



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - AGENDA

Meeting Type: Regular Meeting
Meeting Location: McConnell Center, Room 306, 61 Locust Street, Dover NH 03820
Meeting Date: **Thursday, August 20, 2015**
Meeting Time: **7:00 pm**

1. ATTENDANCE

2. APPROVAL OF MEETING MINUTES OF JULY 16, 2015

3. HEARINGS

- A. Z15-12 Owners Gregory & Laura Halsey, 7 Hull Avenue (Tax Map 35, Lot 49), located in the Medium Density Residential (R-12) District, request a variance from **Section 170-14.A(2)** of the Zoning Ordinance to permit the demolition and reconstruction of an existing attached breezeway and garage, where the widened garage will require a two-foot setback where a six-foot side yard setback is required.
- B. Z15-15 Owners Steve and Briana Hyde, 45 Dover Neck Road (Tax Map M, Lots 78 & 79D), located in the Rural Residential (R-40) District, request a variance from **Section 170-12.A** of the Zoning Ordinance and the R-40 District Table of Use and Dimensional Regulations to transfer the two-family conversion right of a pre-1964 single-family dwelling on lot 78 to lot 79D to permit the construction of a two-family dwelling on lot 79D, where a single-family dwelling is permitted.
- C. Z15-16 Owner Carl Thibodeau, 8 Pineview Drive (Tax Map L, Lot 48M), located in the Low Density Residential (R-20) District, requests a variance from **Section 170-12.B** of the Zoning Ordinance and the R-20 Table of Use and District Dimensional Regulations to allow 92.51 feet of frontage where 125 feet is required.
- D. Z15-17 Owner Heron Bay Partners, LLC, 38 Cielo Drive (Tax Map H, Lot 4-38), located in the Assembly and Office (I-4) and Residential-Commercial Mixed Use (RCM) Overlay Districts, requests an equitable waiver **per Section 170-52.C(d)** from the dimensional requirements of **Section 170-28.2.F(2)**, specifically where 24 feet between buildings is required but 20.7 feet exists.

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 and Friday from 8:30 am to 4:00 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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61 Locust Street, Dover NH 03820
Meeting Date: **Thursday, July 16, 2015**
Meeting Time: **7:00 pm**

1. ATTENDANCE

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

Members Not Present:

Staff Present: Christopher Parker (Assistant City Manager), Tracy Smith (Recording Secretary)

The Chair called the meeting to order at 7:02 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 MAY 21, 2015

Motion: O.Perry made a motion to approve the May 21, 2015 Regular Meeting Minutes. Seconded by C.Prior. Vote U/A

S.Reid stated the word Scribner was misspelled, and should be scrivener.

3. HEARINGS

- A. * Z 13-18A Aramis Black/Real McKoy Properties, LLC, 301 Durham Road (Tax Map H, Lot 1), located in the Hotel/Retail (B-4) District, requests an amendment to a variance granted on October 17, 2013, from **Section 170-12.A** of the Zoning Ordinance and the B-4 District Table of Use and Dimensional Requirements to permit the construction of an elderly assisted care home for 8-10 residents with 2 accessory staff apartments, where elderly assisted care homes are not a permitted use in the B-4 District. The amendment requests a total of 12 residents with 2 accessory staff apartments be allowed in the home.

Art Guadano, AG Architects, PC, represented the applicant and stated the five criteria explanations as listed on the application. He displayed and explained the layout of the design for the Board members.

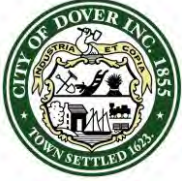
Public Hearing Opened

STAFF RECOMMENDATION:

The Planning Department recommends the Board hold the public hearing and approve the amendment to the variance as requested.

C.Parker stated the request is allowable by special exception in the R-40 district and reasonable due to the layout, adding the 12 units would function well with this layout.

S.Reid inquired on the Planning Board process regarding appropriate buffering and lights. C.Parker stated there is a site review process, adding the B-4 District has additional requirements for screening and open space as added protection to abutters.



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Public Hearing Closed.

Motion: O.Perry made a motion to amend the previous variance based on the information provided in the previous variance with the understanding that two more bedrooms would not drastically change the requirements. Seconded by F.Landford. Vote U/A

- B. Z 15-13 Seacoast Charter School (Owner: Measured Progress Inc.), 171 Watson Road (Tax Map E, Lot 33), located in the Executive Technology Park (ETP) District, requests a variance from **Section 170-12.A** of the Zoning Ordinance and the ETP District Table of Use and Dimensional Regulations to permit the existing structure to be used as an Educational Institution, K-12, where an Educational Institution, Post-Secondary is permitted.

Attorney F.X. Bruton, Bruton & Berube, represented the applicant and clarified the five criteria explanations as listed on the application. He stated Brianna Moynahan, Seacoast Charter School and John Woodman, Measured Progress, Inc., were also present to answer questions.

Discussion ensued regarding the potential capacity of the building at 300 students with 200 students currently confirmed to continue enrollment and 12 new applicants. F.Bruton stated there are a number of families who already travel to Kingston, and confirmed the school does provide bus transportation with 72 students who are bussed from Epping.

O.Perry confirmed with F.Bruton the property will be leased with the intent to purchase.

Public Hearing Opened

STAFF RECOMMENDATION:

The Planning Department recommends the Board hold the public hearing and approve the variance as requested.

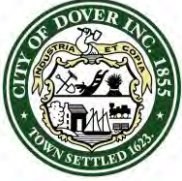
C.Parker stated the request is reasonable to continue the mission of building and surrounding area and the connection regarding the continued use of childhood education. He further stated that the site plan will address further issues, such as parking.

C.Parker explained secondary and post-secondary differences in the zoning ordinance in regards to the consideration of the school sites. Discussion ensued regarding limiting the amount of students to 300 and making it part of the condition of approval.

Public Hearing Closed

Motion: C.Prior made a motion to grant a use variance to allow an education institution, K-12, with the property described in the application, with the condition that it not exceed 300 students, having met the five criteria. Seconded by O.Perry. Vote U/A

4. ZBA RULES OF PROCEDURE – CITY COUNCIL EDITS



**CITY OF
DOVER**

ZONING BOARD OF ADJUSTMENT - MINUTES

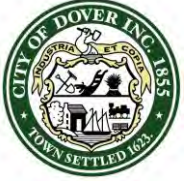
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C.Parker stated the suggested changes provided by the City Council, adding the Board could consider and possibly adopt them to the Rules of Procedure adopted by the Board on March 19, 2015. Discussion ensued regarding the City Council suggestions and the decision to file the suggestions for review the next time the Board has evaluate the Rules of Procedure.

C.Parker provided copies of the appeal to Karl Leinsing's application to the Board, and explained the hearing process. He stated the hearing is scheduled for September 16, 2015, adding the City Attorney may schedule an Executive Session meeting to provide legal options and information for the Board members, if needed.

5. ADJOURN

Motion: O.Perry made a motion to adjourn at 7:48 p.m. Seconded by G.Reagan. Vote: U/A



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z15-12)

Application Type:	Variance
Applicant:	Gregory & Laura Halsey
Owner:	Gregory & Laura Halsey
Location:	7 Hull Avenue (Tax Map 35, Lot 49)

INTENT: The Applicant requests a variance from the side yard setback, which is six feet for a nonconforming lot between 50 and 75 feet in width and at least 5,000 s.f. in area (per 170-14). They propose a side yard setback of two feet to widen an existing garage.

UNITS PROPOSED: N/A

AGENDA ITEM #: 3-A

ZONING DISTRICT: R-12

FILE: Z15-12

APPLICANT: Gregory & Laura Halsey

OWNERS: Gregory & Laura Halsey

LOCATION: 7 Hull Avenue (Tax Map 35, Lot 49)

ACREAGE: 0.26 acres

EXISTING LAND USE: Single-family dwelling

PROPOSED LAND USE: Single-family dwelling

SURROUNDING LAND USE: Residential

PREVIOUS ZBA ACTION: None

ATTACHMENTS: Application, Existing Conditions and Site Plan, Photographs

PLANNING BOARD APPROVAL REQUIRED: No

STAFF RECOMMENDATION:

The Planning Department does not support this variance request.

Summary of Request and Background

The property is 0.26 acres in size and is located on 7 Hull Avenue. A single-family dwelling exists, with a breezeway and one-car garage attached. The Applicant is requesting a variance from the minimum side yard setback requirement of six feet for a nonconforming lot of greater than 5,000 square feet and between 50 and 75 feet in width. The property is 11,186 square feet where 12,000 square feet is required and has 69.62 feet of frontage where 100 feet is required.

Reason for Staff Recommendation

Staff believes that the provision of Section 170-14, to allow for a decrease in side yard setbacks where lots are legally nonconforming, creates sufficient flexibility in the zoning ordinance. The side yard setback for a conforming lot in the R-12 district, like those on either side of 7 Hull Avenue, is 15 feet. This is reduced to 10 feet for any lot larger than 5,000 square feet and between 75 and 110 feet wide, and then reduced further to six feet for a lot between 50 and 75 feet wide. This provision was created to provide relief for lots not meeting the requirements for area or width in their district.

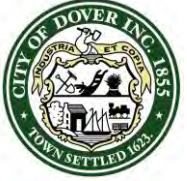
The subject property is only 814 square feet shy of meeting the minimum lot size of 12,000 square feet, at which point the 15-foot side setback requirement would apply.

The existing garage is 11.3 feet wide with a side yard setback of approximately 8.7 feet. The two-foot setback is proposed to accommodate an 18-foot-wide garage. The six-foot setback requirement could be met with the garage expanded to 14 feet in width.

Although the Board may find that the proposal meets the five variance criteria, staff suggests that to achieve the desired expansion, it would be more appropriate for the applicant to seek a lot line adjustment with 3 Hull Avenue. That structure is located more than 60 feet from the common lot line.

Recommendation

The Planning Department recommends the Board hold the public hearing and deny the request for variance.



CITY OF DOVER

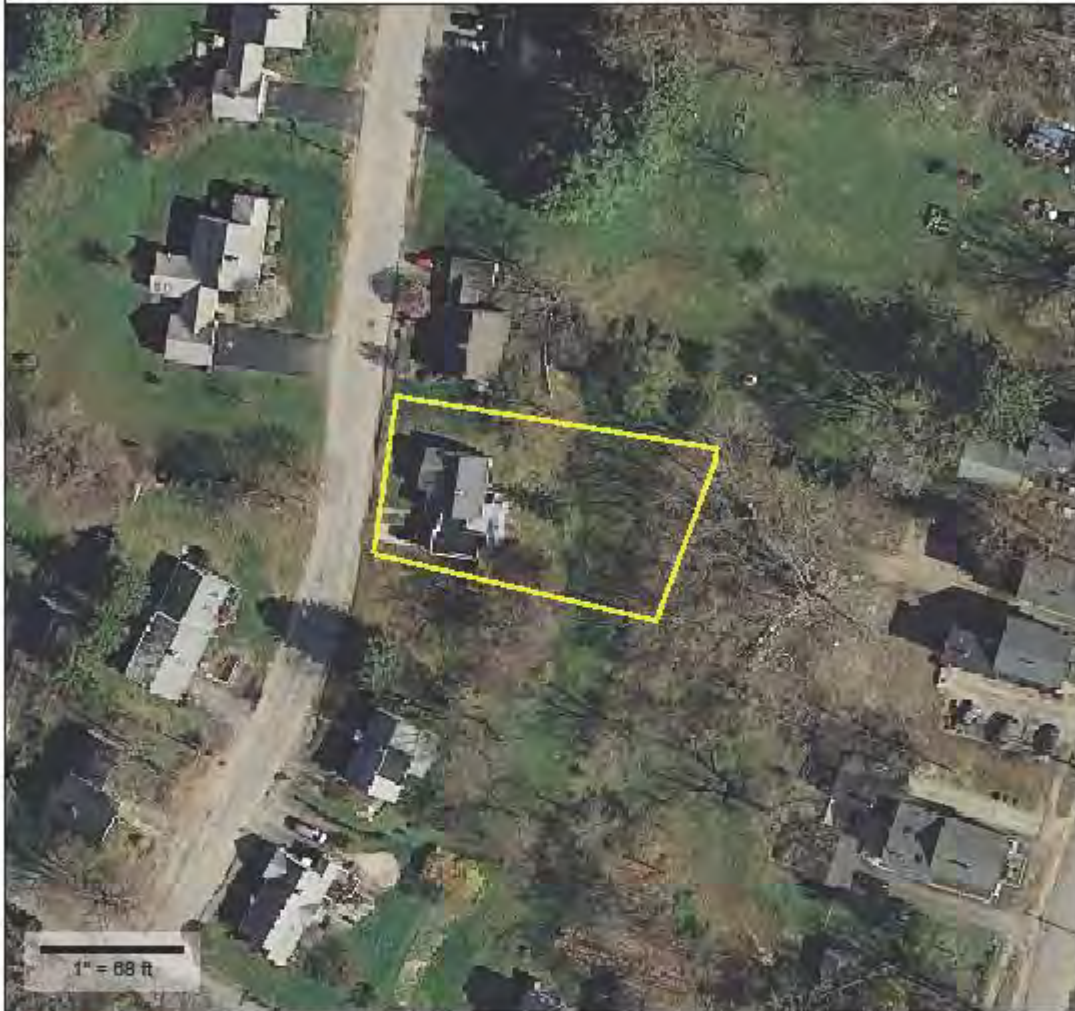
ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z15-12)

Application Type: Variance
Applicant: Gregory & Laura Halsey
Owner: Gregory & Laura Halsey
Location: 7 Hull Avenue (Tax Map 35, Lot 49)

City of Dover

August 12, 2015

7 Hull Avenue



Property Information

Property ID 35049-000000
Location 7 HULL AV
Owner HALSEY GREGORY &
HALSEY LAURA



**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 #:

215-12

Date Received:

RECEIVED
Planning Office

AUG 05 2015

Amount Paid:

\$ 332.00

Time Received:

Dover, New Hampshire

ck#331

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: Gregory & Laura Halsey

Phone # 315-436-6693

Address of Applicant: 7 Hull Avenue Dover, NH 03820

E-Mail Address: halsey.gregory@gmail.com

PROPERTY OWNER (if different from applicant): _____

Address: _____ Phone # _____

E-Mail Address: _____

PROPERTY/PARCEL INFORMATION

Address: 7 Hull Avenue Dover, NH 03820

Brief Directions: Hull Avenue is a dead end street located off of Hough Street.

The Applicant's house is the third house (Gray) on the right with flat roofed breezeway/garage.

