

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, December 18, 2014**
Meeting Time: **7:00 pm**

1. ATTENDANCE

2. APPROVAL OF MEETING MINUTES OF NOVEMBER 20, 2014

3. HEARING

- A. * Z 14-28 Robert Paolini (Property Owner: JNM Realty Trust), #10 Harvest Drive (Tax Map K, Lot 22), located in the Thoroughfare Business (B-3) District, proposes to remove an attached garage and construct an additional living unit which will bring the total number of units on the property to eleven (11). The existing ten (10) units are non-conforming in that multi-family is only permitted in the B-3 District on the second floor or above. The applicant requests variances from (i) **Section 170-12.A** of the Zoning Ordinance and the B-3 District Table of Use and Dimensional Requirements to permit an additional multi-family unit to be located on the first floor and above, and (ii) **Section 170-40.A and B** of the Zoning Ordinance to permit the expansion of a non-conforming use.
- B. * Z 14-30 Jason Pohopek (Property Owner: John A. Valyo), 20 Gladiola Way (Tax Map A, Lot 20), located in the Rural Residential (R-40) District. The applicant proposes to subdivide the property into two lots for the purpose of creating a 78.18 acre parcel which will be deeded the City of Dover and subject to a conservation easement. The applicant requests a variance from **Section 170-12.B** of the Zoning Ordinance and the R-40 District Table of Use and Dimensional Requirements to permit the subdivision which will result in the creation of a 2.6 acre lot (containing the existing house) having 0 ft. of frontage where minimum frontage of 150 ft. is required.
- C. * Z 14-31 Richard R. and Abigail P. Lundborn, 340 Washington Street (Tax Map G, Lot 12), located in the Medium Density Residential (R-12) District, propose to subdivide the property into two lots, one of containing the existing residence with frontage on Washington Street, and the other proposed to contain a single family dwelling with frontage on Gina Way. The applicants request variances from **Section 170-12.B** of the Zoning Ordinance and the R-12 District Table of Use and Dimensional Requirements to permit (i) the Gina Way lot to have frontage of 19.5 ft. where minimum frontage of 100 ft. is required, and (ii) the Washington Street lot to have a contiguous non-wetland area of 10,610 s.f. where a minimum of 12,000 s.f. of contiguous non-wetland area is required.
- D. * Z 14-32 John Pike (Property Owners: John E. Pike and Regina K. Pike), 2 Phillip Street (Tax Map A, Lot 16-B), located in the Medium Density Residential (R-12) District, requests a variance from **Section 170-33.A** of the Zoning Ordinance to permit the installation of a fence having a height of ten (10) feet where fences may be no more than four (4) feet in height between the right of way and a parallel line with the front of the house and no more than eight (8) feet in height to the rear of the front of the house.

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

1. ATTENDANCE

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

Staff Present: Timothy Corwin (Assistant City Planner), Jean Glidden (Recording Secretary)

The Chair called the meeting to order at 7:00 p.m. He opened the meeting, introduced the Board and staff members to the audience, and described the process used to hear cases.

2. APPROVAL OF MEETING MINUTES OF OCTOBER 16, 2014

T. Corwin stated that O. Perry and B. Hall contacted him and suggested some amendments to the draft meeting minutes. He added that he incorporated the changes, as outlined in the replacement set of draft minutes submitted to the Board. He suggested either accepting them or table to the next meeting.

S. Reid confirmed with O. Perry and B. Hall that the changes have been made and they are satisfied. G. Regan added that his last name on page 3 was spelled incorrectly.

Motion: O. Perry made a motion to accept the October 16, 2014 Regular Meeting Minutes as amended. Seconded by F. Landford. Vote: U/A

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.

Public Hearing Opened

Attorney FX Bruton, representing the applicant stated that 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. The proposed home will be located outside of the 100 ft. buffer as depicted on the plan and is located within 23 ft. of the 50 ft. right-of-way. The plan also shows an abandoned well, existing septic and two sheds that will be taken out of that area. He stated that they have been before the Conservation Commission and they have endorsed the plan. The next step is a Conditional Use Permit before the Planning Board. He proceeded to read through the criteria.

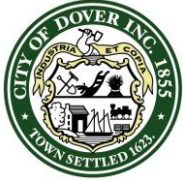
O. Perry asked who maintains the right-of-way.

Attorney Bruton said that the homeowners have a shared maintenance.

F. Landford noted that with the plan it shows that the driveway will be located further away from the abutter.

G. Green asked why they need a variance if the abutters and applicant own the right-of-way.

Attorney Bruton stated that he is asking for relief from a right-of-way that has public aspects to it and they are moving the access way. He met with staff and felt it was necessary.



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ZONING BOARD OF ADJUSTMENT - MINUTES

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STAFF RECOMMENDATION:

T. Corwin stated that the Planning Department supports the request as set forth in the staff memo. He suggested a condition that the variance be granted per plan submitted. It is important that the abutter's agreement to provide the landscaping shown on the plan will be met.

Public Hearing Closed

Motion: O. Perry made a motion to grant the variance, per the plan submitted dated November 7, 2014 and per the landscaping improvements depicted. Seconded by C. Prior, due to the fact that the applicant has met all the requirements for the variance. Vote: 5/0

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.

O. Perry stated that he went to view the property, but couldn't locate the public notice that is supposed to be posted. He added that he couldn't be sure that he located the right property.

T. Corwin stated that the applicant is not present and he tried to contact him via e-mail and informed him of the notice and gave him some options, however has not heard back from him. He added that he also asked him to submit a revised subdivision plan.

B. Hall agreed with O. Perry.

F. Landford added that he would like to see more information on the lot itself and how it will be subdivided. This is not a surveyed plan.

Motion: O. Perry made the motion to table the item. Seconded by B. Hall. Vote: 5/0

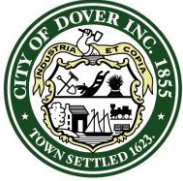
The Board requested the abutters would receive another certified mail notification if and when the case is rescheduled.

- B. * Z 14-27 Christian R. Sterndale, 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.

Public Hearing Opened

Robert Sterndale represented his son and stated that this is a century old house and he has lived there for a while and is preparing to do some serious face-lifting to the home. When he went to apply for a building permit to replace and reconstruct the enclosed porches, which are currently in disrepair, he was informed that he would need a variance. He proceeded to read through the criteria for the record.

S. Reid stated that he received an e-mail from Vaughn Cooper, abutter at 41 Forest Street, which stated he was in favor of the request.



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O.Perry asked if the intent was to remove and rebuild.

R.Sterndale said yes, they are in bad shape, so rather than repair them they will be torn off and restored to the same size, shape and footprint.

B.Hall asked whether the abutters were notified of the hearing.

Elizabeth Chamberlain, 43 Forest Street mentioned that she was notified and does not have any opposition.

F.Landford confirmed with Mr. Sterndale that he is rebuilding the entrance ways on both sides of the home however only one side requires a variance.

STAFF RECOMMENDATION:

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

Public Hearing Closed

Motion: C.Prior made the motion to grant the variance to reduce the minimum side setback from 10 ft. to 4 ft., due to the fact that the applicant has met all the requirements for the variance. Seconded by O.Perry. Vote: 5/0

5. REVIEW OF ZONING BOARD OF ADJUSTMENT RULES OF PROCEDURE

T.Corwin reviewed the rules of procedure. He stated that at the last meeting a red lined version was presented to all Board members to view. In front of you is another red lined version that just shows the suggested changes from the last meeting. He mentioned an e-mail that he sent which included an attachment from North Hampton and their rules of procedure. He added that B.Hall had suggested one or two things from their rules, which the Board may want to consider incorporating into the rules.

Discussion took place regarding the appeal process, site visits and time limits on variances.

B.Hall commented on page 6, item I, applications and decisions. Decision is actually paragraphed A, and it should read applications.

G.Green added that page 5, part D refers to Roberts Rules, you are citing the current most up to date revision, but wouldn't it be better to say "The Board is using the current addition of Roberts Rule of Order". It would simplify that you wouldn't have to go back and change the text.

B.Hall disagreed as the Board may not choose to adopt them.

S.Reid asked T.Corwin to find out what edition other boards use.

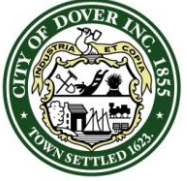
B.Hall said that we should be consistent.

O.Perry suggests a completed set of rules without the red lines to view at the next meeting.

T.Corwin reviewed their discussed changes.

6. ADJOURN

Motion: O.Perry made the motion to adjourn at 8:01 p.m. Seconded by B.Hall. Vote: U/A



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z14-28)

Application Type:	Variance
Applicants:	Robert Paolini
Owner:	JNM Realty Trust
Location:	#10 Harvest Drive (Lot K-22)

INTENT: 10 Harvest Drive is a condominium unit that is part of an existing ten (10) dwelling unit development. 10 Harvest Drive includes an attached garage. The applicant proposes to replace the garage with an additional dwelling unit bringing the total number of dwelling units for this development to eleven (11). A variance is required from the B-3 District requirements which do not allow residential on the first floor of a building. For the same reason, the additional dwelling unit requires a variance to permit the expansion of a non-conforming use.

