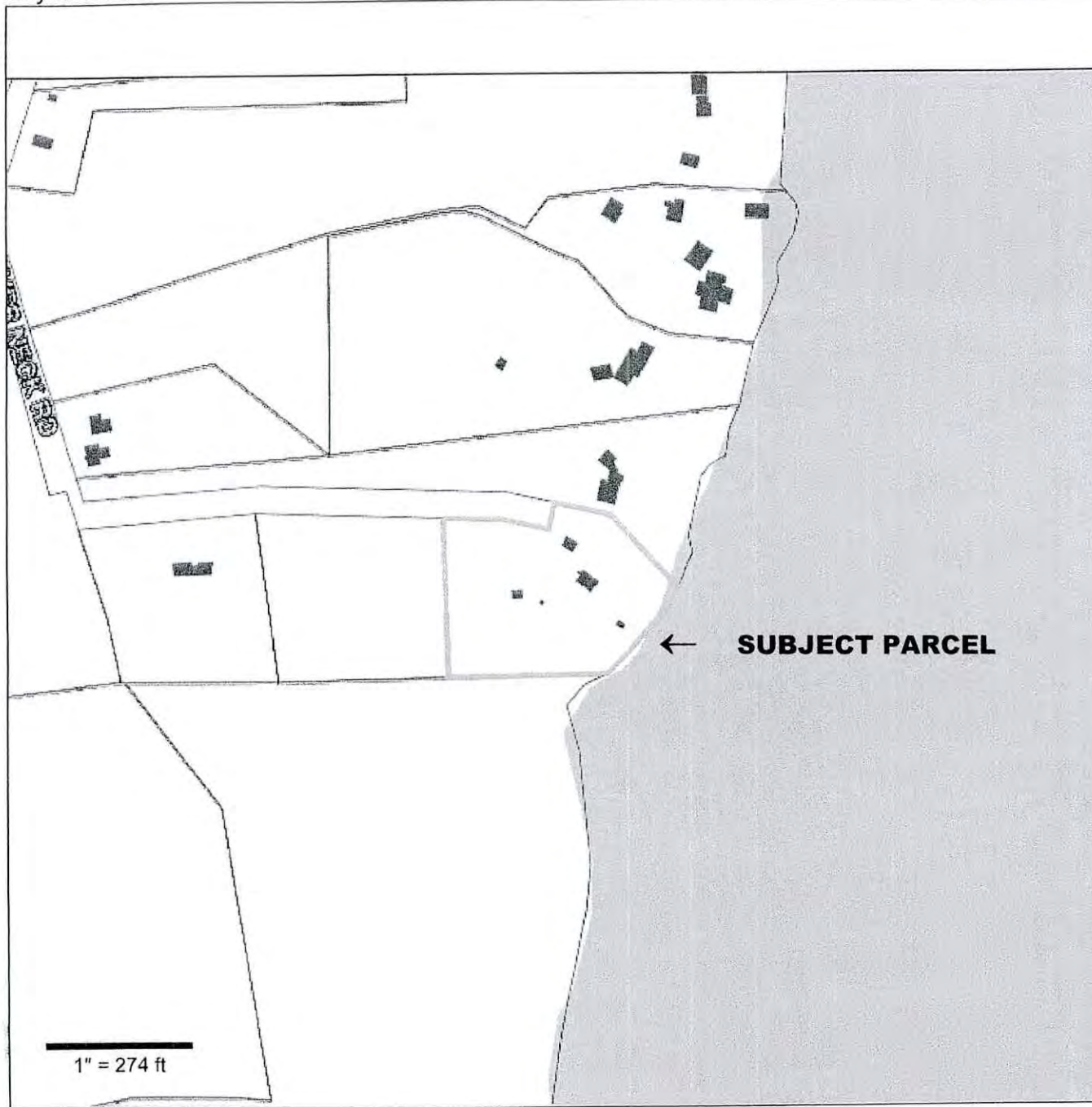
I, and my successors, hereby authorize members of the Dover Zoning Board, Planning Department and other pertinent City Departments and boards to enter my property for the purpose of evaluating this application, including performing inspections during the application phase, post-approval phase, construction 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: _____

