

**CITY OF DOVER**

## ZONING BOARD OF ADJUSTMENT AGENDA

Meeting Type: Regular Meeting  
Meeting Location: Council Chambers, 288 Central Avenue, Dover, NH 03820  
Meeting Date: **Thursday, January 15, 2015**  
Meeting Time: **7:00 pm**

### 1. ATTENDANCE

### 2. APPROVAL OF MEETING MINUTES OF DECEMBER 18, 2014

### 3. HEARING – CONTINUED

- A. \* 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. HEARINGS – NEW

- A. \* Z 15-01 Dubois Family 2003 Revocable Trust, 80 Henry Law Avenue (Tax Map 22, Lot 3), located in the Urban Density Multi Residential (RM-U) District, proposes to construct ten (10) new residential units which will bring the total number of units on the property to twelve (12). The applicant requests variances from **Section 170-12.A** of the Zoning Ordinance and the RM-U District Table of Use and Dimensional Requirements to permit (i) twelve (12) residential units on the property where a maximum of four (4) units are permitted (by Special Exception approval from the Zoning Board of Adjustment), and (ii) to permit the lot to have a minimum front setback of 20 ft., in place of the required build to line of 21.6 ft., which is equal to the average front setback for all properties within the RM-U District within 500 ft. of the subject property.
- B. \* Z 15-02 Dubois Family 2003 Revocable Trust, 80 Henry Law Avenue (Tax Map 22, Lot 3), located in the Urban Density Multi Residential (RM-U) District, in the alternative, proposes to subdivide the property into three (3) lots, each containing a four (4) unit residential structure. The applicant requests special exception approval per **Section 170-12.A** of the Zoning Ordinance and the RM-U District Table of Use and Dimensional Requirements to allow four (4) family dwellings on each of the three (3) proposed lots.

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

### 6. ANNUAL ELECTION OF OFFICERS

### 7. ADJOURN

**\* If the application is accepted for discussion, the public hearing will be held that evening.**

Persons with questions or interested in reviewing the application materials are invited to visit the Planning Department located in City Hall, open Monday-Thursday from 8:30 am to 5:30 pm. The application materials are also available on-line at [www.dover.nh.gov](http://www.dover.nh.gov). A map showing project locations can be found at <http://www.dover.nh.gov/government/city-operations/planning/index>. Follow us on Twitter @DoverNHPlanning and find us on Facebook at <https://www.facebook.com/DoverNHPlanning>.



**CITY OF DOVER**

## ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting  
Meeting Location: Council Chambers, 288 Central Avenue Dover NH 03820  
Meeting Date: **Thursday, December 18, 2014**  
Meeting Time: **7:00 pm**

### 1. ATTENDANCE

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

**Members Absent:** George Reagan (Alternate), 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 NOVEMBER 20, 2014

C.Prior requested the spelling for George Reagan's name be corrected.

**Motion:** O.Perry made a motion to accept the November 20, 2014 Regular Meeting Minutes as amended. Seconded by C.Prior. Vote: U/A

### 3. HEARINGS

- 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.

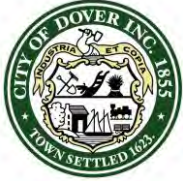
#### *Public Hearing Opened*

Attorney Jim Schulte represented the applicant. He clarified that there is an existing Special Exception for the 10 units that are there. The Condominium Association met and approved the applicant's proposed conversion to Unit 10. A letter was submitted for the record. The general purpose of the ordinance is to provide consistency in the appearance of the buildings in the neighborhood. The unit is at the far end of the three unit building and is hidden from the road. It is not conducive for commercial use. The applicant is requesting the allowance of a garage and small living space on the ground floor instead of commercial use. The other unit owners would like an additional occupant to help with the financial cost associated with plowing and maintenance. He added that Robert Paolini was also present. The Attorney provided pictures for the record.

C.Prior asked why was only the garage constructed at that time, as opposed to another unit. R.Paolini replied that he needed the garage initially for storage, but does not now. He stills owns unit 10 which is abutting the garage.

F.Landford confirmed with Attorney Schulte that there was enough land for the additional unit. There is a 5000 sq. ft. per unit requirement. The lot is 60,000 sq. ft.

S.Reid asked whether this would it qualify for a special exception under the old ordinance. The Attorney replied that there is enough land for the 5000 sq. ft. requirement. The Attorney also stated that there is adequate water and sewer so there is no impediment, as well as, no impediment for pedestrian traffic. There is enough parking on site, therefore parking is not an issue. The garage would be consistent in appearance with the other buildings.



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Meeting Time: **7:00 pm**

### STAFF RECOMMENDATION:

T. Corwin stated that the Planning Department supports the request as set forth in the staff memo. Staff decided that it does not require Planning Board approval, but would need TRC review. This is not just one variance, but two variances both related to the first floor non-residential requirement. The one variance is required for the use and the other for the expansion of the non-conforming use. T. Corwin suggested the Zoning Board approve the variance with a condition that states no additional dwelling unit shall be allowed on the property.

*Public Hearing Closed*

**Motion:** O. Perry made a motion to grant the variance to allow the first floor occupancy and permit the expansion of the non-conforming use with the condition that no more dwelling units are to be built on the property. Seconded by F. Landford. Vote: 5/0

- 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.

*Public Hearing Opened*

Jason Pohopek, the surveyor, summarized the application. In order to donate the proposed conservation land, the applicant worked with the Planning Department to craft a proposed subdivision so that the house could be separated from the land to be donated to the City of Dover. The applicant wanted to comply with subdivision regulations. They ran a property line making a pork chop style lot that acquired road frontage to make it a compliant lot. The intent is to protect Blackwater Brook and the surrounding wetlands, but the land in the pork chop lot would not be included in the property to be donated to the city or the easement. The property owner has access to Gladiola Way via his neighbor's property. A variance is needed for the lot frontage on the lot.

S. Reid questioned if it is the intent to donate the property as a whole or just have a conservation easement. J. Pohopek replied that the intent is to put a conservation easement on the property and then donate it. The City of Dover would hold the fee title to the property but a different entity would hold the easement.

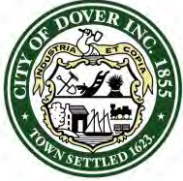
O. Perry questioned the property owner's access to the pork chop lot. J. Pohopek replied that there are three lots that share one common access point on Gladiola. The property owner cuts across two lots for access.

### STAFF RECOMMENDATION:

T. Corwin stated that the Planning Department supports the request as set forth in the staff memo. T. Corwin suggested a condition of approval that the subdivision plan submitted be approved by the Planning Board and the conservation lot be accepted by the City Council subject to a conservation easement.

*Public Hearing Closed*

**Motion:** O. Perry made the motion to grant the variance with the conditions as suggested by staff. Seconded by R. Hall. Vote: 5/0



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Meeting Time: **7:00 pm**

- 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.

### *Public Hearing Opened*

Richard Lundborn represented his family who are the property owners and were present. He summarized the application, and submitted plans for review and record. The deed for Map G Lot 12A states the City has the right to activate the easement, and use the right of way for future development on Gina Way for the next lot north.

In regards to the second variance to break the lots apart, the lot's purpose has a contiguous upland requirement. They want to do the lot line between two existing pins. The applicant requests the front Washington Street lot to exist with a total acre of .69 acres.

C.Prior asked about the diagonal easement for sewer on the plan. The lot on Washington Street has a 40 ft. wide sewer easement. R.Lundborn replied Gina Way has no sewer. The applicant has a 12 inch sewer main running through his property. The applicant will grant an easement for the back lot to attach to the existing sewer main.

B.Hall asked about future development for Gina Way. R.Lundborn replied that there are neighbors who might team up eventually to do a subdivision. Doing this would give him an additional 103 ft. of frontage to his property.

F.Landford asked if there are wetlands on the new lot. R.Lundborn stated there are no wetlands on the new lot. His property mirrors the grade the rest of the development has.

### **STAFF RECOMMENDATION:**

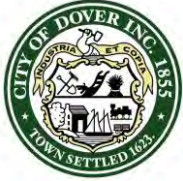
T.Corwin stated that the Planning Department supports the request as set forth in the staff memo.

O.Perry wanted to know what the ordinance says specifically. T.Corwin stated that the requirement is to have frontage, and proceeded to explain what frontage is as defined in Zoning Ordinance.

Discussion ensued regarding the right of way for 3 Gina Way and how long it extends. T.Corwin and R.Lundborn clarified the location of the pins.

### *Public Hearing Closed*

**Motion:** O.Perry made the motion to grant the variance from the frontage requirement for the rear lot and the upland requirement for the front lot with the requirement that the easement for the future extension of Gina Way be granted to the City. O.Perry stated the applicant has met the requirements of the criteria for the variance. The variance is also subject to Planning Board approval. Seconded by B.Hall. Vote: 5/0



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- 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.