UNITS PROPOSED: one new residential

AGENDA ITEM #: 3-A

ZONING DISTRICT: B-3

EXISTING LAND USE: Multi-Family Residential

PROPOSED LAND USE: Multi-Family Residential

SURROUNDING LAND USE: Commercial, Single and Multi-Family Residential, Cemetery

PREVIOUS ZBA ACTION: Z05-15 – special exception approved for 7 multi-family units; Z06-20 – special exception approved for 3 additional multi-family units

PLANNING BOARD APPROVAL REQUIRED: Yes

ATTACHMENTS: Application, site plan

APPLICATION IS COMPLETE: Yes

NOTICES AS REQUIRED: Yes

STAFF RECOMMENDATION:
The Planning Department recommends that the Board approve the variance as requested.

Summary of Request and Background

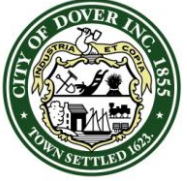
10 Harvest Drive is a condominium unit that is part of an existing ten (10) dwelling unit development. 10 Harvest Drive includes an attached garage. The applicant proposes to replace the garage with an additional dwelling unit bringing the total number of dwelling units for this development to eleven (11). The B-3 District requirements do not allow residential on the first floor of a newly constructed building. The existing units are non-conforming in that they are residential only and do not contain any commercial uses on the first floor or otherwise. The proposed unit is likewise exclusively residential. Therefore, variances are required from (i) **Section 170-12.A** of the Zoning Ordinance and the B-3 District Table of Use and Dimensional Requirements to permit an additional multi-family unit to be located on the first floor and above, and (ii) **Section 170-40.A and B** of the Zoning Ordinance to permit the expansion of a non-conforming use.

Reason for Staff Recommendation

Multi-family dwellings are a permitted use in the B-3 District by special exception. Only two specific criteria apply: 1) that the lot contain 5,000 s.f. per dwelling unit, and 2) that dwelling units are only allowed in the second story or higher of a newly constructed structure. Using these metrics as a guideline for staff's recommendation, the lot will continue to meet the 5,000 s.f. density requirement with the addition of the 11th unit. With respect to the second floor or higher requirement, the unit is proposed to be located in the same footprint as an existing garage, and is located to the rear of the lot out of view from Dover Point Road. It's location is not conducive to commercial use, and therefore the application of the second story or higher requirement to the proposed 11th unit would be nonsensical. Because this requirement is not met, the applicant cannot apply for a special exception. Nevertheless, staff supports the variance request for the 11th unit because it is consistent with the existing use of the lot and it meets the spirit and intent of the multi-family dwelling special exception criteria.

Recommendation

The Planning Department recommends that the Board approve the variance as requested, with the condition that, in the future, no additional dwelling units shall be allowed on the property on which 10 Harvest Drive is located (being Tax Map K, Lot 22).



CITY OF DOVER

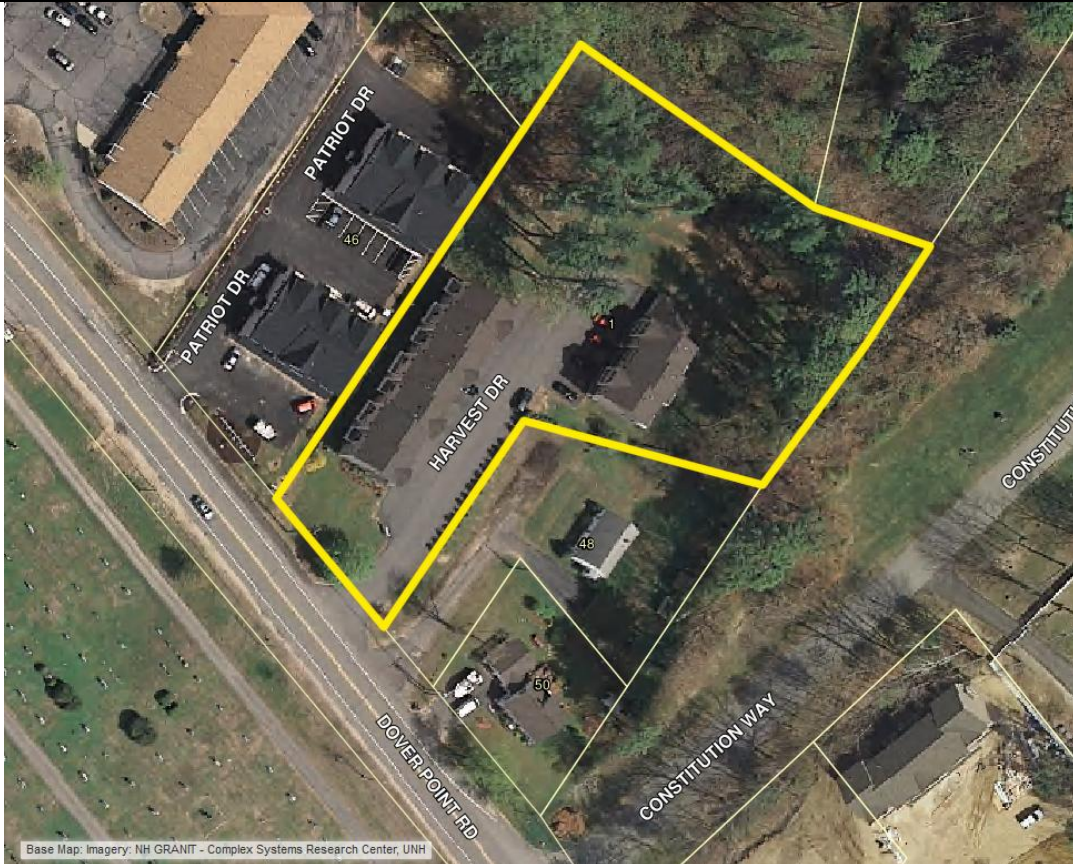
ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z14-28)

Application Type: Variance
Applicants: Robert Paolini
Owner: JNM Realty Trust
Location: #10 Harvest Drive (Lot K-22)

BELOW IS A BIRD'S EYE VIEW OF THE PROPERTY



BELOW IS AN AERIAL VIEW OF THE PROPERTY



Base Map: Imagery: NH GRANIT - Complex Systems Research Center, UNH



City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Adopted: August 16, 2012]

RECEIVED
Planning Office

Office Use Only Case #: 14-28 Date Received: Nov 24 2014
Amount Paid: \$ 395 Time Received: Dover, New Hampshire
ck # 3045

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: Robert Paolini Phone # 603-781-1636

Address of Applicant: 15 Briarwood Lane, Dover, NH 03820

E-Mail Address: crownpoint62@yahoo.com

PROPERTY OWNER (if different from applicant): Robert Paolini, Trustee JNM Realty Trust

Address: 15 Briarwood Lane, Dover, NH 03820 Phone # 603-781-1636

E-Mail Address: crownpoint62@yahoo.com

PROPERTY/PARCEL INFORMATION

Address: Harvest Drive

Brief Directions: Dover Point Road, next to Market Square Condominiums and just past Dover Point Office Park

Zoning District: B-3 Assessor's Map # K Lot(s) # 22

TYPE OF APPEAL: (Please check one)

- XX Variance from Section 170-12 & 40 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 convert a garage into a townhouse unit to create a duplex structure, to bring the total number of units to 11.

VARIANCE REQUIREMENTS

THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY

A. Variance Requested

A variance is requested from Section(s) 170-12A & 40 A+D of the Zoning Ordinance to permit:

Construction and use of 1 additional residential townhouse units with residential living space on the first floor.

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 to promote consistency among nearby structures. The existing 10 townhouse units in this condominium were approved and constructed before the zoning ordinance was changed to provide that dwelling units would be allowed in the B-3 zone only in the second story or higher. The existing units have residential space on the first floor level. The proposed unit will be created on the foundation for the garage for Unit 10, and requiring commercial or office use on the first floor would be inconsistent with the residential character of this condominium.

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

Allowing residential use on the ground level of the proposed new unit will allow it to have a consistent appearance and use as the existing units in this condominium.

3. Granting the variance would do substantial justice because:

The proposed use will be more consistent with the existing uses in this condominium. Requiring commercial or office use on the first floor in a unit that will be attached to other units would result in increased traffic and would adversely affect the residential character of the condominium.

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

The existing units in this condominium do not have commercial or office space on the first floor. The variance will allow the new unit to have use and appearance that is more consistent with the existing residential units.

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 an existing residential condominium project which does not have commercial or office uses on the first floor of the existing units.

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 mixed use projects. However, this is an existing residential condominium that was approved and constructed before the ordinance was changed to require mixed use. Requiring commercial or office use in the proposed units would be inconsistent with the existing buildings and uses in the condominium.

and

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

It will be consistent with existing uses in this condominium.

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:

SPECIAL EXCEPTION REQUIREMENTS

THIS SECTION TO BE COMPLETED BY SPECIAL EXCEPTION APPLICANTS ONLY

A. General Special Exception Requirements (as set forth in §170-52.C.3 of the Zoning Ordinance)

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

Multi-family use is permitted in the B-3 zoning district. The residents of Dover Point have expressed a preference for residential development of this area. The additional unit will provide needed and desirable housing for the southern side of the City of Dover.

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

The traffic generated from 1 new residential unit will be minimal and negligible compared to existing traffic flow on Dover Point Road. The characteristics of the traffic generated from the proposed additional unit will not create any pedestrian safety concern.

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

The proposed unit will place little additional demand on existing municipal systems. Existing municipal infrastructure systems have more than adequate capacity to handle the proposed water and sanitary sewer service demands.

