

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, March 19, 2015**
Meeting Time: **7:00 pm**

1. ATTENDANCE

2. APPROVAL OF MEETING MINUTES OF JANUARY 15, 2015 AND FEBRUARY 19, 2015

3. HEARINGS

- A. * Z 15-04 Charles and Joan Garabedian (Property Owner: Charles and Joan Garabedian Irrevocable Trust), 289 Dover Point Road (Tax Map L, Lot 48), located in the Low Density Residential (R-20) District, requests a variance from **Section 170-24.C** of the Zoning Ordinance to allow an accessory dwelling unit having an area of 1,350 s.f. and comprising 48% of the total floor area of the home, where accessory dwelling units are permitted to be no larger than 800 s.f. and may comprise no more than 30% of the total floor area.
- B. * Z 15-03 Karl Leinsing (Property Owner: The Leinsing Trust), 77 Spur Road (Tax Map L, Lot 15-D), located in the Low Density Residential (R-20) District, requests a variance from **Section 170-12.A** of the Zoning Ordinance to allow helicopter take-offs and landings in the back yard of the property.
- C. * Z 15-05 MCL Builders & Developers LLC (Property Owner: Mace Family Revocable Trust), 46 Back River Road (Tax Map I, Lot 6-C), located in the Medium Density Residential (R-12) District, proposes a seven (7) lot subdivision. Applicant requests a variance from **Section 170-12.B** of the Zoning Ordinance and the R-12 District Table of Use and Dimensional Regulations to permit Lot 7 as depicted on the proposed subdivision plan to have a minimum front setback of 176.5 ft., in place of the required build to line of 27.5 ft., which is equal to the average front setback for all properties within the R-12 District within 500 ft. of the property to be subdivided.
- D. * Z 15-06 Richard and Abigail Lundborn, vacant lot on Gina Way (Tax Map G, Lot 12-B), located in the Medium Density Residential (R-12) District. Applicants propose to construct a single family home with an accessory dwelling unit. The R-12 District requires the new home to be located exactly 57 ft. from the front lot line (57 ft. is the average front setback for all properties within the R-12 District within 500 ft. of the property). Applicants request a variance from **Section 170-12.B** of the Zoning Ordinance and the R-12 District Table of Use and Dimensional Regulations to allow the home to be located farther than 57 ft. from the front lot line.
- E. * Z 15-07 Richard & Abigail Lundborn and Joan & David Parent (Property Owners: Richard & Abigail Lundborn), vacant lot on Gina Way (Tax Map G, Lot 12-B), located in the Medium Density Residential (R-12) District, request a variance from **Section 170-24.C** of the Zoning Ordinance to allow an accessory dwelling unit having an area of 1,200 s.f. where accessory dwelling units are permitted to be no larger than 800 s.f.

4. ADJOURN

Persons with questions or interested in reviewing the meeting materials are invited to visit the Planning Department located in City Hall, open Monday-Thursday from 8:30 am to 5:30 pm. The meeting materials are also available on-line at www.dover.nh.gov. Follow us on Twitter @DoverNHPlanning and find us on Facebook at <https://www.facebook.com/DoverNHPlanning>.



**CITY OF
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ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting
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Meeting Time: **7:00 pm**

1. ATTENDANCE

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

Staff Present: Timothy Corwin (Assistant City Planner), Tracy Smith (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 DECEMBER 18, 2014

B.Hall stated he had some changes to the previous minutes. The last item 3.D. has several areas that need attention, and should be reviewed again. There was discussion that C.Prior addressed regarding no special conditions on the lot that were not addressed, as well as, a natural alternative such as arborvitae is not mentioned either. Also regarding the first motion, he did not oppose the motion that he seconded.

Motion: O.Perry made a motion to refer the December 18, 2014 Regular Meeting Minutes to the next meeting for approval. Seconded by F.Landford. Vote: U/A

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.

Public Hearing Opened

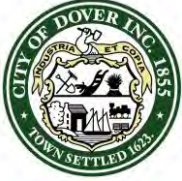
T.Corwin stated J.Pike was unable to attend, and he has withdrawn his request for a 10 ft. fence, and is requesting an 8 ft. fence instead. He further stated J.Pike has submitted new information with pictures.

B.Hall stated he received the new information, but did not receive the documents from the previous meeting on this matter. Discussion ensued regarding deferring the application for later discussion. T.Corwin stated he would be willing to make the necessary copies of the documents to review later in the meeting.

Motion: F.Landford made a motion to defer the discussion to later in the meeting. Seconded by B.Hall. Vote U/A

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



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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.

Public Hearing Opened

Kevin McEneaney, McEneaney Surveyor Associates, Inc. represented the applicant. He displayed plans for review clarifying that there are two applications. The property abuts the Cocheco Waterfront district and the central business district. One application consists of a potential three lot subdivision with four units on each of the three lots being a special exception. One criteria for each of the four units is that the open space is equal to or greater than the average open space within 200 ft. of the parcel. This requirement is met. The other requirement is to have two off street parking spaces.

T.Corwin clarified if the applicant is granted the request under the Z15-01 variance, then the applicant would withdraw Z15-02. The preferred application of Z15-01 was confirmed by K.McEneaney.

K.McEneaney continued that the parking requirement is met on both applications. He clarified the parking and density requirements and that they have been met. The preferred variance where they are asking for all 12 units on one lot with no lot lines, rather than go through the subdivision process.

The preferred layout they are proposing is the 3 unit duplex buildings, which allows a better use of the property and view. The access of the property would be opposite Hanson Street. There will be sufficient parking of two spaces per unit with additional parking for visitors. He further added that these units are consistent with the neighborhood, and he believes there will be an enhancement in value due to construction. They are not exceeding their permitted density. He summarized the build to and setback situation on the property adding the lot is unique with frontage on two roads with front setbacks on both roads and a build to on both roads.

F.Landford confirmed with K.McEneaney that units three and four do not have garages, and that these are two story buildings. The others are three story with garage and two floors of living.

T.Corwin addressed the parking situation stating that under application one, the applicant is requesting a use not permitted in the zoning district. Three parking spaces per units is the parking requirement. If application one is granted, they would need a conditional use permit for parking from the Planning Board. In regards to the second application, the special exception is a permitted use and the parking requirement is two spaces per unit. Staff made a determination that two parking spaces per unit under the special exception for the parking would apply.

K.McEneaney stated they are asking for a waiver to go from three spaces to two, adding that having to provide three is difficult to accomplish.

Attorney Alex Nossif represented Paula Clark stating she is the only one to be impacted by the development adding her back view was an open view. As a result, she will be looking at the property from Henry Law Avenue, and would be surrounded on three sides. He further stated that this is a major change from what was once a single family home and a quiet property. She is also concerned about the effect this will have on her property, living wise. She will now have cars coming on Hansen Street producing traffic which will be at all hours day and night. Also, there is currently fencing on the property now which is owned by the Dubois family which is an unsightly chain link fence. P.Clark has reached out to the property owner, and they are willing do something. Vegetation was considered to hide the property; however, P.Clark is



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asking they take down the chain link fence, and replace it with a 6-8 ft. fence abutting the perimeter of her property. T.Corwin: confirmed can have 8 ft. fence.

Robert Cooke, 5 Rebecca Lane of Rochester who owns a unit in Cricket Brook, stated his major concern is the impact on the property values. He wanted clarification of the density and what is allowed, how this would impact the values of the surrounding properties, and a description of the units once completed. T.Corwin clarified the context of the second application stating the applicant is applying for special exception approval. Under this application, the applicant by right can subdivide the property into three parcels and put up units. It is an issue of layout. Discussion ensued regarding whether these changes would increase or decrease the property values, and that the Board would only consider this situation if it would decrease property values. K.McEneaney stated this would be a new construction with an attractive hardboard siding with brick structure in the downtown area. The plan is for the properties to be rentals, which will add to the value. He further stated the surrounding properties would enhance their properties because of this, and that it would not diminish the property value.

K.McEneaney further discussed the screening of the P.Clark property stating they would prefer vegetative screening because it's more attractive; otherwise, they would provide fencing on two sides, in the rear and the side. The rear had their garage encroaching on their property. The owner is not willing to fence in between the Dubois and the Clark house because there is not enough spacing between the two homes, and does not feel it should be required. The owners will entertain screening. The fencing would not be a chain link, but vinyl fence. The upper part of the rear property line could have a 6 ft. fence to accomplish the goal.

A.Nossif stated that P.Clark wants a vinyl fence, not a wooden one. They are asking for 8 ft. in the rear and 6 ft. with a step down on the side. He further stated that they were concerned about the refusal to fence between the houses. They are requesting that they fence all three sides adding that the expense difference is minimal.

K.McEneaney stated it is a foot or less between the property lines and would be difficult to maintain fencing between the houses. A.Nossif stated there is already an existing fence there, and is fine leaving that fence. P.Clark wants the screening. The fence can be put on her property. B.Hall questioned why the applicant is obligated to put up a fence when there is an existing fence. A.Nossif stated that the applicant was not obligated to put up the fence, but asked why P.Clark would approve of the variance if she is getting nothing for it. He further stated that there is a quid pro quo with every application. He also questioned how the Board would approve of the variance with an outstanding objection. Discussion ensued among the Board members regarding the fence. S.Reid stated that he was in favor of natural screening, but wants to leave it to the people or Planning Board.

STAFF RECOMMENDATION:

T.Corwin stated that the abutter's concern is relevant to the Board; evaluation of the five criteria. He suggested approval based upon the condition that the applicant shall provide an 8 ft. vinyl fence in the rear lot line of the abutter's property and 6 ft. on the side lot line of the abutter's property with a step down to accommodate sight distance, or as otherwise agreed to by both parties and approved by the Planning Board during site review.

Public Hearing Closed

Discussion ensued regarding a motion to approve and the details regarding the motion.



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Motion: B.Hall made a motion to approve based upon the following conditions that there would be an 8 ft. vinyl fence on the rear lot line and a 6 ft. vinyl fence along the east side lot line, being the driveway side of the property with a step down for sight distance, or as otherwise agreed to by the parties and approved by the Planning Board through the site review approval process. Also, the ultimate plan be substantial in conformity with the one that was presented. Seconded by C.Prior. Vote: 5/0

- 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.

K.McEneaney stated he wanted to withdraw this application.

- C. * 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.

Motion: C.Prior made a motion to remove the item from the table. Seconded by O.Perry. Vote U/A

T.Corwin explained that J.Pike regrets that he could not attend but had a commitment that was unavoidable, and wants to move forward with the application process.

B.Hall stated his concern with the fact that no complaint had been made regarding the neighbor's junk pile in the yard. He further stated that a natural barrier was mentioned and not considered as a solution to the situation, and that the applicant knew the condition of his neighbor's yard when he built the addition.

Discussion ensued regarding the neighbor at Long Hill Road and what his rights would be if he wanted to put up the fence. From this perspective, it was determined and agreed that the 8 ft. fence would be conforming if the neighbor built it up until the side of the house facing Phillip Street.

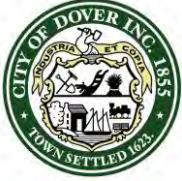
STAFF RECOMMENDATION:

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

Public Hearing Closed

Motion: C.Prior made a motion to grant the variance to construct the fence that is 8 ft. in height to a point no closer to Phillips Street than is established by the location of the house on Long Hill Road. Seconded by O.Perry. Vote: 5/0

5. REVIEW OF ZONING BOARD OF ADJUSTMENT RULES OF PROCEDURE



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T.Corwin reviewed and edited the latest draft of the Rules of Procedure with Anthony Blenkinsop, the City Attorney, prior to the meeting. He reviewed the following edits with the board for their review:

Page 1, Article 2, Paragraph B on page 3 regarding site visits: T.Corwin stated the Board is requesting that applicants ensure authorization for them to enter their property; however, there could be a situation where the applicant would not allow them access. He further stated the City Attorney is concerned with the Board considering rejecting an application due to denial of access. He stated the Board could reject or table an application on the grounds of needing additional information. Also upon review with the City Attorney, T.Corwin suggested to strike paragraphs 1 & 2. Discussion ensued regarding the 3rd paragraph which needs to be amended regarding site visits. T.Corwin stated, "Members could make site visits before the public meeting if authorized by the applicant", could be left in the paragraph with that language.

Page 4, Paragraph D: Regarding the Roberts Rules of Order: Delete "approved by the City Council".

Page 5, Paragraph F: Regarding the recordings of the meeting: The wording was incorrect. T.Corwin read the City's Code from Chapter 5, 1, M to the Board. Discussion ensued to the wording for the Rules of Procedure to state, "See City Code".

T.Corwin confirmed the words Applicant and Board should be capitalized in the Rules of Procedure.

Page 8, Paragraph 6: Specify that notices are sent by the Planning Department.

Article 6 Paragraph B has a typo. The word chair should be plural.

G.Reagan wanted to submit two changes for Page 6, Article 1: all that language has already been used and is repetitive. Could just use the first sentence. Also, Page 4, Paragraph 3, he was concerned with the process in determining an alternate. Discussion ensued regarding the process in choosing an alternate and the possibility of choosing the same alternate for a repeat case. It was determined to remove the coin toss from the Rules of Procedure.

T.Corwin stated that he will make the necessary changes and will present a copy for their review and vote at the next meeting.

6. ANNUAL ELECTION OF OFFICERS

The Chair entertained nominations for Chair.