### *Public Hearing Opened*

O.Perry stated for the record that he knows the applicant, and feels that it will not affect his vote. He has decided not to recuse himself.

John Pike explained they put an addition on the house. The view from the window in the addition is the neighbor's property. The privacy they needed is not being met, even with the 8 ft. high fence. The 10 ft. is also needed to improve the view. J.Pike added that the abutters are all fine and in agreement.

Discussion ensued as to the reason for the fence. J.Pike clarified that the view in the neighbor's yard is not a desirable one and supplied photos of his neighbor's junk pile.

B.Hall questioned why this was not expected with the addition, and why they are surprised. J.Pike replied that they weren't certain at the time what it would look like, and after it was completed decided to consider fencing.

Discussion ensued regarding the clarification of how much privacy fence is needed. T.Corwin stated he did view the site with the City Planner, and that the applicant would need fencing all the way to the front to accomplish what the applicant's goal is.

S.Reid questioned whether arborvitae could complete this goal. J.Pike stated he felt fencing would look more aesthetically pleasing.

### **STAFF RECOMMENDATION:**

T.Corwin stated that the Planning Department is not opposed to the application, but is struggling with it. The concern is that the junkyard pile that is in view is a code enforcement issue. Because it cannot be seen from the right of way, J.Pike would need to issue a written complaint. S.Reid questioned why a complaint had to be made for there to be a code enforcement issue. T.Corwin stated he would follow up on this matter.

### *Public Hearing Closed*

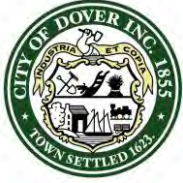
C.Prior stated if they granted the variance with 10 ft. fence, then every person who had an issue with their neighbor would want to extend their fence.

**Motion:** C.Prior made the motion to deny the variance. Seconded by R.Hall. Vote: 2/3 – Failed (Opposed by F.Landford, B.Hall and S.Reid)

Discussion ensued with the concern of approving a 10 ft. fence, and how it would impact the community.

**Motion:** F.Landford made the motion to grant the variance as proposed. Seconded by O.Perry. Vote: 2/3 – Failed (Opposed by C.Prior, B.Hall and S.Reid)

Discussion continued regarding the concern of the height and the impact on the community.



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T.Corwin proposed an amendment to the variance that the 10 ft. be allowed only along the rear lot line of Map A Lot 16A, and not be allowed all around the property. O.Perry and F.Landford accepted the amendment to the variance. It was opposed by C.Prior, B.Hall and S.Reid.

C.Prior stated that all five criteria needs to be met to approve the variance, and that he believes all five have not been met.

S.Reid asked how it would change the character of the neighborhood by having a 10 foot fence, and how it would impact property values.

T.Corwin asked the Board if they would like an investigation as to the existence of other 10 ft. fences that were approved in the residential areas in the city.

S.Reid would like to table until additional information is made available, as well as images showing what a 10 ft. fence looks like.

**Motion:** O.Perry made the motion to table the variance. Seconded by S.Reid. Vote: 3/2 – Approved (B.Hall and C.Prior opposed)

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

Discussion ensued regarding posters that needs to be posted by applicants. T.Corwin clarified Rules of Procedure, that the applicant is required to post the poster in clear view of the street no later than 5 days prior to the date of the hearing. Not doing so could disqualify the application.

The current office procedure is that the posters are handed to the applicants at the time they drop off their application; sometimes it is at a later date.

T.Corwin stated that Staff is currently addressing the consistency of the application procedures and is developing a checklist to avoid future oversights. The new procedure would consist of a poster being given at the same time the application is dropped off, and then followed up with a reminder email from Staff.

B.Hall expressed his concern regarding existing applicants not displaying posters.

T.Corwin suggested that the Board consider changing the rules to require the poster to be located at or near the front lot line of their property in clear view from the street.

Discussion ensued regarding what should happen if the applicant does not have the poster displayed.

T.Corwin addressed changes regarding direct abutters, and who can speak at the hearing. This applies to anyone within 200 feet. O.Perry suggested to eliminate the word direct and just leave the word abutter only.

Discussion ensued regarding site visits and the Roberts Rules of Order. The Board determined that normal business hours are daylight hours, clarifying the city is closed on Friday. B.Hall stated such visits should be scheduled with an applicant in advance because no two Board members should be present simultaneously, otherwise it's a meeting. O.Perry suggested to use wording on the application form stating, "By the signing of this application, the property owner gives members of the Board permission to go on the property." T.Corwin stated that if the Board adopts the current rules, the paragraph would need to be changed anyway.

#### 5. ADJOURN

**Motion:** O.Perry made the motion to adjourn at 8:30 p.m. Seconded by B.Hall. Vote: U/A

**From:** Pike, John [mailto:John.Pike@unh.edu]  
**Sent:** Saturday, January 03, 2015 11:14 AM  
**To:** Corwin, Timothy  
**Subject:** Additional information for 1/15/15 ZBA meeting

TO: Timothy J. Corwin, City of Dover Assistant City Planner

Would you please forward this information to members of the ZBA prior to the next meeting of 1/15/15.  
Thank you. John Pike

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**RE: Z 14-32 – Item discussed at the 12/18 Zoning Board of Adjustment (ZBA) meeting and tabled for further review at 1/15/15 ZBA meeting**

Dear Chairman Reid and members of the Zoning Board of Adjustment,

I appreciated the opportunity to meet with the ZBA on December 18, 2014 and am submitting this additional information for your upcoming meeting. Based on conversations with my immediate property abutters, all were supportive of my request and expressed no concerns. Following submission of the application and a fee of \$352, fourteen certified letters were mailed to people in the neighborhood and no one attended the 12/18 public hearing. Subsequently, no one has expressed any concern or had any questions. As a matter of fact, any comments made have been positive. I have spoken once again to my immediate property abutters and they all are fine with my request.

Hopefully this additional information will assist in your decision making. First of all, I want to emphasize that any member of the ZBA or Planning Office is welcome to visit our home to see for yourself why I requested a variance. Based on their firsthand view, I believe Mr. Bird and Mr. Corwin clearly understood the basis for my request. I've enclosed the following three pictures for members of the ZBA who may not have seen the property:

--Picture IMG 0785 – A view of the front of our 2 Phillip Street property from Phillip Street

--Picture IMG 0784 – A view of the existing 100 foot wide fence that is **6 feet** in height that runs along the neighbor's back yard property line (57 Long Hill Road). This is the area I am proposing for fencing that would be 2 feet higher.

--Picture view from house – The back yard of the neighbor's property is what we look at from the windows in the front of our house (57 Long Hill backyard located on the other side of the fence seen in the previous picture). In other words, the neighbor's back yard is on the right side of our property and that's what we view from the windows in the front of our house. We have no need for any fencing anywhere else around our property with the remaining property abutters, nor would we want any.

At the 12/18 meeting, one of the ZBA members asked if I was putting up a "spite" fence. I had never heard of this type of fencing term before and thought he had said "spiked" which is why I wasn't sure what he meant by the question. I have never had any differences of opinion or confrontations with ANY of my neighbors including the residents of 57 Long Hill. As a matter of fact, the sense I have is that installation of fencing would be viewed by my neighbor's as a good deal since it would provide them

with privacy as well but at no expense to them. As I've mentioned, all the remaining immediate property abutters I've spoken with think the fencing that I've proposed is a good idea and will actually improve the look of the existing area. Over the past 30+ years, we have never made any home improvements on the outside of our 2 Phillip Street property unless it enhanced the look.

Recognizing some ZBA members were expressing concerns on 12/18 about approving a fence that would be 10 feet in height, **I have decided to make my request for 8 feet in height which would be TWO FEET higher than the existing 6 foot fence.** Again, the existing 6' fence can be viewed in picture IMG 0784. It's also worth noting that I believe the professionally installed fencing I am proposing will look very good and at 8 feet high, it will also be in symmetry with the longstanding 8' fencing that exists along the side of the road on Phillip Street extending from the back towards the front of the neighbor's 57 Long Hill road property.

I don't believe anyone in the neighborhood or the property values are negatively affected by my request, nor would it change the character of the neighborhood. As a lifelong resident of Dover and supportive of sound planning, I can fully appreciate the need for the ZBA to carefully assess whether an applicant has met the variance criteria. As I reviewed the RSA, I believe what I am requesting is reasonable. Although some may not fully agree, I don't believe the variance will be contrary to the public interest; the spirit of the ordinance is observed; justice is done; property values are not diminished; literal enforcement of the ordinance would result in a "lose-lose" situation vs what the property owners in this situation would consider to be a "win-win". As was stated by some at the 12/18 meeting, "no harm, no foul".