B. Specific Special Exception Requirements (as may be set forth in the applicable Table of Use)

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

A. The lot has sufficient size to meet the requirement of 5,000 square feet per unit.

B. The original 7 units in this condominium were approved in 2005 with a condition which provided that no further development of the lot would be allowed. Additional land was later added to the lot and a special exception was granted in 2006 to allow 3 units on the new lot. The

C. proposed new unit will be located adjacent to Unit 10 and will be located on that new lot, which is not subject to the condition of no further development.

D.

E.

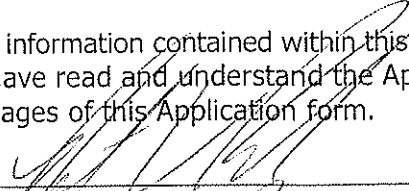
F.

SIGNATURE PAGE

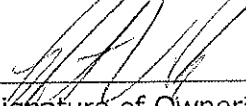
THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS

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*

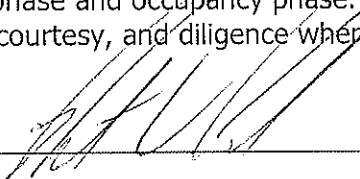


Signature of Owner*

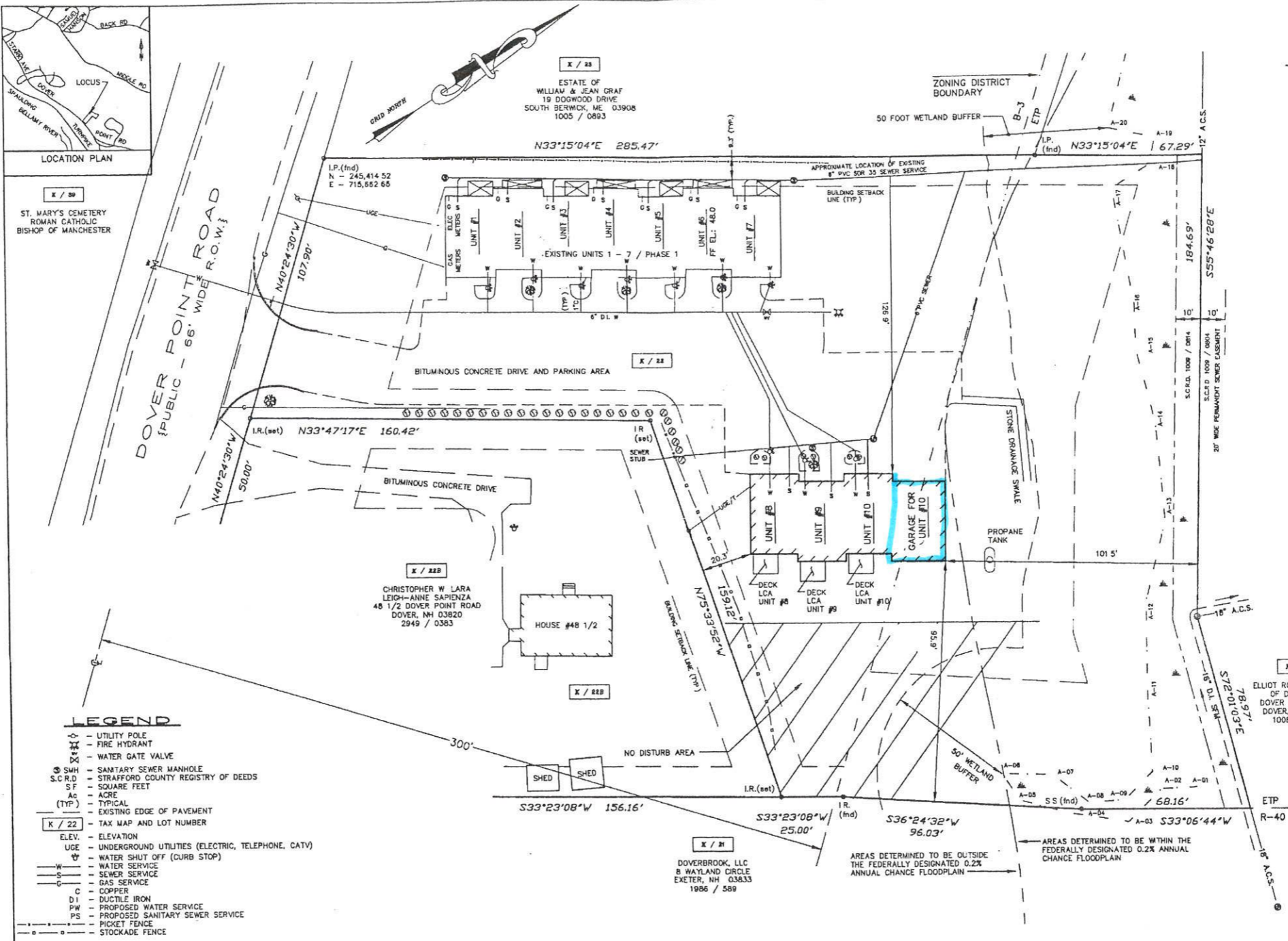
*Both Signatures Required

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: 11/19/2014

For Registry of Deeds Use



- REFERENCE PLANS:**
- 1) AMENDED CONDOMINIUM SITE PLAN OF HARVEST PLACE CONDOMINIUMS PREPARED FOR HARVEST PLACE CONDOMINIUM ASSOC. TAX MAP K, LOT No. 22, 48 DOVER POINT ROAD, CITY OF DOVER, COUNTY OF STRAFFORD, STATE OF NEW HAMPSHIRE. SCALE: 1" = 20'; DATED: FEBRUARY 23, 2007; RECORDED S.C.R.D. PLAN 90-39.
 - 2) AS-BUILT CONDOMINIUM SITE PLAN OF HARVEST PLACE CONDOMINIUMS PREPARED FOR PAOLINI BROTHERS DEVELOPMENT, LLC, TAX MAP K, LOT No. 22, 48 DOVER POINT ROAD, CITY OF DOVER, COUNTY OF STRAFFORD, STATE OF NEW HAMPSHIRE. SCALE: 1" = 20'; DATED: MAY 26, 2008; RECORDED S.C.R.D. PLAN 85-93.
 - 3) LOT LINE ADJUSTMENT PLAN PREPARED FOR PAOLINI BROTHERS DEVELOPMENT, LLC AND ELLIOTT ROSE COMPANY OF DOVER, INC., TAX MAP K, LOT Nos. 19 & 22, 48 DOVER POINT ROAD, CITY OF DOVER, COUNTY OF STRAFFORD, STATE OF NEW HAMPSHIRE. SCALE: 1" = 40'; DATED: AUGUST 31, 2005; REV. TO 9/20/2005; BY THIS OFFICE RECORDED S.C.R.D. PLAN 83-88.
 - 4) LOT LINE ADJUSTMENT PLAN PREPARED FOR CHRISTOPHER W. LARA & LEIGH-ANNE SAPIENZA AND HARVEST PLACE CONDOMINIUM ASSOCIATION, TAX MAP K, LOT Nos. 22 & 22B, 48 & 48 1/2 DOVER POINT ROAD, CITY OF DOVER, COUNTY OF STRAFFORD, STATE OF NEW HAMPSHIRE. SCALE: 1" = 20'; DATED: SEPTEMBER 6, 2006; BY THIS OFFICE; RECORDED S.C.R.D. PLAN 89-49.

- NOTES:**
- 1) OWNER OF RECORD:
 HARVEST PLACE CONDOMINIUM OWNERS' ASSOCIATION
 15 BRIARWOOD LANE
 DOVER, NEW HAMPSHIRE 03820
 S.C.R.D. VOL. 2974, PAGE 0921
 S.C.R.D. VOL. 3319, PAGE 0293
 - 2) TOTAL PARCEL AREA = 89,021 SF / 1.58 Ac
 - 3) VERTICAL DATUM - NAVD 88
 - 4) BASIS OF BEARINGS - REFERENCE PLAN (CITY OF DOVER G.I.S.)
 - 5) THE INTENT OF THIS PLAN IS TO SHOW THE AS-BUILT SITE CONDITIONS FOR THE THREE (3) CONDOMINIUM UNITS #8 THROUGH #10 OF HARVEST PLACE CONDOMINIUMS. REFERENCE IS MADE TO S.C.R.D. VOLUME 3503, PAGE 418 AND S.C.R.D. PLAN 90-39
 - 6) ZONING DISTRICT IS B-3 (THOROUGHFARE BUSINESS DISTRICT)
 MINIMUM LOT SIZE = 20,000 S.F.
 BUILDING SETBACK REQUIREMENTS:
 FRONT = 125 FEET
 REAR = 50 FEET
 SIDE ABUT A LOT = 15 FEET
 SIDE ABUT A STREET = 12 FEET
 SIDE ABUT A RESIDENTIAL USE = 50 FEET
 MAXIMUM LOT COVERAGE = 20 FEET
 MAXIMUM BUILDING HEIGHT = 50 PERCENT
 40 FEET
 - 7) A PORTION OF THE SUBJECT PARCEL IS LOCATED WITHIN A FEDERALLY DESIGNATED 100 YEAR FLOOD HAZARD AREA AS SHOWN HEREON.