Zoning District: R-12 Assessor's Map # 35 Lot(s) # 49

TYPE OF APPEAL: (Please check one)

☒ Variance

from Section 170-14 A.(2) of the Zoning Ordinance

☐ Physical Disability Variance (RSA 674:33-V)

from Section _____ of the Zoning Ordinance

☐ Special Exception

per Section _____ of the Zoning Ordinance

☐ Appeal of Administrative Decision

regarding Section _____ of the Zoning Ordinance

☐ Equitable Waiver

per Section _____ of the Zoning Ordinance

DESCRIBE BRIEFLY YOUR PLANS FOR THE PROPERTY:

The proposed project consists of the demolition and reconstruction of an existing attached breezeway and garage.

The existing 1-car garage is +/- 11 feet wide while the proposed garage will be widened to +/- 18 feet. The widened garage will require a dimensional variance as it will result in a +/- 2 foot side yard setback where a 6 foot side yard setback is required by Section 170-14 A.(2).

VARIANCE REQUIREMENTS

THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY

A. Variance Requested

A variance is requested from Section(s) 170-14 A. (2) of the Zoning Ordinance to permit:
the Applicant to construct a new garage with a widened footprint that will result in a 2 foot side yard setback where a 6 foot side yard setback is required..
The subject property, located at 7 Hull Ave, meets the criteria of a Nonconforming lot per Section 170-14A of the Zoning Ordinance as the total lot area is
+/- 11,238 SF, which is greater than 5,000 S, and has +/- 69.62 feet of frontage, which is less than 75 feet and greater than 50 feet as required.

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:

See cover letter

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

See cover letter

3. Granting the variance would do substantial justice because:

See cover letter

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:

8/5/15

7 Hull Avenue Abutters
List

Tax Map 35 Lot 49
Gregory & Laura Halsey
7 Hull Avenue
Dover, NH 03820

Tax Map 35 Lot 43
Rocco Simone &
Gail Simone
4 Hull Avenue
Dover, NH 03820

Tax Map 35 Lot 39
Anthony F Colarusso &
Nancy M Colarusso
10 Hull Avenue
Dover, NH 03820

Tax Map 35 Lot 45
Rosemary Flanagan Trustee
Rosemary Flanagan Revocable
Trust
65 Hough Street
Dover, NH 03820

Tax Map 35 Lot 56
Polly Johnstone
3 Hillcrest Drive
Dover, NH 03820

Tax Map 35 Lot 16A
Richard Laughton &
Kimberly Laughton
188 Wednesday Hill Road
Durham, NH 03824

Tax Map 35 Lot 19
Charlene A Callaghan
Richard P Callaghan
32 Horne Street
Dover, NH 03820

Tax Map 35 Lot 46
Melinda D Padley & Bryan Reed
1 Hull Avenue
Dover, NH 03820

Tax Map 35 Lot 40
Alie Catherine A Lynch Trustee
Catherine A Lynch Living Rev
Trust
8 Hull Avenue
Dover, NH 03820

Tax Map 35 Lot 51
Patrick Santos & Melissa Hayes
11 Hull Avenue
Dover, NH 03820

Tax Map 35 Lot 44
Kenneth J Healy &
Maureen P Healy
67 Hough Street
Dover, NH 03820

Tax Map 35 Lot 15
Asaf Dorian &
Denise E Dorian
14 1/2 Horne Street
Dover, NH 03820

Tax Map 35 Lot 17
George M Philbrick &
Christine C Philbrick
24 Horne Street
Dover, NH 03820

Tax Map 35 Lot 48
Winifred Delponte
Pasco Delponte
3 Hull Avenue
Dover, NH 03820

Tax Map 35 Lot 50
Christine C Ryder &
Richard O Ryder
9 Hull Avenue
Dover, NH 03820

Tax Map 35 Lot 47
Lawrence D Johnson
Gail A Johnson
53 Hough Street
Dover, NH 03820

Tax Map 35 Lot 56
Karen L Parks
1 Hillcrest Drive
Dover, NH 03820

Tax Map 35 Lot 16
Andrew E Moores 1/3 &
David O'shaughnessy 1/3 &
Robert 1/3
18 Lafayette Road
North Hampton, NH 03862

Tax Map 35 Lot 18
Charlene A Callaghan
Richard P Callaghan
32 Horne Street
Dover, NH 03820

August 5, 2015

Mr. Sam Reid, Chairman Zoning Board of Adjustment
Dover City Hall
288 Central Street
Dover, NH 03820

Re: **Zoning Board of Adjustment - Application for Dimensional Variance
Proposed Garage Reconstruction - 7 Hull Avenue**

Dear Mr. Reid:

I am pleased to submit the following information relative to a Variance request for a proposed garage reconstruction project located at 7 Hull Avenue:

- One (1) original and ten (10) copies of the Zoning Board of Adjustment Application
- One (1) check in the amount of \$332.00 for the Application Fee
- Ten (10) copies of the Abutters Map
- Ten (10) copies of the Monumentation Sketch, dated June 30, 2015
- Ten (10) copies of the Existing Conditions Plan, 1 of 2, dated August 3, 2015
- Ten (10) copies of the Site Plan, 2 of 2, dated August 3, 2015
- Ten (10) copies of the Aerial Overlay Exhibit, E-1, dated August 3, 2015
- Ten (10) copies of the 7 Hull Avenue - Photo Exhibit
- One (1) copy of the Abutters List and three (3) copies of the Abutters List mailing labels

The proposed project consists of the demolition and reconstruction of an existing breezeway and attached one (1) car garage located at 7 Hull Avenue, Tax Map 35 Lot 49. The existing garage is structurally unsound, functionally obsolete, and unusable in its current state for vehicle storage. The roof of the breezeway and garage is flat, which is aesthetically unpleasing and more importantly potentially hazardous as snow and rain can accumulate causing leaks or other damage. See Photo Exhibit enclosed with this application.

The proposed 1-car garage is 18'x24', which will require a dimensional variance as the garage would be located two (2) ft from the side lot line shared with 3 Hull Avenue, where a six (6) ft. side yard setback is required. The distance from the proposed garage corner to the existing home at 3 Hull Avenue is approximately 76.5'. By decreasing the distance from 76.5', with a six (6) foot setback, to 70.6' with a two (2) foot setback, represents a difference of only 7.7 percent. In addition, the owners of 3 Hull Avenue have expressed verbal support for the project. I have asked all my neighbors adjacent to my property for written support and will provide that supplementary to this submission as I was not available to include it before the deadline.

The existing lot is approximately 11,186 SF, which is less than 12,000 SF required by the R-12 zoning district and is therefore nonconforming. Section 170-14A.(2) of the Zoning Ordinance permits a reduced side yard setback recognizing nonconforming lots are typically narrower, which imposes a hardship if held to the typical R-12 setback requirements. The total frontage of the existing lot is approximately 69.62 feet, which permits the side yard setback to be reduced from ten (10) feet to six (6) feet. However, given the constraints and unique nature of the existing lot a variance is requested.

The following addresses the five (5) variance criteria as set forth in NH RSA 674:33I(b):

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

The proposed design and layout of the garage is consistent with the existing homes on Hull Avenue and in the surrounding neighborhoods. Many of the homes on Hull Avenue have attached 1 and 2 car garages. The proposed project does not include any work that wouldn't otherwise be normal to a medium density residential neighborhood.

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

Section 170-14A.(2) recognizes that nonconforming lots are unique and can present a hardship as they are typically narrower, which can limit the buildable area. The intent of this project is to construct a garage that is consistent with the size and layout of other homes in the area. The location of the house within the lot, as well as the angle of the side lot line, limit the amount buildable area. The existing one (1) car garage is 11'X21', which is smaller than a standard one (1) car garage and would not allow for a vehicle door to open completely. Modern 1-car garages are typically 14'-18' wide to accommodate vehicle door opening, storage, and ingress/egress to the home from the inside the garage.

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

This project would allow the garage to be used as intended, while improving the overall appearance of the house and neighborhood. Section 170-14A.(2) already recognizes the difficulty of residential home construction on a nonconforming lot and the requested variance is in keeping with the intent of that exception.

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

The photos enclosed with this application clearly demonstrate the existing garage and breezeway are aesthetically unpleasing and are not consistent with the typical architecture of the neighborhood. This project would only serve to increase the surrounding property values as this home stands out among the others in a negative manner. Previous homeowners have deferred required routine maintenance and this project will improve the property while also benefitting the neighborhood as a whole.

5. *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 lot is one of only three (3) out of eighteen (18) on Hull Avenue that are not at least 12,000 SF as required in the R-12 district. (1, 4, & 7 Hull Avenue)
- The lot frontage (69.62') is less than both abutting properties and all other homes on Hull Avenue with the exception of the two (2) nonconforming lots listed above. Most of the lots have a minimum of 110'-120' of frontage, which permits flexible development within the permitted setbacks.
- The existing garage and breezeway appearance does not match any other home in the neighborhood and only serves to detract from the overall appearance of other homes on the street.

- The side lot line shared with 3 Hull Avenue cuts across the property at an angle that is not parallel with the existing home. This odd lot line angle, creates a situation where the back of the garage could be within the setback, while the front cannot. The other lots in the surrounding neighborhood have roughly perpendicular and parallel lot lines.
- (ii) *No fair and substantial relationship exists between the general purposes of the ordinance provision and the specific application of that provision to the property because:*

The general purpose of the ordinance (Section 140-14) is to provide a reduced side yard setback in recognition of a nonconforming lot. A variance has been requested recognizing the fact that the general purpose of the ordinance is exactly that, just general and not applicable to every situation. Given the unique nature of the lot in comparison to the others on Hull Avenue, the ordinance does not provide enough relief for this particular situation.

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

The proposed garage is reasonable because it provides an appropriate space to safely store a vehicle in keeping with the overall appearance of the home and neighborhood. The existing garage dimensions are smaller than a modern one (1) car garage as explained above, so granting the variance would allow for a typical 1-car garage to be constructed. The project will help increase the surrounding property values with the removal and replacement of an old and ugly garage.

I look forward to meeting with the City of Dover Zoning Board of Adjustment on August 20, 2015. Please don't hesitate to call me at 315-436-6693 or email me Halsey.gregory@gmail.com if you have any questions.

Very truly yours,



Greg Halsey

Abutters Map

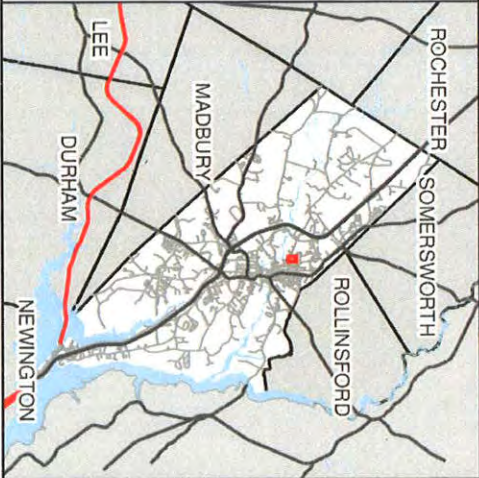


Property Information
Property ID 35049-000000
Location 7 HULL AV
Owner HALSEY GREGORY &
HALSEY LAURA



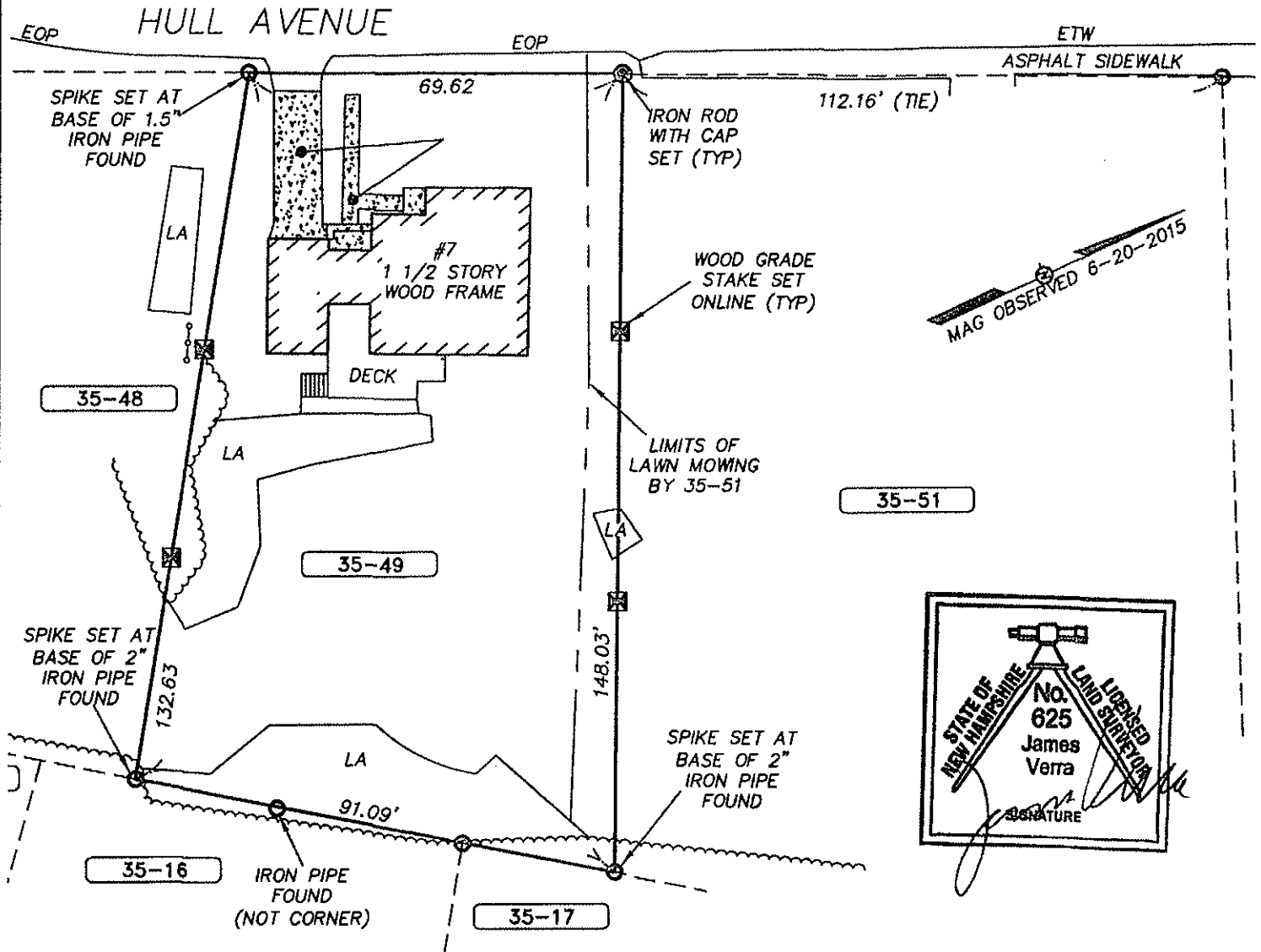
**MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT**

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



James Verra and Associates, Inc.