Thank you very much for your consideration and I hope this additional information is helpful. In the meantime, please don't hesitate to contact me if you have any questions, need additional information, or would like to visit the property. I look forward to hearing the outcome of your upcoming 1/15/15 ZBA discussion.

Thank you for your service to the City of Dover.

Respectfully,

John Pike  
2 Phillip Street  
Dover, NH 03820



**CITY OF DOVER**

## ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z15-01)

Application Type:	Variance
Applicant:	Dubois Family 2003 Revocable Trust
Owner:	Dubois Family 2003 Revocable Trust
Location:	80 Henry Law Avenue (Tax Map 22, Lot 3)

**INTENT:** The property is currently improved with a two family dwelling. The applicant proposes to construct ten (10) additional residential units. Per the RM-U District requirements, the new structures must be located 21.6 feet from the front lot lines, which is equal to the average front setback for all properties within the RM-U District within 500 ft. of the subject property. The applicant requests two variances: (i) to permit twelve (12) residential units on the property where a maximum of four (4) units are permitted, and (ii) to replace the “build to” line of 21.6 ft. with a 20 ft. minimum front setback.

**UNITS PROPOSED:** Ten (10) new units for a total of twelve (12)

**AGENDA ITEM #:** 4-A

**ZONING DISTRICT:** RM-U

**EXISTING LAND USE:** Two Family Residential

**PROPOSED LAND USE:** Multi Family Residential

**SURROUNDING LAND USE:** Residential, Multi Family Residential, Commercial, Public Recreation

**PREVIOUS ZBA ACTION:** None

**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

The property is currently improved with a two family dwelling. The applicant proposes to construct ten (10) additional residential units. Per the RM-U District requirements, the new structures must be located 21.6 feet from the front lot lines, which is equal to the average front setback for all properties within the RM-U District within 500 ft. of the subject property. The proposal requires the following two (2) variances from **Section 170-12.A** of the Zoning Ordinance and the RM-U District Table of Use and Dimensional Requirements: (i) to permit twelve (12) residential units on the property where a maximum of four (4) units are permitted (by Special Exception approval from the Zoning Board of Adjustment), and (ii) to permit the lot to have a minimum front setback of 20 ft., in place of the required build to line of 21.6 ft.

### Reason for Staff Recommendation

As shown on the plan submitted for Case Z15-02, the applicant could subdivide the property to create the same level of density that is proposed per this variance request. Therefore, provided the applicant can successfully demonstrate compliance with the five (5) variance criteria, staff has no issue with this request.

With respect to the variance to replace the “build to” line of 21.6 ft. with a 20 ft. minimum front setback, staff supports the request. The River Street side of the property is substantially impacted by steep slopes which makes building at the build to line not feasible. Moreover, the purpose of the build to requirement is to help ensure context sensitive development. Here, Henry Law Park is located across the street from the River Street side of the property which mitigates the need for the buildings to be constructed in a manner similar to neighboring buildings (i.e., Henry Law Park is unimproved).

### Recommendation

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



City of Dover, New Hampshire  
ZONING BOARD OF ADJUSTMENT APPLICATION

[Adopted: August 16, 2012]

Office Use Only Case #: Z15-01 Date Received: JAN 03 2013  
Amount Paid: \$ \_\_\_\_\_ Time Received: Dover, New Hampshire

APPLICANT/ PROPERTY OWNER INFORMATION

APPLICANT: DUBOIS FAMILY 2003 REVOCABLE Phone # 207-752-3010

Address of Applicant: 396 BEECH ROAD <sup>TRUST</sup> ELIOT MAINE 03903

E-Mail Address: DIANE.DHEMINGWAY@GMAIL.COM

PROPERTY OWNER (if different from applicant): SAME

Address: \_\_\_\_\_ Phone # \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

PROPERTY/ PARCEL INFORMATION

Address: 80 HENRY LAW AVE.

Brief Directions: PARCEL IS ON THE NORTHEAST CORNER OF HENRY LAW AVE AND RIVER ST.

Zoning District: RM-U Assessor's Map # 22 Lot(s) # 3

TYPE OF APPEAL: (Please check one)

- 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:

① ALLOW 12 RESIDENTIAL UNITS (2 EXISTING AND 10 NEW) ON A SINGLE LOT IN AN RM-U ZONE WHERE A MAXIMUM OF 4 UNITS IS PERMITTED.

② ALLOW A MINIMUM FRONT SETBACK OF 20 FT, IN PLACE OF THE REQUIRED "BUILD TO" LINE OF 21.6 FT - THE AVG. FRONT SETBACK FOR ALL PROPERTIES WITHIN 500 FT OF THE PROJECT PARCEL WITHIN THE RM-U DISTRICT.

# SIGNATURE PAGE

THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS

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

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

Diane Hemingway trustee  
Signature of Applicant\*

Diane Hemingway trustee  
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: Diane Hemingway Date: 12/29/14



## **1 VARIANCE REQUIREMENTS:**

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

This property contains 45,979 square feet of land at the corner of Henry Law Avenue and River Street, which is located in the RM-UDistrict. This district allows dwellings containing 4 units on a lot, provided that the lot has at least 2,000 square feet per unit plus 500 square feet per bedroom. Based on that density, this lot is large enough to allow the construction of at least 12 residential units, including the existing duplex. However, without a variance the property would have to be subdivided into 3 separate lots. The applicant proposes to construct 10 additional residential units and will retain the existing duplex, for a total of 12 units. The type of use is permitted in the zone, and the proposed density is consistent with the zoning requirements.

The variance sought is to allow the permitted number of units to be constructed on a single lot which will have frontage on both Henry Law Avenue and River Street. Access to the property will be from Henry Law Avenue. The ten new units will all have 2 car garages on the ground level, and the applicants will provide additional outside parking for the existing duplex and for guest parking.

The other uses in this neighborhood include multifamily structures, commercial structures, and other residential uses. Allowing the units to be built on a single lot will allow the structures to be oriented to utilize the existing topography of the property.

The public interest is affected if the proposed use would constitute a fundamental change in the neighborhood or if there would be a substantial impact on health and safety. The variance will not increase the number of units or the amount of impervious surface, but will allow a more productive placement of units on this property.

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

The ordinance allows residential density based on 2,000 square feet of land per residential unit plus 500 square feet per bedroom. This variance will allow the property to be developed with that amount of density, with better spacing of the buildings on the lot since the buildings will not have to meet internal building setbacks and can be oriented to utilize views of the Cocheco River.

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

The proposed use of the land is more consistent with the density requirements of the zoning ordinance and will allow the reasonable use of the property. Other multifamily buildings in the neighborhood are located on single lots rather than on individual lots. This property is located adjacent to or across the street from the Central Business District and the Cocheco Waterfront District. Both of those districts allow greater density than the applicants are requesting and would allow all the units to be on a single lot.

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

The proposed residential use itself is similar to that of the other properties in the neighborhood. The lot has sufficient size for the number of proposed units. Other multifamily buildings in the neighborhood are developed in this same manner on a single lot with common parking areas. Most of the impact from the proposed development will be facing the Cocheco River and Henry Law Park. The variance itself will have no impact on surrounding properties, since the variance will not change the use of the property or the number of residential units. The variance will only eliminate the requirement that the property be subdivided into separate lots.

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

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

This is a large lot which is located at the corner of Henry Law Avenue and River Street, at the northerly end of the RM-U District. The frontage along River Street faces the undeveloped City land at Henry Law Park and looks toward the Dover Housing apartment buildings along Henry Law Avenue. While the lot is large enough for the number of units which are proposed, the configuration of the units will be better if they are located on a single lot rather than three separate lots. The property has sufficient frontage on a public road.

**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 public purpose of the ordinance is to require that properties have frontage on a public road and that there be sufficient open space for properties having four or more units. Granting this variance will allow the proposed buildings to be constructed on a single lot instead of separate lots. The property has sufficient road frontage and will have sufficient open space to meet zoning requirements. Other multifamily buildings in the neighborhood are also developed with common access onto a single lot, and granting the variance will allow this property to be developed in a manner which is consistent with the existing neighborhood conditions.

**and**

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

The proposed use is similar to the existing uses on other properties in the neighborhood. The number of units will not be increased, but the placement of the new units will be more suitable to the property and its views to the river. The variance of allowing construction of the units on a single lot will not increase the number of units or change the proposed use of the property.

2

**VARIANCE REQUIREMENTS:** A. Variance Requested from Section 12.A. of the Zoning Ordinance with regards to the "build to" / setback requirement.

