



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, November 20, 2014**
Meeting Time: **7:00 pm**

1. ATTENDANCE

2. APPROVAL OF MEETING MINUTES OF OCTOBER 16, 2014

3. HEARING – CONTINUED FROM OCTOBER 16, 2014

- A. * 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.

4. HEARINGS – NEW

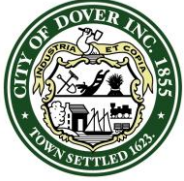
- A. * Z 14-26 Peter and Susan Iordanou, 46 Drew Road (Tax Map I, Lot 93-2), located in the Rural Residential (R-40) District. The applicants propose a lot line adjustment with 62 Drew Road (Tax Map I, Lot 94) and to subdivide their property into two lots. They request a variance from **Section 170-12.A** of the Zoning Ordinance and the R-40 District Table of Use and Dimensional Requirements to permit the proposed lots to have frontage of 112.5 ft. each where minimum frontage of 150 ft. is required.
- B. * Z 14-27 Christian R. Sterndal, 33-35 Forest Street (Tax Map 24, Lot 84), located in the Urban Density Multi Residential (RM-U) District, requests a variance from **Section 170-12.A** of the Zoning Ordinance and the RM-U District Table of Use and Dimensional Requirements to permit the reconstruction of an enclosed porch to be located 4 ft. from the side lot line shared with 31 Forest Street (Tax Map 24, Lot 85) where a minimum setback of 10 ft. is required.

5. REVIEW OF ZONING BOARD OF ADJUSTMENT RULES OF PROCEDURE

6. 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>.



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ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting
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Meeting Date: **Thursday, October 16, 2014**
Meeting Time: **7:00 pm**

1. ATTENDANCE

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

Members Not Present: Gary Green (Alternate)

Staff Present: Timothy Corwin (Assistant City Planner), Jean Glidden (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 JULY 17, 2014 AND AUGUST 21, 2014

S.Reid stated that action on the July minutes had been deferred due to requests to add additional detail.

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

Vote: U/A

B.Hall noted an amendment on page 2, the sentence was incomplete and the word “difference” should be inserted to read “because of the difference of what was submitted and handed out” and on page 3, 4th paragraph starting with T.Corwin the word “not” needs to be inserted. It should read “by not approving the concept”.

S.Reid noted on page 1, the first motion seconded by O.Perry, the vote states “4/1, C.Prior abstained”, should be “4/0, C.Prior abstained”.

Motion: O.Perry made a motion to accept the August 21, 2014 Regular Meeting Minutes as amended.

F.Landford seconded. Vote: U/A

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.

Public hearing open

Aimee Dion is requesting a variance to construct an addition to her home that would be located within 5 feet of the side lot line, which requires a minimum side setback of 15 ft. There are a number of site constraints that limit where an addition to the home can be placed and she has met with staff several times to discuss options that would eliminate the need for a variance. The lot is angled, therefore the addition would have to be angled and this would cause engineering complications that would be difficult and expensive to accomplish.

STAFF RECOMMENDATION

T.Corwin stated that the Planning Department supports the request as set forth in the staff memo.

Public hearing closed

Motion: O.Perry made a motion to grant the variance. Seconded by F.Landford. Vote: 5/0



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- 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.

The Chair read a letter submitted by Attorney Bruton requesting that this case be continued to the November 20, 2014 meeting.

Motion: O.Perry made a motion to continue to the next meeting. Seconded by B.Hall. Vote: 5/0

- 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.

Public hearing open

Attorney Schulte representing the applicant states this is a request for a variance to permit a lot line adjustment which would transfer 10 ft. of frontage from 19 Hillcrest Drive to 21 Hillcrest Drive so that the entirety of the driveway will be located on the 21 Hillcrest Drive, thereby decreasing 19 Hillcrest Drive's frontage to 80 ft. and increasing its non-conformity. He added that the lot line adjustment will not affect the appearance of either lot and will eliminate a driveway encroachment. The lot is large enough to allow the building to meet setback requirements.

STAFF RECOMMENDATION

T.Corwin stated that staff does support the application as set forth in the memo; however after hearing the application he made the Board aware that in the R-12 dimensional regulations, it is a requirement that you have to build to a certain distance from a lot line. Vacant lots created prior to December 2009, shall have a build to line no closer than 5 ft. and no greater than 25 ft. If the lot is narrowing it may be setting them up to require relief from the front or potentially the side. He stated that the Board may want to consider or discuss a condition that would say no further variance relief will be granted for the front or side lot lines.

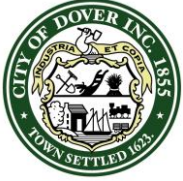
B.Hall noted that the dimensional regulations shown on the plan are incorrect and the lines should be adjusted.

Attorney Schulte mentioned that you could add a condition that any structure to be built on 19 Hillcrest Drive would have to meet setback or build-to requirements for new lots.

B.Hall added that this could be a problem in the future.

Attorney Schulte stated that if this lot were to be developed its more likely they would ask for a variance to place the house further back in the lot.

Public hearing closed



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Motion: O.Perry made the motion to grant the variance with the understanding that because of the nature of the subdivision and the nature of the location of the lot, they have met the requirements for the variance. Seconded by C.Prior. Vote: 5/0

- 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.

S.Reid recused himself as he knows the applicants. G.Regan will be voting.

Public hearing open

O.Perry mentioned that he used to own this property.

Attorney Schulte representing the applicants stated that the proposal is to subdivide 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.

F.Landford confirmed with Attorney Schulte that the existing house has a septic system, however has city water and asked if there was a reason why a driveway couldn't be brought in from Back River Road to lot 2.

Attorney Schulte stated that it is a busier road and this was presented to the City Planner and he suggested bringing it off of Leathers Lane.

B.Hall said it would have been helpful to see the proposed positions of the houses on the plan. 30 ft. is tight.

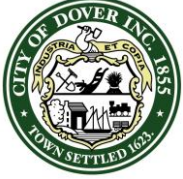
G.Regan stated that it looks like this is a practical request; however did you consider making it two lots instead of three lots.

Attorney Schulte said there is enough land and is consistent with the neighborhood. There is ample room and it is three times the min lot size. It just fits.

STAFF RECOMMENDATION

T.Corwin stated that staff does not oppose the application; they are not taking any position. He expressed concern that the applicant is not asking for a reasonable accommodation given the characteristic of the proposed lot. They are not proposing a specific location for the project. They are asking to throw out the zoning requirement and replace it with a new setback. Staff would have been more comfortable with a more specific proposal or reasonable accommodation of the existing regulations.

Attorney Schulte stated that with respect to the L shaped lot you cannot site a house on the property that meets the current build-to line. For purposes of development of the lot it is best for everyone that it be placed much further back.