101 SHATTUCK WAY-SUITE 8, NEWINGTON, NH 03801 (P) 603-436-3557 © 2015 by JAMES VERRA and ASSOC., INC.

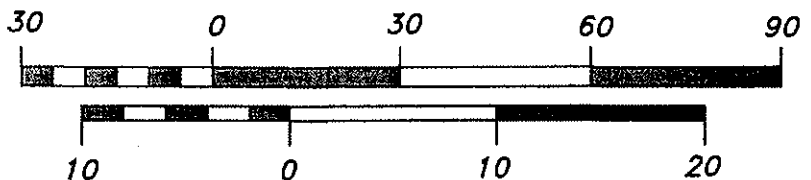


OWNER OF RECORD: GREGORY & LAURA HALSEY
 REFERENCE DEED: 4247/426
 REFERENCE PLAN: HULL AVE. LOTS, WILLIS LITTLEFIELD, DATED JULY 1946
 STRAFFORD COUNTY REGISTRY OF DEEDS POCKET 3, FOLDER 1, PLAN 42

OTHER EASEMENTS OF RECORD, IF ANY, ARE NOT SHOWN HEREON.
 THE PURPOSE OF THIS SKETCH IS TO SHOW THE MONUMENTS SET/FOUND AND IS NOT
 INTENDED FOR RECORDATION OR FOR SUBMITAL TO ANY REGULATORY AGENCY.

LEGEND:

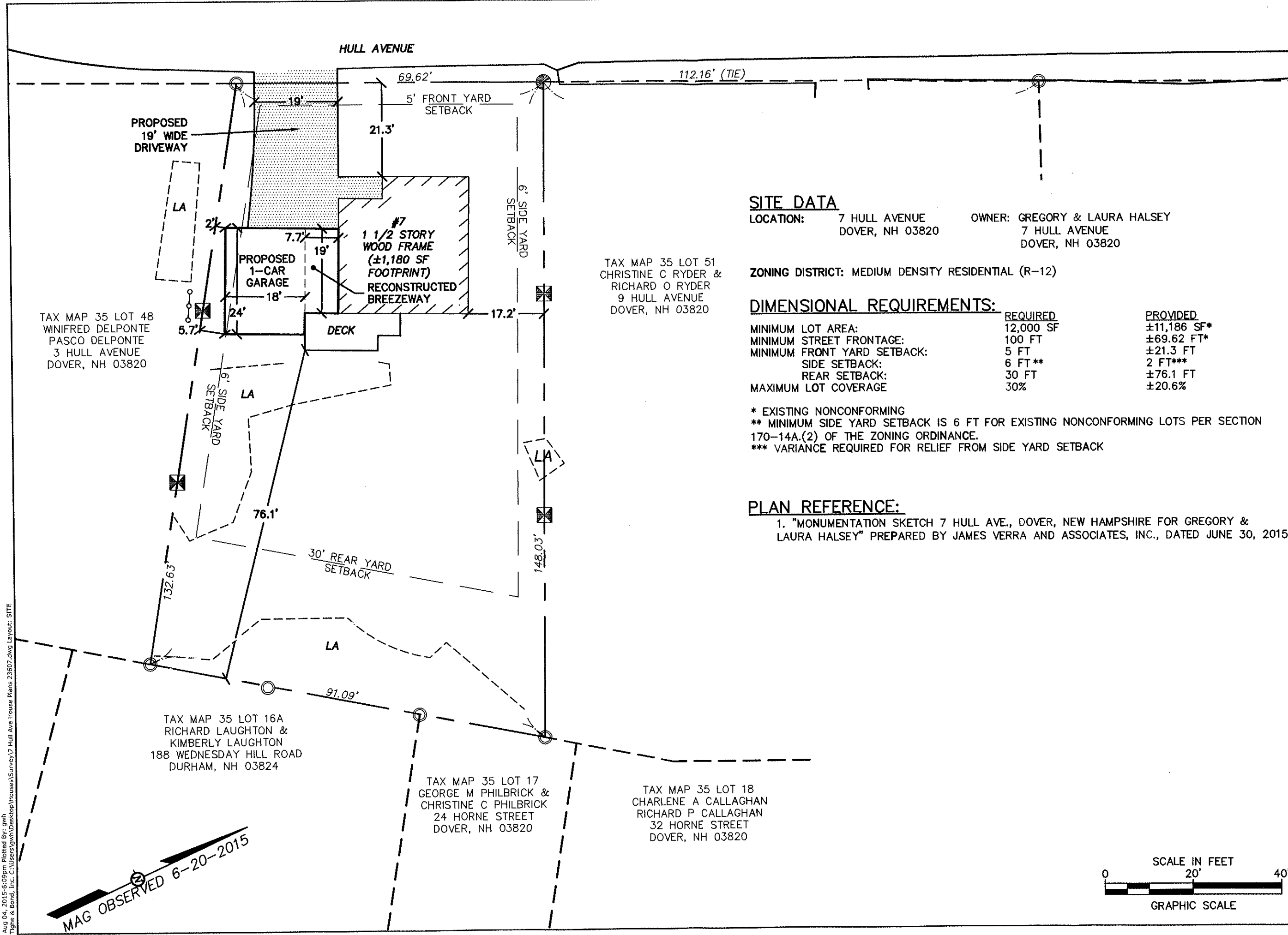
- IRON ROD WITH CAP SET
- IRON PIPE FOUND (AS NOTED)
- SMALL METAL FENCE
- 35-49 TAX SHEET - LOT NUMBER
- EOP.....EDGE OF PAVEMENT
- ETW.....EDGE OF TRAVELLED WAY
- LA.....LANDSCAPED AREA
-TREE LINE



Monumentation Sketch
7 Hull Ave., Dover, New Hampshire
 for: **Gregory & Laura Halsey**

DATE: 6-30-2015
 JOB NO. 23607
 PLAN NO. 23607SKH
 SCALE: 1" = 30'

Aug 04, 2015 6:09pm Plotted By: gwh
Tight & Bond, Inc. C:\Users\gwh\Desktop\Houses\Survey\7 Hull Ave House Plans 23607.dwg Layout: SITE



SITE DATA

LOCATION: 7 HULL AVENUE DOVER, NH 03820 OWNER: GREGORY & LAURA HALSEY 7 HULL AVENUE DOVER, NH 03820

ZONING DISTRICT: MEDIUM DENSITY RESIDENTIAL (R-12)

DIMENSIONAL REQUIREMENTS:

	REQUIRED	PROVIDED
MINIMUM LOT AREA:	12,000 SF	±11,186 SF*
MINIMUM STREET FRONTAGE:	100 FT	±69.62 FT*
MINIMUM FRONT YARD SETBACK:	5 FT	±21.3 FT
SIDE SETBACK:	6 FT**	2 FT***
REAR SETBACK:	30 FT	±76.1 FT
MAXIMUM LOT COVERAGE	30%	±20.6%

- * EXISTING NONCONFORMING
- ** MINIMUM SIDE YARD SETBACK IS 6 FT FOR EXISTING NONCONFORMING LOTS PER SECTION 170-14A.(2) OF THE ZONING ORDINANCE.
- *** VARIANCE REQUIRED FOR RELIEF FROM SIDE YARD SETBACK

PLAN REFERENCE:

1. "MONUMENTATION SKETCH 7 HULL AVE., DOVER, NEW HAMPSHIRE FOR GREGORY & LAURA HALSEY" PREPARED BY JAMES VERRA AND ASSOCIATES, INC., DATED JUNE 30, 2015

7 Hull Avenue

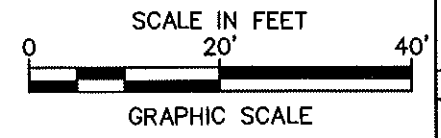
Proposed Garage Reconstruction

Dover, New Hampshire

August 3, 2015

Mark	Date	Description
PROJECT NO:		
FILE: 7 Hull Ave House Plans 23607.dwg		
DRAWN BY:	GWH	
CHECKED BY:	GWH	
APPROVED BY:	GWH	

SITE PLAN
SCALE: AS SHOWN
2 OF 2



MAG OBSERVED 6-20-2015

7 Hull Avenue – Photo Exhibit



Photo 1 –Looking east at the existing garage and breezeway with flat roof. Stakes with pink ribbon mark the side lot line.



Photo 2 – Looking northeast 7 Hull Avenue in foreground and 9 Hull Ave in the background.



Photo 3 – Looking south toward 3 Hull Avenue.



Photo 4 – Looking west from backyard toward Hull Avenue. Lot slopes steeply downward behind the garage.



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z15-15)

Application Type:	Variance
Applicant:	Steven & Briana Hyde
Owner:	Steven & Briana Hyde
Location:	45 Dover Neck Road (Tax Map M, Lots 78 and 79D)

INTENT: The Applicant owns two adjoining lots, and rather than converting the existing pre-1964 home into a two-family as permitted, they propose maintaining the existing home and constructing a new, two-family dwelling on the other lot.

UNITS PROPOSED: Two

AGENDA ITEM #: 3-B

ZONING DISTRICT: R-40

FILE: Z15-15

APPLICANT: Steven & Briana Hyde

OWNERS: Steven & Briana Hyde

LOCATION: 45 Dover Neck Road (Tax Map M, Lots 78 & 79 D)

ACREAGE: 2.5 acres and 1.04 acres

EXISTING LAND USE: Single-family dwelling

PROPOSED LAND USE: Single-family dwelling and two-family dwelling

SURROUNDING LAND USE: Residential

PREVIOUS ZBA ACTION: None

ATTACHMENTS: Application, Proposed Conditions Plan

PLANNING BOARD APPROVAL

REQUIRED: Yes, to achieve the lot line adjustment depicted on plan.

STAFF RECOMMENDATION:

The Planning Department does not oppose the variance request.

Summary of Request and Background

Lot 78 (2.5 acres) and Lot 79D (1.04 acres) are located on Dover Neck Road in the R-40 district. There is a single-family home built around 1900 on Lot 78, and Lot 79D is vacant. In the R-40, conversion of a dwelling existing before May 27, 1964 into two units is permitted.

The Applicants propose that the existing dwelling be maintained as a single-family home and that the right to convert it be transferred, as a variance of use, to the vacant Lot 79D. Lot 79D is also owned by them and directly abuts Lot 78.

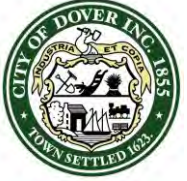
Reason for Staff Recommendation

Although we are not aware of any precedent for the transfer of a right in this manner, staff believes that the idea meets the spirit and intent of the ordinance. It is an opportunity for the property owner to realize a return on their investment, as permitted, while preserving a Victorian-era home and providing two new housing units in new construction. The overall yield is the same, and the proposed reconfiguration of lot lines allows for the preservation of mature trees at the street.

However, staff finds that it is difficult to demonstrate that literal enforcement would result in unnecessary hardship.

Recommendation

The Planning Department recommends the Board hold the public hearing and does not oppose the request for variance. If the Board chooses to approve the request, staff suggests a condition that a deed restriction be added for Lot 78, stating that there shall be no conversion of the existing dwelling to accommodate two units. A note to this effect should also be added to the plan.



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z15-15)

Application Type: Variance
Applicant: Steven & Briana Hyde
Owner: Steven & Briana Hyde
Location: 45 Dover Neck Road (Tax Map M, Lots 78 and 79D)

City of Dover

August 13, 2015



Property Information

Property ID: M0079-D00000
Location: DOVER NECK RD
Owner: COAKLEY RONALD C & COAKLEY BIANCA A



**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]

RECEIVED
Planning Office

Office Use Only

Case #:

215-15

Date Received:

AUG 05 2015

Amount Paid:

\$ 308.00

Time Received:

Dover, New Hampshire

CK # 011124

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: Berry Surveying & Engineering Phone # 603-332-2863

Address of Applicant: 335 Second Crown Point Road, Barrington, NH 03825

E-Mail Address: crberry@metrocast.net

PROPERTY OWNER (if different from applicant): Steve & Briana Hyde

Address: 45 Dover Neck Road, Dover, NH 03820 Phone # _____

E-Mail Address: _____

PROPERTY/PARCEL INFORMATION

Address: 45 Dover Neck Road (Tax Map M, Lots 78 & 79D)

Brief Directions: Middle Road to Dover Neck Road. Property located on right, directly across from Ruthie's Run. If you get to Waterloo Circle, you have gone too far.

Zoning District: R-40 Assessor's Map # M Lot(s) # 78 & 79D

TYPE OF APPEAL: (Please check one)

- | | |
|--|---|
| ☒ Variance | from Section <u>Use Table</u> 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 transfer the 2 family right from lot 78 to lot 79D and construct a 2 family dwelling on lot 79D, leaving the single family home existing on lot 78. No additional density is requested as a part of this application.

SIGNATURE PAGE

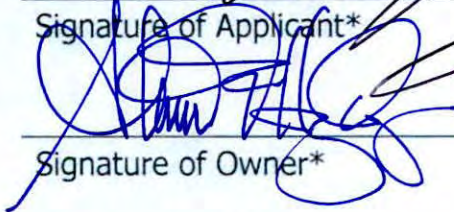
THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS

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.

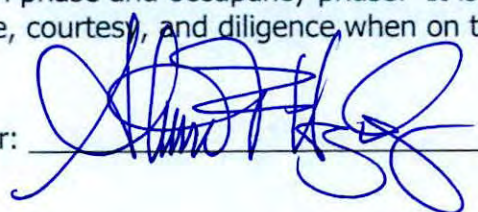
Signature of Applicant* 

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: 16 AUG 15



BERRY SURVEYING & ENGINEERING

335 Second Crown Point Road

Barrington, NH 03825

Phone: (603) 332-2863

Fax: (603) 335-4623

www.BerrySurveying.Com

crberry@metrocast.net

August 5, 2015

City of Dover
Zoning Board of Adjustments
288 Central Ave.
Dover, NH 03820

Re: Steven & Briana Hyde
Dover Neck Road
Dover, NH

Chairman and Members of the Dover Zoning Board of Adjustments,

On Behalf of Steven & Briana Hyde, Berry Surveying & Engineering (BS&E) is applying for a variance located at or near 45 Dover Neck Road. The property is commonly known as Tax Map M, Lots 78 & 79D. A use variance to transfer the second dwelling unit which is allowable on Lot 78 by grandfathered right in Dover given the age of the house (pre 1964) to Lot 79D.