B.Hall nominated Sam Reid for Chair. There were no other nominations for Chair. Seconded by C.Prior. With a show of hands Sam Reid was elected as Chair of the Zoning Board. Vote: U/A

The Chair entertained nominations for Vice Chair.

B.Hall nominated Otis Perry for Vice Chair. There were no other nominations for Vice Chair. Seconded by C.Prior. With a show of hands Otis Perry was elected as Vice Chair of the Zoning Board. Vote: U/A

7. ADJOURN

Motion: O.Perry made the motion to adjourn at 8:50 p.m. Seconded by F.Landford. Vote: U/A



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Meeting Type: Regular Meeting
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Meeting Time: **7:00 pm**

1. ATTENDANCE

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

Staff Present: Timothy Corwin (Assistant City Planner), Tracy Smith (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 DECEMBER 18, 2014 AND JANUARY 15, 2015

Motion: O.Perry made a motion to approve the December 18, 2014 Regular Meeting Minutes. Seconded by B.Hall. Vote: U/A

Motion: F.Landford made a motion to approve the January 15, 2015 Regular Meeting Minutes. Seconded by O.Perry.

B.Hall stated that there were two items on the January 15, 2015 Regular Meeting Minutes that needed correction. On page 3, he had asked the lawyer, Mr. Nossif why the necessity for the fence when there is an existing one already, and the lawyer replied that they wanted to get something out of it. B.Hall expressed concern about the possible repercussions of this comment. O.Perry confirmed that it is past 30 days, and therefore too late for any appeals. B.Hall stated that Mr. Nossif's statement was dramatic and he would like it included in the minutes. Also on page 4, below the middle Motion, he added that his statement was not worded properly and he would like the sentences rewritten.

Motion: O.Perry motioned to refer the January 15, 2015 Regular Meeting Minutes to the next meeting. Seconded by B.Hall. Vote: U/A

3. CONSIDERATION OF RE-HEARING REQUEST FOR Z 14-32, JOHN PIKE, 2 PHILLIP STREET (TAX MAP A, LOT 16-B)

T.Corwin gave an overview of the case and supplied an image showing the work already completed by the applicant. He stated that the rehearing request was submitted by the applicant to eliminate the previous condition of approval and to allow an 8 ft. fence to be located all the way to Phillip Street.

B.Hall added that C.Prior had stated in a previous meeting that the applicant did not meet the variance criteria and that there is nothing unique about the property to allow the variance. He further added that the approval was given on the basis that the 8 ft. fence was aligned with what the neighbor at 57 Long Hill Road would be permitted to do by right.

S.Reid confirmed with T.Corwin that if no new evidence was presented and there was no need to correct an error of fact or law, then the rehearing could be declined.

C.Prior commented on the image provided by the applicant showing the new fence installation stating that it appeared as though the photo was not taken from the addition but from the upper floor on the other side of the house. He stated that the applicant's original request stated the need of the fence pertaining to the view from the addition. He further added that it appeared as though the applicant had changed his perspective to any view shielding a view of the side yard from the house, rather than just the view from the addition.



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G.Reagan suggested that the applicant was trying to show with the photo the work he had already accomplished and that the project looks aesthetically disjointed.

Discussion ensued regarding the height of the neighbor's fence and why the neighbor was allowed a 6 ft. fence, and did it predate the 4 ft. regulation.

B.Hall stated his concern that natural vegetation was previously suggested as an option which would not require a variance, but the applicant instead prefers a fence. He further stated that the debris in the neighbor's yard had not been properly addressed as a zoning violation.

F.Landford stated that there is no new information added by the applicant, therefore there is no need for a new hearing.

Motion: F.Landford made a motion to deny the request for rehearing based on no new information given. Seconded by C.Prior. Vote: 4/1 (opposed by O.Perry)

O.Perry stated that there is an 8 ft. fence there that he could connect to that was not previously graphically portrayed. He stated he considers that to be new information. C.Prior stated that vegetation would solve the applicant's problem. O.Perry stated that the applicant is not asking for vegetation, but a fence.

T.Corwin suggested the motion reflect the Board's decision on any errors of law.

Motion: F.Landford made a motion to deny the hearing due to the fact that there was no new information and no error of law. Seconded by C.Prior. Vote: 4/1 (opposed by O.Perry)

4. REVIEW AND ADOPTION OF REVISED ZONING BOARD OF ADJUSTMENT RULES OF PROCEDURE

S.Reid confirmed with T.Corwin that there were no new changes since the last meeting. T.Corwin clarified that the motion would be to adopt the revised Rules of Procedure and that it would be ratified by City Council.

Discussion ensued that the draft was not dated. T.Corwin stated the Board could word the motion to refer to the draft included in the packet.

Motion: O.Perry made a motion to adopt the revised Zoning Board of Adjustment Rules of Procedure as included in the packet. Seconded by B.Hall. Vote U/A

5. ADJOURN

Motion: O.Perry made a motion to adjourn at 7:21 p.m. Seconded by B.Hall. Vote: U/A



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z15-04)

Application Type: Variance
Applicant: Charles and Joan Garabedian
Owner: Charles and Joan Garabedian Irrevocable Trust
Location: 289 Dover Point Road (Tax Map L, Lot 48)

INTENT: The property is improved with a single family dwelling. The applicant proposes to use the walk-out basement, which has an existing kitchen, as an accessory dwelling unit. A variance is required to permit the accessory dwelling unit to have an area of 1,350 s.f. and comprise 48% of the total floor area of the home, where accessory dwelling units are permitted to be no larger than 800 s.f. and may comprise no more than 30% of the total floor area.

UNITS PROPOSED: Two (one existing single family dwelling and one proposed accessory dwelling unit)

AGENDA ITEM #: 3-A

ZONING DISTRICT: R-20

EXISTING LAND USE: Single Family Residential

PROPOSED LAND USE: Single Family Residential with Accessory Dwelling Unit

SURROUNDING LAND USE: Residential

PREVIOUS ZBA ACTION: None

PLANNING BOARD APPROVAL REQUIRED: No

ATTACHMENTS: Application with photos, tax map, plot plan, tax card, and floor 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 property is improved with a single family dwelling. The basement of the home is finished and includes its own kitchen, bath, bedroom, dining area, and living area. Although the applicant contends that these improvements received the appropriate City approvals and were constructed at the same time as the house itself in 1972, Inspection Services (the City's building department) has no records of any permits issued for this property. It is staff's understanding that the house has been occupied by the owners and/or members of the owner's family since 1972 (according to Mrs. Garabedian, the house was built by her father), but that the downstairs unit has never been separately rented as an apartment. The property owners are now trying to sell the property, and would like to formalize what they believe they had all along: an "in law apartment" (recognized under the City of Dover Zoning Ordinance as an "Accessory Dwelling Unit"). However, the size of the basement unit exceeds the maximum size requirements set forth in Section 170-24.C of the Zoning Ordinance. Accordingly, applicants require a variance to permit the the accessory dwelling unit to have an area of 1,350 s.f. and comprise 48% of the total floor area of the home, where accessory dwelling units are permitted to be no larger than 800 s.f. and may comprise no more than 30% of the total floor area.

Reason for Staff Recommendation

It is not clear how the second unit was permitted since the property was located in the R-1 low density residential district at the time the home was constructed. To the best of our knowledge, the R-1 District did not permit two family dwellings. Nevertheless, staff finds the property owners' representations that all work received building permits to be credible. (Note that it is not unusual for the City of Dover – or most other New Hampshire communities for that matter – to no longer have records for permits issued prior to the 1990s.) Staff feels this is relevant in that it demonstrates these improvements have likely existed for over 40 years.

In seeking City approval for an Accessory Dwelling Unit, the applicants were interested in retrofitting the basement to meet the requirements of 170-20.C and met with the Assistant City Planner and Building Official at their home to strategize options. However, given the existing layout, the only solutions involved organizing the space in ways that would render a significant amount of space unusable for the principal dwelling unit.

Recommendation

The Planning Department recommends that the Board grant the variance request.

289 Dover Point Road



Property Information

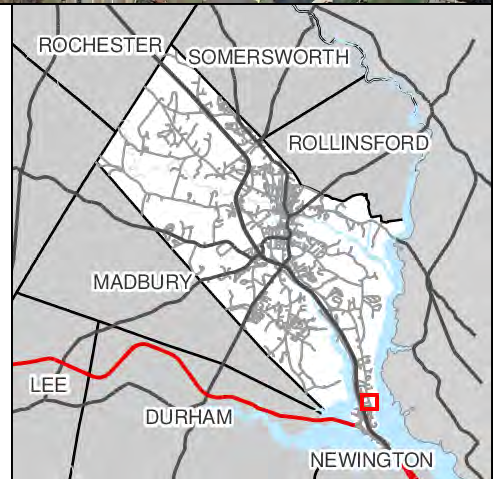
Property ID L0048-000000
Location 289 DOVER POINT RD
Owner GARABEDIAN CHARLES & JOAN
 GARABEDIAN CHARLES AND JO



**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, 2015





City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Adopted: August 16, 2012]

Office Use Only Case #: 215-04 Date Received: MAR 03 2015
Amount Paid: \$ 308.00 Time Received: Dover, New Hampshire

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: CHARLES J./JOAN E. GARABEDIAN Phone # 603-749-6676

Address of Applicant: 289 DOVER POINT ROAD

E-Mail Address: Mfgsvco@gmail.com

PROPERTY OWNER (if different from applicant):

Address: Phone #

E-Mail Address:

PROPERTY/PARCEL INFORMATION

Address: 289 DOVER POINT ROAD

Brief Directions: SINGLE STORY RANCH HOUSE LOCATED ON THE CORNER OF DOVER POINT ROAD AND PINEVIEW DRIVE. LAND SLOPED DOWN ALLOWING FOR A FINISHED WALK OUT BASEMENT WHEN CONSTRUCTED.

Zoning District: Assessor's Map # L Lot(s) # L-0048 48

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:

TO ALLOW A ACCESSORY DWELLING UNIT LARGER THAN 800 SQUARE FEET AND TO BE MORE THAN 30% OF THE TOTAL FLOOR SPACE. ASSESSMENT SHEET SHOWS 2646 SQUARE FEET OF LIVABLE SPACE ON TWO FLOORS. LOWER LEVEL (BASEMENT) WILL BE USED AS A RESIDENCE FOR FAMILY MEMBERS. BASEMENT HAS THREE EGRESSES WITH IT'S OWN DEDICATED DRIVEWAY FOR PARKING OFF OF PINEVIEW DRIVE.

VARIANCE REQUIREMENTS

THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY

A. Variance Requested

A variance is requested from Section(s) 170-24^c of the Zoning Ordinance to permit:
A ACCESSORY DWELLING UNIT LARGER THAN 800 SQUARE FEET AND TO BE MORE
THAN 30% OF THE TOTAL FLOOR SPACE. THE BASEMENT LIVING AREA IS
LISTED AS 1350 SQUARE FEET.

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:
DWELLING WAS ORIGINALLY CONSTRUCTED WITH A FINISHED BASEMENT INCLUDING
A BEDROOM, 3/4 BATHROOM, LAUNDRY ROOM, KITCHEN AREA AND RECREATION
ROOM. ORIGINAL ZONING WAS R-20 WHEN THE HOUSE WAS CONSTRUCTED IN
1970

2. Deviation from the strict requirements of the Ordinance is consistent with the spirit of the Ordinance because:
THE VARIANCE WOULD NOT HAVE ANY ADVERSE EFFECT ON ANY NEIGHBORS SINCE
THE ACCESSORY UNIT WOULD BE OCCUPIED BY MATURE FAMILY MEMBERS. THERE
WOULD BE OFF STREET PARKING FOR ONE VEHICLE OFF OF PINEVIEW DRIVE.
THE ACCESSORY UNIT HAS IT'S OWN ENTRANCE WHICH ENCLUDES TWO OTHER
EGRESSES.

3. Granting the variance would do substantial justice because:
PROPERTY HAS TWO BEDROOMS AND A FULL BATH ON THE GROUND LEVEL. THE
BASEMENT HAS ONE BEDROOM, A 3/4 BATHROOM, A LAUNDRY ROOM, KITCHEN,
A LARGE LIVING AND RECREATION AREA. THIS HOUSE HAS BEEN TAXED AS A
3 BEDROOM WITH TWO BATHS AND HAS BEEN LISTED ON THE ASSEMENT SHEET
DATED 05/07/14-COND.1 IN-LAW APTMT.

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

THERE IS NO VISIBLE CHANGE TO THE EXTERIOR OF THE PROPERTY. THE PROPERTY IS TREED AND WELL LANDSCAPED WITH SHRUBBERY AROUND THE PERIMETER OF THE PROPERTY OFFERING PRIVACY BOTH TO THE OCCUPANTS AND NEARBY NEIGHBORS. THE DWELLING WAS PURCHASED FROM MY WIFE'S UNCLE AND THE BASEMENT WAS SET UP AS A SUMMER KITCHEN FOR PARTIES AND OVERNIGHT GUEST.

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:

THERE IS NO OTHER PROPERTY CLOSE BY THAT WAS CONSTRUCTED WITH FAMILY MEMBERS IN MIND THAT COULD UTILIZE THE BASEMENT AREA WITH A BEDROOM, BATHROOM AND SUPPORTING AMENITIES.

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 LATEST ASSESSMENT SHEET LIST THE DWELLING AS "IN-LAW APARTMENT" WITH NO CLASSIFICATION LISTED IN THE CITY OF DOVERS ZONING CODE.