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B.Hall stated that he is very uncomfortable without more information.

C.Prior noted that this is where the problem starts with setbacks versus build-to lines.

Public hearing closed

Motion: C.Prior made the motion to grant the variance to replace the build-to line for lots 1 and 2 as described on the survey with a 30 ft. front setback and with all other setbacks required needing to be met; therefore have met the requirements for the variance. Seconded by F.Landford.

B.Hall stated that he is concerned and doesn't feel they have enough to vote on it and feels they would be creating an island of conformance.

G.Regan agreed and would like to see the location of the homes on the plan.

O.Perry added that the applicant is asking for a variance in order to enable them to go to the Planning Board and request a subdivision. The Board's decision is based on our judgment of whether or not they have met the requirements of granting the variance.

B.Hall reiterated what C.Prior noted in regards to the problem with setbacks vs. build-to line is an issue.

Motion on the table: Vote: 4/ 1 - Approved (B.Hall opposed)

4. REVIEW OF ZONING BOARD OF ADJUSTMENT RULES OF PROCEDURE

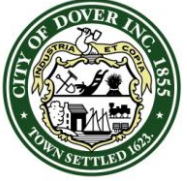
T.Corwin reviewed the rules of procedure. The red line presents all changes discussed and have been reviewed by the City Attorney. Discussion ensued regarding hiring a consultant to review materials and plans at the applicants cost, alternates role on voting and participation and information pertaining to determining standing in for an abutter or non-abutters.

S.Reid mentioned that the build-to line is an issue and in some districts it doesn't make sense.

B.Hall added that is why we are getting hit with the variance requests.

5. ADJOURN

MOTION: O.Perry made the motion to adjourn at 8:12. F.Landford seconded. Vote: U/A



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

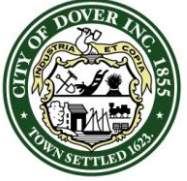
The subject property abuts the Piscataqua River and is improved with a single family residence. The property fronts on a 50 ft. private right-of-way and is partially located within the Conservation District, which extends 100 ft. from the Piscataqua River. The applicant proposes to remove the existing 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

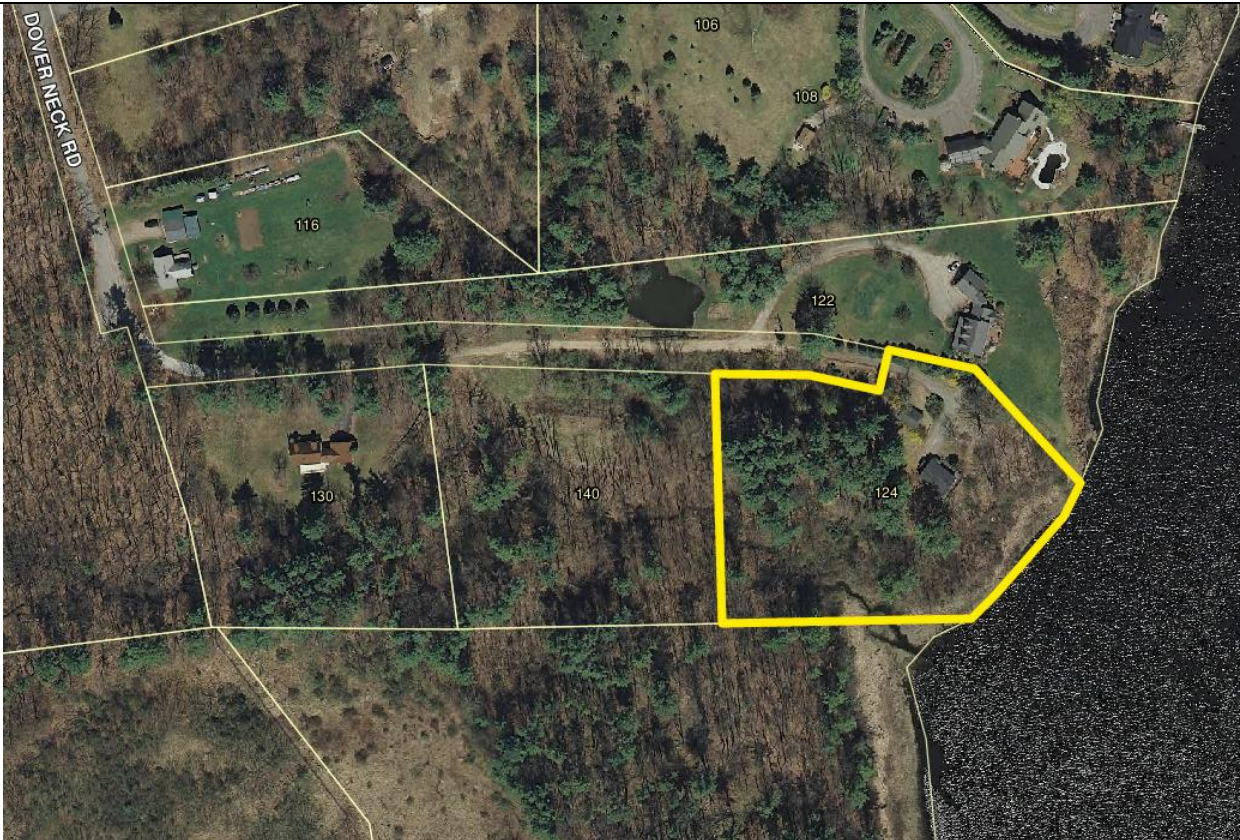
ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z14-23)

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



FRANCIS X. BRUTON, III
CATHERINE A. BERUBE

OF COUNSEL
JAMES H. SCHULTE

Bruton & Berube, PLLC

ATTORNEYS AT LAW

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Dover, NH 03820

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(603) 743-6300
FAX (603) 343-2986

www.brutonlaw.com

November 14, 2014

Sam Reid, Chair
Zoning Board of Adjustment
City of Dover
288 Central Avenue
Dover, New Hampshire 03820

**RE: Margaret E. and William F. Green
124 Dover Neck Road, Dover, NH
Map M, Lot 95B**

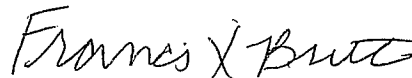
Dear Mr. Reid:

In anticipation of the above matter being heard by the Zoning Board of Adjustment at its meeting of November 20, 2014, enclosed please find an updated plan. Please note that the only change to the enclosed plan is the addition of a buffer (four trees) that has been agreed upon between the applicants and the abutters, Allen and Janet Williams.

Please also note that at its meeting of November 10th, the Conservation Commission unanimously provided its affirmative endorsement of this plan.