Background and General Narrative:

Mr. & Mrs. Hyde own Lot 78 and 79D, located in the R-40 zone, and currently reside on Lot 78, which is known as 45 Dover Neck Road. Lot 78 is comprised of a variety of land types, to include yard area, wooded areas, and an area of meandering wetlands to the rear of the lot, having a total size of 2.5 acres. Lot 79D is currently a vacant buildable lot 1.04 acres in size, having recently been created as part of a subdivision of 37 Dover Neck Road by David and Janet Goodwin of 23 Dover Neck Road, approved by the Dover Planning Board. Lot 79D was purchased from the Goodwins by Mrs. Hyde's parents, Ronald and Bianca Coakley, and in turn has been deeded to Mr. & Mrs. Hyde. The total land area of the two lots owned by the Mr & Mrs. Hyde, combined equals 3.54 Ac.

Lot 78 is currently serviced by on-site septic and a well. Any development that takes place on Lot 79D will be required to utilize City water and sewer services, given the proximity of the services to the lot. Lot 78 utilizes a typical, private driveway as access to their lot. It is proposed that Lot 79D will have a similar type access.

The Proposal:

Mr. & Mrs. Hyde would like to transfer the second unit that they are allowed by right on Lot 78, given the age of their home in Dover (pre 1964), to the vacant lot 79D. They are also planning to revise the lot lines between their two lots to remove the building area which is located currently on Lot 79D close to Dover Neck Road and force the placement of the 2 family building to the rear of the lot. The rear of the lot is heavily wooded and this would shield this building from the road and the abutters, with the possible exception of the winter months. The lot lines shown on the plan that you have received is a representation of the lot line revision that they would like to submit to the Planning Board for their approval.

Specific Variance Request & Criteria for Approval:

The Variance Request is specifically to the Table of Permitted Uses, found within the Rural Residential (R-40) District to allow the existence of a 2 Family Dwelling on a lot found within the district:

- 1.) *"Waiving the terms of the Ordinance would not be contrary to the public interest because:"*
 - a. The public interest will be served in that the proposed development will be set back from the street in such a manner that the streetscape will not be change with the exception of the addition of a driveway. No additional units are proposed for these two lots that are not already permitted, in that the applicants are currently permitted three dwelling units on the two lots and that application proposes the same number of units.
- 2.) *"Deviation from the strict requirements of the Ordinance is consistent with the spirit of the Ordinance because:"*
 - a. Deviation from the ordinance in this case is consistent with the spirit of the ordinance because no additional units are proposed in excess of the number currently allowable. The spirit of the ordinance is to control density in the R-40 zone, and no additional density is requested.
- 3.) *"Granting the variance would do substantial justice because:"*
 - a. Substantial justice would be done because it would allow the continued use of the single family home on 45 Dover Neck Road and also allow for the use of the second dwelling unit that Lot 78 is allowed by right in Dover without adding that second unit to the structure at 45 Dover Neck Road that sits close to the street.
- 4.) *"The value of surrounding property will not be diminished because:"*
 - a. Granting this variance, in conjunction with the proposed lot line revision which is pending at the Planning Board, will allow for the development of Lot 79D to be in the wooded section of the lot away from the street. This will create a large wooded buffer between the development and the street as well as the abutters. This development will be almost imperceptible from the road, with the exception of the driveway.
- 5.) *"Literal enforcement of the provisions of the ordinance would result in unnecessary hardship:"*
 - (i) *The following special conditions of the property distinguish is from other properties in the area:*
 - a. The special conditions exist within the construction types of the existing single family home on Lot 78 and construction types of modern homes. The age of the existing home on Lot 78, built circa 1900, would indicate a certain type of construction, especially as it relates to interior construction. Revising a building, for instance to create a 2 family dwelling, constructed during this time period with modern construction materials, styles, and building codes, can be very difficult and would create a disharmonious architectural building.
 - (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:*
 - a. The request is to take the second allowable unit from Lot 78 and transfer it to Lot 79D. This will allow the 2 family dwelling unit to be built congruently on one parcel of land in an area that will not have a negative effect on the streetscape or the abutters. The alternative would be to either split the existing single family home or construct an addition to it to achieve the 2 family dwelling in that fashion. It is our opinion that, although there



BERRY SURVEYING & ENGINEERING

335 Second Crown Pt. Rd., Barrington, NH 03825
(603) 332-2863 / (603) 335-4623 FAX
www.BerrySurveying.Com

is no numerical difference between the two potential projects in that they would both result in a total of three dwelling units, there is a difference in practicality in construction, architecture, and visual attractiveness.

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

- a. It will allow for the continued use of the existing home located on Lot 78. It will also allow for the construction of the 2 family unit to be off the street and constructed as one contiguous building of modern architecture and construction type. The two lots combined, in the existing condition, are allowed three dwelling units and in the proposed condition there are three dwelling units.

Thank you for your time and attention to this matter. We hope you look favorably upon this request.

BERRY SURVEYING & ENGINEERING

Christopher R. Berry
Principal, President



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8-4-15

Abutters List

Owner:

Tax Map M, Lot 78 & 79D

Steven & Briana Hyde
45 Dover Neck Rd
Dover, NH 03820

Abutters:

Tax Map M, Lot 90-A15

John & Marie Crowley
48 Isaac Lucas Circle
Dover, NH 03820

Tax Map M, Lot 90-A16

Kathleen Douglass & George Dailey
46 Isaac Lucas Circle
Dover, NH 03820

Tax Map M, Lot 90-A17

Steve & Holly Joanne Venetos
42 Isaac Lucas Circle
Dover, NH 03820

Tax Map M, Lot 76-001

David & Amy D Middleton
10 Waterloo Circle
Dover, NH 03820

Tax Map M, Lot 58

Gemma & John Flemming
Co-Trustees Viel Claire Irrevocable Trust
382 Middle Rd
Dover, NH 03820

Tax Map M, Lot 77

TLG Realty Trust
George, Edward J. Trustee
21 Pleasant St
Berwick, ME 03901

Tax Map M, Lot 78A

TLG Realty Trust
George, Edward J. Trustee
21 Pleasant St
Berwick, ME 03901

Tax Map M, Lot 79A, 79B & 79C

David A & Janet K Goodwin
23 Dover Neck Rd
Dover, NH 03820

Tax Map M, Lot 90 D2

Maureen F Staples, Trustee
Maureen Staples Living Rev Trust
2 Ruthie's Run
Dover, NH 03820

Tax Map M, Lot 90 D3

Paul and Brenda Mckenney
1 Ruthie's Run
Dover, NH 03820

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Tax Map M, Lot 90 D4

Joseph Behre Jr
44 Isaac Lucas Cr
Dover, NH 03820

Tax Map M, Lot 90 D8

Jeffrey & Vera P Haus
28 Dover Neck Rd.
Dover, NH 03820

Professionals:

Christopher R. Berry
Berry Surveying & Engineering
335 Second Crown Point Rd
Barrington, NH 03820

Damon Burt, CWS
Fraggle Rock Env.
38 Garland Road
Strafford, NH 03884

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335 Second Crown Point Road

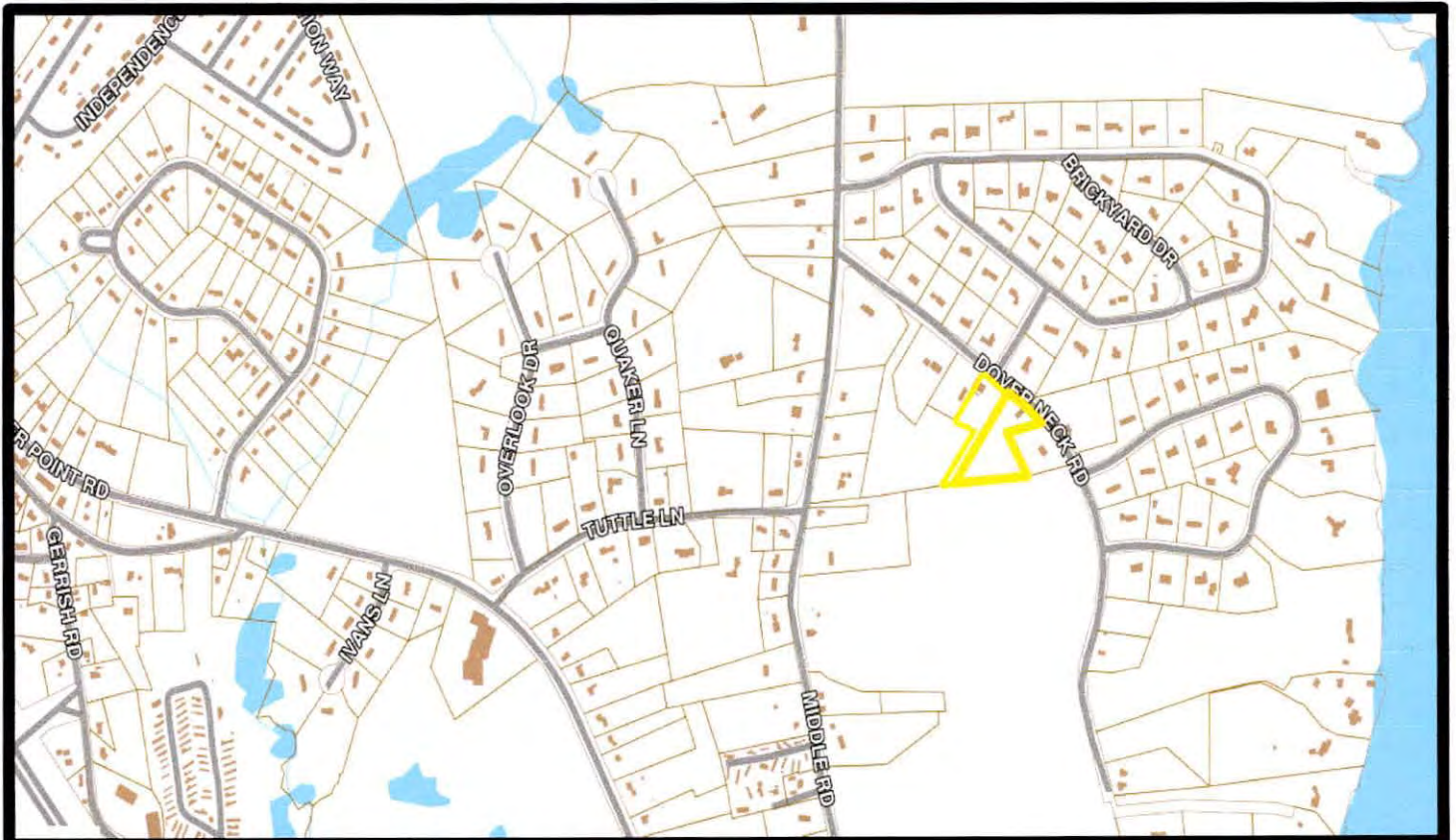
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Tax Map M-78 & 79D





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Site Photos



5.



6.