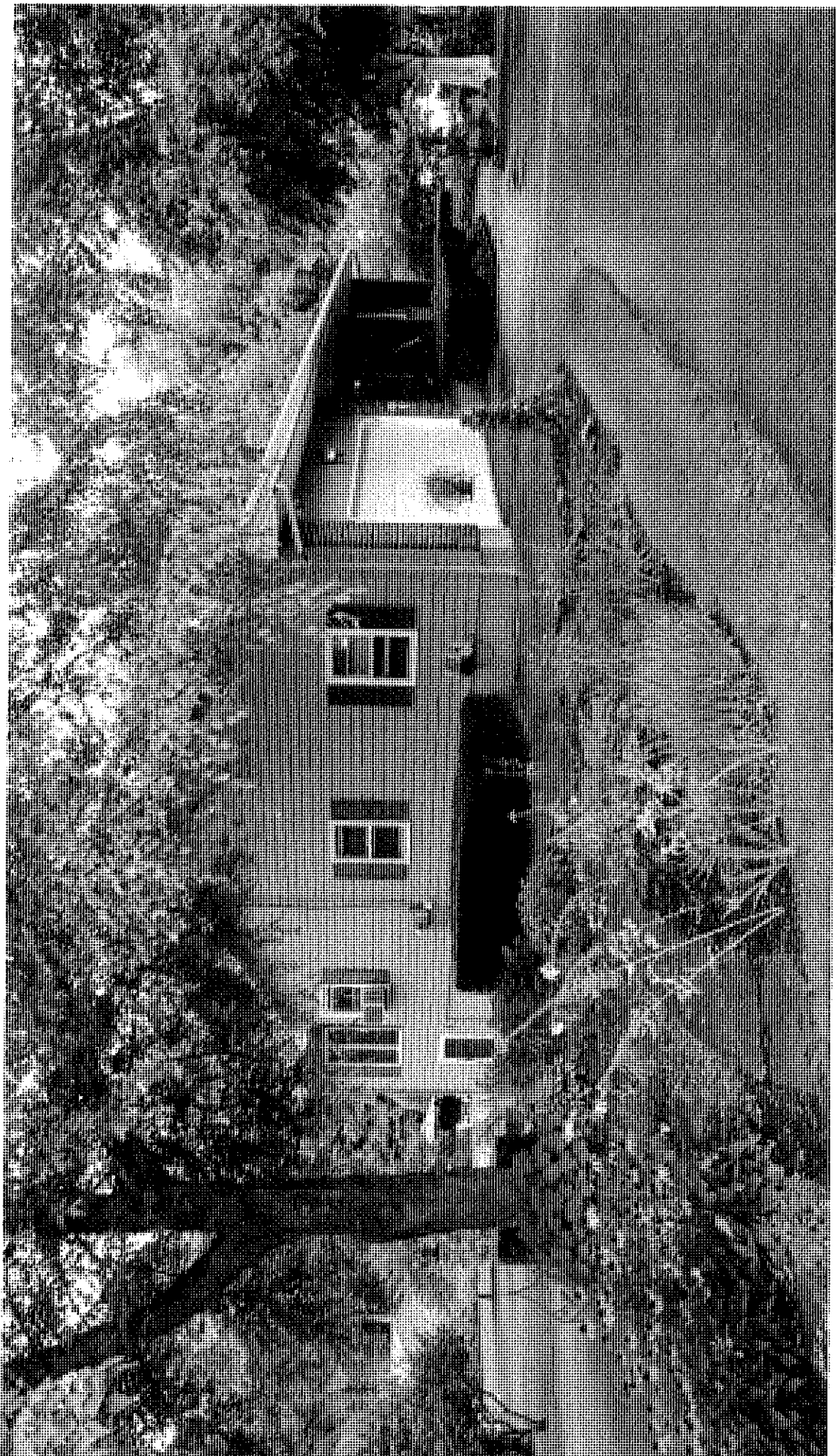
and

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

FAMILY MEMBERS WOULD NOT BE A LIABILITY, BUT AN EXTENSION OF BLOOD RELATIONSHIP AND CARING CHILDREN.

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:







CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z15-03)

Application Type: Variance
Applicant: Karl Leinsing
Owner: The Leinsing Trust
Location: 77 Spur Road (Tax Map L, Lot 15-D)

INTENT: The property is located adjacent to the Bellamy River and is improved with a single family dwelling. The applicant requests a variance to use the back yard of the property for an accessory helicopter take off and landings use.

UNITS PROPOSED: n/a

AGENDA ITEM #: 3-B

ZONING DISTRICT: R-20

EXISTING LAND USE: Single Family Residential

PROPOSED LAND USE: Single Family Residential with accessory helicopter take off and landing

SURROUNDING LAND USE: Residential

PREVIOUS ZBA ACTION: None

PLANNING BOARD APPROVAL REQUIRED: No

ATTACHMENTS: Application with supplemental materials; cover letter with accompanying materials from Myles and Elizabeth Bratter of 75 Spur Road

APPLICATION IS COMPLETE: Yes

NOTICES AS REQUIRED: Yes

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

Summary of Request and Background

The property is improved with a single family home and is located adjacent to the Bellamy River with frontage on Spur Road. The applicant proposes to use the rear yard of the property for an accessory helicopter take off and landings use. "Helicopter take offs & landings" is a use permitted by Special Exception in the R-20 District. However, the property is ineligible for Special Exception approval because there is no location on the property that could meet Special Exception requirement "A", set forth in the R-20 District Table, which provides that: "[t]here shall be a distance of one thousand (1,000) feet between any existing residential structure and any proposed helicopter landing pad." Therefore, the applicant requires a variance to allow the helicopter use.

Reason for Staff Recommendation

The purpose of a variance is to provide a relief valve from 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. Because it relates to the unique conditions of a property, once granted a variance runs with the land regardless of changes in ownership and occupants.

Although the variance standards have eased somewhat in recent years, an applicant must still provide some evidence that there is something unique about his property that distinguishes it from all other properties similarly zoned. Here, the applicant is using his property for a single family home, in addition to a home office. There is nothing unique about this property that would result in an unnecessary hardship and/or deny reasonable use if the requested variance were denied.

The variance must also effect some reasonable use of the property. Even if the representations made by the applicant with respect to the safety of the helicopter use are taken at face value, a helicopter landing pad on an average residential lot in an average residential neighborhood is extremely unusual and luxurious. Rather than approving a deviation from the ordinance to allow a reasonable use of the property, the effect of a variance in this case would be to allow an extremely unusual and luxurious use.

Because he cannot meet the special exception criteria, the applicant is essentially asking the Board to "spot zone" his property and to treat it with distinction, not because there is anything unique about the property, but simply because the current property owner enjoys flying helicopters. It is a request that is specifically tailored for the current owner and therefore, is not well suited for variance relief.

Note that the applicant does have an alternative – he can petition the Planning Board pursuant to Section 170-53.C(3) of the Zoning Ordinance to amend the requirements for helicopter take offs and landings in the R-20 District.

Recommendation

The Planning Department recommends that the Board deny the request.

77 Spur Road



Property Information

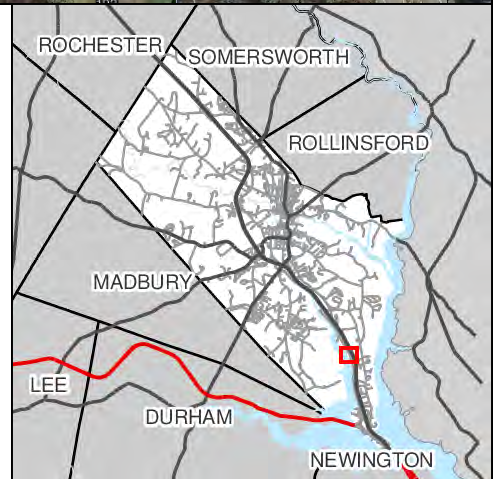
Property ID L0015-D00000
Location 77 SPUR RD
Owner LEINSING KARL R TRUSTEE
LEINSING TRUST



**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, 2015





City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Adopted: August 16, 2012]

Office Use Only Case #: Z15-03 Date Received: FEB 12 2015
Amount Paid: \$ 212.00 Time Received: Dover, New Hampshire

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: Karl R. Leinsing Phone # 603-926-8216

Address of Applicant: 77 Spur Rd., Dover, NH 03820

E-Mail Address: kleinsing@comcast.net

PROPERTY OWNER (if different from applicant): The Leinsing Trust, dated 05/26/2005

Address: 77 Spur Rd., Dover, NH 03820 Phone # 603-926-8216

E-Mail Address: kleinsing@comcast.net

PROPERTY/PARCEL INFORMATION

Address: 77 Spur Rd., Dover, NH 03820

Brief Directions: From Dover Point Rd. take a left or right on New Bellamy Lane then right on Spur Rd. and property is on the left.

Zoning District: R-20 Assessor's Map # L Lot(s) # 15D

TYPE OF APPEAL: (Please check one)

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

DESCRIBE BRIEFLY YOUR PLANS FOR THE PROPERTY:

To perform helicopter (Robinson R44 Raven II) take-off and landings on the backyard of 77 Spur Rd.

Blank lines for describing plans for the property.

VARIANCE REQUIREMENTS

THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY

A. Variance Requested

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

Perform helicopter takeoff and landings on the property of 77 Spur Rd. with the following conditions:

1. Notify abutters in advance of takeoffs and landings if requested.
2. Perform helicopter operations only between hours of 7am and 9pm.
3. No flying over abutters homes.

(Note: Takeoffs and landings are permitted currently with no restrictions in the Bellamy River behind 77 Spur Rd. FAA and NH DOT Aviation Division have approved takeoffs/landings on 77 Spur Rd. adjacent to Bellamy River.)

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:

Helicopters and other aircraft such as seaplanes are currently permitted to takeoff and land in the Bellamy River. There is little difference between performing takeoffs and landings in the water or on a boat in the water and performing takeoffs and landings on adjacent property that abuts the Bellamy River. Takeoffs and landings will also occur on rare occasions and will not be performed daily for commute to work since land owner works from home.

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

Any nuisance on property will be no different to nuisance on water and at least one abutter would prefer to see landings and takeoffs on land versus water as they prefer that the river be free of additional modes of transportation. The R-20 zoning ordinance currently does allow for helicopter takeoffs and landings under Special Exemption, but has a 1000 foot requirement from residential buildings that is currently not able to be complied with when landing in the Bellamy River.

3. Granting the variance would do substantial justice because:

At least two of land owners would prefer the performance of landings and takeoffs on land as opposed to on the water that also provides additional restrictions (time of day, no abutter fly overs, and prior notification) that does not exist with takeoffs and landings in the water.

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

There will be little difference as compared to aircraft takeoffs and landings that currently occur in the Bellamy River. Helipads are often associated with higher value homes. Limiting and regulating the aircraft activity on land is better than additional unrestricted activity on the water. Tax card for 77 Spur Rd. currently indicates one abutter at 75 Spur Rd. is a "junk yard neighbor", therefore, value of this property is not likely to decrease any further under its current condition.

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 property is a waterfront property where takeoffs and landings are allowed in the water (Bellamy River) which makes it unique to other property in the R-20 zoning district. This property has a large 150 x 150 foot open grass space with no trees between the land and the water that provides a better landing location and the restrictions placed on landing on the land are preferable to abutters.

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:

Helicopter takeoffs and landings is currently a permitted use by special exemption under the R-20 zoning ordinances. The only requirement that is not satisfied to obtain the Special Exemption is the 1000 foot requirement from any residential structure. This requirement is currently not met when aircraft takeoff and land in the Bellamy River that abuts the subject property and hasn't been met for more than 10 years. This variance application is requesting a variance on this 1000 foot requirement for this unique property such that it can obtain a special exemption as preferred by at least 2 of the land owners. Helipad distance from abutter residence at 83 Spur Rd. is 370 feet and distance from abutter residence at 75 Spur Rd. is 264 feet (see GPS measurements attached).

and

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

Both the FAA and the NH DOT Bureau of Aeronautics have approved the land at 77 Spur Rd. as a safe location for helicopter takeoffs and landings. Please reference the two site approval certificates attached to this application. Granting of this variance will also impose additional restrictions that do not exist with takeoffs and landings on the water. This variance request is in an effort to compromise with abutters at the request of at least one abutter at 83 Spur Rd. Landing on land is further away from the trees across the river which allows approaches/departures over the trees and away from abutters. Takeoff and landings on the water force an approach/departure up and down the river which will be closer to abutters.

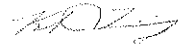
OR

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.



Digitally signed by Karl R. Leinsing
Date: 2015.02.10 09:35:23 -05'00'

Signature of Applicant*



Digitally signed by Karl R. Leinsing
Date: 2015.02.10 09:18:20 -05'00'

Signature of Owner*

*Both Signatures Required

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.