We look forward to working with the Zoning Board of Adjustment at the meeting on November 20th. In the interim, should you have any questions regarding the above, please do not hesitate to contact me.

Sincerely,



Francis X. Bruton, III
E-mail: fx@brutonlaw.com

FXB/mas
Enclosures

cc: Margaret E. and William F. Green
Eric Weinrieb, Altus Engineering, Inc.
Dover Planning Department



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

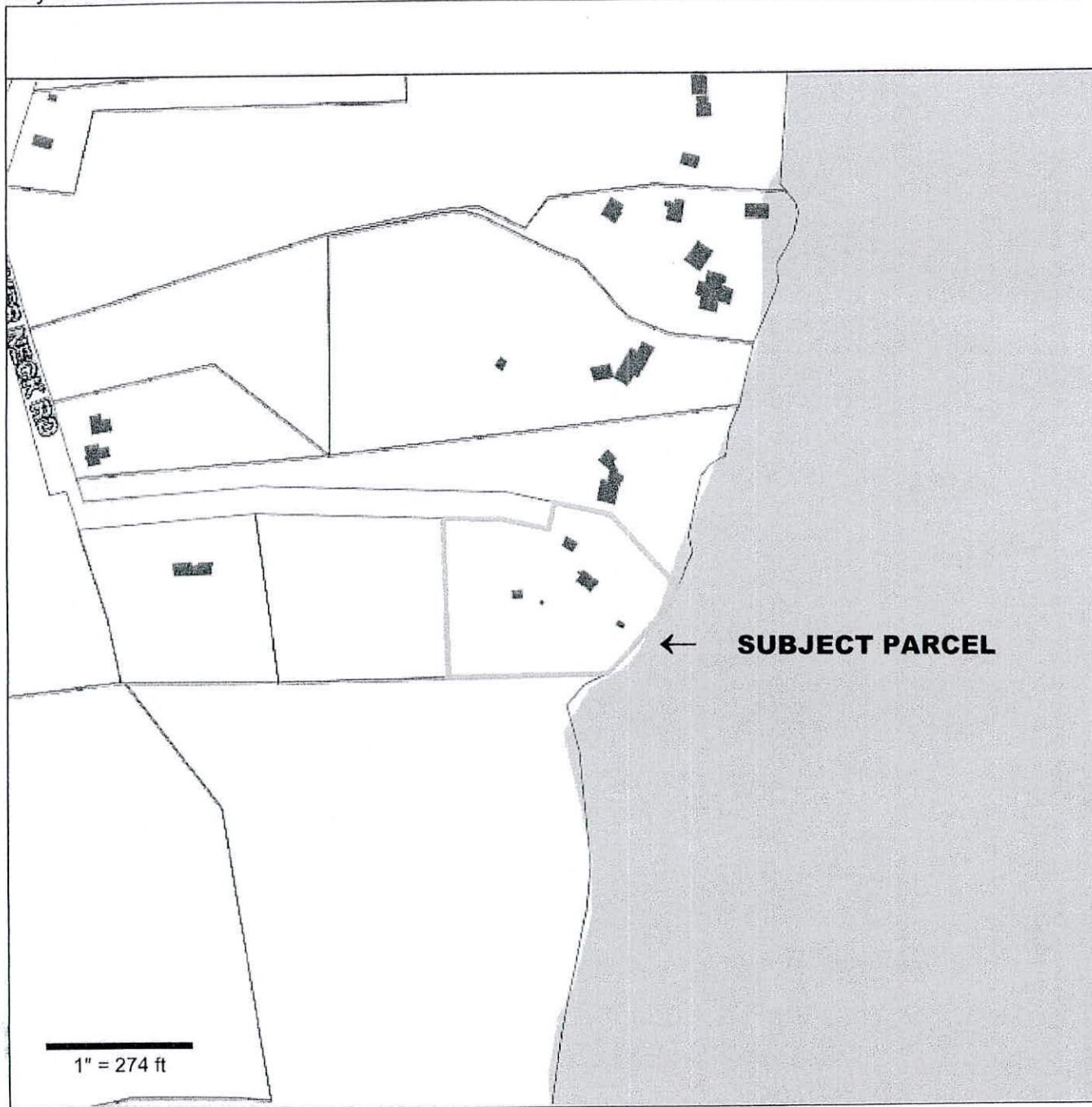
I, and my successors, hereby authorize members of the Dover Zoning Board, Planning Department and other pertinent City Departments and boards to enter my property for the purpose of evaluating this application, including performing inspections during the application phase, post-approval phase, construction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



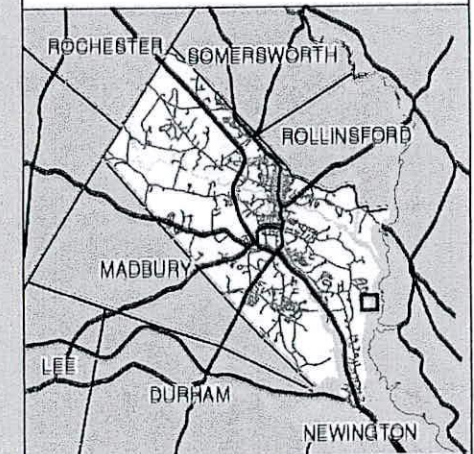
Property Information	
Property ID	M0095-800000
Location	124 DOVER NECK RD
Owner	GREEN MARGARET E & GREEN WILLIAM F