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335 Second Crown Point Road

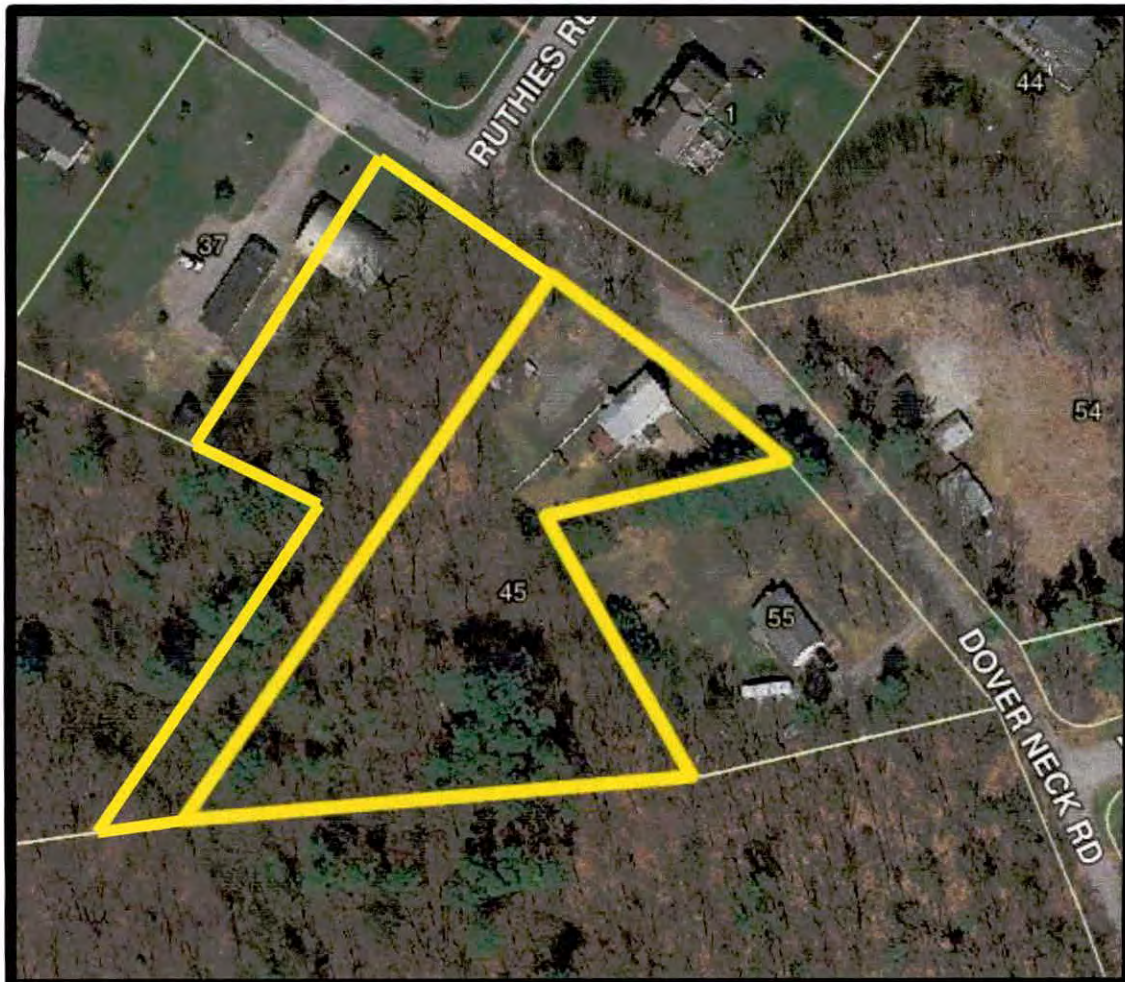
Barrington, NH 03825

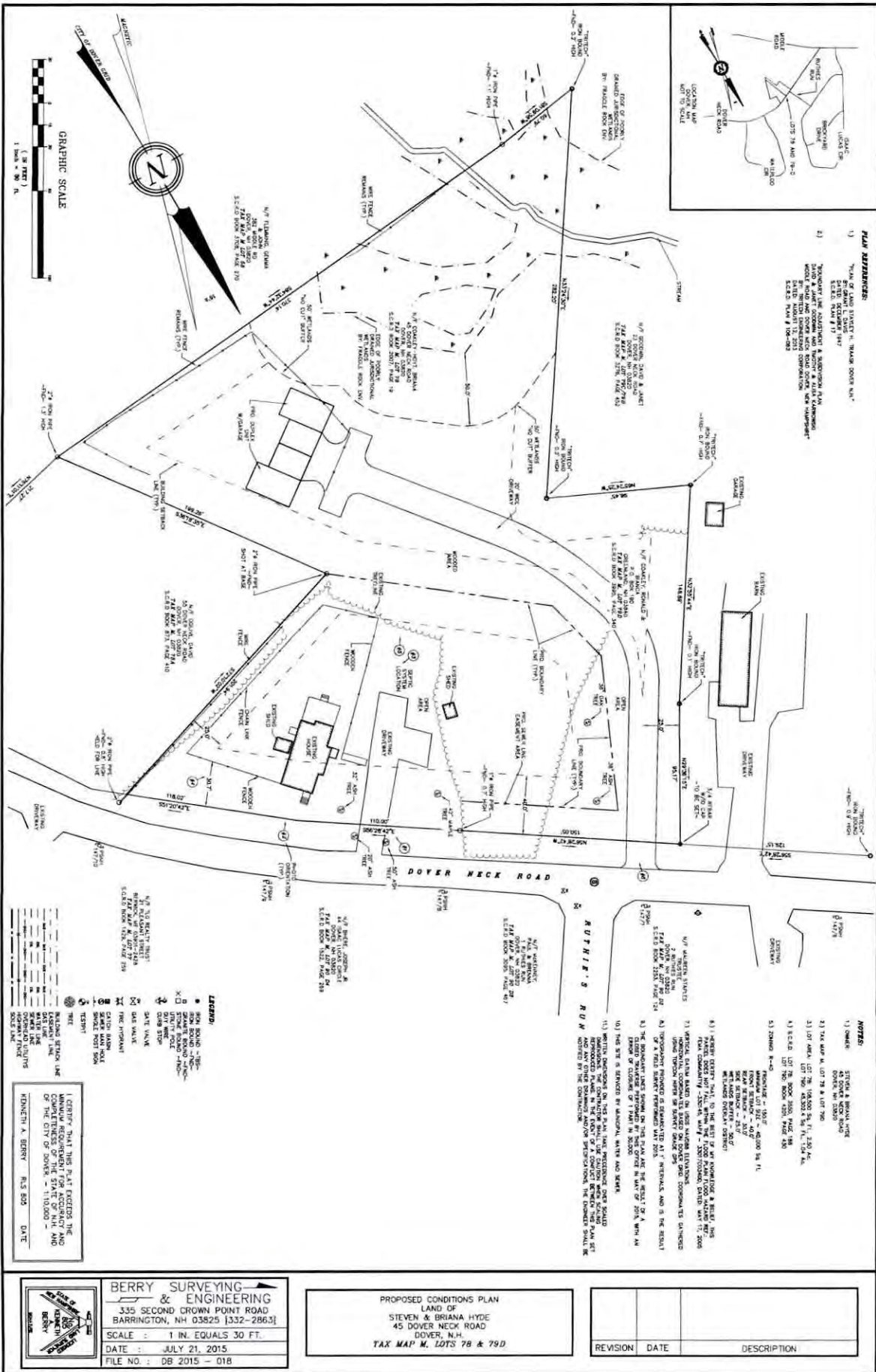
Phone: (603) 332-2863

Fax: (603) 335-4623

www.BerrySurveying.Com

Aerial Photo, M-78 & 78D





PLAN REFERENCES:

- 1) PLAN OF LAND SITUATE IN BARRINGTON, NEW HAMPSHIRE, DATED: DECEMBER 1987, SCALE: PLAT # 17
- 2) "PROPOSED LOT ASSIGNMENT & SUBDIVISION PLAT" FOR THE SUBDIVISION OF LAND SITUATE IN BARRINGTON, NEW HAMPSHIRE, DATED: AUGUST 11, 2011, SCALE: PLAT # 104-002

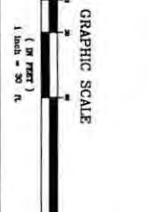
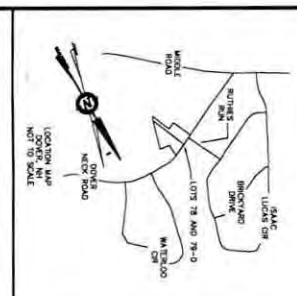
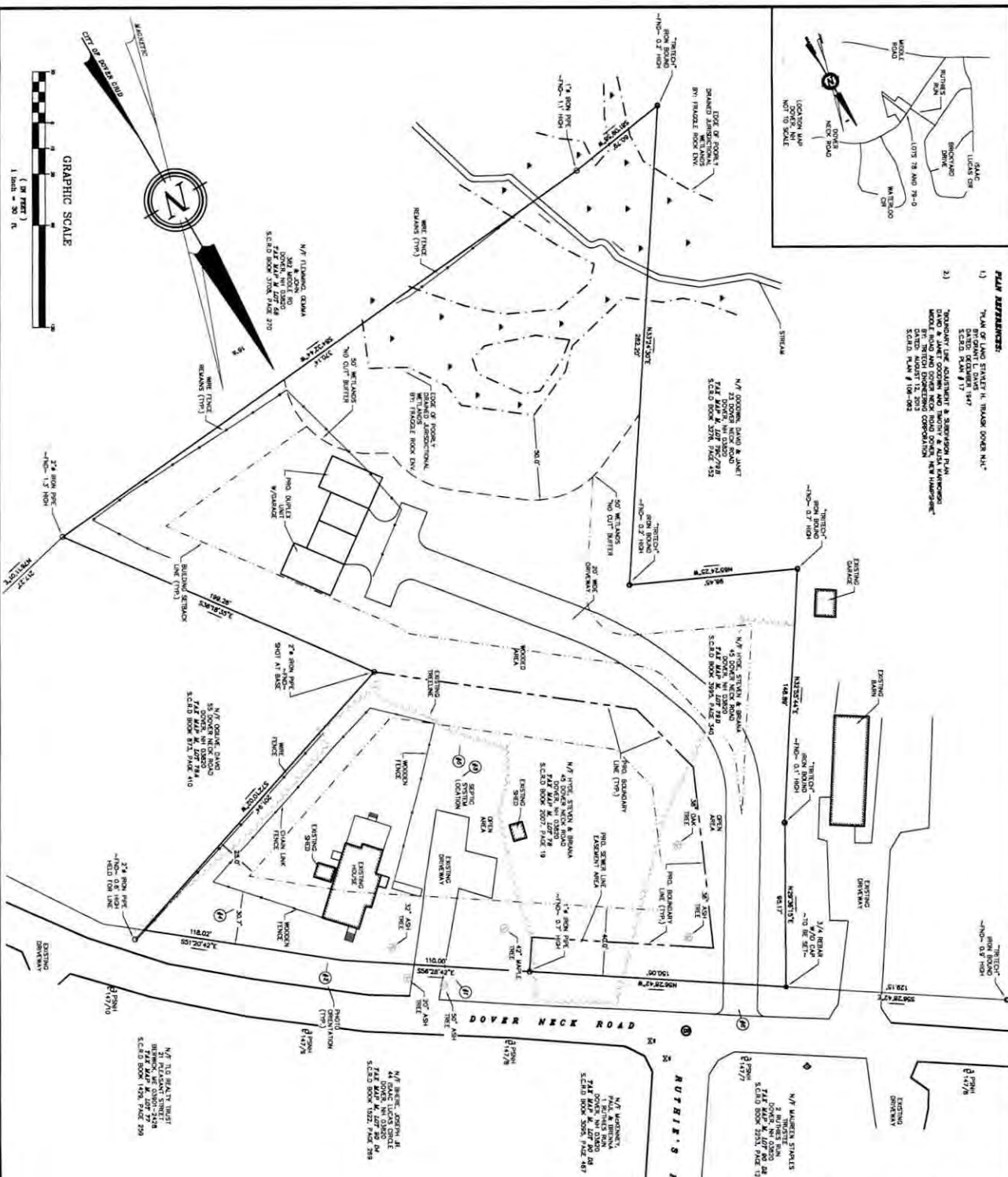
NOTES:

- 1) OWNER: STEVEN & BRIANA HYDE, 45 DOVER NECK ROAD, DOVER, NH 03825
- 2) TAX MAP M, LOT 78 & 79, 45 DOVER NECK ROAD, DOVER, NH 03825
- 3) LOT AREA: 1.21 ACRES (106,000 Sq. Ft.) ± 2.00%
- 4) S.E. CORNER: 127.78' BOUND STAKE, PAID 198
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- 97) S.E. CORNER: 127.78' BOUND STAKE, PAID 198
- 98) S.E. CORNER: 127.78' BOUND STAKE, PAID 198
- 99) S.E. CORNER: 127.78' BOUND STAKE, PAID 198
- 100) S.E. CORNER: 127.78' BOUND STAKE, PAID 198

BERRY SURVEYING & ENGINEERING
335 SECOND CROWN POINT ROAD
BARRINGTON, NH 03825 [332-2863]
SCALE : 1 IN. EQUALS 30 FT.
DATE : JULY 21, 2015
FILE NO. : DB 2015 - 018

PROPOSED CONDITIONS PLAN
LAND OF
STEVEN & BRIANA HYDE
45 DOVER NECK ROAD
DOVER, N.H.
TAX MAP M, LOTS 78 & 79

REVISION	DATE	DESCRIPTION



PLAN REFERENCES:

1) PLAN OF LAND STATEY H. TRADON DOWEN N.H.
DATE: DECEMBER 1947
SCALE: PLAT # 17

2) BOUNDARY LINE ADJUSTMENT & SURVEYOR'S PLAT
DATE: MAY 19, 2005
SCALE: PLAT # 108-002

3) BOUNDARY LINE ADJUSTMENT & SURVEYOR'S PLAT
DATE: MAY 19, 2005
SCALE: PLAT # 108-002

NOTES:

1) OWNER: STEVEN & BRIANA HYDE
2) TAX MAP M, LOT 78 & 79-D
3) LOT AREA: LOT 78: 10,000 Sq. Ft. 1.25 AC. 1/4
LOT 79: 10,000 Sq. Ft. 1.25 AC. 1/4
4) SCALE: LOT 78: 1:10,000, LOT 79: 1:10,000
5) ZONING: B-40
6) FRONT SETBACK: 100' - 40,000 Sq. Ft.
7) SIDE SETBACK: 10' - 40,000 Sq. Ft.
8) REAR SETBACK: 10' - 40,000 Sq. Ft.
9) LOT AREA: 10,000 Sq. Ft. 1.25 AC. 1/4
10) LOT AREA: 10,000 Sq. Ft. 1.25 AC. 1/4
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99) LOT AREA: 10,000 Sq. Ft. 1.25 AC. 1/4
100) LOT AREA: 10,000 Sq. Ft. 1.25 AC. 1/4

I CERTIFY THAT THIS PLAN EXCEEDS THE COMPLETENESS OF THE STATE OF N.H. AND OF THE CITY OF DOVER - 1:10,000 -

KENNETH A. BERRY RLS 805 DATE

BERRY SURVEYING & ENGINEERING
335 SECOND CROWN POINT ROAD
BARRINGTON, NH 03825 [332-2863]
SCALE: 1 IN. EQUALS 30 FT.
DATE: JULY 21, 2015
FILE NO.: DB 2015 - 018

PROPOSED CONDITIONS PLAN
LAND OF
STEVEN & BRIANA HYDE
45 DOVER NECK ROAD
DOVER, N.H.
TAX MAP M, LOTS 78 & 79-D

REVISION	DATE	DESCRIPTION



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z15-16)

Application Type:	Variance
Applicant:	Carl Thibodeau
Owner:	Carl Thibodeau
Location:	8 Pineview Drive (Tax Map L, Lot 48M)

INTENT: The Applicant requests a variance to create a lot with 92.51 feet of frontage where 125 feet is required.

UNITS PROPOSED: None

AGENDA ITEM #: 3-C

ZONING DISTRICT: R-20

FILE: Z15-16

APPLICANT: Carl Thibodeau

OWNERS: Carl Thibodeau

LOCATION: 8 Pineview Drive (Tax Map L, Lot 48M)

ACREAGE: 1.93 acres divided into 1.19 and 0.74 acres

EXISTING LAND USE: Single-family dwelling

PROPOSED LAND USE: Single-family dwelling

SURROUNDING LAND USE: Residential

PREVIOUS ZBA ACTION: None

ATTACHMENTS: Application, Subdivision Plan

PLANNING BOARD APPROVAL REQUIRED: Yes

STAFF

RECOMMENDATION: The Planning Department supports the variance request.

Summary of Request and Background

8 Pineview Drive is a 1.93 acre lot with frontage on the cul-de-sac at the end of Pineview Drive. 1.93 acres (84,144 square feet) far exceeds the minimum lot size in the R-20 of 20,000 square feet, and the Applicant proposes dividing his lot into two: one 0.74 acre (32,394 square feet) lot containing the existing single-family dwelling, and a second 1.19 acre (51,750 square feet) lot.

The current frontage is approximately 255 feet. For lots fronting on a cul-de-sac, frontage is measured at the front yard setback. Although both proposed lots exceed the minimum lot size requirement, one would not meet the 125-foot minimum frontage requirement. 163.01 feet of frontage is proposed for the 0.74 acre lot and 92.51 feet is proposed for the 1.19 acre lot.

The Applicant received a permit in 2011 to convert the existing, pre-1964 dwelling to a duplex, but has opted to pursue this subdivision instead.

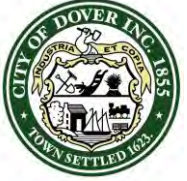
Reason for Staff Recommendation

The existing lot has more than 250 feet of frontage on the Pineview Drive cul-de-sac, and in theory could be divided to provide 125 feet for each lot. The location of the existing driveway and building, as well as the requirement to provide five feet between a driveway and lot line, make a division that would provide equal frontage to each lot impractical. The hardship posed by the existing configuration is evident.