VICINITY MAP

City of Dover

September 29, 2014



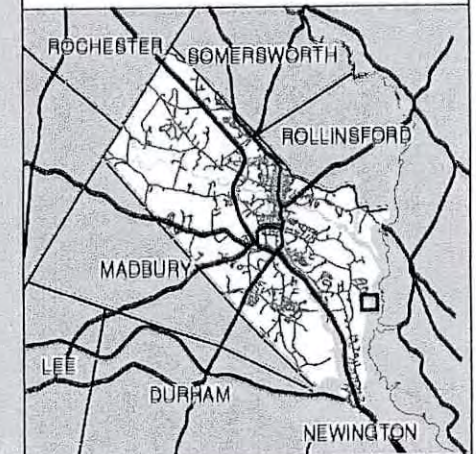
Property Information	
Property ID	M0095-B00000
Location	124 DOVER NECK RD
Owner	GREEN MARGARET E & GREEN WILLIAM F



**MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT**

The City makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Parcels updated January 1, 2014





CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z14-24)

Application Type: Variance
Applicants: Patrick M. Murray
Owner: Patrick M. Murray
Location: 19 Hillcrest Drive (Tax Map 35, Lot 56N)

INTENT: The driveway for 21 Hillcrest Drive encroaches onto the subject property (19 Hillcrest), a vacant lot. Both lots currently have 90 ft. of frontage where 100 ft. of frontage is required in the R-12 District. The applicant requests a variance to permit a lot line adjustment which would transfer 10 ft. of frontage from 19 Hillcrest Drive to 21 Hillcrest Drive thereby decreasing 19 Hillcrest Drive's frontage to 80 ft. and increasing its non-conformity.

UNITS PROPOSED: N/A

AGENDA ITEM #: 3-C

ZONING DISTRICT: R-12

EXISTING LAND USE: Vacant

PROPOSED LAND USE: Vacant

SURROUNDING LAND USE:
Residential

PREVIOUS ZBA ACTION: None

**PLANNING BOARD APPROVAL
REQUIRED:** Yes

ATTACHMENTS: Application, sketch 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

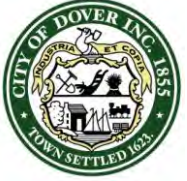
The driveway for the abutting lot at 21 Hillcrest encroaches onto the subject property. Currently, both lots have 90 ft. of frontage where 100 ft. of frontage is required in the R-12 District. The applicant seeks a lot line adjustment with 21 Hillcrest to transfer 10 ft. of frontage from the subject property to 21 Hillcrest so that the entirety of the driveway will be located on 21 Hillcrest. The applicant requires a variance from Section 170-12.A of the Zoning Ordinance and the R-12 Table of Use and Dimensional Regulations to permit the lot line adjustment since it will result in a decrease in the subject property's frontage to 80 ft. thereby increasing its non-conformity.

Reason for Staff Recommendation

The total amount of frontage between the subject lot and 21 Hillcrest Drive is approximately 180 ft. This total amount of frontage between the two lots will not change with the lot line adjustment. Although the subject property's frontage will decrease by 80 ft. (thereby necessitating the variance request), the frontage for 21 Hillcrest will now conform to the minimum 100 ft. R-12 frontage requirement. Moreover, assuming the driveway for 21 Hillcrest received the proper approvals at the time that it was installed, it is logical from a planning perspective to adjust the lot line to ensure that all the improvements for 21 Hillcrest are located on 21 Hillcrest.

Recommendation

The Planning Department recommends that the requested variance be approved.



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z14-24)

Application Type: Variance
Applicants: Patrick M. Murray
Owner: Patrick M. Murray
Location: 19 Hillcrest Drive (Tax Map 35, Lot 56N)

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 #: 214-24 Date Received:
Amount Paid: \$ 284 - Time Received:
CY# 17514 RECEIVED OCT - 1 2014

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: Patrick M. Murray Phone # 742-1893

Address of Applicant: 17 Hillcrest Drive, Dover, NH 03820

E-Mail Address: kevin@surveynh.com jim@jimshultelaw.com

PROPERTY OWNER (if different from applicant):

Address: Phone #

E-Mail Address:

PROPERTY/PARCEL INFORMATION

Address: 19 Hillcrest

Brief Directions: Vacant lot between 17 Hillcrest and 21 Hillcrest

Zoning District: R-12 Assessor's Map # 35 Lot(s) # 56N

TYPE OF APPEAL: (Please check one)

- XX Variance from Section 12.A of the Zoning Ordinance
Physical Disability Variance (RSA 674:33-V) from Section of the Zoning Ordinance
Special Exception per Section of the Zoning Ordinance
Appeal of Administrative Decision regarding Section of the Zoning Ordinance
Equitable Waiver per Section of the Zoning Ordinance

DESCRIBE BRIEFLY YOUR PLANS FOR THE PROPERTY:

To adjust the boundary line between 19 Hillcrest and 21 Hillcrest to eliminate the encroachment of the driveway for 21 Hillcrest onto 19 Hillcrest.