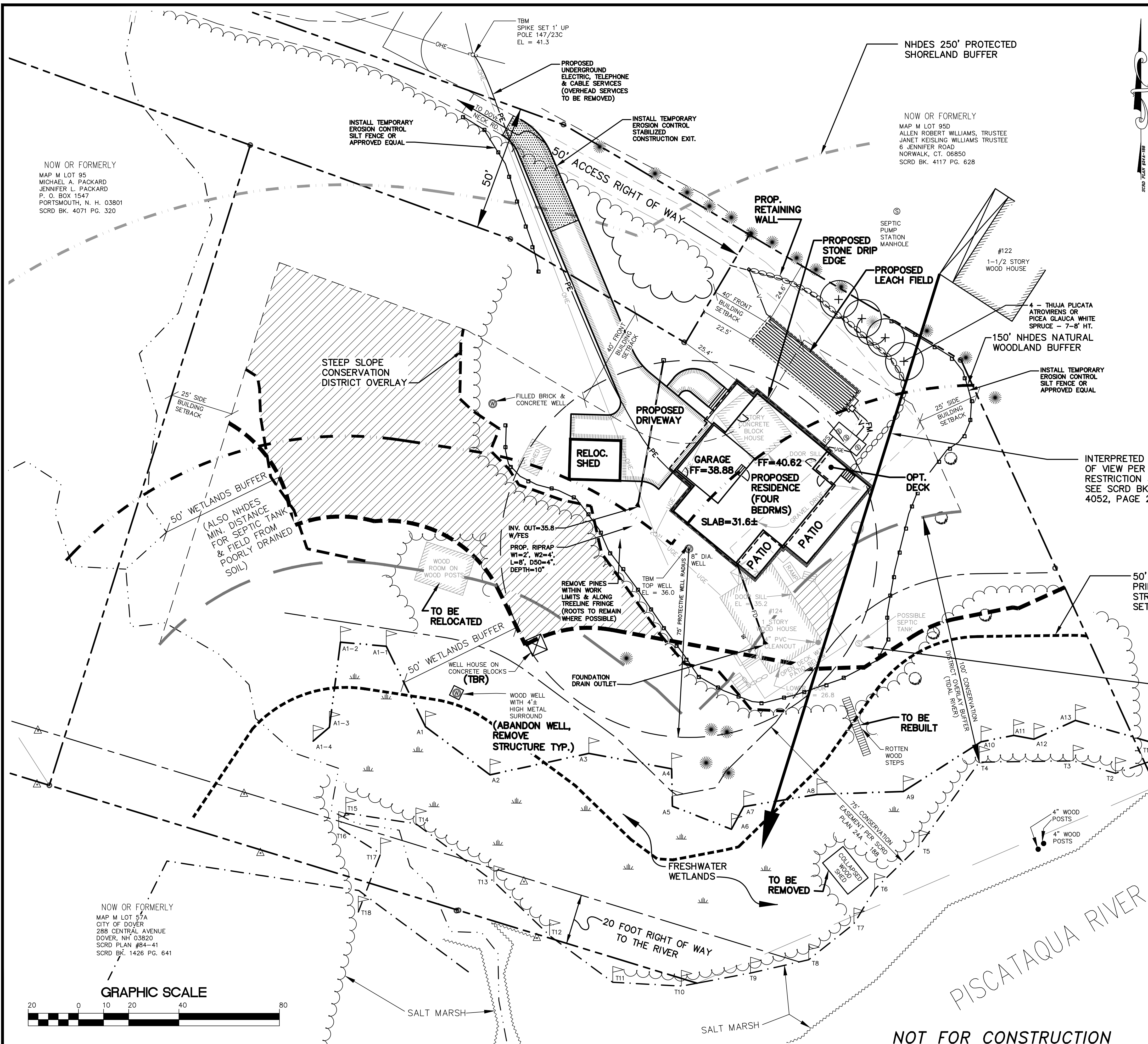


**MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT**

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





ZONING SUMMARY

ZONING DISTRICT: R-40 - RURAL RESIDENTIAL DISTRICT
 OVERLAY DISTRICTS: WETLANDS & CONSERVATION (STEEP SLOPE)

DIMENSIONAL REQUIREMENTS: (R-40)

	REQUIRED	PROVIDED
MINIMUM LOT SIZE:	40,000 S.F.	2.1 AC.±
MAX. LOT COVERAGE:	10%	7.2%
MINIMUM ROAD FRONTAGE:	150 FEET	240 FEET
MIN. ABUT A STREET SETBACK/		
MIN. FRONT SETBACK:	40 FEET	25 FEET
MIN. SIDE SETBACK:	25 FEET	52 FEET
MIN. REAR SETBACK:	30 FEET	146 FEET
MAX. STRUCTURE HEIGHT:	35 FEET	TBD
OUTBUILDING/ACCESSORY USE		
FRONT/ABUT A ST. SETBACK:	40 FEET	43 FEET
MIN. SIDE SETBACK:	10 FEET	92 FEET
MIN. REAR SETBACK:	10 FEET	196 FEET
HEIGHT:	35 FEET	TBD

WETLAND PROTECTION OVERLAY DISTRICT:

MINIMUM STRUCTURE SETBACK:	50 FEET	115 FEET
MINIMUM SEPTIC SYSTEM SETBACK:	75 FEET	120 FEET

CONSERVATION DISTRICT OVERLAY:

MINIMUM SETBACK FROM TIDAL RIVER:	100 FEET	104 FEET
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DISTURBANCE ON SLOPES > 20%: CONDITIONAL USE PERMIT REQUIRED

LANDSCAPE NOTE:

ALL AREAS DISTURBED BY CONSTRUCTION SHALL BE LOAMED AND SEEDED WITH A TALL FESCUE/BLUEGRASS SEED MIX.

4 THUJA PLICATA ATROVIRENS/PICEA GLAUCA WHITE SPRUCE TREES TO BE SPACED NO MORE THAN 5- FEET FROM THE BASE OF THE RETAINING WALL, WITH THE EASTERN MOST TREE TO BE PLACED NO MORE THAN 5- FEET AND NO LESS THAN 3- FEET TO THE WEST OF THE INTERPRETED VIEW EASEMENT. ALL DISTANCES NOTED REFER TO THE APPROXIMATE CENTERLINE OF THE TREE TRUNKS.

PROPOSED TREES AND GRASS COVER SPECIFIED BY WOODBURN & COMPANY LANDSCAPE ARCHITECTURE, LLC, 103 KENT PLACE, NEWMARKET, NH, PH: 603-659-5949

CIVIL ENGINEER:

133 COURT STREET PORTSMOUTH, NH 03801
 (603) 433-2335 www.ALTUS-ENG.com

ISSUED FOR: **B.O.A. APPLICATION**

ISSUE DATE: **NOVEMBER 7, 2014**

REVISIONS

NO.	DESCRIPTION	BY	DATE
0	INITIAL SUBMISSION	EDW	09/30/14
1	ADD PROPOSED TREES	EDW	10/30/14
2	LANDSCAPE SCREEN REV.	EDW	11/07/14

DRAWN BY: RLH
 APPROVED BY: EDW
 DRAWING FILE: 4501.DWG

SCALE:
 11"x17": 1"=40'
 22"x34": 1"=20'

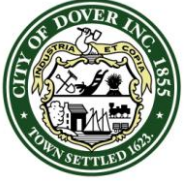
OWNERS/APPLICANTS:
MARGARET E. & WILLIAM F. GREEN
 21 ALGONQUIN AVENUE
 ANDOVER, MA 01810

PROJECT:
TAX MAP M-95B
RESIDENCE REDEVELOPMENT
 124 DOVER NECK ROAD
 DOVER, NH

TITLE:
BOARD OF ADJUSTMENT SITE PLAN

SHEET NUMBER:
1 OF 1

NOT FOR CONSTRUCTION



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z14-26)

Application Type: Variance
Applicants: Peter and Susan Iordanou
Owner: Peter and Susan Iordanou
Location: 46 Drew Road (Tax Map I, Lot 93-2)

INTENT: The subject property is improved with a single family home. The applicants propose a lot line adjustment with 62 Drew Road (Tax Map I, Lot 94) which will increase the size of the subject property by approximately 50,000 s.f. The applicants intend to subdivide their expanded lot into two lots, each having frontage of approximately 112.5 ft. A variance is required from the R-40 District dimensional regulations which require minimum frontage of 150 ft. per lot.