As a part of this plan, the Applicant has agreed to provide an easement for sewer and water to the City. Staff further suggests a condition of approval that the property owner gives up the right to convert to two-family.

Recommendation

The Planning Department recommends the Board hold the public hearing and approve the request for variance. If the Board chooses to approve the request, staff suggests a condition that a deed restriction be added for Lot 48M, stating that there shall be no conversion of the existing dwelling to accommodate two units. A note to the same effect should be added to the plan.



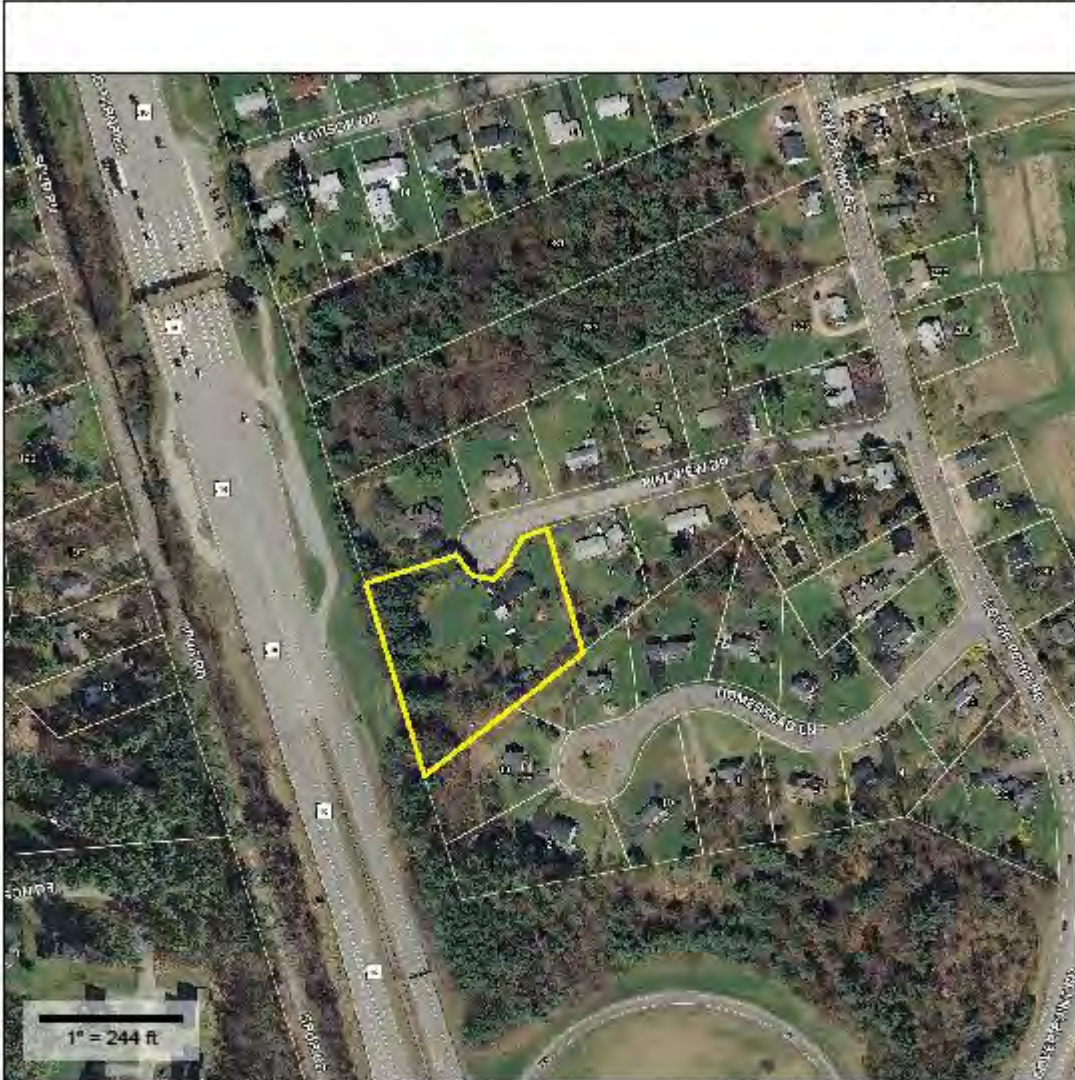
CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z15-16)

Application Type: Variance
Applicant: Carl Thibodeau
Owner: Carl Thibodeau
Location: 8 Pineview Drive (Tax Map L, Lot 48M)

City of Dover

August 13, 2015



Property Information

Property ID LD048-M00000
Location 8 PINEVIEW DR
Owner THIBODEAU CARL P JR &
THIBODEAU DOREEN M



**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]

RECEIVED
Planning Office

Office Use Only Case #:

Z15-16

Date Received:

AUG 05 2015

Amount Paid:

\$ 350.00

Time Received:

Dover, New Hampshire

ck# 01123

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: Berry Surveying & Engineering Phone # (603) 332-2863

Address of Applicant: 335 Second Crown Point Rd. Barrington NH 03823

E-Mail Address: crberry@metrocast.net

PROPERTY OWNER (if different from applicant): Carl Thibodeau

Address: 8 Pineview Dr. Dover, NH 03820 Phone # (603) 332-2863

E-Mail Address: _____

PROPERTY/PARCEL INFORMATION

Address: 8 Pineview Dr. Dover, NH 03820

Brief Directions: Once on Dover Point Rd., Pineview Dr. is 1 mile past St. Thomas Aquinas High School on the right. Proceed to end of street, property is located on left hand side if cul-de-sac.

Zoning District: R-20 Assessor's Map # L Lot(s) # 48-M

TYPE OF APPEAL: (Please check one)

- | | |
|--|--|
| ☒ Variance | from Section <u>R-20</u> 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:

see attached narrative

SIGNATURE PAGE

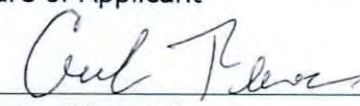
THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS

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.

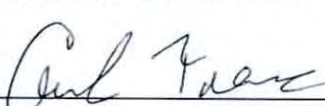
Signature of Applicant* 


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: 8-4-15



BERRY SURVEYING & ENGINEERING

335 Second Crown Point Road

Barrington, NH 03825

Phone: (603) 332-2863

Fax: (603) 335-4623

www.BerrySurveying.Com

crberry@metrocast.net

August 4, 2015

City of Dover
Zoning Board of Adjustments
288 Central Ave
Dover, NH 03820

Re: Carl Thibodeau
Proposed Subdivision
Pineview Drive
Dover, NH
Tax Map L, Lot 48M

Mr. Chair and Members of the Dover Zoning Board of Adjustments,

On behalf of Carl Thibodeau, Berry Surveying & Engineering (BS&E) is requesting a variance to the Table of Requirements in the Low Density Residential (R-20) District to allow less than the required amount of frontage off the end of an existing cul-de-sac.

Background and General Narrative:

Mr. Thibodeau owns a parcel of land situated in Dover, NH off the end of Pineview Drive shown on Tax Map L, Lot 48M. The parcel of land contains 205.53 feet of road frontage along the cul-de-sac of Pineview Drive and contains 1.93 Acres of land, which is exceptionally large for the subdivision in which it is contained. The zone requires twenty thousand square feet of upland area per lot, one hundred and twenty five feet of frontage, has a build-to front setback between twenty and thirty five feet, sideline setbacks of twenty feet, and a rear setback of thirty feet.

In 2011 Mr. Thibodeau applied for and received a permit to convert the existing single family home to a duplex, since the structure was eligible for conversion by virtue of being built prior to May of 1964. After much contemplation, he decided against pursuing this effort and started contemplating subdivision.

Since that time the City of Dover has requested Mr. Thibodeau provide a thirty foot sewer and utility easement diagonally through the lot and along the rear boundary line adjacent to the Spaulding Turnpike. Through discussions with BS&E it was determined that the timing of the contemplated subdivision and the potential easement transfer were inline. BS&E was then hired to conduct a boundary survey and a topographic survey for the preparation of the required Zoning application and possible Subdivision application.

The Proposal:

The proposal is to simply subdivide the parcel into two, by coming down the front boundary line from Tax Map L, Lot 48L, to a point which is five feet off the existing driveway. This five feet is a setback required by the planning board, and is commonly waived, but from a usability and practical matter, we felt it was important to maintain. This keeps 153.35 feet of actual frontage with the existing structure. It is important to note that within this zone, and along cul-de-sac arcs, frontage is measured along the front setback line

from sideline to sideline. This distance is proposed to be 163.01 feet. A line from the street is then drawn to a point near the front line of the house, and then back to a known and established survey monument. This creates a conforming lot with the existing structure on 0.74 Acres of land.

The remaining technical street frontage is 52.18 feet while, the frontage calculated along the front build-to line is 92.51 feet. The lot area associated with the proposed lot is 1.19 Acres of land.

There is an existing drainage easement along the Northern boundary line of the parcel. This is currently overgrown, however the Department of Public Works could remove these trees in favor of maintenance. For this reason, despite the healthy existing buffer, the applicant is willing and interested in installing a row of trees along the existing easement line, which would be the building setback line. These are proposed to be 8 foot tall spruce or arborvitae trees to maintain the visual barrier between Tax Map L, Lot 48-N and the proposed lot.

As part of this proposal and subdivision approval, a proper sewer easement plan will be prepared with proper easement documents and delivered to the City of Dover for their future use, as requested.

Specific Variance Request & Criteria for Approval:

As noted on page 1, the request is a Variance to the frontage along the setback line as required in the Table of Uses for the R-20 Zone. The applicant is requesting the frontage be less than the required 125 feet, and is proposing approximately 92 feet along the thirty five foot build-to line.

1.) *"Granting the variance would not be contrary to the public interest."*

- a. The public interest in having frontage requirements is to ensure that each parcel and lot is spaced according to the zone in which it falls. The intent is to create as close to a uniform look as possible, giving each land owner space on both sides of the parcel for land use. In this case, the public interest is preserved. The applicant is proposing a lot which is very regular in shape, and creates space on each side which is comparable in size to its immediate abutters. This is witnessed by the fact that the abutter to the immediate north has frontage far less than the required 125 feet. This same frontage is much closer to that which is being proposed than the current required amount.

2.) *"Deviation from the strict requirements of the Ordinance is consistent with the spirit of the Ordinance"*

- a. In typical New England fashion, the Ordinance attempts to rationalize in a uniform fashion an area of the City which was developed far before the time of Ordinance. The intent of the ordinance is to create new neighborhoods and allow further development in older neighborhoods which are consistent within certain areas and zones of the City. This is witnessed by the newer subdivision to the South (Homestead Lane). In that instance each lot contains the minimum required frontage and lot size, and is highly uniformed. In this case, the lack of uniformity is the character of the neighborhood, and this proposal fits within this value, and thus preserves the spirit of the Ordinance. The inconsistency, allowed by right, would be to construct a duplex onto a single unit in a neighborhood which is comprised of single family homes.

3.) *"Granting the variance would do substantial justice."*

- a. The substantial justice would be to allow this land owner to develop the second lot instead of creating the second unit within the existing structure. Additional value is



BERRY SURVEYING & ENGINEERING

148 Second Crown Pt. Rd., Barrington, NH 03825
(603) 332-2863 / (603) 335-4623 FAX
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recognized by the City of Dover and the neighborhood as a whole through the construction of an additional single family home over a duplex unit, on land that is well suited and sized for this use. The City will receive the much needed sewer easement at no consideration, and will be properly documented through the subdivision process.

4.) *"Granting the variance will not result in diminution of surrounding property values"*

- a. The surrounding property values are consistent with a single family neighborhood, which is what Mr. Thibodeau is trying to preserve. Land owners to the South are to be blocked by the existing woodland, whereas the structure is to be placed towards the street. The abutter to the North is to be protected by a proposed buffer, and it is likely the existing buffer will remain. The value and street scape of the remaining owners will only be affected by the view of a newer home at the far end of the cul-de-sac. There is to be very little additional traffic on the street, and the quality of life equitably enjoyed along the street will not be changed by the addition of one new home.

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

- a. *"The following special conditions of the property distinguish it from the other properties in the area:"*
 - i. This property is special because it has the available lot size and usable land for the additional lot. It contains one of the largest existing frontages and the largest land area in the neighborhood. Other properties, though may be afforded the ability to convert with a second unit, do not have the land area required to have a separate parcel of land.
- b. *"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:"*
 - i. The relationship between frontage along a street and lot size and area for unit density is directly related to the usability and feel of the neighborhood in which it lies or is trying to create. The ordinance recognizes that along cul-de-sacs there exists the potential through radial boundary development, to have lots that have all of the other required requirements and would be legal lots but for the frontage requirement, and therefore it is reduced. In this case the frontage is reduced as the ordinance allows, only less than would be within a new neighborhood. The inequity in this relationship between the two is further witnessed in an older neighborhood such as this one, where the abutting lot on the same cul-de-sac, has less than the required frontage and yet still enjoys a house and residential amenities.
 - ii. There is no relationship between unit densities whereas the proposed density is the same as what would be allowed in the underlying zone by right. The relationship between frontage and density is not considered in the ordinance when looking to convert a single unit to a duplex unit, and therefore if the land area supports the additional lot, then the unit density and frontage relationship remains the same.
- c. *"The proposed use is a reasonable one because:"*
 - i. It allows for a single family home to be constructed on land which is well suited for it, in a neighborhood which has like construction, off a frontage value similar to those found on abutting parcels.



BERRY SURVEYING & ENGINEERING

148 Second Crown Pt. Rd., Barrington, NH 03825
(603) 332-2863 / (603) 335-4623 FAX
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August 4, 2015

Thank you for your time and attention to this matter. We hope you look favorably upon these two requests.