AUTHORIZATION TO ENTER SUBJECT PROPERTY

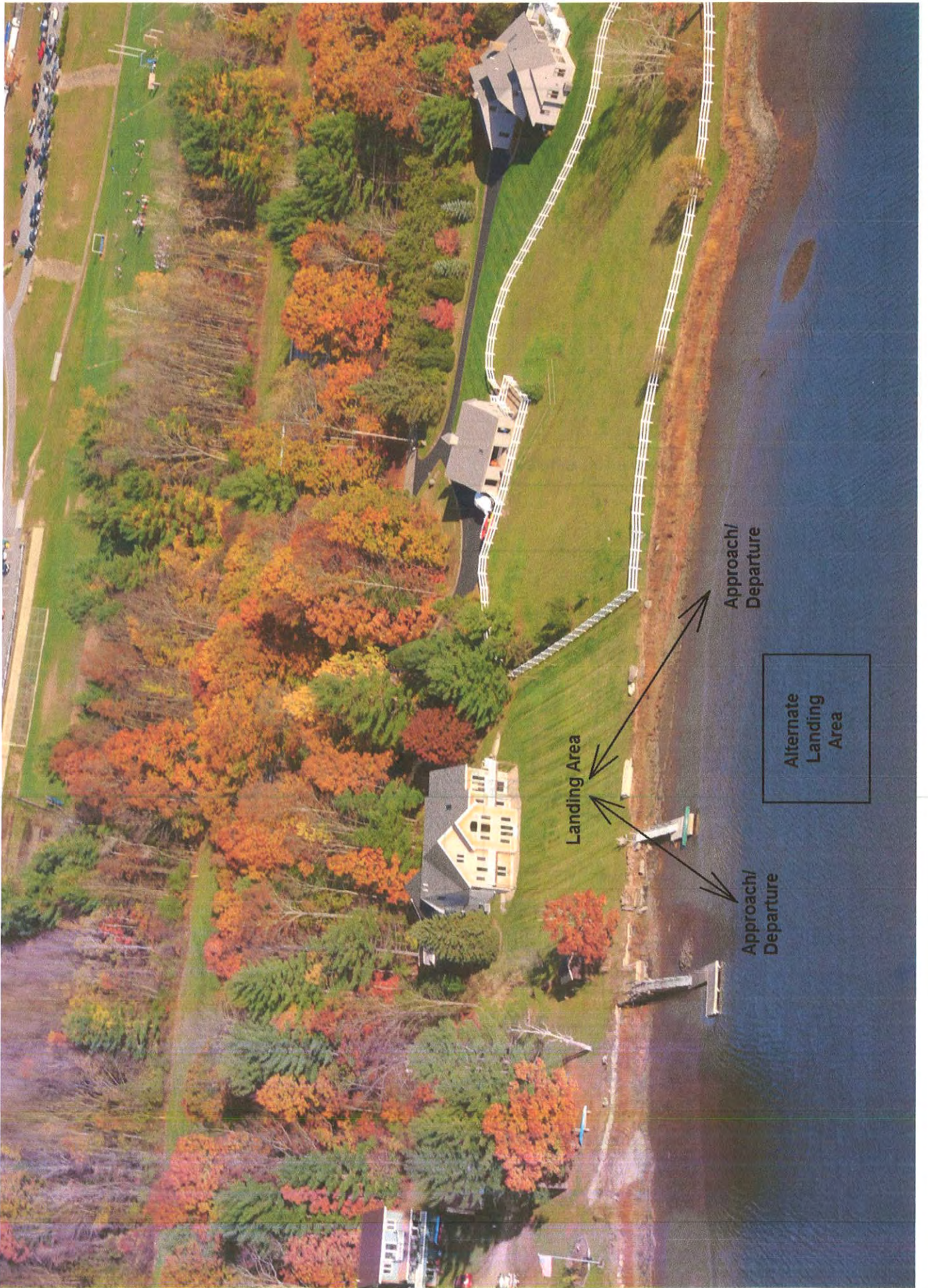
I, and my successors, hereby authorize members of the Dover Zoning Board, Planning Department and other pertinent City Departments and boards to enter my property for the purpose of evaluating this application, including performing inspections during the application phase, post-approval phase, construction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



Digitally signed by Karl R. Leinsing
Date: 2015.02.10 09:18:48 -05'00'

Date: 02/10/2015



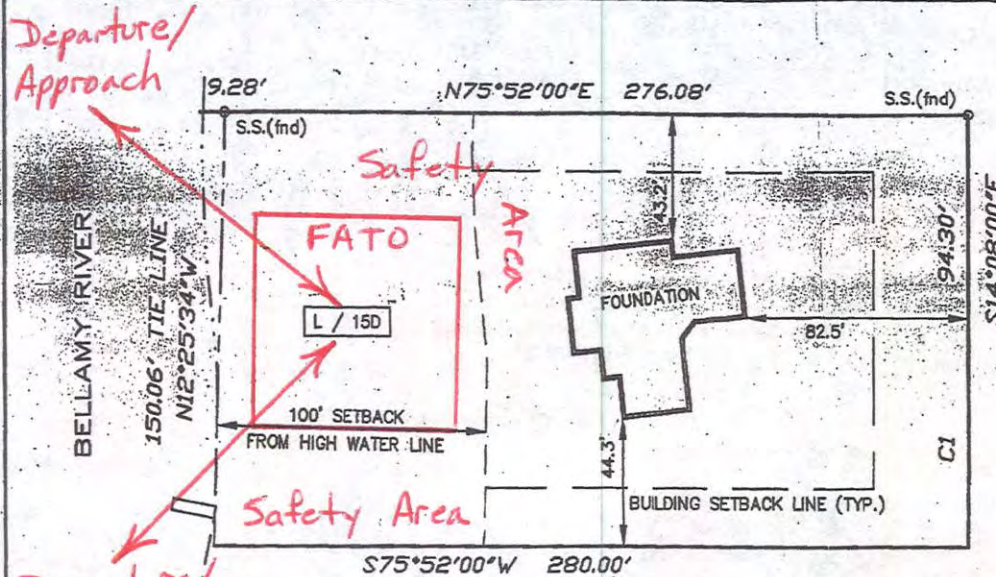
Approach/
Departure

Alternate
Landing
Area

Landing Area

Approach/
Departure

No.	Central Angle	Radius	Arc Length	Chord Length	Chord Bearing
C1	01°07'57"	2817.90	55.70	55.70	S13°34'02"E



Departure/Approach

REFERENCE PLAN:

- 1.) ROMAN CATHOLIC BISHOP OF MANCHESTER PLAN OF LAND ON DOVER POINT ROAD, DOVER, NEW HAMPSHIRE. SCALE: 1" = 100', DATED: ; BY G.L. DAVIS & ASSOC. S.C.R.D. PLAN 16A, POCKET 8, FOLDER 2.

NOTES:

- 1.) ZONING DISTRICT R-20.
- 2.) THIS IS NOT A BOUNDARY SURVEY, IT IS INTENDED FOR FOUNDATION CERTIFICATION ONLY.

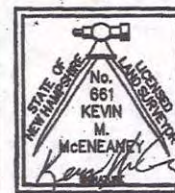
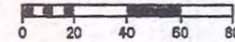
"I CERTIFY THAT THE FOUNDATION LOCATION SHOWN MEETS THE SETBACK REQUIREMENTS, AND IS NOT WITHIN A DESIGNATED FLOOD PLAIN."

PROJECT No. 04-1478 FILE= C:\P\1478\03-1478

NOT TO BE RECORDED

FOUNDATION CERTIFICATION
FOR
PATRICIA ANDERSON
77 SPUR ROAD
DOVER, NEW HAMPSHIRE

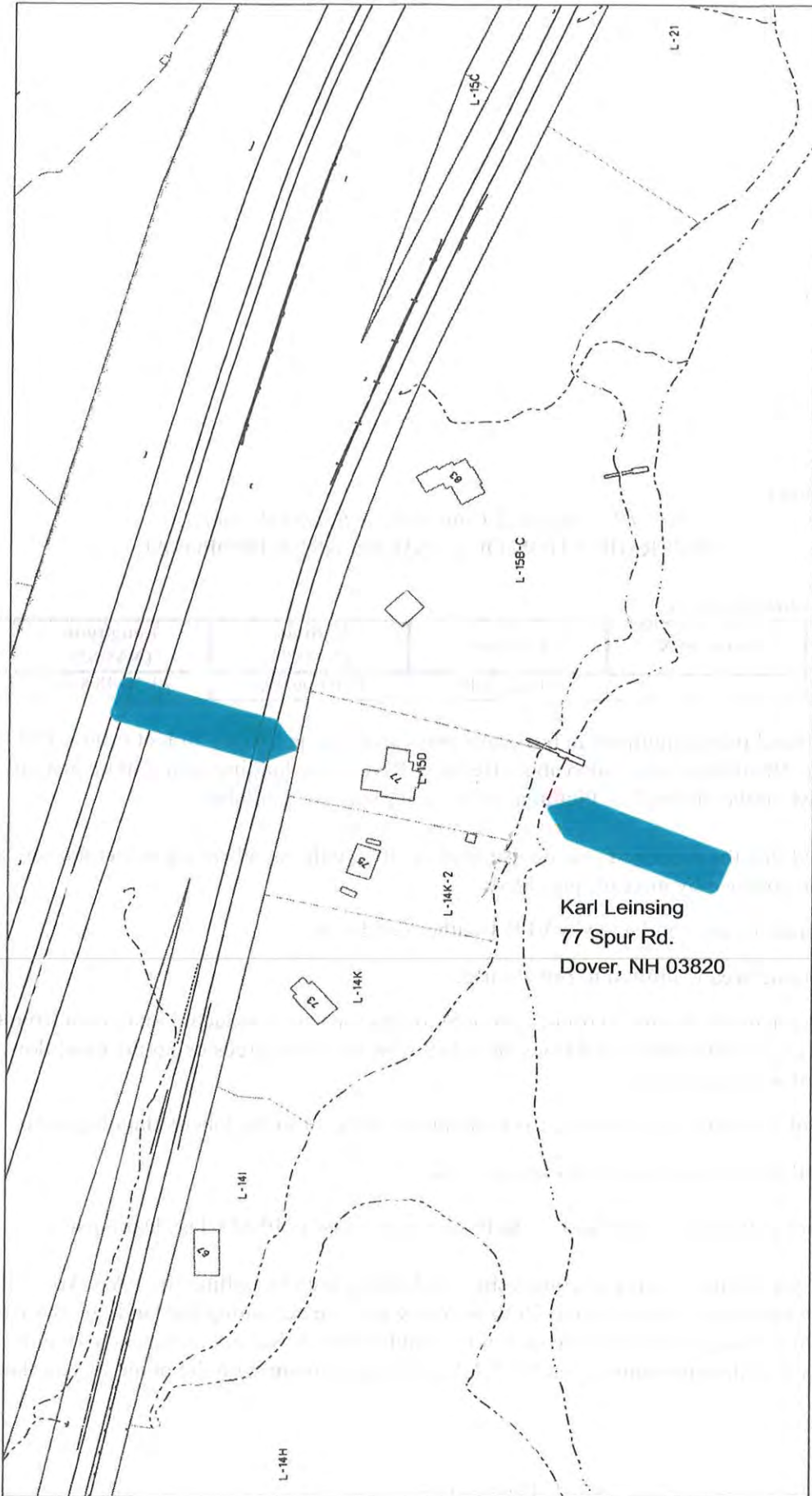
1" = 40' APRIL 23, 2004



McEneaney
Survey
Associates, inc.

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

* SURVEYING * PLANNING * CONSULTING *



Abutter #1:
John Bloom
83 Spur Rd.
Dover, NH 03820

Karl Leinsing
77 Spur Rd.
Dover, NH 03820

Abutter #2:
Myles Bratter
75 Spur Rd.
Dover, NH 03820



U.S. Department of Transportation

Federal Aviation Administration

November 20, 2014

TO: Karl R. Leinsing, Attn: Karl R. Leinsing, 77 Spur Rd., Dover, NH 03820, kleinsing@comcast.net

RE: (See attached Table 1 for referenced case(s)) DETERMINATION OF LANDING AREA PROPOSAL

Table 1 - Letter Referenced Case(s)

Table with 7 columns: ASN, Prior ASN, Location, Latitude (NAD83), Longitude (NAD83), AGL (Feet), AMSL (Feet). Row 1: 2014-ANE-745-NRA, [blank], Dover, NH, 43-09-06.59N, 70-50-48.84W, 1, 11

Description: Residential private heliport in backyard grass area that is 150 x 150 feet (100 x 100 foot FATO) at 77 Spur Rd., Dover, NH 03820 which also abuts Bellamy River. The landing area will be just outside the class D airspace of KPSM on the 360 radial. Pictures, maps, and plans are available.

We have determined that the proposed private use landing area, will not adversely affect the safe and efficient use of the navigable airspace by aircraft, provided:

- All operations are conducted in VFR weather conditions.
The landing area is limited to private use.
All approach and departure route helicopter operations are conducted in an area from 005 degrees clockwise to 150 degrees and from 185 clockwise to 330 degrees using the touchdown pad as the center of a compass rose.
A non-obstructing wind indicator is maintained adjacent to the takeoff/landing area.
All local government approvals are granted.

Maintain radio communications with PSM tower while in PSM Class D airspace.

Please notify the FAA within 15 days of completing the landing area by calling the FAA Area Flight Service Station (AFSS) serving your landing area to let them know you are activating the landing area while the Airport Master Record form is being processed. Please tell the Flight Service Station representative that you have received an aeronautical determination from the FAA, and supply them with the name of your landing area and the coordinates.

Please return the enclosed Airport Master Record form to this office. When the processing of the Airport Master Record form is completed, your landing area will have a site number and a permanent location identifier. Indicate whether or not you would like to have your landing area shown on aeronautical charts. Charting also depends on the amount of "clutter" already on the charts near your site.

In order to avoid placing any unfair restrictions on users of the navigable airspace, this determination is valid until May 20, 2016. Should the facility not be operational by this date, an extension of the determination must be obtained by 15 days prior to the expiration date of this letter.

This determination does not constitute FAA approval or disapproval of the physical development involved in the proposal. It is a determination with respect to the safe and efficient use of navigable airspace by aircraft and with respect to the safety of persons and property on the ground.