UNITS PROPOSED: one new single family lot

AGENDA ITEM #: 4-A

ZONING DISTRICT: R-40

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, existing conditions plan, proposed subdivision sketch plan

APPLICATION IS COMPLETE: Yes

NOTICES AS REQUIRED: Yes

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

Summary of Request and Background

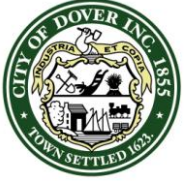
The subject property is improved with a single family home. The applicants propose a lot line adjustment with 62 Drew Road (Tax Map I, Lot 94) which will increase the size of the subject property by approximately 50,000 s.f. The applicants intend to subdivide their expanded lot into two lots, each having frontage of approximately 112.5 ft., and to construct a single family home on the vacant new lot. 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 minimum frontage of 150 ft. per lot. Note that it is staff's understanding that the applicants have entered into an agreement for the sale and purchase of that portion of 62 Drew Road, contingent upon approval of the requested variance.

Reason for Staff Recommendation

The purpose of a variance is to provide a relief valve from the requirements of the Zoning Ordinance where application of the Zoning Ordinance requirements would create an unnecessary hardship when applied to a particular property as a result of the unique conditions of that property. Here, the applicants are using their property for a single family home. There is nothing unique about this property that would result in an unnecessary hardship and/or deny reasonable use if the requested variance were denied. Moreover, the proposed home will be located directly to the rear of the home located at 56 Drew Road, thereby impairing the use and enjoyment of the abutter's home and negatively impacting her property value. As shown on the bird's eye and aerial photos included on the flip side of this memo, there does not appear to be any significant vegetation between the house at 56 Drew Road and the approximate location of the proposed home.

Recommendation

The Planning Department recommends that the requested variance be denied.



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z14-26)

Application Type: Variance
Applicants: Peter and Susan Iordanou
Owner: Peter and Susan Iordanou
Location: 46 Drew Road (Tax Map I, Lot 93-2)

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 #: 26 Date Received: NOV 05 2014
Amount Paid: \$ Time Received: BY:

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: PETER + SUSAN IORDANOU Phone # 603-866-0055
Address of Applicant: 46 DREW ROAD
E-Mail Address: SOLEANA.SUSAN@D.COM
PROPERTY OWNER (if different from applicant):

Address: Phone #
E-Mail Address:

PROPERTY/PARCEL INFORMATION

Address:
Brief Directions:

Zoning District: R-40 Assessor's Map # I Lot(s) # 93-2

TYPE OF APPEAL: (Please check one)

- [X] Variance from Section 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:

HAVING 225 FEET OF FRONTAGE AND ADDING THE NEEDED SQUARE FOOTAGE FROM ABUTTER (30,000 SQUARE FEET) APPROX. TO MY ADDITIONAL SQUARE FEET WHICH IS APPROXIMATELY 5000 SQ. I WOULD LIKE TO USE EXISTING DRIVEWAY TO BUILD A NEW MUCH SMALLER HOUSE IN THE BACK OF MINE (46A, 46B DREW ROAD)

VARIANCE REQUIREMENTS

THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY

A. Variance Requested

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

ANOTHER HOUSE LOT THAT MEETS THE SQUARE FOOTAGE
OF (40000) R40 BUT NOT THE FRONTAGE OF 150 FEET.
BY USING A COMMON DRIVE 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:

THE HOUSE WILL BE BUILT FAR AWAY FROM ALL
THE HOUSES AND WILL MEET ALL THE SET BACKS
THE DRIVE WAY WILL BE WIDER AND IT WONT HAVE ANY
IMPACT ON TRAFFIC ON DREW ROAD

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

SEE ABOVE

3. Granting the variance would do substantial justice because:

GOOD LAND OF 1/2 ACRES IN BACK
IS BEING WASTED
IT CAN PROVIDE TAX REVENUE TO THE TOWN

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

ON THE CONTRARY IS GOING TO RAISE THE VALUE OF SURROUNDING PROPERTIES, ITS GOING TO BE A DESIGNERS HOME A FRENCH COUNTRY

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:

I HAVE 225 FEET FRONTAGE COMPARE TO ANY BODY ELSE 150 THAT WILL MAKE TO LOTS OF 112.50 EACH

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:

MY REQUESTED VARIANCE DOES NOT IMPACT THE DENSITY OF RESIDENTIAL UNITS ENVISIONED BY THIS DISTRICT.

and

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

IT DOES NOT HAVE ANY NEGATIVE IMPACT ON ANYONE AND WILL PROVIDE ADDITIONAL REVENUE TO THE TOWN OF DOVER

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:

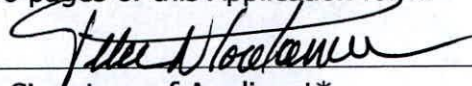
USING SAME DRIVE WAY, GIVING US ACCESS OF THE PROPERTY BY DIVIDING THE FRONTAGE OF 225 FEET. IN TWO. THAT EACH LOT HAS. 112.50 FEET INSTEAD OF 150 FEET A VARIANCE IS NECESSARY

SIGNATURE PAGE

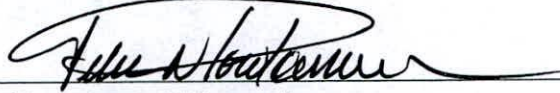
THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS

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*

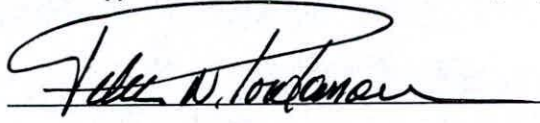


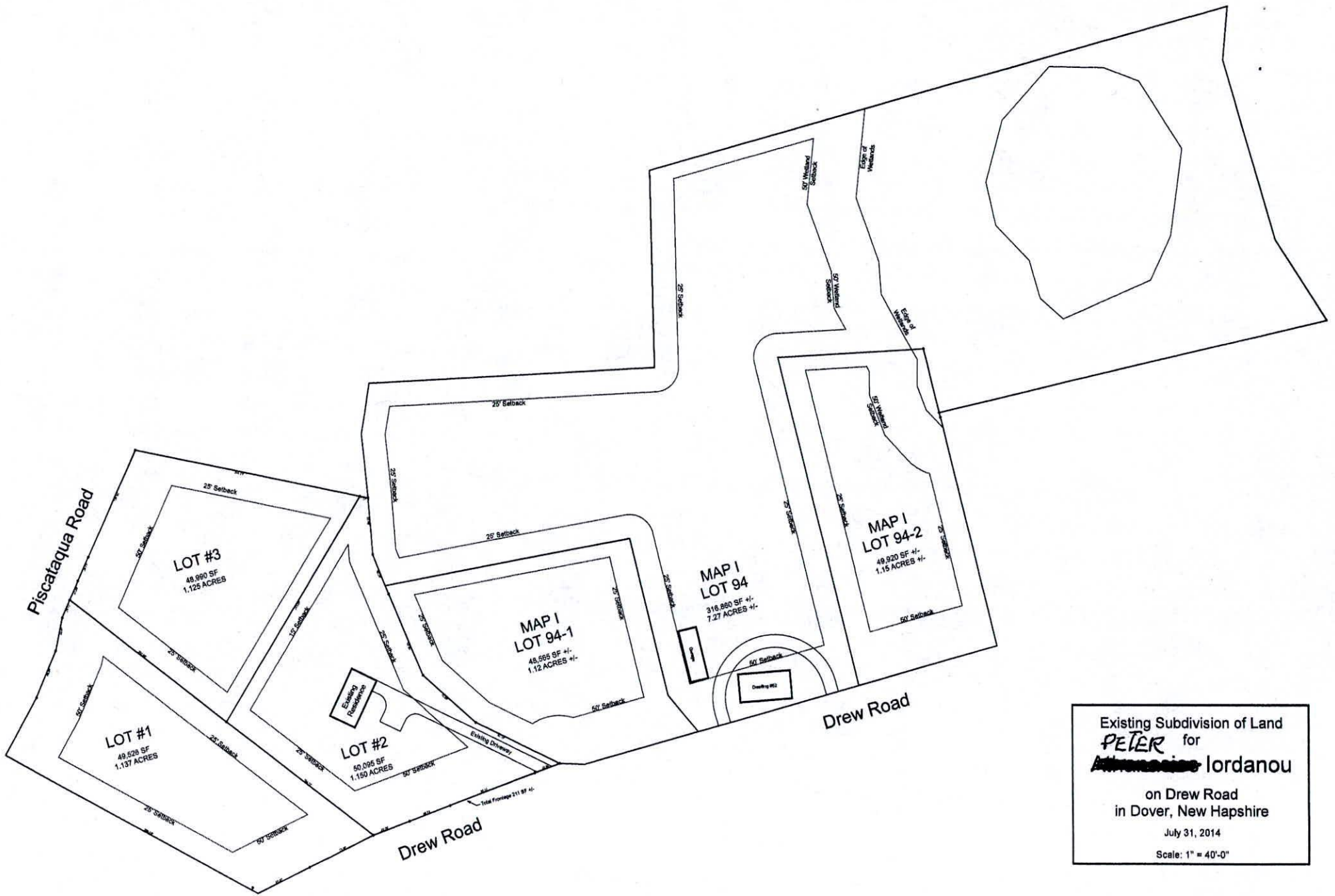
Signature of Owner*

*Both Signatures Required

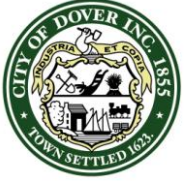
AUTHORIZATION TO ENTER SUBJECT PROPERTY

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: 11/5/2014



Existing Subdivision of Land
PETER for
~~Attornies~~ **Iordanou**
 on Drew Road
 in Dover, New Hapshire
 July 31, 2014
 Scale: 1" = 40'-0"



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z14-27)

Application Type: Variance
Applicants: Christian R. Sterndal
Owner: Christian R. Sterndal
Location: 33-35 Forest Street (Tax Map 24, Lot 84)

INTENT: The subject property is improved with a two family home. The applicant intends to replace and reconstruct the existing enclosed side porch/entrance areas using the same footprints. A variance is required from the RM-U District dimensional regulations to permit one of the porches to be located 4 ft. from the side lot line shared with 31 Forest Street (Tax Map 24, Lot 85) where a minimum setback of 10 ft. is required.

UNITS PROPOSED: n/a

AGENDA ITEM #: 4-B

ZONING DISTRICT: RM-U

EXISTING LAND USE: Two Family Residential

PROPOSED LAND USE: Two Family Residential

SURROUNDING LAND USE:

Residential

PREVIOUS ZBA ACTION: None

PLANNING BOARD APPROVAL REQUIRED: Yes

ATTACHMENTS: Application, plot plans (3)

APPLICATION IS COMPLETE: Yes

NOTICES AS REQUIRED: Yes

STAFF RECOMMENDATION:

The Planning Department recommends that the requested variance is granted.

Summary of Request and Background

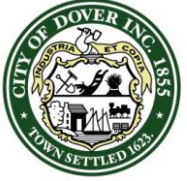
The property is improved with a two-family dwelling. On each side of the dwelling is an enclosed porch that serves as an entry way to each of the dwelling units. The applicant intends to replace and reconstruct the porches, which are currently in disrepair, using the same footprints. A variance is required from the Section 170-12.A of the Zoning Ordinance and the RM-U District Table of Use and Dimensional Regulations to permit the porch located on the side of the dwelling adjacent to 31 Forest Street (Tax Map 24, Lot 85) to be located 4 ft. from the side property line where a minimum setback of 10 ft. is required.

Reason for Staff Recommendation

Per Section 170-14.A(2) of the Zoning Ordinance, the applicant could take advantage of a reduced six (6) ft. side setback because the of the size of the lot and its narrow frontage. Therefore, at 4 ft., the enclosed porch is effectively only 2 ft. into the required side setback (as opposed to 6 ft. when applying the standard RM-U District 10 ft. side setback requirement). Moreover, because the porch is being reconstructed to ensure the safety of the structure, and in the same footprint and with the same or similar building materials as the existing dwelling, staff believes this proposal will have no negative impact on the neighborhood and is a worthy candidate for a variance.

Recommendation

The Planning Department recommends that the requested variance is granted.



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z14-27)

Application Type: Variance
Applicants: Christian R. Sterndal
Owner: Christian R. Sterndal
Location: 33-35 Forest Street (Tax Map 24, Lot 84)

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 #: 27 Date Received:
Amount Paid: \$ Time Received:

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: Chris Sterndale Phone # 603-502-7980
Address of Applicant: 60 Mill Rd., Durham, NH 03824
E-Mail Address: csterndale@gmail.com

PROPERTY OWNER (if different from applicant):
Address: Phone #
E-Mail Address:

PROPERTY/PARCEL INFORMATION

Address: 33-35 Forest St
Brief Directions: Between Hancock & Essex

Zoning District: RM-U Assessor's Map # Lot(s) #

TYPE OF APPEAL: (Please check one)

- X Variance from Section 170-12A 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 replace existing enclosed porches in the same dimensions.
[Blank lines for description]

VARIANCE REQUIREMENTS

THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY

A. Variance Requested

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

The re-construction of existing, enclosed porches within the side yard setback. They will be replaced in the exact same dimensions, and similarly match the house in siding and trim.