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

The goal of a "build to" line is to maintain a consistent appearance among properties in the same neighborhood. However, within this neighborhood there is a wide variety of existing building setbacks, resulting in very little setback consistency in this neighborhood. The locus parcel is unique to the neighborhood given its large size relative to the majority of the lots in the area, the fact that it is a corner lot having frontage on two streets, and is subject to some significant slopes which fall under a Steep Slope Conservation District (slopes greater than 20%) per the Dover Zoning Regulations. These steep slopes would preclude the development of the lot as proposed from adhering to a "build to" line given the fact that the extent of the slopes from the street frontage varies greatly. For this reason, adhering to a setback minimum would be more appropriate for this parcel. The "build to" average for properties located within 500 feet of the locus within the same Zoning District is 21.5 feet. This average is very similar to the original "minimum front setback" of 20 feet, therefore granting this request to replace the "build to" line with a minimum 20 foot front setback line is consistent with the setbacks of the neighboring properties.

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

While the goal of this ordinance is to promote a uniform appearance of neighborhoods by having all residences built at similar distances from the street, this neighborhood is substantially developed and has very little consistency in building setbacks. This inconsistency in building setbacks is demonstrated by the variation of the setbacks found within 500 feet of this parcel where the ranges are from 0 feet to 150 feet. Allowing the "build to" requirement to be replaced with the prior "20 foot minimum setback" requirement will provide for the property to be developed in an appropriate manner consistent with the neighborhood.

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

Given that the property is a corner lot and the extent of the Steep Slope Conservation District, it would be impossible to develop the property using the "build to" line. This property otherwise meets all of the requirements, including the density of the RM-U Zoning District (12 units). The request to replace the "build to" line to the original "minimum front setback" of 20 feet would allow the property to be developed appropriately given its topographic constraints and therefore would be justified.

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

The development of the property into 12 residential units is consistent with the RM-U Zoning District and of the neighborhood which consists of a mix of duplexes and multi-family units. The architecture of the proposed buildings will be appropriate for the neighborhood and the downtown vicinity with no diminution of surrounding property values.

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

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

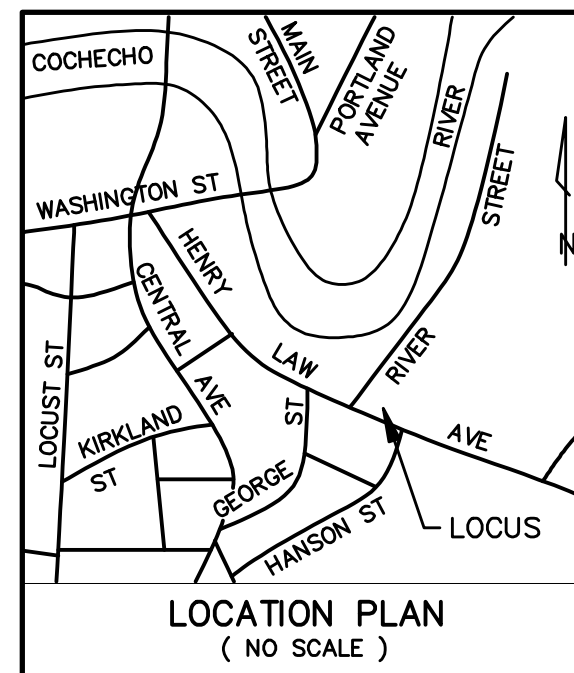
**and**

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

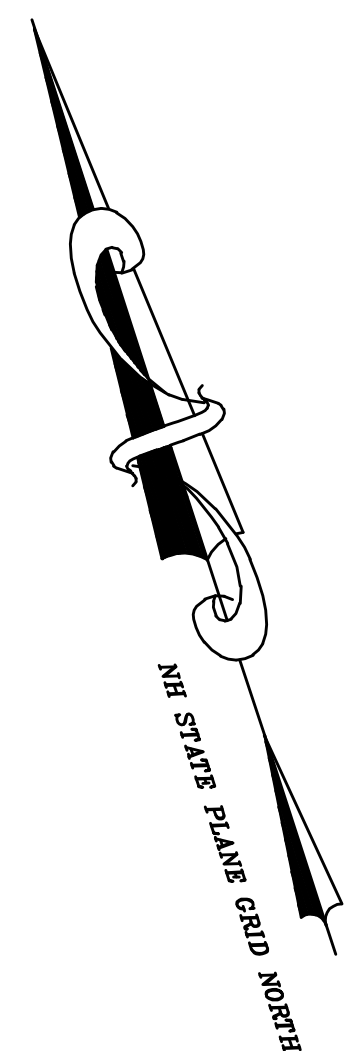
**OR**

**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:**

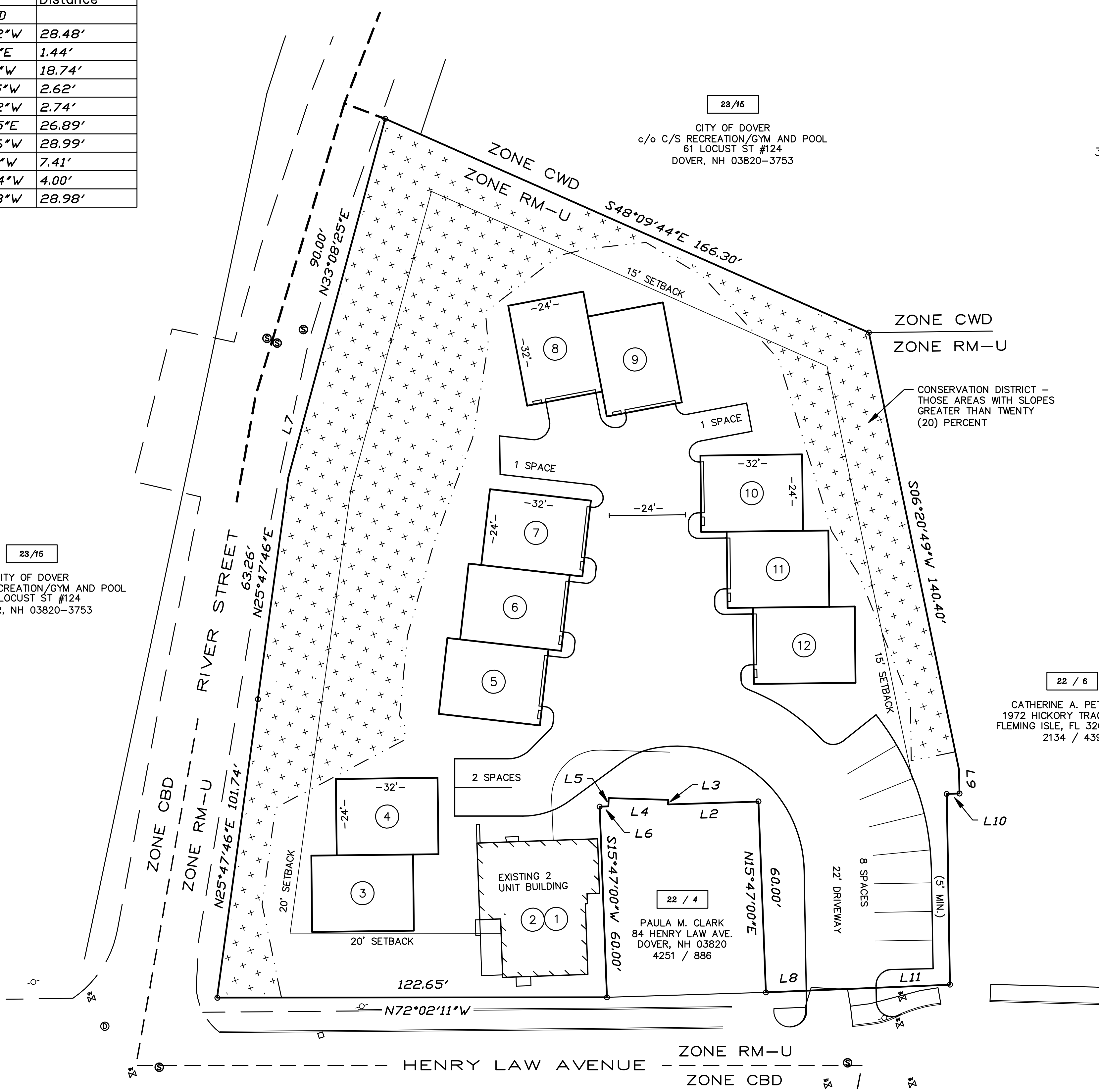
This parcel is unique to the neighborhood in that it is much larger than others in the surrounding area. Additionally, being a corner lot having frontage on two streets, and having significant slopes would inhibit the development of the lot as proposed without relief from the "build to" line requirement. With the proposed development otherwise meeting all of the requirements, including the density of the RM-U Zoning District (12 units), granting this variance would allow this reasonable development of subject parcel consistent with the spirit of the neighborhood and the intent of the Zoning Ordinance.