In making this determination, the FAA has considered matters such as the effects the proposal would have on existing or planned traffic patterns of neighboring airports, the effects it would have on the existing airspace structures and projected programs of the FAA, the effects it would have on the safety of persons and property on the ground, and the effects that existing or proposed manmade objects (on file with the FAA), and known natural objects within the affected area would have on the airport proposal.

The FAA cannot prevent the construction of structures near an airport. The airport environs can only be protected through such means as local zoning ordinances, acquisitions of property in fee title or aviation easements, letters of agreement, or other means.

This determination does not preempt or waive any ordinance, law, or regulation of any other governmental body or agency.

A general ordinance of the State of NH provides that certain airport constructions or alterations require a written permit prior to construction. The permit may be obtained from the NH Department of Transportation.

Enclosures:

- Airport Master Record

If you have any questions concerning this determination contact Tracey Mcinnis, (781) 238-7621 and/or tracey.mcinnis@faa.gov.

Tracey Mcinnis
Specialist
NH DOT



August 20, 2014

Dear Mr. Leinsing:

On August 19, 2014, the New Hampshire Department of Transportation, Bureau of Aeronautics conducted an initial inspection of Leinsing Heliport in Dover. The purpose was to identify any aviation safety concerns and to document your proposed heliport's conditions for the Bureau's records.

The inspection itself focused on your heliport's compliance with FAR Part 77, "Objects Affecting Navigable Airspace," and various FAA Advisory Circulars. Please note the items listed below are recommendations for improving the safety of your heliport and in no way affect the status of your heliport registration.

Aircraft Operations

An FAA inspector will also perform an inspection of Leinsing Heliport. The FAA will then send you a report called a "Determination of Landing Area Proposal" and the Bureau of Aeronautics will receive a copy. This report will list restrictions with regard to flight operations at your heliport. You and all other users shall be required to comply with these restrictions.

Design Helicopter

Based on your input, a Robinson R-44 was utilized as the design helicopter for Leinsing Heliport. This helicopter has a rotor diameter (RD) of 33 feet and an overall length (OL) of 38.25 feet.

Touchdown and Lift-Off (TLOF) Area

Based on the design helicopter, the TLOF should be a minimum length and width, or diameter of 33 feet. We recommend the following:

- Mark the TLOF perimeter with a solid 12-inch white stripe and mark the center of the TLOF with a standard "H."

Final Approach and Takeoff (FATO) Area

Karl Leinsing
Leinsing Heliport
page 2 of 2

Based on the design helicopter and a TLOF with the minimum dimensions of 33 feet, the FATO should be a minimum length and width, or diameter of 57.38 feet centered on the TLOF. There are no specific recommendations for the TLOF at this time.

Safety Area

The Safety Area surrounds the FATO. The dimensions of the Safety Area are dependent on the heliport markings. We recommend the following:

- If only the FATO perimeter is marked (with inlaid paving stones as mentioned), the Safety Area should be a minimum length and width, or diameter of 87.38 feet centered on the FATO.

Miscellaneous

Since the approach/departure path follows a curved route along the course of the river, an obstruction analysis for a standard straight-in approach was not performed. With regard to ingress and egress from the heliport, you are required to comply with the requirements and restrictions of the FAA inspector, once issued.

It is recommended that operations at the heliport be limited to private use, prior permission required (PPR) during daytime, visual meteorological conditions (VMC) and under visual flight rules (VFR) or as required by the FAA.

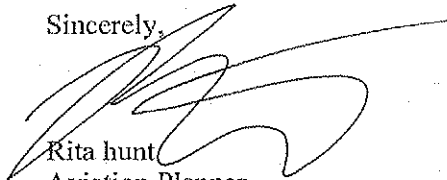
Conclusion

The items listed in this letter are recommendations for safe operations. Since Leinsing Heliport will not be a public-use heliport there are no mandatory compliances in regards to lighting, markings, surfaces, or transitional surfaces. **There are currently no mandatory changes or alterations necessary for State approval.**

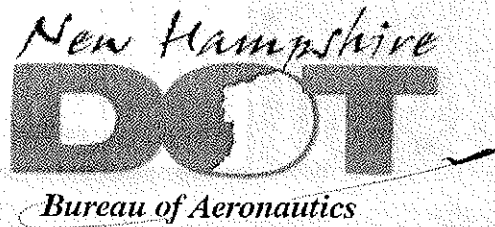
Based on our inspection, the Bureau of Aeronautics finds that the site at 77 Spur Road in Dover is adequate for the proposed heliport facility and we will issue a Site Certificate for the Leinsing Heliport. Once we receive our copy of the FAA "Determination of Landing Area Proposal," we will contact you in regard to issuing a New Hampshire Airport Registration Certificate.

Should you have any questions relating to the inspection or any other aviation matter, please do not hesitate to contact me at (603) 271-1677 or at rhunt@dot.state.nh.us.

Sincerely,



Rita Hunt
Aviation Planner
Bureau of Aeronautics



Airport Site Certificate

This is to certify *that* Karl R. Leinsing

has met the statutory requirements of RSA 422:16, pursuant to the New Hampshire Aeronautical Laws and the Rules of the DOT/Bureau of Aeronautics regarding heliport site: **LEINSING HELIPAD**

Located at: 77 SPUR ROAD
DOVER, NH 03820

Coordinates: 43deg 9'.6.59" N 70deg 50'48.84" W

This certificate is issued based on information submitted during the site inspection and application for site approval, which are made a part hereof as though written herein and subject to the following limitations:

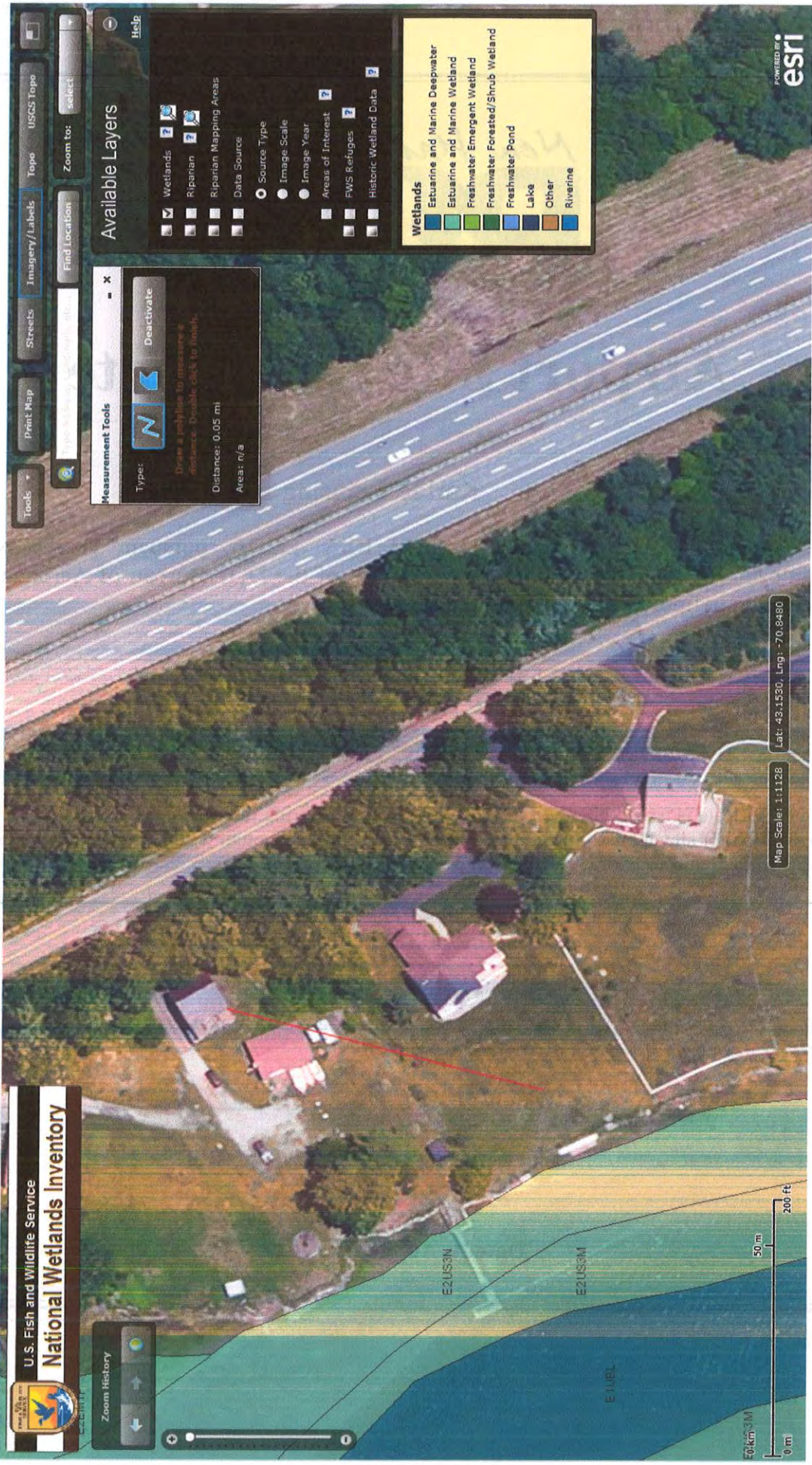
COMMERCIAL OPERATIONS PROHIBITED
PRIOR PERMISSION REQUIRED

The certificate remains valid for ten years from the date of issue, or until issuance of an Airport Registration Certificate, whichever comes first.

Certificate Number: 201401

Issued by: **Tricia L. Lambert**
Administrator,
Bureau of Aeronautics

Dated: August 21, 2014



Measurement Tools

Type: N

Deactivate

Draw a polyline to measure a distance. Double click to finish.

Distance: 0.05 mi

Area: n/a

Available Layers

Wetlands

Riparian

Riparian Mapping Areas

Data Source

Source Type

Image Scale

Image Year

Areas of Interest

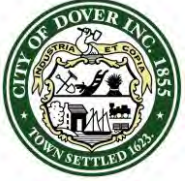
FWS Refuges

Historic Wetland Data

Wetlands

- Estuarine and Marine Deepwater
- Estuarine and Marine Wetland
- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Freshwater Pond
- Lake
- Other
- Riverine





CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z15-05)

Application Type: Variance
Applicant: MCL Builders & Developers LLC
Owner: Mace Family Revocable Trust
Location: 46 Back River Road (Tax Map I, Lot 6-C)

INTENT: The property is currently improved with a single family dwelling. The applicant proposes to subdivide the property into seven single family dwelling (7) lots. Per the R-12 District requirements, the homes must be located 27.5 feet from the front lot line of each lot. This “build to” line is equal to the average front setback of all properties within the R-12 District within 500 ft. of the subject property. The applicant requests a variance for proposed Lot 7 to have a minimum front setback of 176 ft., in place of the “build to” line of 27.5 ft.

UNITS PROPOSED: One (1) existing single family dwelling plus six (6) new single family dwelling lots

AGENDA ITEM #: 3-C

ZONING DISTRICT: R-12

EXISTING LAND USE: Single Family

PROPOSED LAND USE: Single Family

SURROUNDING LAND USE: Residential, Multi Family Residential

PREVIOUS ZBA ACTION: H87-65: variance granted to allow subdivision creating a lot not meeting the required minimum frontage; H88-35: variance denied to allow subdivision creating three lots without frontage on a public street

PLANNING BOARD APPROVAL REQUIRED: Yes

ATTACHMENTS: Application with narrative, tax map, and variance plan

APPLICATION IS COMPLETE: Yes

NOTICES AS REQUIRED: Yes

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

Summary of Request and Background

The property is currently improved with a single family dwelling and detached barn. The applicant proposes to subdivide the property into seven single family dwelling lots. Lot 1, as depicted on the plan submitted by the applicant, will contain the existing home. In the R-12 District, principal buildings must be constructed at a “build to” line which is equal to the average front setback of all properties within the R-12 District within 500 ft. of the property to be subdivided. Here, the build to line has been calculated to be 27.5 ft. The building envelopes for Lots 1-6 have been designed to meet this build to requirement. With respect to Lot 7, however, its building envelope is located at a significant distance from its gerrymandered frontage along the cul-de-sac of the proposed road (note that Lot 7 is proposed to be accessed by a driveway through Lots 5 and 6). To accommodate the Lot 7 building envelope, the applicant requests a variance for Lot 7 to have a minimum front setback of 176 ft., in place of the “build to” line of 27.5 ft.

Reason for Staff Recommendation

The purpose of a variance is to provide a relief valve from 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. Although the variance standards have eased somewhat in recent years, an applicant must still provide some evidence that there is something unique about their property that distinguishes it from all other properties similarly zoned. Here, there are no conditions that are particular to this property that would create an unnecessary hardship if the requested variance were denied.

The variance must also effect some reasonable use of the property. Here, the applicant demonstrates that five (5) new single family lots can be created by right (in addition to retaining the existing single family home). It is understandable that the applicant desires to maximize the value of the property. However, in doing so, Lot 7 has been designed with an absurd shape gerrymandered to meet the technical requirements of the Zoning Ordinance frontage requirement. However, the frontage provided defeats the spirit of the requirement since the lot's home will still need to be accessed by a driveway through Lots 5 and 6.

Note also that the overall buildability of the lot is questionable given the significant topographic features present (e.g. steep slopes).

Recommendation

The Planning Department recommends that the Board deny the variance request.