- LEGEND**
- U - UTILITY POLE
 - FH - FIRE HYDRANT
 - WV - WATER GATE VALVE
 - SMH - SANITARY SEWER MANHOLE
 - S.C.R.D. - STRAFFORD COUNTY REGISTRY OF DEEDS
 - SF - SQUARE FEET
 - Ac - ACRE
 - (TYP) - TYPICAL
 - - EXISTING EDGE OF PAVEMENT
 - K / 22 - TAX MAP AND LOT NUMBER
 - ELEV. - ELEVATION
 - UGE - UNDERGROUND UTILITIES (ELECTRIC, TELEPHONE, CATV)
 - W - WATER SERVICE
 - S - SEWER SERVICE
 - G - GAS SERVICE
 - C - COPPER
 - DI - DUCTILE IRON
 - PW - PROPOSED WATER SERVICE
 - PS - PROPOSED SANITARY SEWER SERVICE
 - - PICKET FENCE
 - - STOCKADE FENCE

HARVEST PLACE CONDOMINIUM UNIT OWNERS

UNIT #1	UNIT #2	UNIT #3	UNIT #4
JULIA A. BOYNTON 1 HARVEST ROAD DOVER, NH 03820 S.C.R.D. 3390 / 552	CHERYL HAROAN WELLY SUJANDI 7 HARVEST ROAD DOVER, NH 03820 S.C.R.D. 3400 / 16	ADAM HENKER GEORGIA HENKER 3 HARVEST ROAD DOVER, NH 03820 S.C.R.D. 3548 / 795	LINDA J. STAFFORD ROBERT R. STAFFORD 4 HARVEST ROAD DOVER, NH 03820 S.C.R.D. 3417 / 585
UNIT #5	UNIT #6	UNIT #7	
KELLY A. MOORE 5 HARVEST ROAD DOVER, NH 03820 S.C.R.D. 3421 / 293	JUSTIN M. ROGERS 6 HARVEST ROAD DOVER, NH 03820 S.C.R.D. 3391 / 94	ROBIN HESS 7 HARVEST ROAD DOVER, NH 03820 S.C.R.D. 3383 / 30	

"I HEREBY CERTIFY THAT THIS SITE PLAN IS ACCURATE AND COMPLIES WITH RSA 356-B:20 I. UNITS 8 THROUGH 10 AND THE GARAGE FOR UNIT 10 DEPICTED HEREON ARE "COMPLETE".

"I HEREBY CERTIFY THAT THIS PLAN IS THE RESULT OF A FIELD SURVEY BY THIS OFFICE WHICH HAS A MAXIMUM ERROR OF CLOSURE OF 1 PART IN 15,000."

"I CERTIFY THAT THIS SURVEY PLAT IS NOT A SUBDIVISION PURSUANT TO THIS TITLE AND THAT THE LINES OF STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED AND THAT NO NEW WAYS ARE SHOWN." (RSA 676:15)

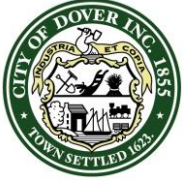
7/27/07
 DATE: / KEVIN W. McNEANEY LLS #661

**AS-BUILT CONDOMINIUM SITE PLAN
 PHASE 2
 HARVEST PLACE CONDOMINIUMS
 PREPARED FOR
 HARVEST PLACE CONDOMINIUM ASSOC.
 TAX MAP K, LOT No. 22
 48 DOVER POINT ROAD
 CITY OF DOVER
 COUNTY OF STRAFFORD
 STATE OF NEW HAMPSHIRE**

DRAWN BY: KJP FILE: P:\1615\05-1615-02-ps
 SCALE: 1" = 20' DATE: JULY 27, 2007

McNeaney Survey Associates, inc.
 P.O. Box 681 - 24 CHESTNUT STREET
 DOVER, NH 03820 (603) 742-0911
 SURVEYING - PLANNING - CONSULTING

05-1615	CONDO SITE	04-12	76
PROJECT NO	TYPE	FIELDBOOK & PAGES	
For Registry of Deeds Use			



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z14-30)

Application Type: Variance
Applicants: Jason Pohopek
Owner: John A. Valyo
Location: 20 Gladiola Way (Tax Map A, Lot 20)

INTENT: The subject property consists of 80.77 acres and is improved with a single family residence. The property has approximately 603 ft. of frontage on Sixth Street, but the home is accessed by a driveway that extends from the adjacent lot at 22 Gladiola Way. The applicant proposes to subdivide the property into a 2.6 acre lot containing the existing home and a 78.17 acre parcel to be deeded to the City of Dover for conservation purposes. A variance is required to create the 2.6 acre lot which will have 0 ft. of street frontage where a minimum of 150 ft. is required.

UNITS PROPOSED: n/a

AGENDA ITEM #: 3-B

ZONING DISTRICT: R-40

EXISTING LAND USE: Single Family Residential

PROPOSED LAND USE: Single-Family Residential and Conservation Lot

SURROUNDING LAND USE: Single Family Residential

PREVIOUS ZBA ACTION: None

PLANNING BOARD APPROVAL REQUIRED: Yes

ATTACHMENTS: Application, subdivision plan

APPLICATION IS COMPLETE: Yes

NOTICES AS REQUIRED: Yes

STAFF RECOMMENDATION:
The Planning Department recommends that the Board approve the variance as requested.

Summary of Request and Background

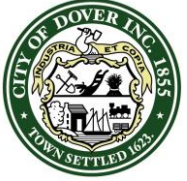
The subject property consists of 80.77 acres and is improved with a single family residence. The property has approximately 603 ft. of frontage on Sixth Street, but the home is accessed by a driveway that extends from the adjacent lot at 22 Gladiola Way. The applicant proposes to subdivide the property into a 2.6 acre lot containing the existing home and a 78.17 acre parcel to be deeded to the City of Dover for conservation purposes. A variance is required from **Section 170-12.B** of the Zoning Ordinance and the **R-40 District Table of Use and Dimensional Requirements** to permit the subdivision which will result in the creation of a 2.6 acre lot (containing the existing house) having 0 ft. of frontage where minimum frontage of 150 ft. is required.

Reason for Staff Recommendation

The sole reason for this subdivision is to create a lot to be held by the City of Dover in perpetuity for conservation purposes. The subdivision will create a 2.6 acre lot that has no street frontage. However, because this lot is already improved with a single family residence, the importance of meeting the minimum street frontage requirement is diminished. Moreover, there is a strong overriding public benefit derived from the deeding of the 78.17 acre lot to the City of Dover. It is staff's view that this benefit significantly outweighs the street frontage deficiency of the proposed lot. For these reasons, staff supports the variance requests.

Recommendation

The Planning Department recommends that the Board approve the variance as requested.