No.	Bearing	Distance
L1	RESERVED	
L2	N73°48'02"W	28.48'
L3	N21°13'06"E	1.44'
L4	N70°12'18"W	18.74'
L5	S20°39'05"W	2.62'
L6	N73°48'02"W	2.74'
L7	N33°08'25"E	26.89'
L8	N74°20'46"W	28.99'
L9	S17°00'49"W	7.41'
L10	N74°23'34"W	4.00'
L11	N74°20'58"W	28.98'



23 / 15  
 CITY OF DOVER  
 c/o C/S RECREATION/GYM AND POOL  
 61 LOCUST ST #124  
 DOVER, NH 03820-3753



28 / 16  
 CITY OF DOVER  
 c/o C/S RECREATION/GYM AND POOL  
 61 LOCUST ST #124  
 DOVER, NH 03820-3753

OPEN SPACE CALCULATIONS  
 200 FOOT RADIUS FROM  
 LOCUS PARCEL - RM-U ZONE

MAP / LOT	OPEN SPACE
20 / 13	67 PERCENT
20 / 21	55 PERCENT
20 / 22	58 PERCENT
22 / 4	29 PERCENT
22 / 6	70 PERCENT
22 / 7	67 PERCENT
22 / 8	57 PERCENT
22 / 9	51 PERCENT
AVERAGE	= 57 PERCENT

22 / 6  
 CATHERINE A. PETERSON  
 1972 HICKORY TRACE DRIVE  
 FLEMING ISLE, FL 32003-8390  
 2134 / 439

**LEGEND**

- I.P.(fnd) - IRON PIPE (FOUND)
- I.R.(fnd) - IRON ROD (FOUND)
- I.R.(set) - IRON ROD WITH PLASTIC IDENTIFICATION CAP (SET)
- ⊕ - SEWER MANHOLE
- ⊕ - CATCH BASIN
- ⊕ - DRAIN MANHOLE
- ⊕ - GAS VALVE
- ⊕ - WATER GATE VALVE
- ⊕ - WATER SHUT-OFF
- ⊕ - TBM - TEMPORARY BENCHMARK
- ⊕ - UP 410/5 - UTILITY POLE W/ I.D. Nos.
- S.F. - SQUARE FEET
- Ac. - ACRE
- (TYP.) - TYPICAL
- ± - MORE OR LESS
- ∅ - DIAMETER
- S.C.R.D. - STRAFFORD COUNTY REGISTRY OF DEEDS

20 / 25  
 WILLIAM H. PAUL, JR  
 CHARLENE PAUL  
 71 HENRY LAW AVENUE  
 DOVER, NH 03820  
 1999 / 0472

20 / 24  
 ROB ROY MACGREGOR  
 ALICE MACGREGOR  
 28 HAMPTON TOWN ESTATES  
 HAMPTON, NH 03842-1950  
 1324 / 124

20 / 23  
 JOHN E. LIATSIS  
 271 NIMBLE HILL RD  
 NEWINGTON, NH 03801  
 3608 / 27

20 / 22  
 ANDREW C. ROTHWELL  
 47 HANSON ST.  
 DOVER, NH 03820  
 1997 / 117

**REFERENCE PLANS:**

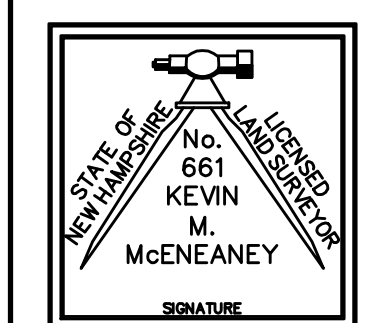
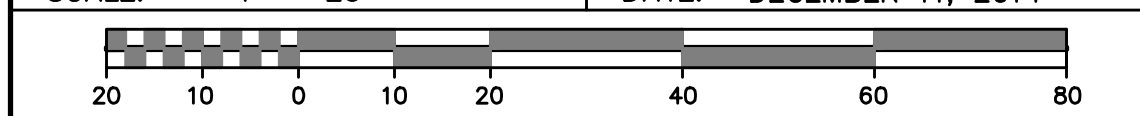
- MINOR SUBDIVISION - TAX MAP 22 - LOT 3 FOR DUBOIS FAMILY 2003 REVOCABLE TRUST, 80 HENRY LAW AVENUE, CITY OF DOVER, COUNTY OF STRAFFORD, STATE OF NEW HAMPSHIRE. SCALE: 1" = 20'; DATED: JUNE 2014, REVISED THROUGH 7/1/14; BY: AMBIT ENGINEERING, INC. - NOT APPROVED OR RECORDED.
- RECORD DRAWING - HENRY LAW AVENUE RECONSTRUCTION PROJECT - DRAINAGE AND UTILITIES PLAN AND PROFILE - PREPARED FOR THE CITY OF DOVER, NH, SHEETS 8, 9 & 10 OF 28. SCALE: 1" = 20' / 5'; DATED: MAR. 2007, REVISED THROUGH AUG. 09; BY: DUBOIS & KING, INC. NOT RECORDED, ON FILE WITH CITY OF DOVER ENGINEERING OFFICE.
- PLAN OF LAND - LOTS 22-1 & 22-42 HENRY LAW AVENUE; DATED MAY 15, 1991; BY CUOCO & CORMIER, INC.; RECORDED S.C.R.D. PLAN 40-53.

**NOTES:**

- OWNERS OF RECORD:  
 DUBOIS FAMILY 2003 REVOCABLE TRUST  
 398 BEECH ROAD  
 ELIOT, MAINE 03903-2076  
 S.C.R.D. VOL. 2832, PAGE 204
- 22 / 3 - DENOTES TAX MAP AND PARCEL NUMBER.
- PLAN INTENT: TO DEPICT A CONCEPTUAL SITE DEVELOPMENT OF FOUR - MULTI UNIT BUILDINGS, ALONG WITH THE EXISTING 2 UNIT DWELLING TO BE SERVICED BY MUNICIPAL WATER AND SEWER.
- THE SUBJECT PARCEL CONTAINS 45,979 S.F. OR 1.06 Ac. OF LAND, MORE OR LESS.
- THE SUBJECT PARCEL IS LOCATED WITHIN THE URBAN DENSITY MULTI RESIDENTIAL (RM-U) ZONING DISTRICT.
- RM-U ZONING REQUIREMENTS:  
 MINIMUM LOT SIZE = 10,000 S.F.  
 MAXIMUM LOT COVERAGE = 40 PERCENT  
 MINIMUM LOT FRONTAGE = 80 FEET  
 PER FOOTNOTES - CREATION OF 3-4 FAMILY DWELLINGS  
 OPEN SPACE AT LEAST EQUAL TO AVERAGE OF ALL DEVELOPED LOTS WITHIN 200' RADIUS  
 TWO (2) OFF-STREET PARKING SPACES PER UNIT  
 PARKING LOTS LOCATED:  
 5 FEET FROM SIDE PROPERTY LINE  
 10 FEET FROM FRONT PROPERTY LINE  
 PARKING AREAS SHALL BE SCREENED FROM STREET AND ABUTTING LOTS  
 BUILDING SETBACKS:  
 FRONT = 20 FEET  
 SIDE = 15 FEET  
 REAR = 15 FEET
- BASIS OF BEARING IS GRID NORTH, COORDINATES SHOWN ARE NH STATE PLANE BASED ON GPS OBSERVATION 10/23/2007, AND NGS OPUS SOLUTION REPORT.
- VERTICAL DATUM IS NAVD 88 (GEOID03).
- THE SUBJECT PARCEL IS LOCATED WITHIN AREAS DETERMINED TO BE LOCATED OUTSIDE THE 0.2 PERCENT ANNUAL CHANCE FLOOD PLAN AS SHOWN ON FLOOD INSURANCE RATE MAP COMMUNITY 330145, PANEL 0330, SUFFIX D, MAP NUMBER 33017C0330D, EFFECTIVE DATE MAY 17, 2005.
- NO WETLANDS WERE OBSERVED ON THE SUBJECT PARCEL.
- STREET ADDRESSES ARE TO BE ASSIGNED BY THE BUILDING INSPECTOR AT THE TIME OF ISSUANCE OF A BUILDING PERMIT.