VARIANCE REQUIREMENTS

THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY

A. Variance Requested

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

A reduction in the frontage of 19 Hillcrest by 10 feet and add that frontage to 21 Hillcrest.

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:

The public interest is involved if the variance would result in a fundamental change to the neighborhood or would have a substantial impact on public health or safety. This variance will not affect the appearance of either parcel. The parcel at 19 Hillcrest is a large lot which increases in size further back from the street. The reduction in frontage will not affect the ability of the landowner to construct buildings on 19 Hillcrest that will meet setback requirements.

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

The spirit of the ordinance is to allow adequate spacing between buildings on adjacent parcels. The lot at 19 Hillcrest will still have sufficient size and configuration to allow buildings to be constructed on it that will meet setback requirements. Moving the lot line towards 19 Hillcrest will reduce the side setback non-conformity that currently exists on 21 Hillcrest and will cause buildings to be constructed on 19 Hillcrest to be located further away from the current buildings on 21 Hillcrest.

3. Granting the variance would do substantial justice because:

It will eliminate a driveway encroachment, will reduce an existing sideline setback non-conformity, and will allow buildings to be constructed at 19 Hillcrest that meet setback requirements. There will be no adverse impact on the general public and both properties at 19 and 21 Hillcrest will be improved.

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

The property at 21 Hillcrest will be improved by the elimination of the driveway encroachment and reduction in the sideline setback non-conformity. There will be no change in the appearance of either parcel. Lot 19 is large enough to meet setback requirements after the boundary line adjustment. There will be no adverse impact on any other property in the neighborhood.

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 parcel at 19 Hillcrest is a large lot that is located on the outside of a curve and which increases in dimension further back from the street. The lot is large enough to allow buildings to meet setback requirements after this small reduction in frontage.

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 general purpose of the ordinance provision is to have adequate spacing between buildings on adjacent lots. Moving the boundary line will result in greater spacing between the existing buildings on 21 Hillcrest and buildings that may be built on 19 Hillcrest.

and

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

It eliminates a driveway encroachment, it reduces an existing setback nonconformity, and it allows reasonable use of the property at 19 Hillcrest. The boundary line adjustment will not affect the appearance of either lot.

OR

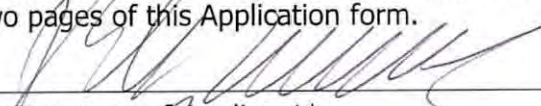
5B. If the criteria in subparagraph 5A above are not established, explain how, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable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

SIGNATURE PAGE

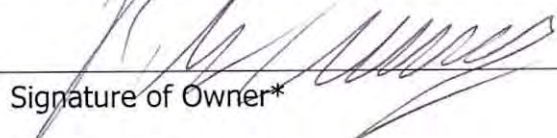
THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS

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>IMPORTANT</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*

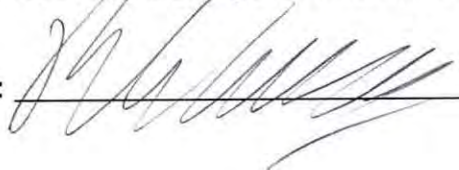


Signature of Owner*

*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: 9/30/14



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z14-25)

Application Type: Variance
Applicants: Christopher and Melissa Snow
Owner: Christopher and Melissa Snow
Location: 10 Leathers Lane (Tax Map I, Lot 4)

INTENT: The property is currently improved with a single family dwelling. The applicant proposes to subdivide the property into three lots, one for the existing dwelling, and two new lots for proposed single family dwellings. Per the R-12 District requirements, each lot will have a front “build to line” of 115 ft., which is equal to the average front setback for all properties within the R-12 District within 500 ft. of the subject property. The applicant requests a variance to replace the “build to line” with a 30 ft. front setback.