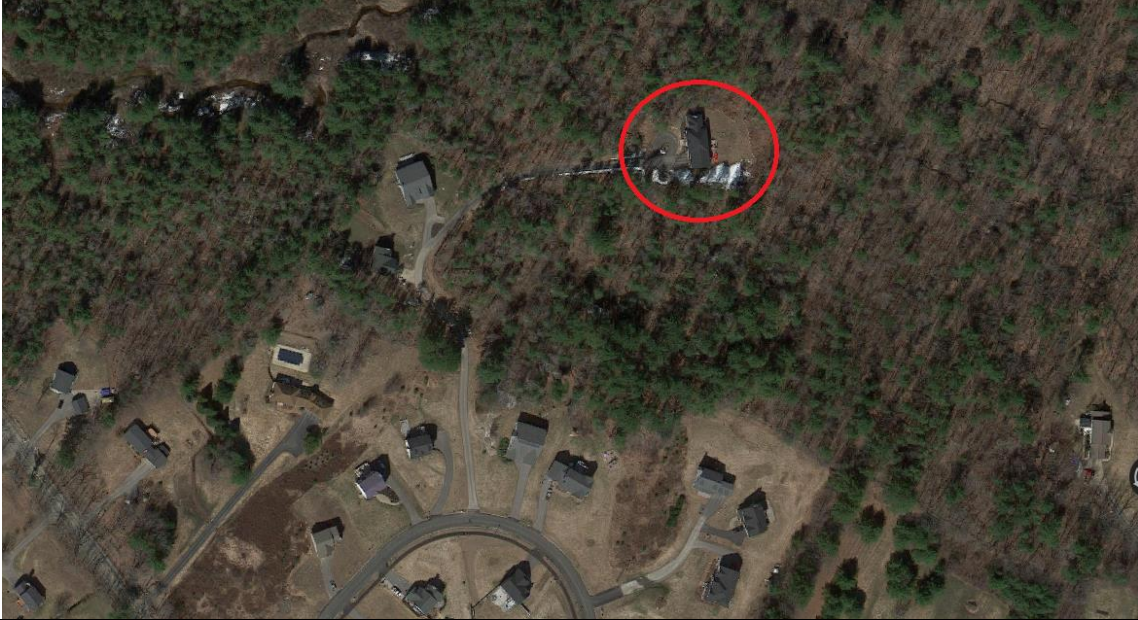


CITY OF DOVER

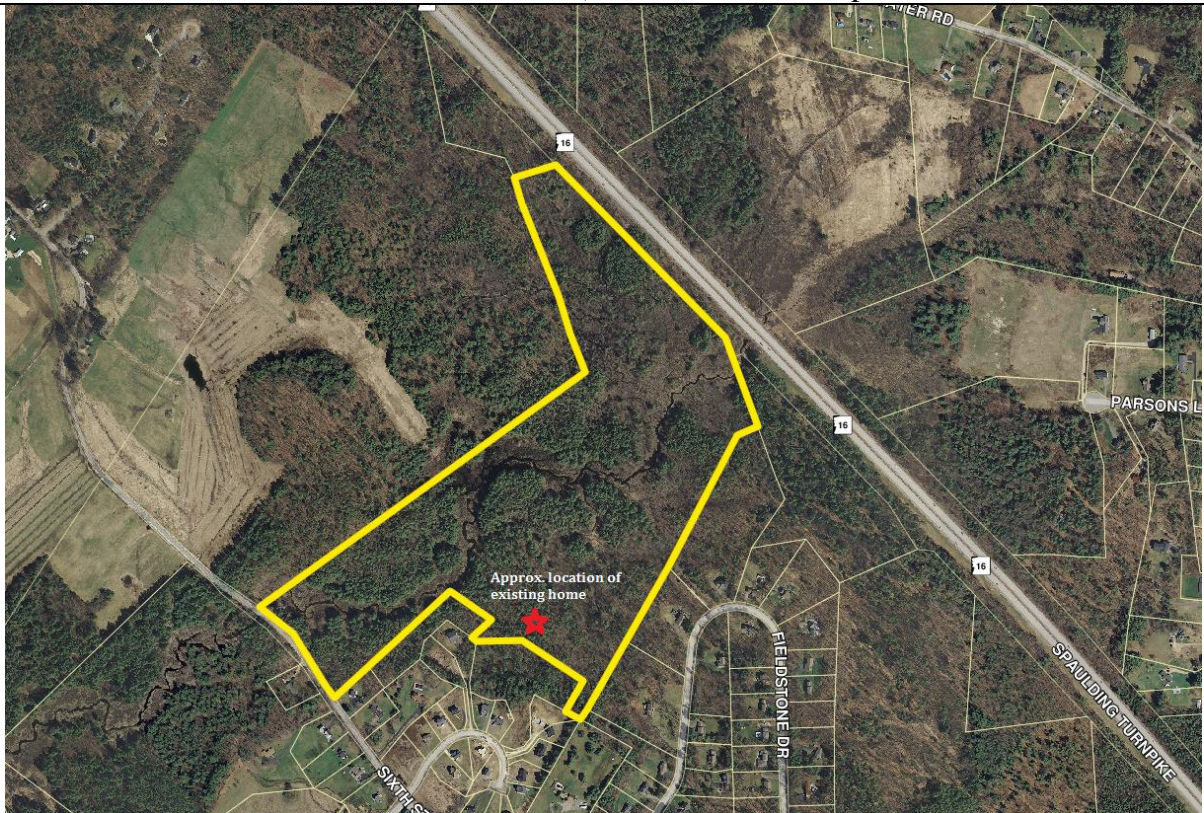
ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z14-30)

Application Type: Variance
Applicants: Jason Pohopek
Owner: John A. Valyo
Location: 20 Gladiola Way (Tax Map A, Lot 20)

BELOW IS AN AERIAL VIEW OF THE HOME AT 22 GLADIOLA WAY



BELOW IS AN AERIAL VIEW OF THE PROPERTY (Photo taken in 2010 prior to construction of home)





City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Adopted: August 16, 2012]

Office Use Only Case #: Z14-30 Date Received: RECEIVED Planning Office DEC - 3 2014 Amount Paid: \$ Time Received: Dover, New Hampshire

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: JASON POHOPEK Phone # 603 842-2467

Address of Applicant: PO Box 651, BARRINGTON, NH 03825

E-Mail Address: j46p@yahoo.com

PROPERTY OWNER (if different from applicant): JOHN VALYO

Address: #20 GLADIOLA WAY, DOVER, NH Phone # 603 512-0946

E-Mail Address: johnvaylo@me.com

PROPERTY/PARCEL INFORMATION

Address: #20 GLADIOLA WAY

Brief Directions: OFF OF SIXTH STREET OPPOSITE FROM COUNTY FARM CROSS ROAD

Zoning District: R-40 Assessor's Map # A Lot(s) # 28-20

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:

THE APPLICANT WISHES TO SUBDIVIDE OFF THE UNDEVELOPED PORTION OF HIS LARGE LOT SO THAT HE MAY DONATE IT TO THE CITY.

VARIANCE REQUIREMENTS

THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY

A. Variance Requested

A variance is requested from Section of the Zoning Ordinance to permit:

Granting the requested variance would allow the applicant to subdivide his 80.77 acres lot into two lot. One proposed lot would include 2.60 acres and would encompass the existing development on the lot including the house, well, septic and driveway. The second lot would be the undeveloped portion of the lot consisting of 78.17 acres.

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 applicant is proposing no further development than that which exists today on this subject parcel. Initially the applicant attempted to place a conservation easement on the remaining 78.17 acres portion with the intention of donating it to the City of Dover after. Follow a compliance review by the city, it was brought to the attention that both lots did not conform with the road frontage requirement in zoning. The developed portion of the lot, where the applicant dwelling is located, is currently accessed via a common driveway from Gladiola Way.

Since there is substantial changes proposed to the land than what currently exists today, it is our belief that waiving the terms of the Ordinance will not be contrary to the public interest.

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

After the concept was review by the City of Dover Planning Department and the issue of road frontage was discovered a simple solution was offered and could be executed, but is far from reasonable from a sensible perspective. The solution was to alter the boundary lines so that Lot 28-20-1, the developed 2.60 acres lot, included additional lands that would act as a bottleneck that extended to Sixth Street and the road frontage requirement could be satisfied. On paper it works, but considering the existing conditions in the area that would be added to this already developed lot, makes this alternative unreasonable. Beyond the point that this lot already has permitted driveway access off of Gladiola Way, this land that would need to be added to this lot contains many of the features that the applicant is trying to protect as part of this process and those very features would make it difficult, if not impossible, to access Sixth Street, with a driveway through these additional lands. It is our belief that the strict enforcement of the Ordinance, in this unique circumstance, is not in line with the spirit of the ordinance and is actually prohibiting the applicant from protecting some of the resources that the ordinance it intended to protect.

3. Granting the variance would do substantial justice because:

The substantial justice that would be created by the granting of this variance would be multifaceted. First, it would eliminate the undue burden of the applicant, whom is also a resident, by not making him

include unnecessary lands in his already developed lot. Secondly, it would allow for these lands to be included in the lands that are planned for a conservation easement and eventual donation to the City of Dover.

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

This variance request would allow for the applicant to proceed to subdivide his land in a manner that resulted in literally no change to the existing development of the subject parcel. In addition, it would essentially guarantee that these lands would be protected in their existing state for eternity. With these facts present in this proposal, it would be hard for one to come up with a case that claims that the granting of this variance would diminish the value of any of the surrounding properties. Rather, it is our opinion that granting this variance and allowing the applicant to protect this land as outlined herein, that it would actually increase the value of the surrounding properties by guaranteeing no further development on this subject parcel and guaranteeing the abutters the privacy that they currently enjoy as the result of the rural nature of this lot for eternity.

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

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

The property consists of 80.77 acres. The property has two main tributaries that run through it and is encumbered by wetlands that are associated with those tributaries that occupy the majority of the subject parcel. The applicant, as well as others, wishes to protect those resources and is trying to do so through this process.

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:

In all ordinances there is lot size requirements set forth. The main objective of this portion of any ordinance is to control density. This proposal, for which this variance is sought, does not increase density.

and

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

The proposed use is a reasonable one because it allows the owner, the City of Dover, and the abutter the ability to obtain a common goal; to protect this land in its existing state for eternity.

Thank you for your consideration of this variance request!

Sincerely,

John A. Valyo

SIGNATURE PAGE

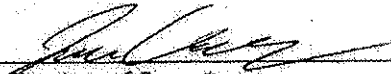
THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS

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

IMPORTANT

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


Signature of Applicant*


Signature of Owner*

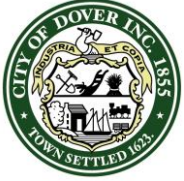
*Both Signatures Required

AUTHORIZATION TO ENTER SUBJECT PROPERTY

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

Signature of Property Owner: 

Date: 12/3/14



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z14-31)

Application Type: Variance
Applicants: Richard R. and Abigail P. Lundborn
Owner: Richard R. and Abigail P. Lundborn
Location: 340 Washington Street (Tax Map G, Lot 12)

INTENT: The subject property contains 1.49 acres and is improved with a single family home. The applicants propose to subdivide the lot creating a 0.69 acre parcel with frontage on Washington Street for the existing home, and a 0.82 acre parcel with frontage on Gina Way for a proposed single family home. Variances are required to permit the Gina Way lot to have frontage of 19.5 ft. where a minimum of 100 ft. is required, and to permit the Washington Street lot to have a contiguous non-wetland area of 10,610 s.f. where a minimum of 12,000 s.f. is required.

UNITS PROPOSED: one new single family residence

AGENDA ITEM #: 3-C

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, letter from applicant, subdivision plan

APPLICATION IS COMPLETE: Yes

NOTICES AS REQUIRED: Yes

STAFF RECOMMENDATION:
The Planning Department recommends that the Board grant the variance.