CONCEPTUAL DEVELOPMENT PLAN - 1  
 PREPARED FOR  
 DUBOIS FAMILY 2003 REVOCABLE TRUST  
 TAX MAP 22, LOT No. 3  
 80 HENRY LAW AVENUE  
 CITY OF DOVER  
 COUNTY OF STRAFFORD  
 STATE OF NEW HAMPSHIRE

DRAWN BY: RJM FILE: VR CP\2078\14-2078 NAD83  
 SCALE: 1" = 20' DATE: DECEMBER 11, 2014



McEneaney  
 Survey  
 Associates, inc.

P.O. Box 681 - 24 CHESTNUT STREET  
 DOVER, NH 03820 (603) 742-0911

SURVEYING - PLANNING - CONSULTING

"I HEREBY CERTIFY THAT THIS PLAN IS BASED ON AN ACTUAL GROUND SURVEY PERFORMED WITH A TOTAL STATION, BY ME OR THOSE UNDER MY DIRECT SUPERVISION AND THAT, TO THE BEST OF MY KNOWLEDGE AND BELIEF, SAID SURVEY MEETS OR EXCEEDS THE MINIMUM PRECISION REQUIREMENTS FOR SURVEY CLASSIFICATION "U" AS SET FORTH IN TABLE 500.1 OF THE NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES OF THE BOARD OF LICENSURE FOR LAND SURVEYORS."

NO.	DATE	DESCRIPTION	BY	CHK
REVISIONS				
14-2078	CONCEPT	14-08	50-52	
PROJECT NO	TYPE	FIELDBOOK & PAGES		



**CITY OF DOVER**

## ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z15-02)

Application Type: Special Exception  
Applicant: Dubois Family 2003 Revocable Trust  
Owner: Dubois Family 2003 Revocable Trust  
Location: 80 Henry Law Avenue (Tax Map 22, Lot 3)

**INTENT:** The property is currently improved with a two family dwelling. The applicant proposes, as an alternative to the variance requested in Case Z15-01, to subdivide the property into three (3) lots, each containing a four (4) unit residential structure (including the existing two family dwelling which will be enlarged to a four (4) unit dwelling). The applicant requests special exception approval to permit the four (4) family dwellings on the three (3) proposed lots.

**UNITS PROPOSED:** Ten (10) new units for a total of twelve (12)

**AGENDA ITEM #:** 4-A

**ZONING DISTRICT:** RM-U

**EXISTING LAND USE:** Two Family Residential

**PROPOSED LAND USE:** Multi Family Residential

**SURROUNDING LAND USE:** Residential, Multi Family Residential, Commercial, Public Recreation

**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 special exception as requested.

### Summary of Request and Background

The property is currently improved with a two family dwelling. The applicant proposes, as an alternative to the variance requested in Case Z15-01, to subdivide the property into three (3) lots, each containing a four (4) unit residential structure (including the existing two family dwelling which will be enlarged to a four (4) unit dwelling). The applicant requests special exception approval per **Section 170-12.A** of the Zoning Ordinance and the RM-U District Table of Use and Dimensional Requirements to allow four (4) family dwellings on each of the three (3) proposed lots.

### Reason for Staff Recommendation

The applicant has provided narrative justification and data supporting the specific and general conditions that must be met for the granting of a Special Exception. Staff has reviewed these data and narrative and finds them to be acceptable and in compliance with the Special Exception requirements.

### Recommendation

The Planning Department recommends that the Board approve the special exception as requested.



City of Dover, New Hampshire  
ZONING BOARD OF ADJUSTMENT APPLICATION

[Adopted: August 16, 2012]

Office Use Only	Case #:	<u>215-02</u>	Date Received:	<u>JAN 05 2015</u>
	Amount Paid:	<u>\$ See 215-01</u>	Time Received:	

RECEIVED  
Planning Office  
Dover, New Hampshire

APPLICANT/ PROPERTY OWNER INFORMATION

APPLICANT: DUBOIS FAMILY 2003 REVOCABLE TRUST Phone # 207-752-3010

Address of Applicant: 396 BEECH ROAD ELIOT MAINE 03903

E-Mail Address: DIANEDHEMINGWAY@GMAIL.COM

PROPERTY OWNER (if different from applicant): SAME

Address: \_\_\_\_\_ Phone # \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

PROPERTY/ PARCEL INFORMATION

Address: 80 HENRY LAW AVE.

Brief Directions: PARCEL IS ON THE NORTHEAST CORNER OF HENRY LAW AVE AND RIVER ST.

Zoning District: RM-U Assessor's Map # 22 Lot(s) # 3

TYPE OF APPEAL: (Please check one)

- |  |   |
|--|---|
| <input type="checkbox"/> Variance                                    | from Section _____ of the Zoning Ordinance        |
| <input type="checkbox"/> Physical Disability Variance (RSA 674:33-V) | from Section _____ of the Zoning Ordinance        |
| <input checked="" type="checkbox"/> Special Exception                | per Section <u>170-52</u> of the Zoning Ordinance |
| <input type="checkbox"/> Appeal of Administrative Decision           | regarding Section _____ of the Zoning Ordinance   |
| <input type="checkbox"/> Equitable Waiver                            | per Section _____ of the Zoning Ordinance         |

DESCRIBE BRIEFLY YOUR PLANS FOR THE PROPERTY:

CONSTRUCT A 4 UNIT RESIDENTIAL BUILDING ON EACH OF 2 NEW VACANT LOTS AND ADD 2 NEW RESIDENTIAL UNITS TO A LOT WITH AN EXISTING DUPLEX.

# 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.

The RM-U District allows up to 4 units per lot. The applicants propose to construct new residential units which will be located near to downtown Dover, and near to the Cochecho River. On site parking will be provided, with provision for visitor parking.

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

Access to the property will be at the location of the existing driveway. This neighborhood has sidewalks. The RM-U District allows this number of units on a property of this size. Henry Law Avenue has been re-constructed in the recent past and has sufficient capacity for the traffic related to this development.

#### 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.

Henry Law Avenue and the public utilities have recently been re-constructed. The proposed number of units will not overload those improved utilities.

### 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:

1. The proposed development of this property will have open space at least equal to the average amount of open space on all properties in the RM-U District that are wholly or partially within 200 feet of this parcel.
2. Two off street parking spaces will be provided for each unit, and will be configured so that they do not back onto the street.
3. The parking lot will be at least 5 feet from the side property line and 10 feet from the front property line.
4. The new structures will be at least 20 feet from the front property line or any street, 15 feet from the rear property line, and 15 feet from the side property line.

# SIGNATURE PAGE

THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS

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

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

Diane Hemingway Trustee  
Signature of Applicant\*

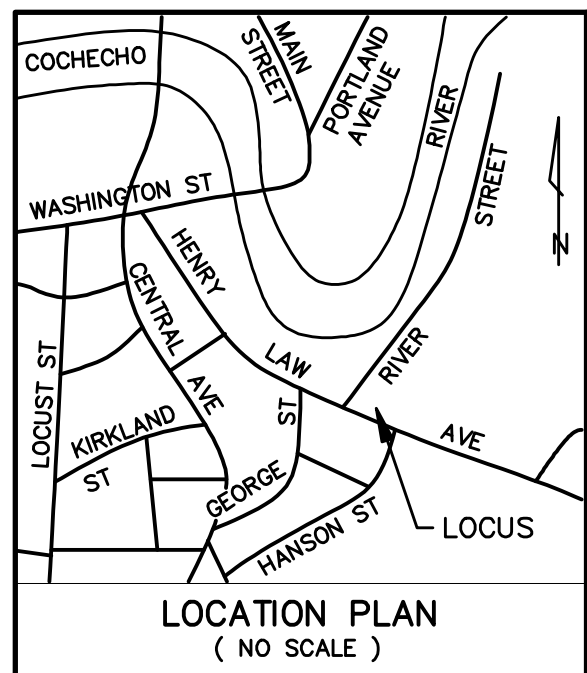
Diane Hemingway Trustee  
Signature of Owner\*

\* Both Signatures Required

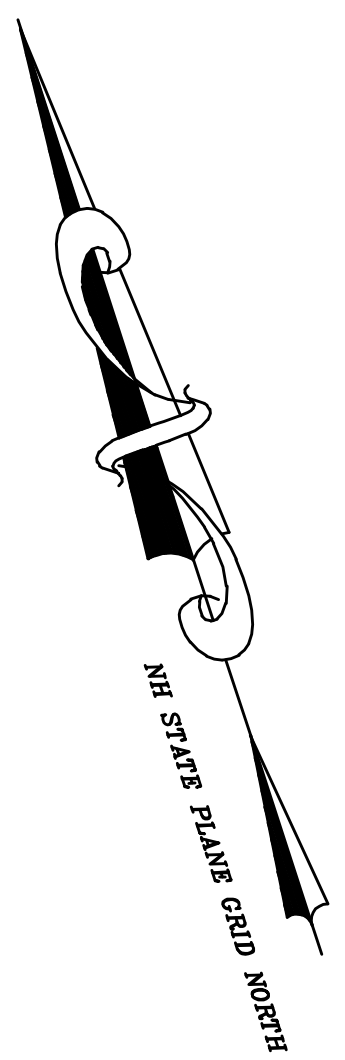
## AUTHORIZATION TO ENTER SUBJECT PROPERTY

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.