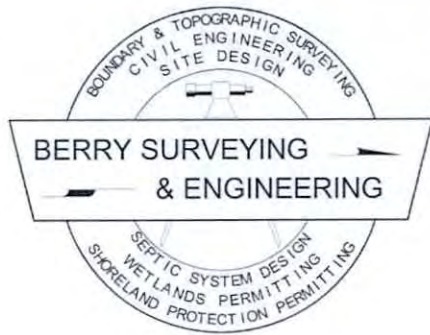
BERRY SURVEYING & ENGINEERING

Christopher R. Berry
Principal, President



BERRY SURVEYING & ENGINEERING

148 Second Crown Pt. Rd., Barrington, NH 03825
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335 Second Crown Point Road

Barrington, NH 03825

Phone: (603) 332-2863

Fax: (603) 335-4623

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8-4-2015

Abutters List

Owner:

Tax Map L, Lot 48-M

Thibodeau, Carl P, Jr. & Doreen
8 Pineview Dr
Dover, NH 03820

Abutters:

Tax Map L, Lot 48-L

Strawbridge, Eleanor & Victor
6 Pineview Dr
Dover, NH 03820

Tax Map L, Lot 49-L

Hulbert, David & Elizabeth
9 Homestead Ln
Dover, NH 03820

Tax Map L, Lot 49-K

Fallon, Michael & Virginia
11 Homestead Ln
Dover, NH 03820

Tax Map L, Lot 48-N

Sweeney, Molly & Fernan
11 Pineview Dr
Dover, NH 03820

Tax Map L, Lot 48-J

Russel, Darlene & John
9 Pineview Dr
Dover, NH 03820

Abutters within 200ft:**Tax Map L, Lot 48-K**

Holmes, Ronald E Jr
4 Pineview Dr
Dover, NH 03820

Tax Map L, Lot 48-H

Ward, Diana M
5 Pineview Dr
Dover, NH 03820

Tax Map L, Lot 48-O

Ford, Arthur & Marlene
7 Pineview Dr
Dover, NH 03820

Tax Map L, Lot 48-A

Dubois, Arthur & Mary
Irrevocable Trust
283 Dover Point Rd
Dover, NH 03820

Tax Map L, Lot 49-M

Gonthier, Norman & Cathy
7 Homestead Lane
Dover, NH 03820

**BERRY SURVEYING & ENGINEERING**

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Tax Map L, Lot 49-H

Kozler, Brian
320 Dover Point Rd
Dover, NH 03820

Tax Map L, Lot 49-I

Rockwell, Susan J
10 Homestead Ln
Dover, NH 03820

Tax Map L, Lot 49-J

Vandenbussche, Leonard & Sherri
12 Homestead Ln
Dover, NH 03820

Tax Map L, Lot 49-A

Cricklewood on the Bellamy
c/o Evergreen Management, INC
72 Portsmouth Ave.
Stratham, NH 03862

First-class mail to the individual owners of units within the association:

Stockbower, David & Raquel
5 Blue Heron Dr.
Dover, NH 03820

Donna Jean Ventura Trust
Donna Jean Ventura Trustee
10650 Coraline Pl.
Chatsworth, CA 91311

**BERRY SURVEYING & ENGINEERING**

335 Second Crown Pt. Rd., Barrington, NH 03825
(603) 332-2863 / (603) 335-4623 FAX
www.BerrySurveying.Com

Tax Map L, Lot 48-G

Parker, Eric G.
205 Spur Rd.
Dover, NH 03820

Tax Map L, Lot 48-Q

Bettencourt, Arthur L.
201 Spur Road
Dover, NH 03820

Tax Map L, Lot 48-P

Bardwell, Eileen C, Trustee
Bardwell Eileen C Rev. Trust
199 Spur Rd.
Dover, NH 03820

Tax Map L, Lot 48-R

Gary J & Pamela Lindsay
197 Spur Rd.
Dover, NH 03820

NH DOT

John O. Morton Building
PO Box 483 | 7 Hazen Drive
Concord, New Hampshire 03302-0483

Professionals:

Christopher R. Berry
Berry Surveying & Engineering
335 Second Crown Point Rd
Barrington, NH 03820

**BERRY SURVEYING & ENGINEERING**

335 Second Crown Pt. Rd., Barrington, NH 03825
(603) 332-2863 / (603) 335-4623 FAX
www.BerrySurveying.Com



BERRY SURVEYING & ENGINEERING

335 Second Crown Point Road

Barrington, NH 03825

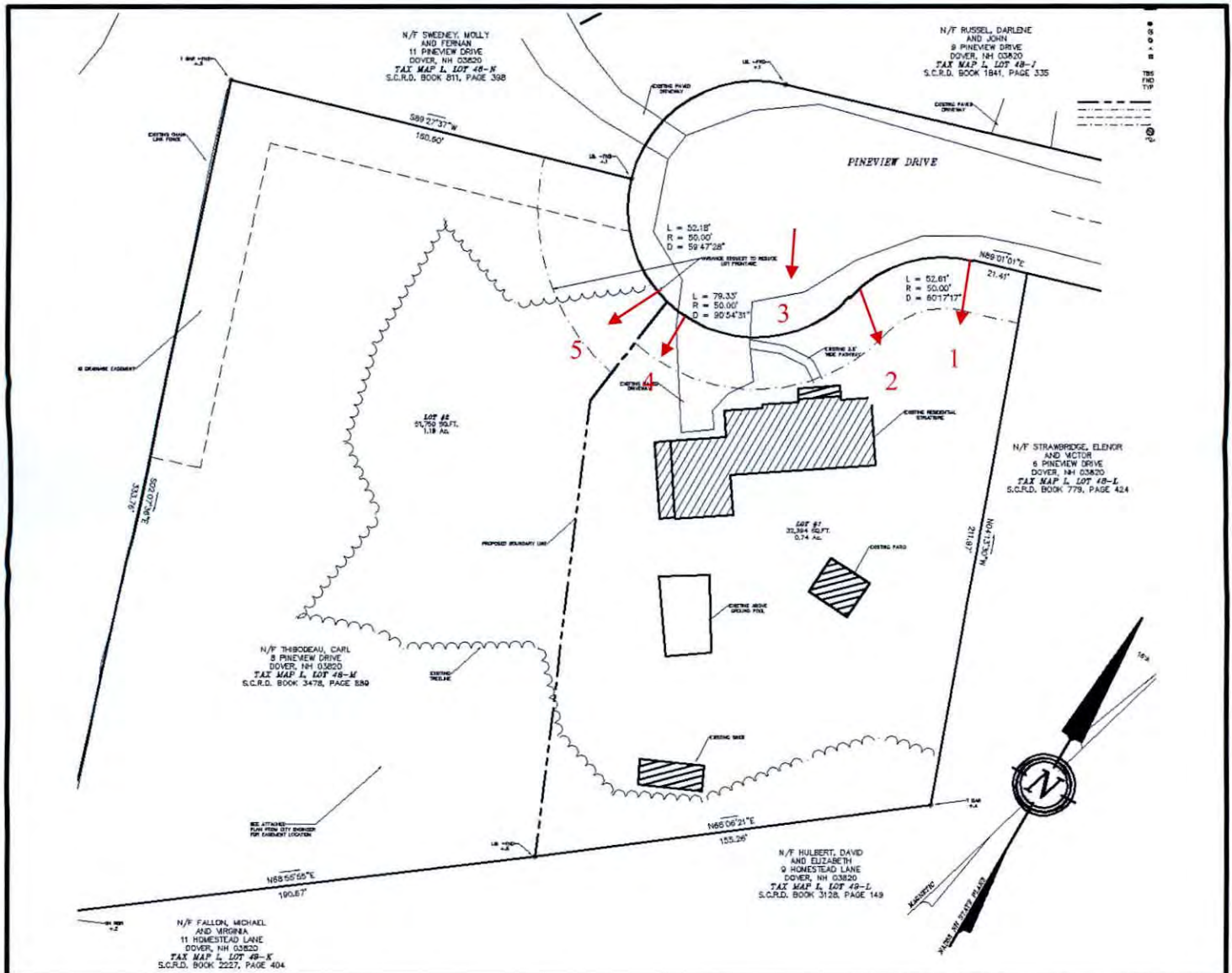
Phone: (603) 332-2863

Fax: (603) 335-4623

www.BerrySurveying.Com

Tax Map L-48-M







BERRY SURVEYING & ENGINEERING

335 Second Crown Point Road

Barrington, NH 03825

Phone: (603) 332-2863

Fax: (603) 335-4623

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(1) On Pineview Dr., looking south



(2) On Pineview Dr., looking southeast



(3) On Pineview Dr., looking at property



(4) On Pineview Dr., looking southwest



(5) On Pineview Dr., looking west



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335 Second Crown Pt. Rd., Barrington, NH 03825