Summary of Request and Background

The subject property contains 1.49 acres and is improved with a single family home. The applicants propose to subdivide the lot creating a 0.69 acre parcel with frontage on Washington Street for the existing home, and a 0.82 acre parcel with frontage on Gina Way for a proposed single family home. Variances are required from Section 170-12.B of the Zoning Ordinance and the R-12 District Table of Use and Dimensional Requirements to permit (i) the Gina Way lot to have frontage of 19.5 ft. where minimum frontage of 100 ft. is required, and (ii) the Washington Street lot to have a contiguous non-wetland area of 10,610 s.f. where a minimum of 12,000 s.f. of contiguous non-wetland area is required.

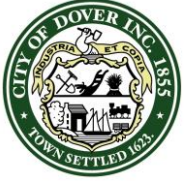
Reason for Staff Recommendation

The property is unique in that the majority of the lot is separated from the improved portion of the lot by a stream. This renders the majority of the lot essentially unusable. From a planning perspective, the proposed boundaries for both lots are logical in that they recognize what will in fact function as each dwelling's back yard. The Washington Street lot meets exceeds the minimum 12,000 s.f. upland area requirement, but a small portion of this area is discontinuous to the rest. Given this and the fact that the house on the proposed Washington Street lot has already been constructed, staff supports the lot area variance request.

With respect to the frontage variance for the proposed Gina Way lot, it will in fact have the minimum required frontage once Gina Way is extended (which is the City's long term vision and which will now be made even more possible by the granting of the access easement to the City as shown on the plan). The proposed lot and house also mirrors the lot and house at 6 Gina Way which likewise has only minimal street frontage. For these reasons, staff also supports the frontage variance request.

Recommendation

The Planning Department recommends that the Board grant the variance, per the plan submitted, and subject to the easement granted to the City of Dover for the continuation of Gina Way as depicted on the plan.



CITY OF DOVER

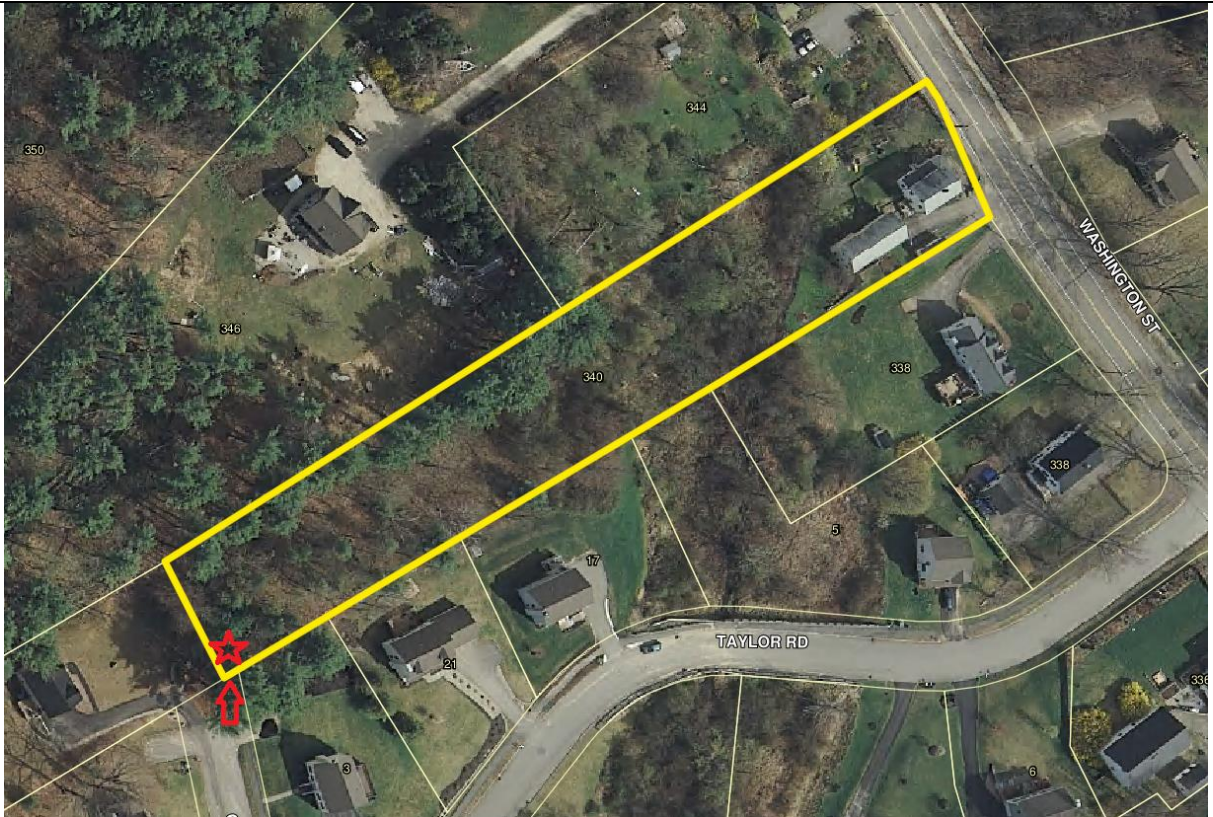
ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z14-31)

Application Type: Variance
Applicants: Richard R. and Abigail P. Lundborn
Owner: Richard R. and Abigail P. Lundborn
Location: 340 Washington Street (Tax Map G, Lot 12)

BELOW IS A STREET VIEW OF THE SUBJECT PROPERTY (vantage point shown with red arrow and star below)



BELOW IS AN AERIAL VIEW OF THE LOCATION





City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Adopted: August 18, 2012] RECEIVED Planning Office

Office Use Only Case #: Z14-31 Date Received: DEC - 3 2014
Amount Paid: \$ Time Received: Dover, New Hampshire

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: Richard & Abigail Lundborn Phone # 603-740-0810

Address of Applicant: 340 Washington Street, Dover, NH 03820

E-Mail Address: rrlundbo@myfairpoint.net

PROPERTY OWNER (if different from applicant):

Address: Phone #

E-Mail Address:

PROPERTY/PARCEL INFORMATION

Address: 340 Washington Street, Dover, NH 03820

Brief Directions: From the intersection with Central Ave. head south on Washington St. Bear right at the intersection with Arch St., staying on Washington, just before the intersection with Fourth St., 340 Washington will be on your left.

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

TYPE OF APPEAL: (Please check one)

- Variance from Section
X Physical Disability Variance (RSA 674:33-V) from Section 170-12(B) of the Zoning Ordinance
Special Exception per Section
Appeal of Administrative Decision regarding Section
Equitable Waiver per Section

DESCRIBE BRIEFLY YOUR PLANS FOR THE PROPERTY:

We would like to subdivide Map G Lot 12 into 2 parcels (Map G lot 12 and Lot 12-B see plans). Currently Lot 12 has frontage on Washington St. When Taylor Road/Gina Way were developed Gina Way was stopped at the shared property corner with Map G Lot 12-A. Lot 12-A was a land locked parcel until Gina Way was created, now it has 30.43-ft of frontage on Gina Way. Lot 12 (340 Washington St. was provided 19.48-ft of frontage on Gina Way. Gina Way Development, LLC developed Lot 12-A in 2009. At that time the developer was asked to place an easement for the extension of Gina Way along the 103.10-ft shared property line with lot 12. They were then allowed to construct a driveway to the home built on lot 12-A. We would like to do the same on what would be lot 12-B (the new lot broke off of Lot 12). The new lot would be used to build a home for our family and my in-laws, David and Joan Parent. This will require a variance to the frontage requirement.

VARIANCE REQUIREMENTS

THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY

A. Variance Requested to 170-12(B), R-12 Frontage Requirement

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

A variance is requested to 170-12(B) Medium Density Residential (R-12) Table frontage requirement of 100-ft. This variance is necessary to allow for the 19.48-ft of frontage provided on Gina Way to be used as frontage for a new lot, Map G Lot 12-B on the submitted plan. Currently, Map G Lot 12 has frontage on Washington Street.

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:

Waiving the terms of the Ordinance will not be contrary to the public interest because Map G Lot 12-A (Treadwell) a previously landlocked lot was developed under similar circumstances, deficient frontage (33.48-ft), When the developer, Gina Way Development, LLC purchased Map G Lot 12-A from JBJ Trust, the purpose was construct one more home in the Taylor Road/Gina Way subdivision which Gina Way Development, LLC aka Steve Franciosa owned at the time. The City allowed Gina Way Development, LLC to pull a building permit, and requested that an easement for Right of Way be granted to the City of Dover for the extension of Gina Was in the future. This occurred late 2008 early 2009.

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

As discussed in the item above, Map G lot 12-A was granted relief as a landlocked lot becoming more compliant with the ordinance and Gina Way Development LLC was required only to place an easement for Right of Way on the lot. Map G Lot 12-a still only has 33.48-ft of frontage on Gina Way and is accessed by a driveway.

We propose to do the same, provide the remaining easement to allow for the extension of Gina Way onto properties north of our own (Map G Lot 12) by other interested parties, we will then also access our property by a driveway off of Gina Way.