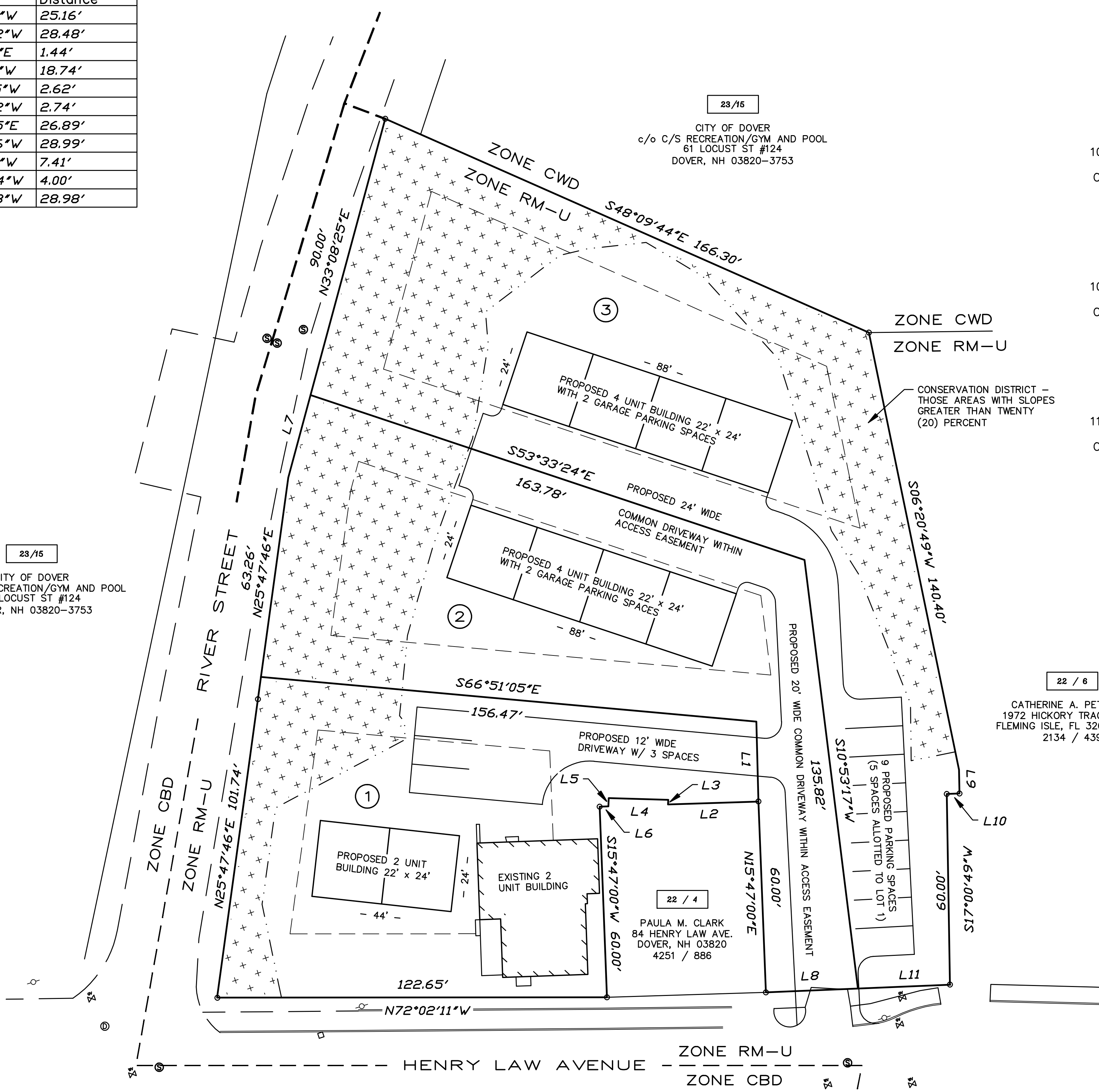
Signature of Property Owner: Diane Hemingway Date: 12/29/14



No.	Bearing	Distance
L1	S16°29'18"W	25.16'
L2	N73°48'02"W	28.48'
L3	N21°13'06"E	1.44'
L4	N70°12'18"W	18.74'
L5	S20°39'05"W	2.62'
L6	N73°48'02"W	2.74'
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L11	N74°20'58"W	28.98'



23/15  
CITY OF DOVER  
c/o C/S RECREATION/GYM AND POOL  
61 LOCUST ST #124  
DOVER, NH 03820-3753



PARCEL AREAS

- ①  
12,346 S.F.  
0.28 Ac.  
10,100 S.F. EXCLUDING SLOPE  
CONSERVATION DISTRICT  
OPEN SPACE = 63 PERCENT
- ②  
14,159 S.F.  
0.33 Ac.  
10,135 S.F. EXCLUDING SLOPE  
CONSERVATION DISTRICT  
OPEN SPACE = 58 PERCENT
- ③  
19,473 S.F.  
0.45 Ac.  
11,030 S.F. EXCLUDING SLOPE  
CONSERVATION DISTRICT  
OPEN SPACE = 69 PERCENT

OPEN SPACE CALCULATIONS  
200 FOOT RADIUS FROM  
LOCUS PARCEL - RM-U ZONE

MAP / LOT	OPEN SPACE
20 / 13	67 PERCENT
20 / 21	55 PERCENT
20 / 22	58 PERCENT
22 / 4	29 PERCENT
22 / 6	70 PERCENT
22 / 7	67 PERCENT
22 / 8	57 PERCENT
22 / 9	51 PERCENT
AVERAGE	= 57 PERCENT

22 / 6  
CATHERINE A. PETERSON  
1972 HICKORY TRACE DRIVE  
FLEMING ISLE, FL 32003-8390  
2134 / 439

REFERENCE PLANS:

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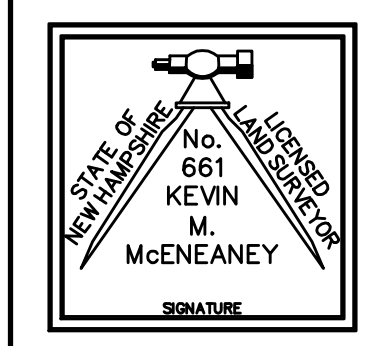
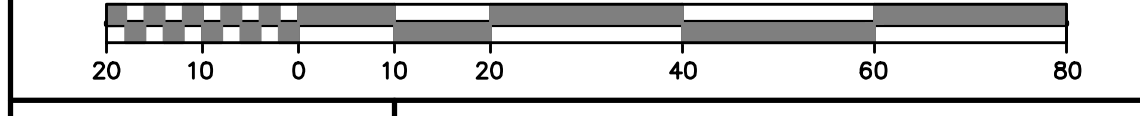
- 1.) OWNERS OF RECORD:  
DUBOIS FAMILY 2003 REVOCABLE TRUST  
398 BEECH ROAD  
ELIOT, MAINE 03903-2076  
S.C.R.D. VOL. 2832, PAGE 204
- 2.) 22 / 3 - DENOTES TAX MAP AND PARCEL NUMBER.
- 3.) PLAN INTENT: TO DEPICT A CONCEPTUAL SITE DEVELOPMENT OF THREE (3) LOTS WITH 4 UNIT BUILDINGS TO BE SERVICED BY MUNICIPAL WATER AND SEWER.
- 4.) THE SUBJECT PARCEL CONTAINS 45,979 S.F. OR 1.06 AC. OF LAND, MORE OR LESS.
- 5.) THE SUBJECT PARCEL IS LOCATED WITHIN THE URBAN DENSITY MULTI RESIDENTIAL (RM-U) ZONING DISTRICT.
- 6.) RM-U ZONING REQUIREMENTS:  
MINIMUM LOT SIZE = 10,000 S.F.  
MAXIMUM LOT COVERAGE = 40 PERCENT  
MINIMUM LOT FRONTAGE = 80 FEET  
PER FOOTNOTES - CREATION OF 3-4 FAMILY DWELLINGS  
OPEN SPACE AT LEAST EQUAL TO AVERAGE OF ALL DEVELOPED LOTS WITHIN 200' RADIUS  
TWO (2) OFF-STREET PARKING SPACES PER UNIT  
PARKING LOTS LOCATED:  
5 FEET FROM SIDE PROPERTY LINE  
10 FEET FROM FRONT PROPERTY LINE  
PARKING AREAS SHALL BE SCREENED FROM STREET AND ABUTTING LOTS  
BUILDING SETBACKS:  
FRONT = 20 FEET  
SIDE = 15 FEET  
REAR = 15 FEET
- 7.) BASIS OF BEARING IS GRID NORTH, COORDINATES SHOWN ARE NH STATE PLANE BASED ON GPS OBSERVATION 10/23/2007, AND NGS OPUS SOLUTION REPORT.
- 8.) VERTICAL DATUM IS NAVD 88 (GEOID03).
- 9.) THE SUBJECT PARCEL IS LOCATED WITHIN AREAS DETERMINED TO BE LOCATED OUTSIDE THE 0.2 PERCENT ANNUAL CHANCE FLOOD PLAN AS SHOWN ON FLOOD INSURANCE RATE MAP COMMUNITY 330145, PANEL 0330, SUFFIX D, MAP NUMBER 33017C0330D, EFFECTIVE DATE MAY 17, 2005.
- 10.) NO WETLANDS WERE OBSERVED ON THE SUBJECT PARCEL.
- 11.) STREET ADDRESSES ARE TO BE ASSIGNED BY THE BUILDING INSPECTOR AT THE TIME OF ISSUANCE OF A BUILDING PERMIT.