46 Back River Road



Property Information

Property ID I0006-C00000
Location 46 BACK RIVER RD
Owner MACE JOSEPH E & PEGGY J T
 MACE FAMILY REVOCABLE TRU



**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, 2015





City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Adopted: August 16, 2012]

Office Use Only Case #: 215-05 Date Received: RECEIVED Planning Office
Amount Paid: \$ 292.00 Time Received: MAR 04 2015
Dover, New Hampshire

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: MCL Builders & Developers LLC c/o Michael Lefebvre Phone # (978) 273-5945

Address of Applicant: 3 Sandpiper Lane, Seabrook, NH 03874

E-Mail Address: mclcontracting@comcast.net

PROPERTY OWNER (if different from applicant): Mace Family Revocable Trust

Address: 46 Back River Road, Dover, NH 03820 Phone # (603) 767-9783

E-Mail Address:

PROPERTY/PARCEL INFORMATION

Address: 46 Back River Road

Brief Directions: across from Holiday Drive

Zoning District: R-12 Assessor's Map # 1 Lot(s) # 6-C

TYPE OF APPEAL: (Please check one)

- X Variance from Section 170-12(B) 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:


Subdivide Tax Map I Lot 6-C, which is 3.716 acres, into one lot with the existing home and 6 lots with single-family homes. Frontage will be provided from a proposed city road. One lot requires relief from Section 170-12(B) Dimensional Requirements, in the R-12 Zone to allow the home to be built farther away than the build to line.

SIGNATURE PAGE

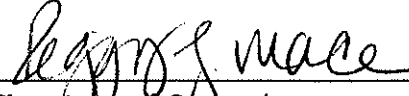
THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS

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.

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

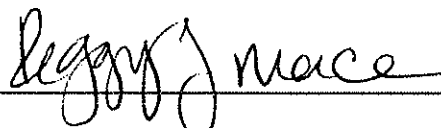


Signature of Owner*

*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: 3/4/15

Introduction

The property subject to this application is located at 46 Back River Road and is depicted on the City's Tax Maps at Map I, Lot 6-C (a portion of the tax map is attached hereto). The property is located within the R-12 Zone. The property is comprised of 3.716 acres, or 161,869 square feet. The parcel is unique, not only in its size, but also as to its shape. The parcel is a long narrow lot with a significant portion of the lot in the Conservation Overlay District. The narrow parcel is approximately 175 feet in width.

The parcel contains an existing two-family house. The intent of the Applicant is to subdivide the lot into seven (7) lots. A copy of a plan showing the proposed subdivision is attached hereto. The newly created lots are intended to be used for the construction of a single-family dwellings.

Within the Table of Dimensional Requirements for the Low Density Residential (R-12) District, there is a provision for new construction which requires a "build to line" that requires a principal structure to be built "up-to" the line, as opposed to the traditional front yard setback, that permits, but does not require, a structure to be built to that setback point. In this case, pursuant to footnote 5 of the Table for the R-12 zone, the Applicant's engineer, Trittech Engineering Corporation, has determined that the "build to line" is 27.5 feet from the proposed road. Given the length of the property and the location of the proposed driveway, which is to be a shared driveway, it would be impossible to "build to 27.5 feet" of the proposed road. Rather, the Applicant seeks to locate the house in a location on Lot #7 that is sensitive to the context of the lot, which appears to be river fronted homes. Specifically, the Applicant seeks to locate the home within the area designated as "Limits of Principal Structure Area", as depicted on the proposed subdivision map. Thus the Applicant is seeking a variance from Article IV, Section 170-12(B) of the Dover Zoning Ordinance, which requires compliance with a build to line of 27.5 feet from the proposed road, as set forth within footnote 5 of the Table of Dimensional Requirements for the Medium Density Residential (R-12) District, in order for construction to be located within the area defined on the proposed subdivision plan, and depicted as the "Limits of Principal Structure Area."

Variance Requirements:

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

The Applicant respectfully submits that the proposed use represents a reasonable use of the property in question. By permitting the use, the public interest is served by permitting orderly development in an area where such development has already occurred, all of these reasons are consistent with the purpose behind the Medium Density Residential District (R-12), which provides for conventional single-family neighborhoods on lots not less than 12,000 square feet. In addition, by allowing the location of the single-family residence within the "Limits of Principal Structure Area" the purpose of the "build to line" will be preserved, as the area represents a context sensitive design, given the location of the Conservation Overlay District. As such, the proposed use will not be contrary to the public interest, as the use will not "alter the essential character of the locality." See Chester Rod and Gun Club, Inc. v. Town of Chester, 152 NH 577 (2005). Granting the variance will permit the location of a dwelling in the most appropriate location, and, given the significant amount of natural buffering, would not threaten the public health, safety or welfare.

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

The Applicant respectfully submits that if the variance was granted, the spirit of the ordinance would be observed because the use in question would permit a use that is suitable, considering the surrounding properties, and therefore result in an encouragement of the most appropriate use of the land. In addition, by allowing the location of the single-family residence within the "Limits of Principal Structure Area", the purpose of the "build to line" will be preserved, as the area represents a context sensitive design, given the other waterfront homes within the area. Further, the proposed use is consistent with the purpose behind the Medium Density Residential District, which mainly is to provide for conventional single-family neighborhoods on lots not less than 12,000 square feet.

To be contrary to the public interest or injurious to the public rights of others, the variance must unduly and in a marked degree conflict with the ordinance, such that it violates the ordinance's basic zoning objectives. See Chester Rod and Gun Club, Inc. v. Town of Chester, 152 NH 577, at 581 (2005). It is respectfully submitted, that given the fact that the Applicant will maintain one shared driveway, the granting of the variance to allow for a relief from the build to line, especially in light of the configuration of the lot itself, will not significantly conflict or violate the ordinance's basic zoning objectives. Rather, the granting of the variance will promote the ordinance's basic zoning objectives, by permitting the existence of a single-family home on a portion of land that far exceeds the minimum requirements set forth within the ordinance.

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

The grant of the variance would due substantial justice because it would allow the Applicant's property to be utilized in a similar fashion to other properties located within the area, by allowing the location of a structure that would not impede the access to the site, and that would be consistent with the context of the area, where waterfront homes exist. See Nine v. Chesterfield, 157 NH 361, 368 (2008). This test requires of the balance of the benefit to the Applicant versus the burden to the public. See Farrar v. City of Keene, 158 NH 684, 692 (2009). In this instance, given proposed location of the structure and the buffering of the site, there will be no burden to the public whatsoever. Accordingly, the benefit to the Applicant would exceed the burden to the public, thus resulting in substantial justice being done.

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

It is respectfully submitted that all of the surrounding properties have a value associated with them that is premised upon the existence of the same type of buildings located upon the Applicant's property. In this instance, the location of the structure in the area sought by the Applicant will have no affect upon any abutter, with respect to its property, as the use will be consistent with other uses in the near vicinity, and consistent with the existing zoning. In addition, the lot is unique, as there already exists a significant amount of buffering on both sides of the property.

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

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

As one can see from the enclosed tax map, the subject parcel in this case is significantly different than the parcels that are located in the same vicinity. Most of the parcels are square in shape, rather than the "long narrow" shape of the subject property.

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

The general purpose of the ordinance is to promote orderly development and to protect the health, safety and general welfare of the public. In this instance, the Applicant seeks locate a single-family residence within the "Limits of Principal Structure Area." We understand, after discussing the issue with the Planning Department, that the purpose of the "build to line" is geared to context sensitive design, and, in this case that context appears to be river-fronted homes. Thus, the purpose of the ordinance, and the specific restriction itself will be preserved given the other waterfront homes within the area. Thus, the Applicant respectfully submits that there is no relationship at all between the general public purpose of the ordinance, and the

specific application, which would require a structure to be built within the Neck, and to 27.5 feet from the proposed road.

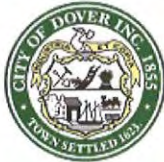
(iii) The proposed use is a reasonable one because:

The proposed use is reasonable because it provides for the location of the single-family residence within an area that is “context sensitive,” due to the Conservation Overlay District. Also, there is no way for the Applicant to build to 27.5 feet from the proposed road, without disrupting the access to the site.

5B. If the criteria in subparagraph 5A above are not established, provide proof that an unnecessary hardship exists if, and only if, 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 of the ordinance and a variance is therefore necessary in order to enable the reasonable use of it.

The Applicant respectfully submits that although it firmly believes it meets the criteria under Subsection A herein, that the parcel is one of the most uniquely shaped parcels located within the area. Given the shape of the lot, the Applicant cannot locate a structure to the “build to line” without impacting the access to the lot, and ignoring the purpose of the “build to line,” which is to preserve the existing design of the local, which in this case is homes built outside of the Conservation Overlay District. Thus, the variance is therefore necessary in order to enable this reasonable use of the property.

Portion of Map I showing Lot 46



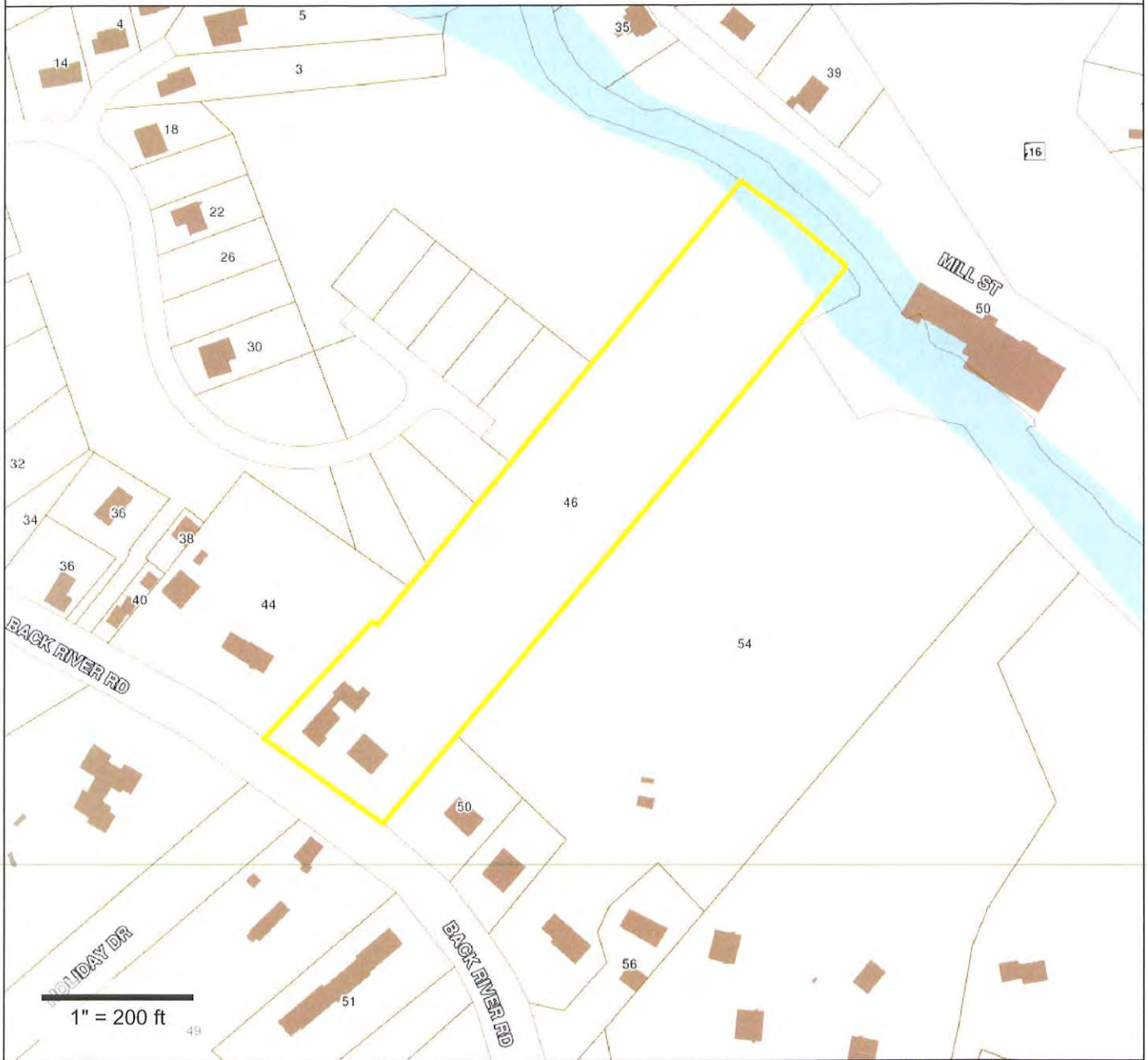
**MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT**

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, 2015



Portion of Tax Map I



Property Information

Property ID I0006-C00000
Location 46 BACK RIVER RD
Owner MACE JOSEPH E & PEGGY J T
 MACE FAMILY REVOCABLE TRU

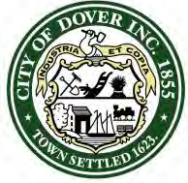


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Parcels updated January 1, 2015





CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z15-06)

Application Type: Variance
Applicant: Richard R. and Abigail P. Lundborn
Owner: Richard R. and Abigail P. Lundborn
Location: Gina Way (Tax Map G, Lot 12-B)

INTENT: Applicants propose to construct a single family home with an accessory dwelling unit. The R-12 District requires the new home to be located exactly 57 ft. from the front lot line (57 ft. is the average front setback for all properties within the R-12 District within 500 ft. of the property). Applicants request a variance to allow the home to be located farther than 57 ft. from the front lot line. Effectively, the variance would allow the 57 ft. measurement to be treated as a traditional setback instead of a “build to” line.