3. Granting the variance would do substantial justice because:

Granting the variance would do substantial justice because it would allow my family to subdivide Map G Lot 12 into two lots. The new lot (Map G Lot 12-B) is to be occupied by a home that is being specially designed to house my wife Abbi our daughters Betty and Josephine and our in-laws David and Joan Parent. David has been diagnosed with Parkinson's Disease, Joan has been diagnosed with ALS (Lou Gehrig's Disease). As such, they will require long term care in the future, care that Abbi and I would like to provide in our home. We looked at adding on to the existing home on Map G Lot 12. This is not possible due to the wetland that crosses the width of the lot and the setbacks that go along with that wetland. The back 8.5 Acres of our 1.51 Acre lot are free of wetlands however. By building on a new lot off of Gina Way we will be able to live with my in-laws, providing the care they will need in the future. This variance would do substantial justice.

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

The value of the surrounding properties will not be diminished because, the proposed lot will be occupied by a like use, a residence.
The proposed lot will be of more than ample size under the ordinance and any new structure will be able to be built within the ordinance's setbacks.

Antecdotally, the value of Map G Lot 12, our lot, went up when Taylor Road and Gina Way were built. Therefore, one would assume a similar, albeit smaller effect to occur in this instance with the properties abutting the proposed new lot.

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:

Map G Lot 12 is 1.51 Acres. in zone R-12, particularly in the section of town in which we reside this is a rarity. Map G Lot 12 has frontage on both Washington Street and Gina Way. By providing the remaining section of Right of Way to the City of Dover to allow for the extension of Gina Way by an interested party, it is very likely the new lot shown as Map G Lot 12-B will only need the variance for a short time before someone subdivides the properties further north and extends Gina Way. At that time the new lot, Lot 12-B, would have the required frontage. Due to its large size and frontage on two streets, Map G, lot 12 is unique, when compared to the properties surrounding it.

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:

As stated above, Map G Lot 12-A was allowed to be developed with sub-standard frontage only because it was previous to Gina Way landlocked. That lot still has substandard frontage. This situation is only different in the fact that Map G Lot 12-B would be newly created by subdivision.

Where we, the applicant, are willing to provide the remaining easement for extension of Gina Way as did Gina Way Development when pulling their building permit for Lot 12-A, there is no fair or substantial relationship existing between the specific application of the ordinance provision and the property.

and

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

The proposed use is reasonable because it will be a like use to those surrounding it, a residence, further, the proposed residence will be on a property larger than those surrounding it, making construction within the necessary setbacks easier to perform.

Granting the variance will also allow us to utilize land that we have owned for 13 years, but had no real way to access from our home due to the wetland that crosses our property.

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:

VARIANCE REQUIREMENTS

THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY

A. Variance Requested 170-12(B), R-12 Minimum Lot Size Requirement , Footnote (3)

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

A variance is requested to 170-12(B) Medium Density Residential (R-12) Table frontage requirement of 100-ft. This variance is necessary to allow for the 19.48-ft of frontage provided on Gina Way to be used as frontage for a new lot, Map G Lot 12-B on the submitted plan. Currently, Map G Lot 12 has frontage on Washington Street.

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:

Waiving the terms of the Ordinance will not be contrary to the public interest because Map G Lot 12-A (Treadwell) a previously landlocked lot was developed under similar circumstances, deficient frontage (33.48-ft), When the developer, Gina Way Development, LLC purchased Map G Lot 12-A from JBJ Trust, the purpose was construct one more home in the Taylor Road/Gina Way subdivision which Gina Way Development, LLC aka Steve Franciosa owned at the time. The City allowed Gina Way Development, LLC to pull a building permit, and requested that an easement for Right of Way be granted to the City of Dover for the extension of Gina Was in the future. This occurred late 2008 early 2009.

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

As discussed in the item above, Map G lot 12-A was granted relief as a landlocked lot becoming more compliant with the ordinance and Gina Way Development LLC was required only to place an easement for Right of Way on the lot. Map G Lot 12-a still only has 33.48-ft of frontage on Gina Way and is accessed by a driveway.

We propose to do the same, provide the remaining easement to allow for the extension of Gina Way onto properties north of our own (Map G Lot 12) by other interested parties, we will then also access our property by a driveway off of Gina Way.

3. Granting the variance would do substantial justice because:

Granting the variance would do substantial justice because it would allow my family to subdivide Map G Lot 12 into two lots. The new lot (Map G Lot 12-B) is to be occupied by a home that is being specially designed to house my wife Abbi our daughters Betty and Josephine and our in-laws David and Joan Parent. David has been diagnosed with Parkinson's Disease, Joan has been diagnosed with ALS (Lou Gehrig's Disease). As such, they will require long term care in the future, care that Abbi and I would like to provide in our home. We looked at adding on to the existing home on Map G Lot 12. This is not possible due to the wetland that crosses the width of the lot and the setbacks that go along with that wetland. The back 8.5 Acres of our 1.51 Acre lot are free of wetlands however. By building on a new lot off of Gina Way we will be able to live with my in-laws, providing the care they will need in the future. This variance would do substantial justice.

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

The value of the surrounding properties will not be diminished because, the proposed lot will be occupied by a like use, a residence.
The proposed lot will be of more than ample size under the ordinance and any new structure will be able to be built within the ordinance's setbacks.

Antecdotally, the value of Map G Lot 12, our lot, went up when Taylor Road and Gina Way were built. Therefore, one would assume a similar, albeit smaller effect to occur in this instance with the properties abutting the proposed new lot.

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:

Map G Lot 12 is 1.51 Acres. in zone R-12, particularly in the section of town in which we reside this is a rarity. Map G Lot 12 has frontage on both Washington Street and Gina Way. By providing the remaining section f Right of Way to the City of Dover to allow for the extension of Gina Way by an interested party, it is very likely the new lot shown as Map G Lot 12-B will only need the variance for a short time before someone subdivides the properties further north and extends Gina Way. At that time the new lot, Lot 12-B, would have the required frontage. Due to it's large size and frontage on two streets, Map G, lot 12 is unique, when compared to the properties surrounding it.

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:

As stated above, Map G Lot 12-A was allowed to be developed with sub-standard frontage only because it was previous to Gina Way landlocked. That lot still has substandard frontage. This situation is only different in the fact that Map G Lot 12-B would be newly created by subdivision.

Where we, the applicant, are willing to provide the remaining easement for extension of Gina Way as did Gina Way Development when pulling their building permit for Lot 12-A, there is no fair or substantial relationship existing between the specific application of the ordinance provision and the property.

and

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

The proposed use is reasonable because it will be a like use to those surrounding it, a residence, further, the proposed residence will be on a property larger than those surrounding it, making construction within the necessary setbacks easier to perform.

Granting the variance will also allow us to utilize land that we have owned for 13 years, but had no real way to access from our home due to the wetland that crosses our property.

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: 12/3/14

December 3, 2014

Zoning Board of Adjustment
City of Dover
288 Central Avenue
Dover, NH 03820-4169

**Re: Request For Variances To 170-12(B) Medium Density Residential (R-12) Frontage Requirement And Minimum Lot Size, Footnote (3)
For Subdivision of Map G, Lot 12, currently 340 Washington Street**

Dear Members of the Board,

My family is seeking two variances in preparation to subdivide our land at 340 Washington Street, Map G Lot 12. My wife Abbi and I along with my in-laws David and Joan Parent are seeking the variances under RSA 674:33-V quoted below:

While, I have prepared the variance criteria in the typical manner, because I believe that the requests have merit to stand on their own, we are applying under RSA 674:33-V.

The reason we are looking to subdivide our property in the first place is in an effort to build a home that can house my family consisting of myself, my wife Abbi and our daughters Betty and Josephine, along with my in-laws David and Joan Parent. My in-laws have both been diagnosed with debilitating diseases that will require them both to need long term care in the future.

David has been diagnosed with Parkinson's Disease and Joan was recently diagnosed with ALS aka Lou Gehrig's disease. Abbi and I intend to provide the care that David and Joan need in the future in our home, their home and ours.

Originally, we explored adding onto the existing house at 340 Washington Street. However, as you will see in review of this application and the submitted plans, this will not be possible. The portion of the lot that is already developed with structures, is almost entirely within one setback or another. The property was originally developed in 1880. As you can imagine, many of the planning regulations and ordinance we take for granted today, did not exist at that time.

Map G Lot 12 is divided into two upland sections by a large wetland with a creek in it that passes under Washington Street. The developed portion of the lot is a small section of upland between Washington Street and the wetland. The remaining land is on the west side of the wetland and is not accessible from Washington Street.

However, when the Taylor Road/Gina Way subdivision was developed Gina Way was created in a way that it provided a small amount of frontage to both Map G Lot 12 (our property) and Map G Lot 12-A (6 Gina Way).

Lot 12-A was landlocked previously and by provision of some frontage on Gina Way, was made "buildable". The City allowed the lot to be developed with the provision that an easement for Right of Way be provided for future extension of Gina Way to the land North of Lot 12 and 12-A. Like the developer of Lot 12-A, we are willing to and are proposing to provide the remaining section of the easement in order to allow the continuation of Gina Way to the Land North of our property.

Please review the attached application materials and plans for consideration of variances to the frontage requirements and footnote (3) of the minimum lot size requirements. Footnote 3 deals with wetlands on lots, the buffer to said wetlands and the amount of contiguous upland.

Thank you for your time.

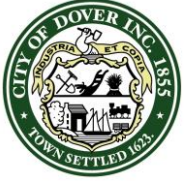
Sincerely,

A handwritten signature in black ink, appearing to read "Richard R. Lundborn". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Richard R. Lundborn, P.E.