**LEGEND**

- I.P.(fnd) - IRON PIPE (FOUND)
- I.R.(fnd) - IRON ROD (FOUND)
- I.R.(set) - IRON ROD WITH PLASTIC IDENTIFICATION CAP (SET)
- ⊙ - SEWER MANHOLE
- ⊙ - CATCH BASIN
- ⊙ - DRAIN MANHOLE
- ⊙ - GAS VALVE
- ⊙ - WATER GATE VALVE
- ⊙ - WATER SHUT-OFF
- TBM - TEMPORARY BENCHMARK
- ⊙-UP 410/5 - UTILITY POLE W/ I.D. Nos.
- S.F. - SQUARE FEET
- Ac. - ACRE
- (TYP.) - TYPICAL
- + - MORE OR LESS
- ⊙ - DIAMETER
- S.C.R.D. - STRAFFORD COUNTY REGISTRY OF DEEDS

CONCEPTUAL DEVELOPMENT PLAN  
PREPARED FOR  
DUBOIS FAMILY 2003 REVOCABLE TRUST  
TAX MAP 22, LOT No. 3  
80 HENRY LAW AVENUE  
CITY OF DOVER  
COUNTY OF STRAFFORD  
STATE OF NEW HAMPSHIRE

DRAWN BY: RJM FILE: VR CP\2078\14-2078 NAD83  
SCALE: 1" = 20' DATE: DECEMBER 11, 2014



McEneaney  
Survey  
Associates, inc.

P.O. Box 681 - 24 CHESTNUT STREET  
DOVER, NH 03820 (603) 742-0911

SURVEYING - PLANNING - CONSULTING

"I HEREBY CERTIFY THAT THIS PLAN IS BASED ON AN ACTUAL GROUND SURVEY PERFORMED WITH A TOTAL STATION, BY ME OR THOSE UNDER MY DIRECT SUPERVISION AND THAT, TO THE BEST OF MY KNOWLEDGE AND BELIEF, SAID SURVEY MEETS OR EXCEEDS THE MINIMUM PRECISION REQUIREMENTS FOR SURVEY CLASSIFICATION "U" AS SET FORTH IN TABLE 500.1 OF THE NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES OF THE BOARD OF LICENSURE FOR LAND SURVEYORS."

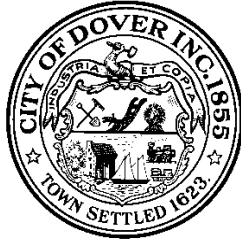
NO.	DATE	DESCRIPTION	BY	CHK
REVISIONS				
14-2078	CONCEPT	14-08	50-52	
PROJECT NO	TYPE	FIELDBOOK & PAGES		

20 / 25  
WILLIAM H. PAUL, JR  
CHARLENE PAUL  
71 HENRY LAW AVENUE  
DOVER, NH 03820  
1999 / 0472

20 / 24  
ROB ROY MACGREGOR  
ALICE MACGREGOR  
28 HAMPTON TOWN ESTATES  
HAMPTON, NH 03842-1950  
1324 / 124

20 / 23  
JOHN E. LIATSIS  
271 NIMBLE HILL RD  
NEWINGTON, NH 03801  
3608 / 27

20 / 22  
ANDREW C. ROTHWELL  
47 HANSON ST.  
DOVER, NH 03820  
1997 / 117



## 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. See also Article III, paragraph E, and Article V, paragraph C.2.

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 first regular meeting of the Board each new calendar year who shall serve as Clerk until approval and funding can be obtained to hire a dedicated Clerk as an employee of the City pursuant to RSA 673:16, I. The Clerk shall maintain a record of all meetings, transactions, and findings of the Board, as approved by the Board.

- E. All officers shall serve a term that expires at the first regular meeting of the Board each new calendar year and shall be eligible for re-election.

## Article V. Procedures

### A. Site Visits.

~~1. Upon the filing an application to the Board, an applicant expressly agrees that any Board member may, during normal business hours, visit, enter upon, inspect, or make observations of the site which is the subject of the application; provided however, that such visit(s) shall be scheduled with the applicant in advance and shall not include entry into the primary dwelling without further approval of the applicant.~~

~~2.~~1. Members are encouraged to make ~~such~~ site visits before the public meeting. Observations on such site visits may form, in whole or in part, grounds for a decision of the Board.

~~3.~~2. At no time shall more than two (2) members of the Board be present simultaneously during a site visit unless the site visit has been called as a public meeting and proper public notice as required by New Hampshire statutes has been given. Other than observations of the site, no evidence shall be taken; and there will be no discussions of the evidence or deliberations at such site visits.

### B. 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.

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.** All Meetings are conducted in accordance with Robert's Rules of Order, Eleventh Edition or later edition approved by the City Council.

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**

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

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

1. The Chair shall open the public hearing by reading the public notice referring to the application. If there are less than five (5) members of the Board sitting on a particular application, the Chair shall give the applicant the option of postponing the hearing until there is a full Board. If the applicant elects to proceed with less than a full Board (less than five (5) members, but not less than a quorum defined as three (3) members), that fact will not be grounds for a rehearing in the event the application is denied.
2. Members of the Board may ask questions at any point during testimony after recognition from the Chair.
3. Any party to the case who wants to ask a question of another party to the case must do so through the Chair.
4. Everyone who speaks and is not a member of the Board or an advisor to the

Board, shall be required to state his or her name and address and indicate whether he or she is a party to the case, an abutter or an agent or counsel to a party or an abutter.

5. The applicant (or the applicant's counsel or agent) shall be called by the Chair to present the application to the Board. Thereafter, those (or their counsel or agent) in favor of the application shall be allowed to speak. Once those in attendance in favor of the application have spoken, the Board shall hear those (or their counsel or agent) in opposition to the application. After those in opposition to the application have spoken, the applicant (or the applicant's counsel or agent) shall be allowed to speak in rebuttal. Once they have spoken in rebuttal, those in opposition (or their counsel or agent) shall be allowed to speak in final rebuttal. Upon completion of the final rebuttal, questioning by the Board Members and presentation by the staff of the City's comments, if any, the public hearing shall be declared closed; and the Board shall deliberate on the application or defer action on the application to a later date and schedule a date for continuance. After close of the public hearing no further comment from applicant, abutter, or any other member of the public shall be taken.
6. Any person who 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.
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. The Board has the authority to attach reasonable conditions in the granting of any

relief. These reasons include, but are not limited to, those necessary to preserve the spirit of the Ordinance. The placing of conditions may also be designed to protect the adjacent landowners, preserve the essential character of neighborhoods, secure the basic values of the master plan, and attempt to provide that substantial justice is done. However, the condition or conditions must be related to the use of the land and not to the personal circumstances of the applicant. Reasonable conditions shall also include the authority to make the decision conditional on placing on deposit with the ~~Town~~City, in the manner provided by RSA 673:16 (II), sums of money to ensure compliance with such conditions. The conditions must be adhered to otherwise the granting of the appeal will be revoked. If the Board finds it necessary to attach conditions they must be spelled out in detail in the Board's decision. Pursuant to RSA 676:15 and 676:17 the Board may seek Injunctive Relief, a Fine, or both for the violation of a condition.

6. 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.