UNITS PROPOSED: Two (one single family residence with an accessory dwelling unit)

AGENDA ITEM #: 3-D

ZONING DISTRICT: R-12

EXISTING LAND USE: Vacant

PROPOSED LAND USE: Single-Family Residential with Accessory Dwelling Unit

SURROUNDING LAND USE: Residential

PREVIOUS ZBA ACTION:

- Z14-31 – variance granted to allow subdivision creating a lot not meeting the required minimum frontage

PLANNING BOARD APPROVAL REQUIRED: No

ATTACHMENTS: Application, subdivision plan, site sketch

APPLICATION IS COMPLETE: Yes

NOTICES AS REQUIRED: Yes

STAFF RECOMMENDATION:

The Planning Department recommends that the Board grant the variance request.

Summary of Request and Background

The property is a vacant lot with frontage on Gina Way, created as part of a two lot subdivision of 340 Washington Street, approved by the Planning Board in January. Previously the Board granted a variance to allow reduced frontage for the Gina Way lot (Z14-31). Applicants propose to construct a single family home with an accessory dwelling unit. The R-12 District requires the new home to be located exactly 57 ft. from the front lot line (57 ft. is the average front setback for all properties within the R-12 District within 500 ft. of the property). This is the “build to” line. Instead, applicants request a variance to allow the home to be located farther than 57 ft. from the front lot line. Effectively, the variance would allow the 57 ft. measurement to be treated as a traditional setback from which the house can be constructed at any distance, instead of a “build to” line which requires the home to be located at a precise location.

Reason for Staff Recommendation

Staff supports the request as the placement of the home at a distance greater than 57 ft from the front lot line is not inconsistent with how other homes in the area are situated. Specifically, the home at 10 Taylor Road is located approximately 110 ft from the front lot line and the home at 21 Taylor Road is located approximately 70 ft from the front lot. Most significantly, the proposed home will be located directly opposite the home at 6 Gina Way, which is located approximately 100 ft from its front lot line.

It is also reasonable to consider Gina Way a natural extension of the Taylor Road subdivision (P01-65). The approved plan, which is now vested, establishes a front setback for the Taylor Road properties of 30 ft. The proposed setback of 57 ft is arguably a marrying of the current “build to” requirement and the still-intact 30 ft front setback requirement that is applicable to the Taylor Road properties.

Recommendation

The Planning Department recommends that the Board grant the variance request.

46 Back River Road



Property Information

Property ID I0006-C00000
Location 46 BACK RIVER RD
Owner MACE JOSEPH E & PEGGY J T
 MACE FAMILY REVOCABLE TRU



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

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Parcels updated January 1, 2015





City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Adopted: August 16, 2012]

Office Use Only Case #: 215-06 Date Received: RECEIVED Planning Office
Amount Paid: \$ 408.00 Time Received: MAR 04 2015
(2 variances) 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, tun onto Taylor Road Gina Way will be on Right. The new lot the home will be on is at the end of Gina way.

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

TYPE OF APPEAL: (Please check one)

- X Variance from Section 170-12(B)[5] 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:

As we discussed with you in December, Abbi and I along with her parents are going to build a home on a newly subdivided portion of our property referred to in this application as Map G Lot 12-B. While working to satisfy the conditions of the Notice of Decision for the Subdivision which was Conditionally Approved January 15, 2015, the calculation for the "Build to Line" was performed. It was also made clear upon review of the ordinance that both the House and any Accessory Structures, Garages , sheds etc. would need to be on the "Build to Line". The new lot we will be building on is 0.82 Acres in size. this is 3 times the minimum lot size. placing all of the structures on the property on the front "Build To Line" as required seems like a bad use of space. We would like to be granted a variance to allow one structure to be placed on the build to line; in our case we prefer that to be the Garage.

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)[5] of the Zoning Ordinance to permit:

A variance is requested to 170-12(B)[5] Medium Density Residential (R-12) Table front setback, which is described as a mandatory "Build To Line" for any structure.

The variance requested would allow the Accessory Structure, the detached Garage, to be constructed on the "Build To Line" and the house to be built within the remaining building envelope created by the building setbacks and the "Build To Line". We would also like to be granted the latitude to construct any future accessory structures, sheds, etc. within the remaining available building envelope.

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-B would be the only lot within 500-ft of itself that would be required to have a structure Accessory or Primary actually built on the front setback regardless of site characteristics (i.e. topography, vegetation, existence of wetlands or ledge) or preference of the property owner. The homes on Taylor Road and Gina Way the newest subdivision in the 500-ft radius used to calculate the average front "Build To Line" are built within the available building envelope created by the setbacks. A number of sheds exist within this neighborhood, none of which are on the front "Build To Line". The rest of the neighborhood is comprised of homes setback from the front lot line 5.5-ft to 375-ft+ with front setbacks everywhere in between. Many of these properties have Accessory structures as well, none of these having the same setback to the front property line as the other structures on the property.

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

Deviation from the strict requirements of the Ordinance is consistent with the spirit of the ordinance because no other property in the 500-ft radius has had to adhere to a "Build To Line". Further, due to the extreme fluctuations in front setbacks in the 500-ft radius to the property, the "Build To Line" will need to be 57-ft the Mean front setback in the area is approximately 30 to 35-ft. The extreme examples of the setbacks measured were 5.5-ft and 375-ft. By requiring a front "Build To Line" calculated to be even larger than the Mean, each subsequent new construction will be required to be even further from the front property line than the last. If the intent of the "Build To Line" is to have the streetscape remain consistent, then the way that the "Build To Line" is calculated currently will not allow this to occur. Again this is moot, because within 500-ft of the property in question no other structure has had to observe a "Build To Line".

3. Granting the variance would do substantial justice because:

Granting the variance would do substantial justice because it would allow the new lot (Map G Lot 12-B) the freedom to have the structures sited upon it in a way similar to the way the buildings have been sited on the properties that surround it.

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 in a manner similar to the way the surrounding lots were built on.

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-B is 0.82 Acres. in zone R-12, particularly in the section of town in which we reside, this is a rarity. Map G Lot 12-B has 100-ft of frontage. after subtracting the side setbacks, the available frontage for siting a house, in our case a detached garage, sheds etc. is 70-ft. With 0.82 Acres available to place structures on, requiring all structures to be on one, 70-ft long line seems un-necessarily restrictive.

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, if the "Build To Line" were to be adhered to as written, Map G Lot 12-B would be the only property within 500-ft of it that had to use a "Build To Line" versus a front setback that establishes one side of an available building envelope. There is nothing fair in making one property owner adhere to a rule that the surrounding 34 did not have to. No fair and substantial relationship exists between the general purpose of the ordinance, to have a consistent streetscape (one would assume), and the specific application of the ordinance because one does not exist in the area today. As demonstrated earlier due to the wide spectrum of distances in front setbacks in the area each subsequent calculation will only serve to create bigger and bigger front setbacks/"Build To Lines", which one would presume is not the intent of the ordinance.

and

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

The proposed use is reasonable because we are willing to place a structure, the detached garage, on the front "Build To Line". We are requesting the variance so that we do not have to place all of our structures on the front "Build to Line" as the ordinance is currently written. Coincidentally, The face of the Garage would be in line, roughly, with the home at 3 Gina Way if Gina Way were to ever be continued via the Right of Way we provided to the City as part of the subdivision, thus maintaining a consistent streetscape. Since no other property owner within 500-ft has had to adhere to the "Build To Line" at all, this is a very reasonable attempt to satisfy the intent of the ordinance without adhering to the letter.

OR

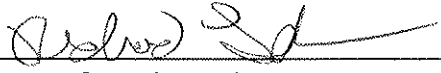
5B. If the criteria in subparagraph 5A above are not established, explain how, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable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

SIGNATURE PAGE


THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS

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

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



Signature of Applicant*



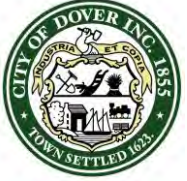
Signature of Owner*

*Both Signatures Required

AUTHORIZATION TO ENTER SUBJECT PROPERTY

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

Signature of Property Owner:  _____ Date: 03/02/15



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z15-07)

Application Type:	Variance
Applicants:	Richard & Abigail Lundborn and Joan & David Parent
Owners:	Richard R. and Abigail P. Lundborn
Location:	Vacant Lot on Gina Way (Tax Map G, Lot 12-B)

INTENT: Applicants intend to construct a single family home with an accessory dwelling unit. A variance is requested to permit the accessory dwelling unit to have an area of 1,200 sf where accessory dwelling units are permitted to be no larger than 800 sf.

UNITS PROPOSED: Two (one single family residence with an accessory dwelling unit)

AGENDA ITEM #: 3-E

ZONING DISTRICT: R-12

EXISTING LAND USE: Vacant

PROPOSED LAND USE: Single-Family Residential with Accessory Dwelling Unit

SURROUNDING LAND USE: Residential

PREVIOUS ZBA ACTION:

- Z14-31 – variance granted to allow subdivision creating a lot not meeting the required minimum frontage

PLANNING BOARD APPROVAL REQUIRED: No

ATTACHMENTS: Application, floor plans, elevations, RSA 674:33.V (see highlighted text on second page)

APPLICATION IS COMPLETE: Yes

NOTICES AS REQUIRED: Yes

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

Summary of Request and Background

The property is a vacant lot with frontage on Gina Way, created as part of a two lot subdivision of 340 Washington Street, approved by the Planning Board in January. Previously the Board granted a variance to allow reduced frontage for the Gina Way lot (Z14-31). Applicants propose to construct a single family home with an accessory dwelling unit. A variance is requested from Section 170-24.C of the Zoning Ordinance to permit the accessory dwelling unit to have an area of 1,200 sf where accessory dwelling units are permitted to be no larger than 800 sf.

Reason for Staff Recommendation

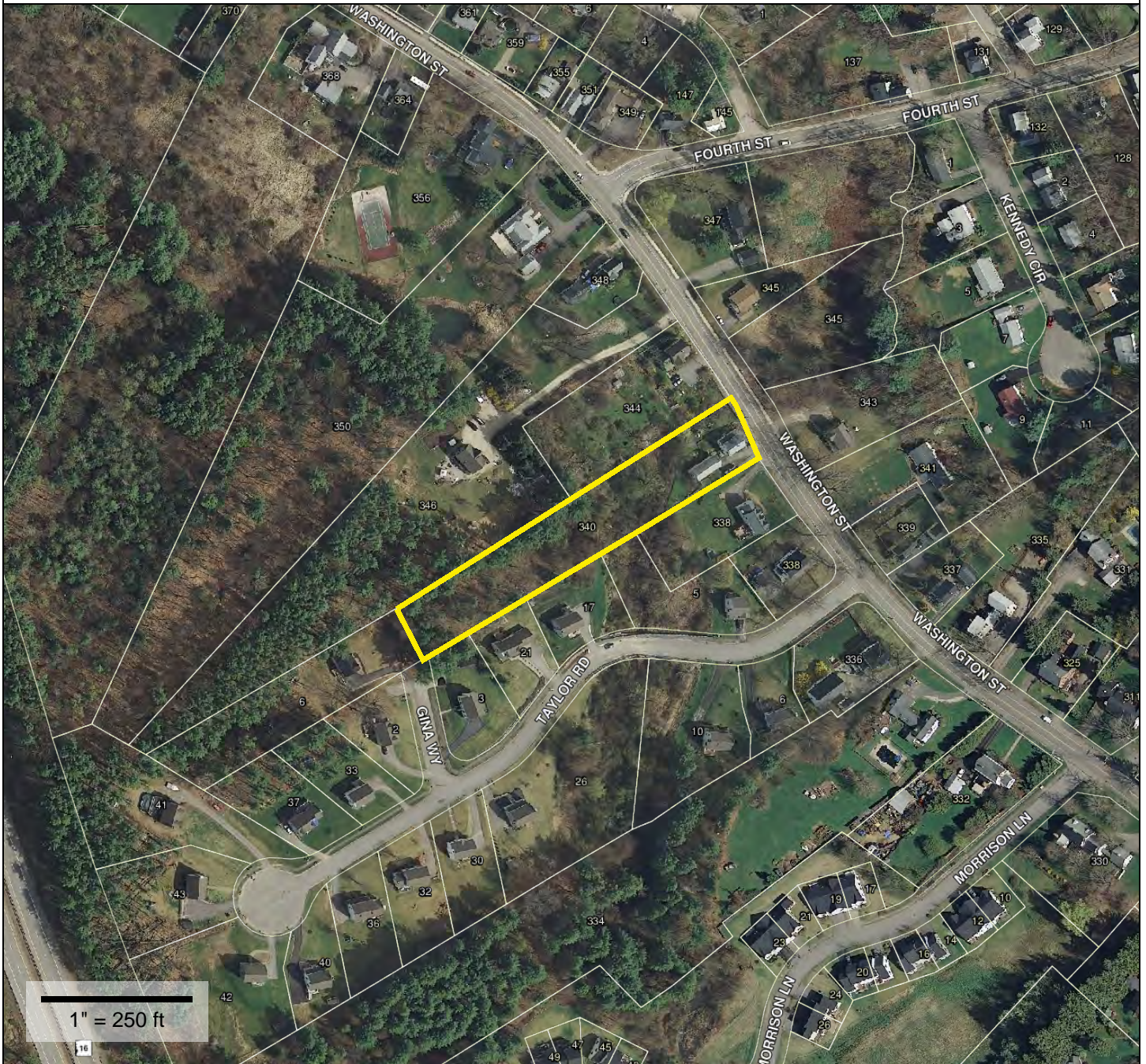
The proposed 1,200 s.f. accessory dwelling unit will account for 25% of the floor area of the home, less than the 30% maximum required by Section 170-24.C. The proposed unit, therefore, is consistent with the spirit and intent of the ordinance.