340 Washington Street

Dover, NH 03820



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z14-32)

Application Type: Variance
Applicants: John Pike
Owner: John E. Pike and Regina K. Pike
Location: 2 Phillip Street (Tax Map A, Lot 16-B)

INTENT: The applicant proposes to install a fence ten (10) ft. in height in between the subject property and the abutting property at 57 Long Hill Road (Tax Map A, Lot 16-A). A variance is required to permit a fence exceeding four (4) feet in height between the right of way and a parallel line with the front of the house, and exceeding eight (8) feet in height to the rear of the front of the house.

UNITS PROPOSED: n/a

AGENDA ITEM #: 3-D

ZONING DISTRICT: R-12

EXISTING LAND USE: Single Family Residential

PROPOSED LAND USE: Single Family Residential

SURROUNDING LAND USE: Single Family Residential

PREVIOUS ZBA ACTION: None

PLANNING BOARD APPROVAL REQUIRED: No

ATTACHMENTS: Application, plot plan, photos (2)

APPLICATION IS COMPLETE: Yes

NOTICES AS REQUIRED: Yes

STAFF RECOMMENDATION:
The Planning Department takes no position on this request.

Summary of Request and Background

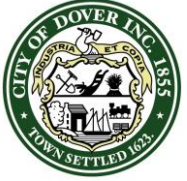
The subject property is improved with a single family home. The applicant proposes to install a fence ten (10) ft. in height in between the subject property and the abutting property at 57 Long Hill Road (Tax Map A, Lot 16-A). It is staff's understanding that the purpose of the fence is to provide privacy and view screening. A variance is required from Section 170-33.A of the Zoning Ordinance to permit the fence to exceed four (4) feet in height between the right of way and a parallel line with the front of the house, and to exceed eight (8) feet in height for that portion of the fence located to the rear of the house façade.

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. It is not clear what is unique about this property that would result in an unnecessary hardship if the requested variance were denied. Nevertheless, because there is already an eight (8) ft. fence that extends the length of the area in which the ten (10) ft. fence is proposed, staff does not believe the requested variance will negatively impact either the neighbor or the neighborhood. This is particularly so given staff's understanding that the owner of the property most impacted by the requested variance (57 Long Hill Road) has no objection. Based on a site visit to the applicant's property, it is evident that the additional two (2) feet will provide the screening that the applicant is seeking. Although it is not clear whether the proposed fence meets the statutory variance criteria per se, the request appears to be a reasonable one given the totality of the circumstances.

Recommendation

The Planning Department takes no position on the applicant's request for a variance.



CITY OF DOVER

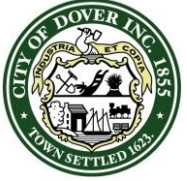
ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z14-32)

Application Type: Variance
Applicants: John Pike
Owner: John E. Pike and Regina K. Pike
Location: 2 Phillip Street (Tax Map A, Lot 16-B)

BELOW IS A STREET VIEW OF THE SUBJECT PROPERTY (proposed fence to parallel existing red fence)



BELOW IS AN AERIAL VIEW OF THE LOCATION



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z14-32)

Application Type: Variance
Applicants: John Pike
Owner: John E. Pike and Regina K. Pike
Location: 2 Phillip Street (Tax Map A, Lot 16-B)





City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Adopted: August 16, 2012]
Planning Office

Office Use Only	Case #:	<u>Z14-32</u>	Date Received:	<u>DEC - 3 2014</u>
	Amount Paid:	\$ <u>\$352.00</u> <u>check # 8260</u>	Time Received:	<u>Dover, New Hampshire</u>

APPLICANT/ PROPERTY OWNER INFORMATION

APPLICANT: JOHN PIKE Phone # 603-767-9442

Address of Applicant: 2 PHILLIP STREET

E-Mail Address: JOHN.PIKE@UNH.EDU

PROPERTY OWNER (if different from applicant): _____

Address: _____ Phone # _____

E-Mail Address: _____

PROPERTY/ PARCEL INFORMATION

Address: 2 PHILLIP STREET

Brief Directions: 1ST RIGHT OFF LONG HILL RD - 1ST HOUSE
ON LEFT ON PHILLIP STREET

Zoning District: R-12 Assessor's Map # A Lot(s) # 16-B

TYPE OF APPEAL: (Please check one)

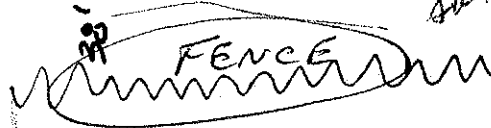
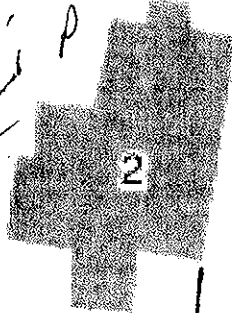
- Variance from Section _____ of the Zoning Ordinance
- Physical Disability Variance (RSA 674:33-V) from Section _____ of the Zoning Ordinance
- Special Exception per Section _____ of the Zoning Ordinance
- Appeal of Administrative Decision regarding Section _____ of the Zoning Ordinance
- Equitable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

DESCRIBE BRIEFLY YOUR PLANS FOR THE PROPERTY:

10' PRIVACY FENCE THAT I BELIEVE ALL
PROPERTY ABUTTERS ARE SUPPORTIVE OF

18

*PIKE
HOT
& PHILIP ST*



*Existing fence is
the property
line & we
are proposing
same width of
fencing
but 4 feet
higher*

PHILIP ST

1" = 40 ft 63

57

Property Information

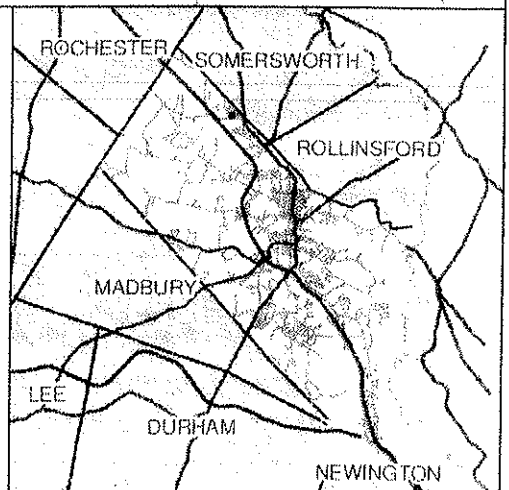
Property ID A0016-B00000
Location 2 PHILIP ST
Owner PIKE REGINA K
PIKE JOHN E



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



RECEIVED
Planning Office

DEC - 3 2014

Dover, New Hampshire

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:

INSTALLATION OF 10' PRIVACY FENCE
NEIGHBOR'S EXISTING FENCE IS 6' - SEE ATTACHED PICTURE
NEIGHBOR IS LOCATED AT 57 LONG HILL
ATTACHED IS A PICTURE OF OUR EXISTING VIEW OF THEIR BACK YARD

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:

IT WILL PROVIDE US W/ PRIVACY AND NOT POSE ANY PROBLEM FOR ADJUTERS OR AESTHETICS

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

SAME AS ABOVE

3. Granting the variance would do substantial justice because:

IT WILL IMPROVE OUR VIEW - SEE ATTACHED FOR BACKGROUND TO TOM CLARK REGARDING MY INITIAL INQUIRY

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

SAME AS #1

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 PICTURE SPEAKS FOR ITSELF

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:

SIMPLY PROVIDING PRIVACY

and

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

SAME AS ABOVE

OR

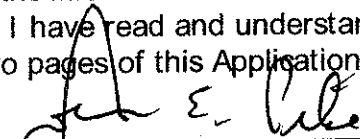
5B. If the criteria in subparagraph 5A above are not established, explain how, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable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

SIGNATURE PAGE

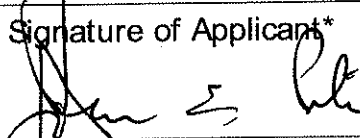
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Signature of Applicant*

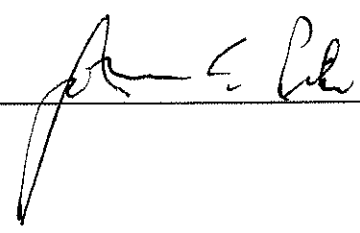


Signature of Owner*

*Both Signatures Required

AUTHORIZATION TO ENTER SUBJECT PROPERTY

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Signature of Property Owner:  _____ Date: 12/3/14

Pike, John

From: Pike, John
Sent: Tuesday, November 18, 2014 4:23 PM
To: 'Clark, Thomas L.'
Subject: question regarding installing a privacy fence...

Hi Tom,

The new addition is coming along well and we should have all completed by Thanksgiving. As you know the neighbor's backyard is an eyesore for us and more so now that we have a clear view from the windows of the new addition. I hate to spend money on fencing but that seems like the only alternative if things stay the way they are (or get worse). I spoke with Mike Galluzza at Central Fence and he said that white vinyl would look the best but it would be a waste of money because it would not solve the view problem because they only make the vinyl 8 feet high and the chain link fence that is there now is 6 feet. He says that would only increase the height by 2 feet. He says we'd need privacy fencing that's "at least" 4 feet higher than the existing fence. He suggests a black chain link with black privacy slats (just like the one that is there now but black in color) and the cost of labor to furnish & install all materials would be \$3,890. He says I'd need a fence permit from the City of Dover to install. Can you please let me know how best to proceed, permit process, and any advice you might have. As always, thanks Tom!

John