The current condition of the porches is very poor, and the proposed work would be considered simply a "repair" if it were cost-effective and prudent to retain more of the existing structures.

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 existing enclosed porches have been in place for decades, with no negative impact to the public interest. Denying their replacement in kind would provide no benefit to the public interest.

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

The purpose of the RM-U zone is to, among other things, "provide an environment suitable for ... high density housing types, including... two-family dwellings."

The ordinance states that the district contains historic homes built close to sidewalks and streets. The subject property is just this type of housing, at over 100 years old and within roughly 8' of the sidewalk, and relatively close to both side boundaries. This is consistent with the rest of Forest Street.

The intent of side yard setbacks is to provide some buffer between living spaces, even in dense neighborhoods. One encroachment with the subject property is into a shared driveway. The abutter on the opposite side has an active entrance and deck directly opposite the subject property's enclosed porch, which also encroaches on the setback. An enclosed porch in this case improves the buffer function, providing privacy to both properties.

3. Granting the variance would do substantial justice because:

The existing enclosed porches have presumably been in place for decades, and replacing them in kind will have no negative impact on abutters or the general public.

The loss of this enclosed entrance, however, would be considerable to residents of the subject property. The ground floor of each unit in the duplex contains only a small living room and small eat-in kitchen, and the 'mud room' functionality of the enclosed porch is very important.

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

The enclosed porches will match existing conditions, which have been in place for decades. As part of a larger exterior renovation, the work will markedly improve the appearance of the subject property, thereby having a positive impact on surrounding property values.

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:

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:

and

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

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:

The house is already within the side yard setback on one side (approx. 9'), and very close to the opposite side setback (approx. 14'). The rear doors of both units open toward the side of the property, and are above grade. Virtually any use within strict conformance to the ordinance is impossible. The existing enclosed porches, which extend only 5' from the side of the house, are only inches wider than the simplest open stair landing would be.

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: 5 Nov 14



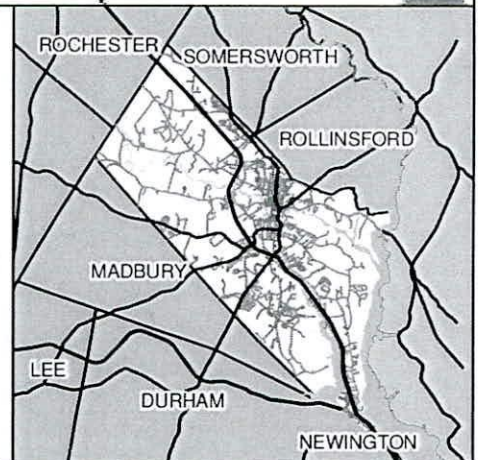
Property Information
Property ID 24084-000000
Location 33 35 FOREST ST
Owner STERNDALE CHRISTIAN R