The applicant admits there are no special conditions of the property that would create a hardship were the variance to be denied. Rather, the applicants rely on NH RSA 674:33.V which provides that a finding of hardship is not required “when reasonable accommodations are necessary to allow a person or persons with a recognized physical disability to reside in or regularly use the premises.” The applicants state that the additional square footage is necessary to provide a handicapped accessible bathroom and wider interior accessways, and that these are necessary to accommodate the needs of the co-applicants – Mr. and Mrs. Parent – as they “progress with their respective diseases.” Staff recommends that the Board make specific findings of fact with respect to the recognized physical disabilities that will be accommodated by the grant of the variance.

Recommendation

The Planning Department recommends that the Board grant the variance request.

Gina Way Lot G-12-B (prior to subdivision from 340 Washington Street)



Property Information

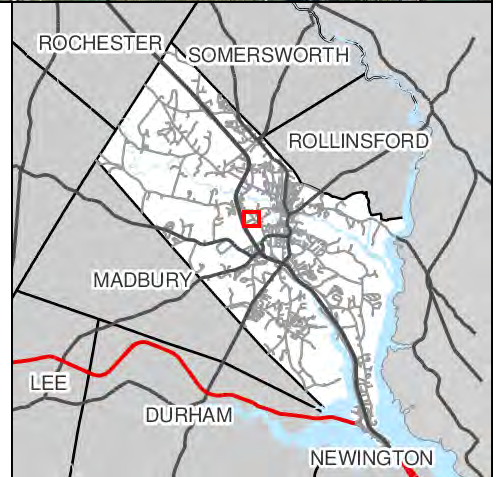
Property ID G0012-000000
Location 340 WASHINGTON ST
Owner LUNDBORN RICHARD R
 LUNDBORN ABIGAIL P



**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, 2015





City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Adopted: August 16, 2012]

Office Use Only Case #: 215-07 Date Received: MAR 04 2015
Amount Paid: \$ 408.00 Time Received: Dover, New Hampshire
(2 variances)

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: Richard & Abigail Lundborn, Joan & David Parent 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, turn onto Taylor Road Gina Way will be on Right. The new lot the home will be on is at the end of Gina way.

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

TYPE OF APPEAL: (Please check one)

- Variance from Section of the Zoning Ordinance
X Physical Disability Variance (RSA 674:33-V) from Section 170-24(C) 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:

As we discussed with you in December, Abbi and I along with her parents are going to build a home on a newly subdivided portion of our property referred to in this application as Map G Lot 12-B. Unknown to us until after the subdivision, were the size limitations placed on Accessory Dwelling Units (ADU) by 170-24(C). 170-24(C) limits the size of an ADU to 800-sf. While we can meet all of the other portions of 170-24, we cannot meet (C) which limits the ADU's footprint. the ADU in our case will be 1200-sf. The extra 400-sf is due to the fact that the ADU is being purpose designed to allow my in-laws to remain with us all long as possible. Joan and David's Master bath will be larger, the walking spaces are designed to be wider to allow for more accessible access well into the future. We are requesting a variance to 170-24(C) in order to construct an ADU of 1200-sf.

VARIANCE REQUIREMENTS

THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY

A. Variance Requested to 170-24(C), Accessory Dwelling Unit (size limitations)

A variance is requested from Section(s) 170-24(C) of the Zoning Ordinance to permit:

A variance is requested to 170-24(C) Accessory Dwelling Units, limiting the ADU footprint to 800-sf. In the attached condition the ADU can be up to 30% of the square footage of the total house. In our case this can be satisfied just not the 800-sf restriction. We request a variance to allow us to construct an ADU that is 1200-sf. The additional space will allow for accomodation of a large Handicap Accessible Bathroom in the ADU as well as wider access ways throughout the unit.

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-B the lot upon which we desire to build the home with the ADU attached to it resides in an R-12 zone which allows for ADUs. all other portions of the ADU ordinance can be met by our proposal. The ADU is being proposed on a property with no more than one other dwelling unit per 170-24(A). The home is being constructed to appear as a single family home per 170-24(B). The ADU will be no more than 30% of the overall square footage of the home per 170-24(C). The ADU will have a minimum of one dedicated off-street parking space per 170-24(D). Per 170-24(E) a restrictive covenant shall be placed on the property that disallows it being condominiumized or changed from single family dwelling in some other fashion prior to Certificate of Occupancy; we will do this. Per 170-24(F) the ADU and single family dwelling unit must have utilities on one meter, electric, water etc.; they will. only the size limitation is what we ask a variance be granted to, allowing a 1200-sf ADU instead of a 800-sf ADU.

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

Deviation from the strict requirements of the ordinance is consistent with the spirit of the ordinance because, the ordinance allows ADU's. An ADU is what we propose. It can be presumed that ADU's are allowed for just this scenario to allow and in-law apartment. This is what we propose and in-law or rather in-laws apartment. The construction of which will allow Joan and David to move in with Abbi and I, help us raise and love our children, their grand-children, Betty and Josephine, and in return will allow Abbi and I to help David and Joan as they age and progress with their respective diseases and need our help.

3. Granting the variance would do substantial justice because:

Granting the variance would do substantial justice because it would allow my family to construct the home that we need to best serve us moving into the future, a home that meets the intent of the Dover ordinance with regard to Accessory Dwelling Units if not the narrow description of how that is to be accomplished with regards to size. We are willing to place the covenant on the property that disallows conversion to condominiums and have every intention to share utilities and meet all other facets of the ADU Ordinance outlined in 170-24.

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

The value of the surrounding properties will not be diminished because, the proposed new home will be valuable when done and will likely have a hefty value all its own. This will in turn likely have a positive effect on the values of the surrounding properties.

Antecdotally, the value of Map G Lot 12, our property, 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:

The property in question Map G Lot 12-B (new lot from Map G Lot 12), does not have any special conditions distinguishing it from other properties in the area that are pertinent to the variance being requested. The variance requested would be just as relevant on a different property because the variance request is not one related to frontage, setbacks or physical characteristics of the property. The variance is related to a zoning ordinance specifically relating to the construction of a building and the composition of said building's units and their size. 170-24(C) nothing to do with the property the building will reside on. The wording of 170-24(C) would be a hardship to many, on any number of lots in the city. The variance in this case would not be necessary if the period at the end of the first sentence of 170-24(C) were replaced with the word "or".

However, we are choosing to exercise RSA 674:33-V which relieves us of the need to prove hardship in our particular case.

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, there is no fair and substantial relationship that exists between the general purpose of the ordinance provision and the specific application of that provision to the property because it is an ordinance that does not deal with property. It is an ordinance that deals with the buildings that reside on a property and how those buildings are composed.

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 Accessory Dwelling Unit is allowed in the Zone. As discussed earlier in the application we are allowed to build and ADU of 800-sf. However, we are requesting a variance to allow the construction of a 1200-sf ADU. The variance does not change the use, it does not allow for more ADUs or do anything other than allow for a larger inlaw apartment (ADU).

OR

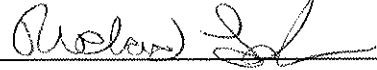
5B. If the criteria in subparagraph 5A above are not established, explain how, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable 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.</p> <p>FAILURE TO POST MAY RESULT IN APPLICATION NOT BEING ACCEPTED.</p>
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Signature of Applicant*

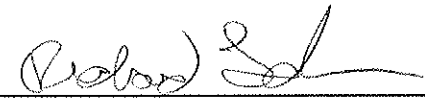


Signature of Owner*

*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: 03/04/15

Client:
 Rick Lundborn
 Dover, NH

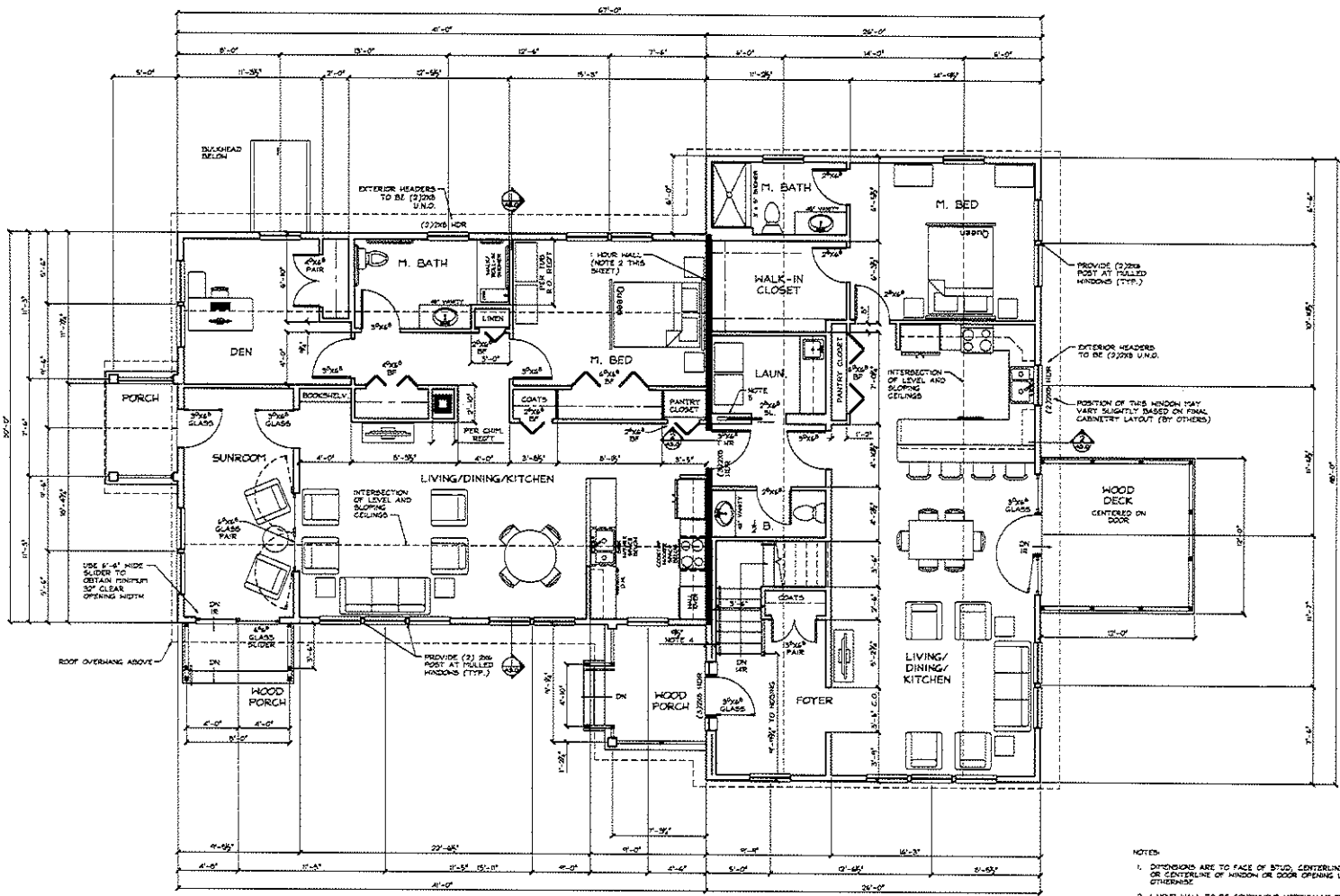
New Residence
 Gina Way, Dover, NH

-Preliminary-
 Not for Construction
 1-17-15

Date: x
 Scale: As Noted
 Design By: RB
 Approved By: -

Revisions

Floor Plan
A1.0
 Project No. 141008



1 FIRST FLOOR PLAN
 Scale: 1/4" = 1'

- NOTES:
1. DIMENSIONS ARE TO FACE OF STUD, CENTERLINE OF COLUMN, OR CENTERLINE OF WINDOW OR DOOR OPENING UNLESS NOTED OTHERWISE.
 2. 1 HOUR HALL TO BE CONTINUOUS VERTICALLY FROM TOP OF BASEMENT SLAB TO UNDERSIDE OF FIRST FLOOR SHEATHING AND FROM TOP OF FIRST FLOOR SHEATHING TO UNDERSIDE OF ROOF SHEATHING. IT SHALL BE CONTINUOUS HORIZONTALLY FROM BASEMENT HALL TO BASEMENT HALL AND FROM INSIDE FACE OF EXTERIOR WALL SHEATHING AT FIRST FLOOR. HALL TO CONFORM TO UL DESIGN U908 WHICH IS 2x6 STUDS AT 16" O.C. WITH (3) LAYER 1/2" FIRE RATED GYP EACH SIDE.
 3. PROVIDE BLOCKING IN HALLS OF EAST WING BATHROOM FOR GRAB BARS AT TOILET AND SHOWER.
 4. 1/2" HALL NEAR STAIR IS TO ACCOUNT FOR FOUNDATION WALL THICKNESS. PROVIDE 3/4" FURRING WITH 1-1/2" RIGID INSULATION BETWEEN AT FOUNDATION WALL.
 5. USE DOUBLE 2x4 STUD HALL FOR POCKET DOOR (NOT POCKET DOOR KIT).