UNITS PROPOSED: 1 lot for existing single family dwelling and 2 new lot for proposed single family dwellings

AGENDA ITEM #: 3-D

ZONING DISTRICT: R-12

EXISTING LAND USE: Single Family Residential

PROPOSED LAND USE: Single Family Residential

SURROUNDING LAND USE: Residential

PREVIOUS ZBA ACTION: None

PLANNING BOARD APPROVAL REQUIRED: Yes

ATTACHMENTS: Application, plan

APPLICATION IS COMPLETE: Yes

NOTICES AS REQUIRED: Yes

STAFF RECOMMENDATION:
The Planning Department takes no position on the requested relief.

Summary of Request and Background

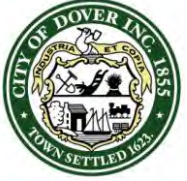
The property consists of 2.09 acres and is currently improved with a single family dwelling. The applicant proposes to subdivide the property into three lots, one for the existing dwelling, and two new lots for proposed single family dwellings. Per the R-12 District requirements, each lot is subject to a front “build to line” of 115 ft., which is equal to the average front setback for all properties within the R-12 District within 500 ft. of the property to be subdivided. The applicant requests a variance to replace this “build to line” (at which the front of the dwelling must be constructed) with a 30 ft. front setback.

Reason for Staff Recommendation

The average setback of 115 ft. (which translates to a required 115 ft. “build to” for the proposed lots) was calculated by determining the front setbacks of the 19 improved lots within 500 feet of the subject property and which are also located in the R-12 District. The average front setback is severely skewed by 5 lots which have significantly greater frontage than the other 14 lots. If the 5 lots with extraordinary setbacks are excluded from the calculation, the average is reduced to approximately 39 feet. From a code consistency and planning perspective, staff would prefer to see a proposed build to line for the new lots that matches the adjusted average of 39 feet. However, given the minimal difference between the two measurements, staff recognizes that the proposed request will not likely result in any negative impacts on the neighborhood or on abutting properties.

Recommendation

The Planning Department takes no position on the requested relief.



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z14-25)

Application Type: Variance
Applicants: Christopher and Melissa Snow
Owner: Christopher and Melissa Snow
Location: 10 Leathers Lane (Tax Map I, Lot 4)

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 #: 214-25 Date Received: OCT - 1 2014
Amount Paid: \$ 308 OK # 17515 Time Received:

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: Christopher Snow & Melissa Snow Phone #
Address of Applicant: 1 Clark Road, Rye, NH 03870
E-Mail Address: kevin@surveynh.com
PROPERTY OWNER (if different from applicant):
Address: Phone #
E-Mail Address:

PROPERTY/PARCEL INFORMATION

Address: Leathers Lane
Brief Directions: Property is located at the corner of Back River Road and Leathers Lane
Zoning District: R-12 Assessor's Map # 1 Lot(s) # 4

TYPE OF APPEAL: (Please check one)

XX Variance from Section 12.A of the Zoning Ordinance
Physical Disability Variance (RSA 674:33-V) from Section of the Zoning Ordinance
Special Exception per Section of the Zoning Ordinance
Appeal of Administrative Decision regarding Section of the Zoning Ordinance
Equitable Waiver per Section of the Zoning Ordinance

DESCRIBE BRIEFLY YOUR PLANS FOR THE PROPERTY:

To subdivide the property into 3 residential lots, one of which will contain the existing residence and outbuildings.

VARIANCE REQUIREMENTS

THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY

A. Variance Requested

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

The substitution of a 30 foot front setback requirement to replace the "build to" requirement of the ordinance.

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:

This neighborhood has a wide variety of building setbacks. The public interest in a "build to" line is to maintain a consistent appearance among properties in the same neighborhood. However, there is very little existing consistency in this neighborhood. The "build to" average for properties located within 500 feet would be 115 feet, but Lots 1 and 2 are configured so that neither would accommodate a home built at that distance from the road. For Lot 1, the distances from Back River Road are too short to allow a home to be built 115 back from the road, and for Lot 2 the distances are too long. If the "build to" line is replaced with the 30 foot front setback that used to apply in the R-12 District, then both lots can comply with that requirement.