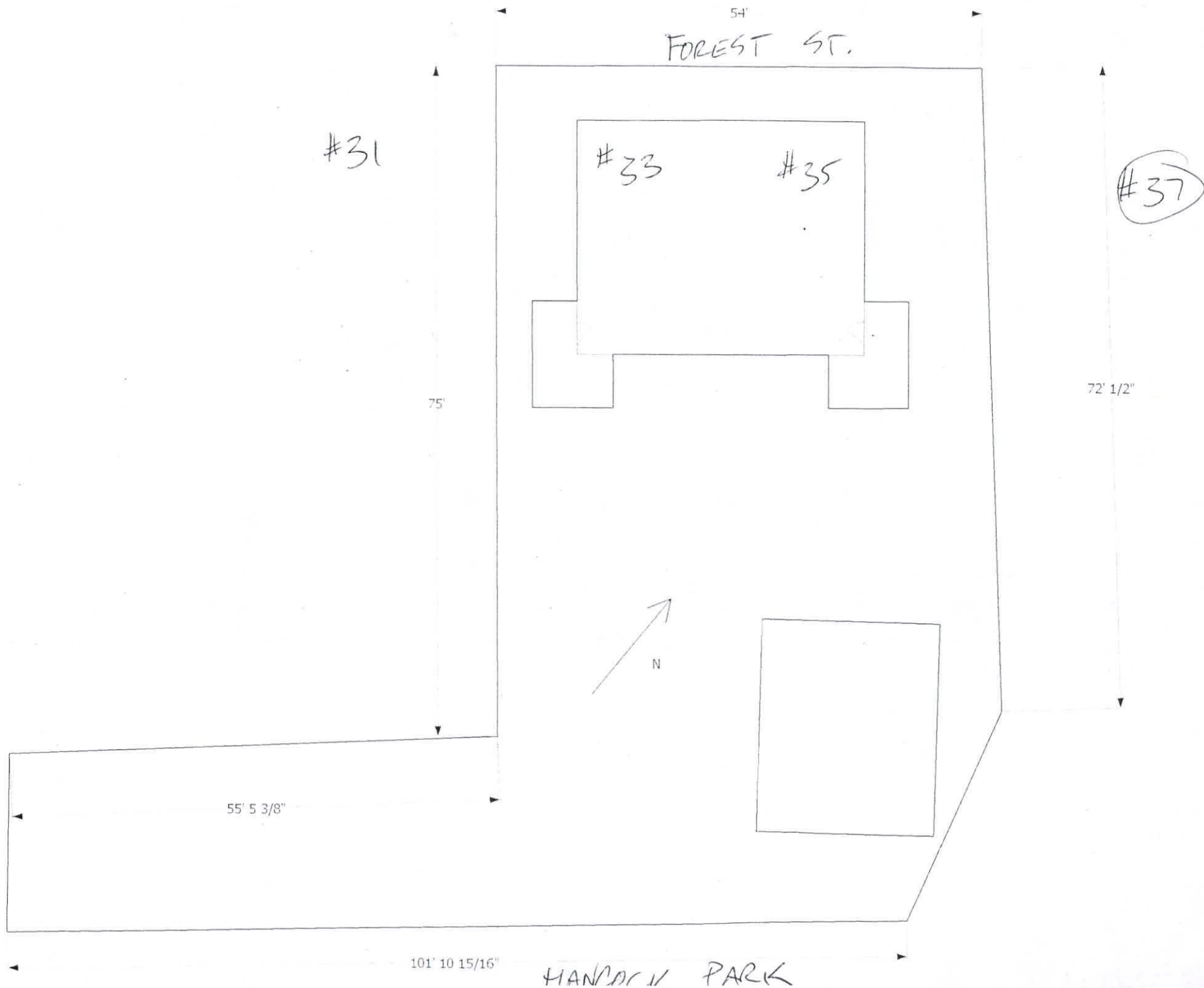


**MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT**

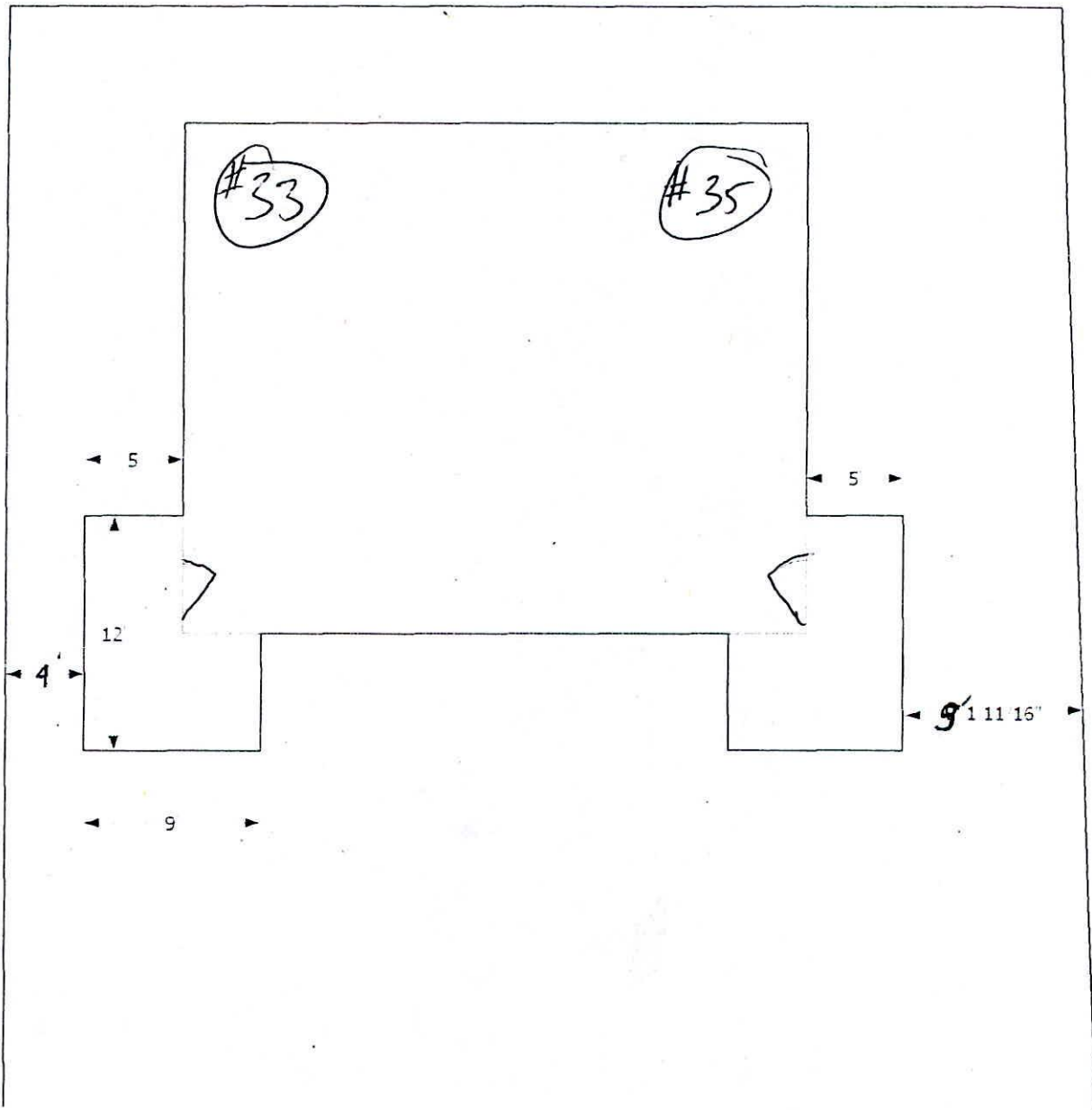
The City makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Parcels updated January 1, 2014





FOREST ST.





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 Chapter 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 673:6.
- B. **Terms of Membership.** Members shall be appointed to terms of three (3) years pursuant to RSA 673:5.
- C. **Alternates.** 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. On all other matters before the Board including but not limited to approval of meeting minutes, election of officers, and amendments to and/or the adoption of these Rules of Procedure, alternate members shall be permitted to deliberate and vote on such matters together with the regular members. This shall not, however, have any impact on the ability of the Board to establish a quorum pursuant to Article V, Section C.1 below.

- 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 members of the Board in attendance. 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 members of the Board in attendance. 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 members of the Board in attendance at the meeting 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.

Adopted _____
Approved by City Council _____

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. All meetings shall comply with the public notice provisions of 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. (does this come from a statute?)

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 on the Board 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 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, 11th 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 be kept in accordance with RSA 91-A and shall include the names of the members in attendance, persons appearing before the Board, all actions and motions coming before the Board including the votes of the members, and a general summary of all discussions. Draft minutes shall be provided to the City Clerk in accordance with RSA 91-A; minutes of public meetings shall be provided within five (5) business days of each meeting, and minutes of non-public meetings that have not been sealed pursuant to RSA 91-A:3 shall be provided within seventy-two (72) hours, 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. Fees. Pursuant to RSA 673:16,II, all expenses incurred by the Board in connection with any Application shall be borne solely by the Applicant, including but not limited to fees and any expenses incurred for consultant services or investigative studies (as authorized by RSA 676:5,IV), unless otherwise waived by the Board for reason of special circumstance upon written request of an Applicant.

- ~~2.3.~~ **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.

~~5.6.~~ Any person who speaks at a public hearing, other than the applicant or a direct abutter, should clearly demonstrate and explain to the Board how he or she is affected directly by the proposal under consideration.

~~6.7.~~ 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, including the approval of any conditions.
2. The application shall be approved or denied based upon a majority vote by the members of the Board hearing the application. 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, 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 making a motion to any Board member, or such motion 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*, 156 N.H. 228 (N.H. 2007). Motions for Rehearing can only be received at the Planning Department during normal business hours. See *Cardinal Development v. Winchester*, 157 N.H. 710 (N.H. 2008).

- N. Motions for Rehearing:** If the Board grants a motion for rehearing, a 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 the meeting immediately preceding the meeting at which the vote is to be taken.