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

While the spirit of the ordinance is to promote the uniform appearance of neighborhoods by having all residences built at the same distance from the street, this neighborhood is substantially developed and there is very little existing consistency in building setbacks. Allowing the "build to" requirement to be replaced with the prior 30 foot "setback" requirement will allow the home on Lot 1 to be built in a location with a similar setback along Leathers Lane as the existing house on Lot 3. The house on Lot 2 will be set back behind the existing house on Lot 3, and will be a considerable distance from both Back River Road and Leathers Lane.

3. Granting the variance would do substantial justice because:

It will allow residences to be constructed on new lots 1 and 2 in a manner that is consistent with the existing variety of building setbacks in this neighborhood. There would be no detriment to the general public and the property owner will be able to reasonably develop this large parcel of land. It is not possible for Lots 1 and 2 to meet the "build to" requirement that new homes be located at 115 feet back from the street. The lots will otherwise meet all zoning requirements.

VARIANCE REQUIREMENTS

THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY

A. Variance Requested

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

The substitution of a 30 foot front setback requirement to replace the "build to" requirement of the ordinance.

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:

This neighborhood has a wide variety of building setbacks. The public interest in a "build to" line is to maintain a consistent appearance among properties in the same neighborhood. However, there is very little existing consistency in this neighborhood. The "build to" average for properties located within 500 feet would be 115 feet, but Lots 1 and 2 are configured so that neither would accommodate a home built at that distance from the road. For Lot 1, the distances from Back River Road are too short to allow a home to be built 115 back from the road, and for Lot 2 the distances are too long. If the "build to" line is replaced with the 30 foot front setback that used to apply in the R-12 District, then both lots can comply with that requirement.

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

While the spirit of the ordinance is to promote the uniform appearance of neighborhoods by having all residences built at the same distance from the street, this neighborhood is substantially developed and there is very little existing consistency in building setbacks. Allowing the "build to" requirement to be replaced with the prior 30 foot "setback" requirement will allow the home on Lot 1 to be built in a location with a similar setback along Leathers Lane as the existing house on Lot 3. The house on Lot 2 will be set back behind the existing house on Lot 3, and will be a considerable distance from both Back River Road and Leathers Lane.

3. Granting the variance would do substantial justice because:

It will allow residences to be constructed on new lots 1 and 2 in a manner that is consistent with the existing variety of building setbacks in this neighborhood. There would be no detriment to the general public and the property owner will be able to reasonably develop this large parcel of land. It is not possible for Lots 1 and 2 to meet the "build to" requirement that new homes be located at 115 feet back from the street. The lots will otherwise meet all zoning requirements.

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

The homes on new lots 1 and 2 will be sited in a manner that is similar to the existing variety of building setbacks in this neighborhood. The house on Lot 2 will be screened by the existing house on Lot 3 and by trees, and the house on Lot 1 will be able to be sited at a similar distance from Leathers Lane as the existing house on Lot 3, and that will help to maintain uniformity of appearance along Leathers Lane.

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:

This is a relatively large corner lot which has sufficient space to accommodate 3 lots. The existing residence on Lot 3 is located in a position that will allow new homes to be built on Lots 1 and 2 in locations that will meet all dimensional requirements except for the "build to" requirement. If the "build to" requirement is replaced with the former "setback" requirement of 30 feet then the new homes can be sited appropriately.

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 general purpose of the ordinance is to promote uniform appearance of neighborhoods by having buildings located a uniform distance from the street. However, this is an established neighborhood which already has a wide variety of building placements. Allowing new buildings on Lots 1 and 2 to meet the 30 foot setback requirement which formerly applied in the R-12 District will allow a home on Lot 1 to have a similar set back from Leathers Lane as the existing residence on Lot 3. The new home on Lot 2 will be located behind the existing home on Lot 3.

and

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

It will allow this large lot to be subdivided and to have homes located in a manner that is similar to the existing variety of building placements in this neighborhood.

OR

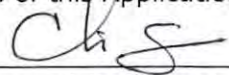
5B. If the criteria in subparagraph 5A above are not established, explain how, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable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

SIGNATURE PAGE

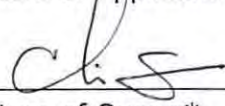
THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS

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

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



Signature of Applicant*



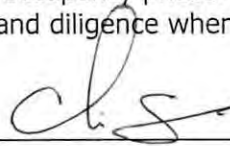
Signature of Owner*

*Both Signatures Required

AUTHORIZATION TO ENTER SUBJECT PROPERTY

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

Signature of Property Owner:



Date:

9/30/14