(603) 332-2863 / (603) 335-4623 FAX

www.BerrySurveying.Com



BERRY SURVEYING & ENGINEERING

335 Second Crown Point Road

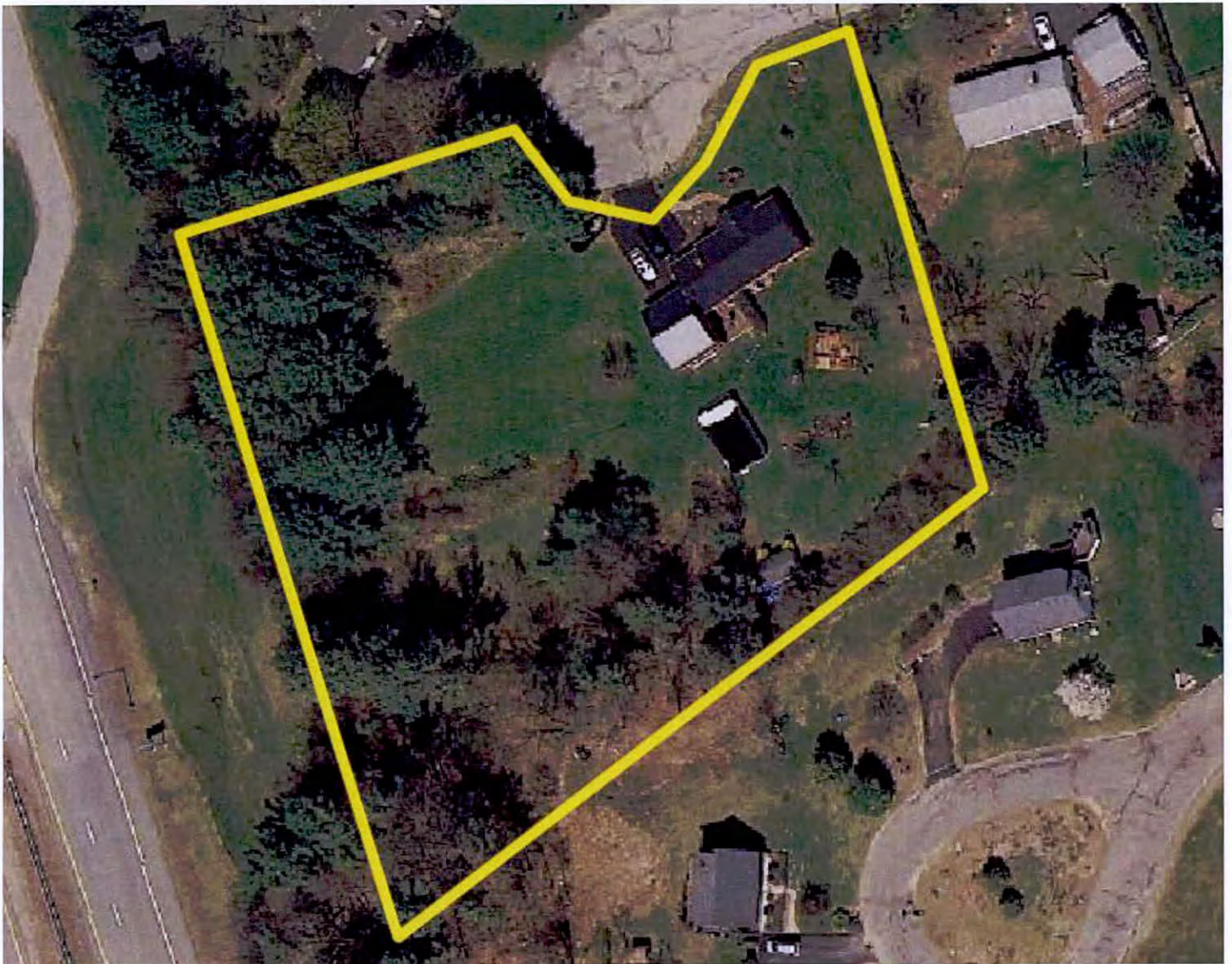
Barrington, NH 03825

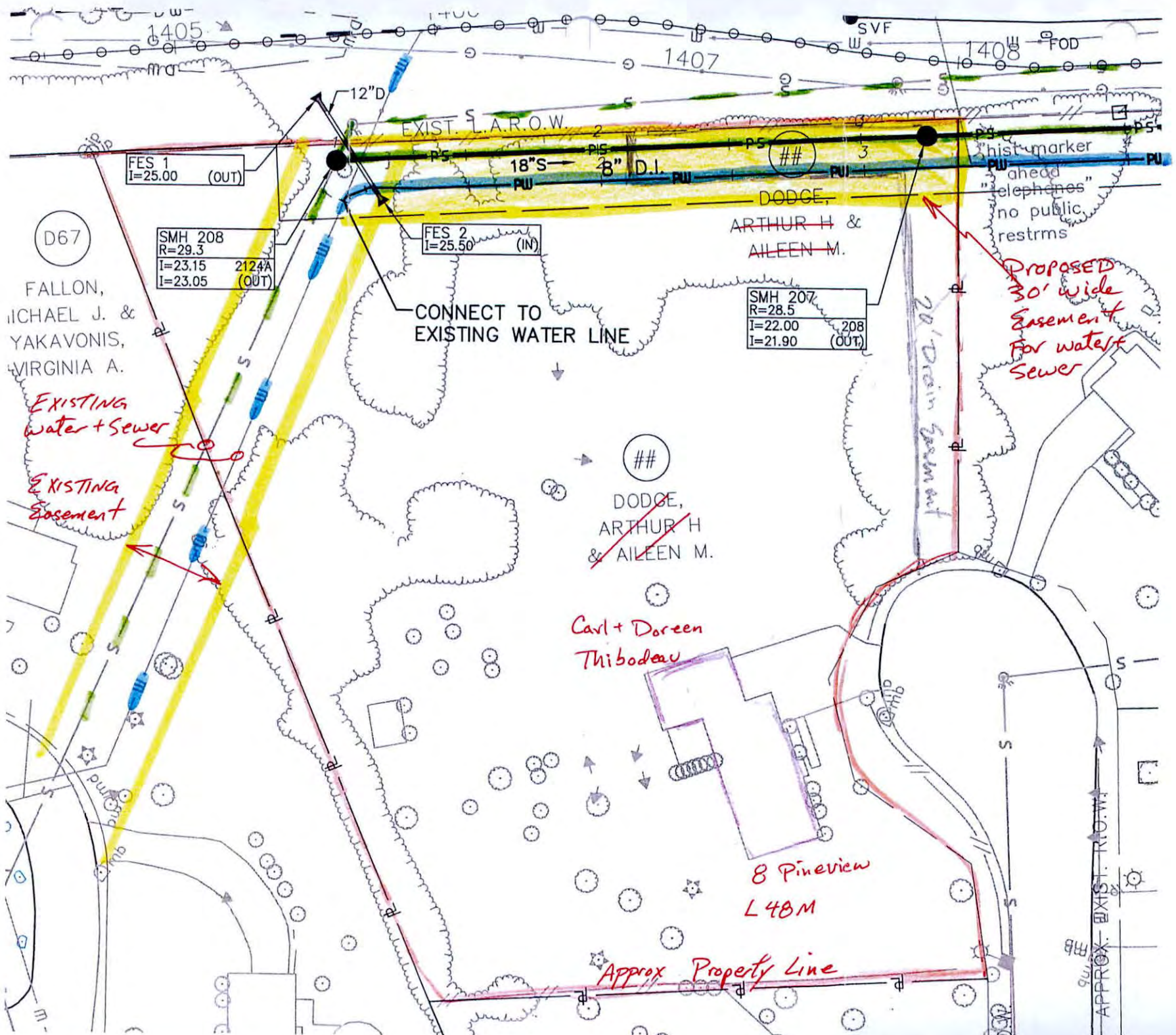
Phone: (603) 332-2863

Fax: (603) 335-4623

www.BerrySurveying.Com

Aerial Photo, L-48-M

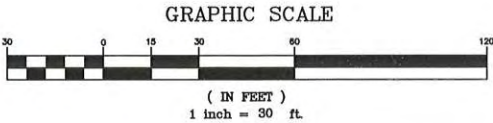
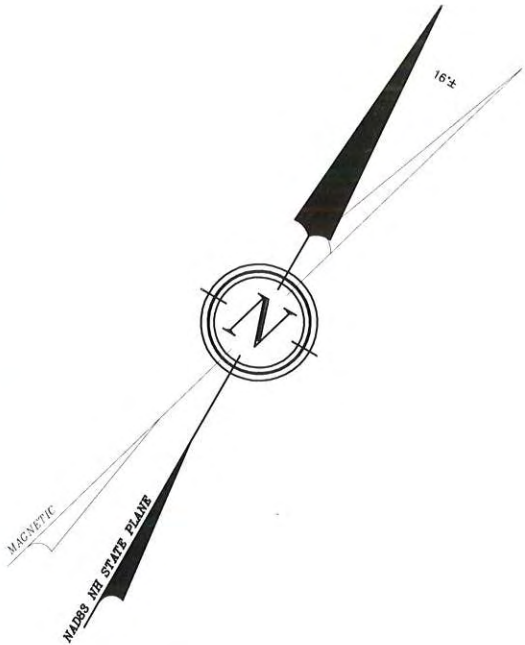






NOTES:

- 1.) OWNER: CARL THIBODEAU
8 PINEVIEW DRIVE
DOVER, NH 03820
- 2.) TAX MAP L, LOT 48-M
- 3.) LOT AREA: 84,144 Sq. Ft., 1.93 Ac,
- 4.) S.C.R.D. BOOK 3478, PAGE 889
- 5.) ZONING: LOW DENSITY RESIDENTIAL (R-20) DISTRICT
SETBACKS:
FRONT - BUILD TO LINE 20'-35'
SIDE - 20.0'
REAR - 30.0'
WETLANDS SETBACK ~ 50.0'
MIN. LOT SIZE
20,000 Sq. Ft.
MIN. LOT FRONTAGE
125'
MAX. BLDG. HEIGHT
35'
MAX. LOT COVERAGE
30%
- 6.) I HEREBY CERTIFY THAT, TO THE BEST OF MY KNOWLEDGE
& BELIEF, THIS PARCEL DOES NOT FALL WITHIN THE FLOOD
PLAIN FLOOD HAZARD REF.: FEMA COMMUNITY# -330150,
MAP# - 33017C01950, DATED: MAY 17, 2005.



REVISION	DATE	DESCRIPTION
COLOR RENDERING (OVERVIEW) FOR CARL THIBODEAU 8 PINEVIEW DRIVE DOVER, NH 03820 TAX MAP L, LOT 48-M		
 BERRY SURVEYING & ENGINEERING 335 SECOND CROWN POINT RD. BARRINGTON, N.H. 332-2863 SCALE : 1 IN. EQUALS 30 FT. DATE : JULY 30, 2015 FILE NO. : DB 2015 - 037		

N/F SWEENEY, MOLLY
AND FERNAN
11 PINEVIEW DRIVE
DOVER, NH 03820
TAX MAP L, LOT 48-N
S.C.R.D. BOOK 811, PAGE 398

N/F RUSSEL, DARLENE
AND JOHN
9 PINEVIEW DRIVE
DOVER, NH 03820
TAX MAP L, LOT 48-J
S.C.R.D. BOOK 1841, PAGE 335

N/F STRAWBRIDGE, ELENOR
AND VICTOR
6 PINEVIEW DRIVE
DOVER, NH 03820
TAX MAP L, LOT 48-L
S.C.R.D. BOOK 779, PAGE 424

N/F THIBODEAU, CARL
8 PINEVIEW DRIVE
DOVER, NH 03820
TAX MAP L, LOT 48-M
S.C.R.D. BOOK 3478, PAGE 889

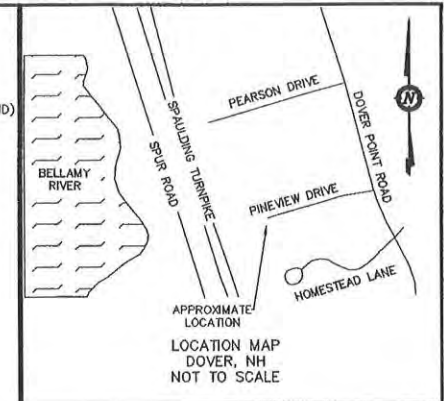
N/F HULBERT, DAVID
AND ELIZABETH
9 HOMESTEAD LANE
DOVER, NH 03820
TAX MAP L, LOT 49-L
S.C.R.D. BOOK 3128, PAGE 149

N/F FALLON, MICHAEL
AND VIRGINIA
11 HOMESTEAD LANE
DOVER, NH 03820
TAX MAP L, LOT 49-K
S.C.R.D. BOOK 2227, PAGE 404

LEGEND:

- IRON BOUND
- PK NAIL
- IRON PIPE (FND)
- IRON BOUND (FND)
- × STEEL STAKE OR ANGLE IRON (FND)
- ⊗ DRILL HOLE (FND OR SET)
- TO BE SET
- FOUND
- TYPICAL
- STONE WALL
- PROPOSED BOUNDARY LINE
- BUILDING SETBACK LINE
- EASEMENT LINE
- JURISDICTIONAL WETLAND LINE
- WELL
- UTILITY POLE

TBS
FND
TYP



NOTES:

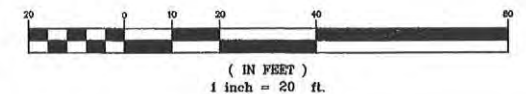
- 1.) OWNER: CARL THIBODEAU
8 PINEVIEW DRIVE
DOVER, NH 03820
- 2.) TAX MAP L, LOT 48-M
- 3.) LOT AREA: 84,144 Sq. Ft., 1.93 Ac.
- 4.) S.C.R.D. BOOK 3478, PAGE 889
- 5.) ZONING: LOW DENSITY RESIDENTIAL (R-20) DISTRICT
SETBACKS:
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SIDE - 20.0'
REAR - 30.0'
WETLANDS SETBACK ~ 50.0'
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MAX. LOT COVERAGE
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& BELIEF, THIS PARCEL DOES NOT FALL WITHIN THE FLOOD
PLAIN FLOOD HAZARD REF.: FEMA COMMUNITY# -330150,
MAP# - 33017C0198D, DATED: MAY 17, 2005.

PLAN REFERENCES:

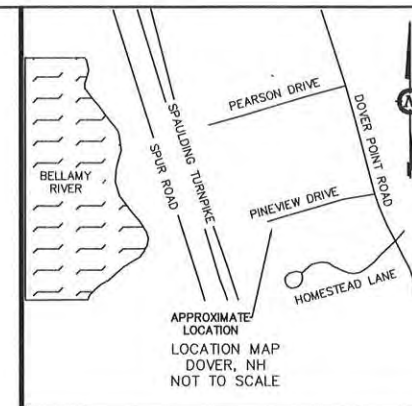
- 1.) "FINAL PLAN OF DEVELOPMENT GERARD VAILLEUX DOVER
POINT DOVER NEW HAMPSHIRE"
BY: G.L. DAVIS & ASSOCIATES
DATED: JUNE 25, 1982
S.C.R.D.: PLAN # 8-6-4
- 2.) "SUBDIVISION OF LAND OF TWIN RIVERS FARM DOVER
POINT ROAD DOVER, N.H. FOR ARMAND DIMAMBRO"
BY: CIVIL CONSULTANTS ENGINEERING AND PLANNING
DATED: MARCH 9, 1987
S.C.R.D.: PLAN # 33-105

RECEIVED
Planning Office
AUG 12 2015
Dover, New Hampshire

GRAPHIC SCALE

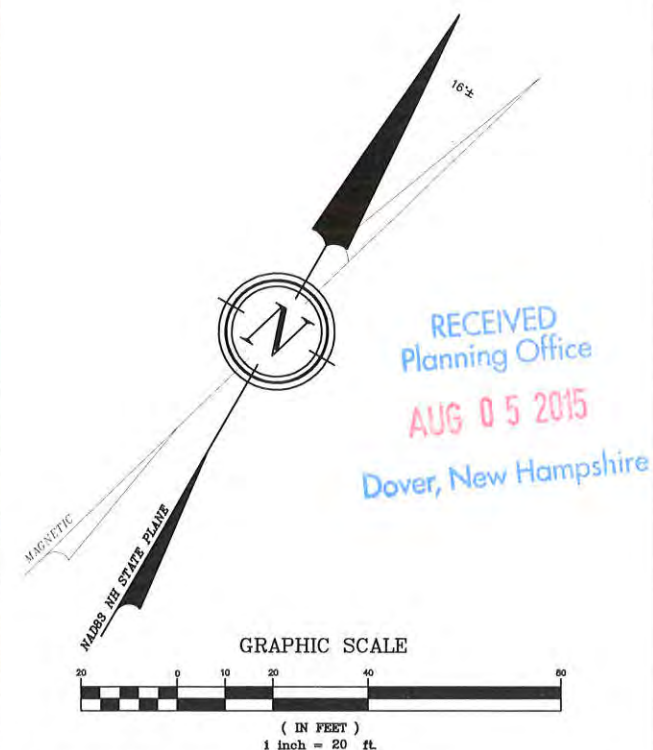


#1	8-12-15	ADD LENGTHS TO FRONT SETBACK PER PLANNER REQ.
REVISION	DATE	DESCRIPTION
SUBDIVISION PLAN FOR ZONING BOARD FOR CARL THIBODEAU 8 PINEVIEW DRIVE DOVER, NH 03820 TAX MAP L, LOT 48-M		
BERRY SURVEYING & ENGINEERING 335 SECOND CROWN POINT RD. BARRINGTON, N.H. 332-2863		
SCALE : 1 IN. EQUALS 20 FT.		
DATE : JULY 30, 2015		
FILE NO. : DB 2015 - 037		

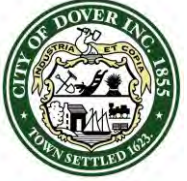


NOTES:

- 1.) OWNER: CARL THIBODEAU
8 PINEVIEW DRIVE
DOVER, NH 03820
- 2.) TAX MAP L, LOT 48-M
- 3.) LOT AREA: 84,144 Sq. Ft., 1.93 Ac.
- 4.) S.C.R.D. BOOK 3478, PAGE 889



REVISION	DATE	DESCRIPTION
		COLOR RENDERING FOR CARL THIBODEAU 8 PINEVIEW DRIVE DOVER, NH 03820 TAX MAP L, LOT 48-M
		BERRY SURVEYING & ENGINEERING 335 SECOND CROWN POINT RD. BARRINGTON, N.H. 332-2863
		SCALE : 1 IN. EQUALS 20 FT.
		DATE : JULY 30, 2015
		FILE NO. : DB 2015 - 037



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z15-17)

Application Type:	Equitable Waiver
Applicant:	Heron Bay Partners, LLC
Owner:	Heron Bay Partners, LLC
Location:	38 Cielo Drive (Tax Map H, Lot 4-38)

INTENT: The Applicant requests an equitable waiver after discovering a distance of only 20.7 feet between structures where 24 feet is required.

UNITS PROPOSED: None

AGENDA ITEM #: 3-D

ZONING DISTRICT: I-4 and RCM

FILE: Z15-17

APPLICANT: Heron Bay Partners, LLC

OWNERS: Heron Bay Partners, LLC

LOCATION: 38 Cielo Drive (Tax Map H, Lot 4-38)

ACREAGE: N/A

EXISTING LAND USE: Single-family dwelling

PROPOSED LAND USE: Single-family dwelling

SURROUNDING LAND USE: Residential

PREVIOUS ZBA ACTION: Z08-14 variance for site built rather than mobile homes

ATTACHMENTS: Application, Equitable Waiver Request Plan

PLANNING BOARD

APPROVAL REQUIRED: No

STAFF RECOMMENDATION:

The Planning Department supports the equitable waiver request.

Summary of Request and Background

38 Cielo Drive is one of the newest units in the development of single-family dwellings for older persons off of Mast Road. This project received a variance in 2008 to create site-built rather than mobile home units. Per the standards of 170-28.2 Residential-Commercial Mixed Use Overlay District, the minimum distance between buildings is 24 feet.

Recently, the surveyor determined that #38, which is now substantially complete, is only 20.7 feet from #36 where 24 feet is required. The surveyor error would have been noticed after the foundation footing was poured, had the proper inspection schedule been followed.

For more information on the Board's power to grant an equitable waiver, see RSA 674:33-a.

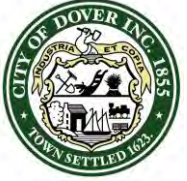
Reason for Staff Recommendation

Staff believes that this error was accidental. Because #36 and #38 are located on a curve in Cielo Drive, only the building corners are too close together, and the difference compared to the rest of the development is imperceptible. It is unfortunate that the error was not discovered before the structure was substantially complete, but the power of a ZBA to grant an equitable waiver exists specifically for such occasions.

This case appears to meet the requirements for granting an equitable waiver from a dimensional requirement.

Recommendation

The Planning Department recommends the Board hold the public hearing and grant the request for an equitable waiver.



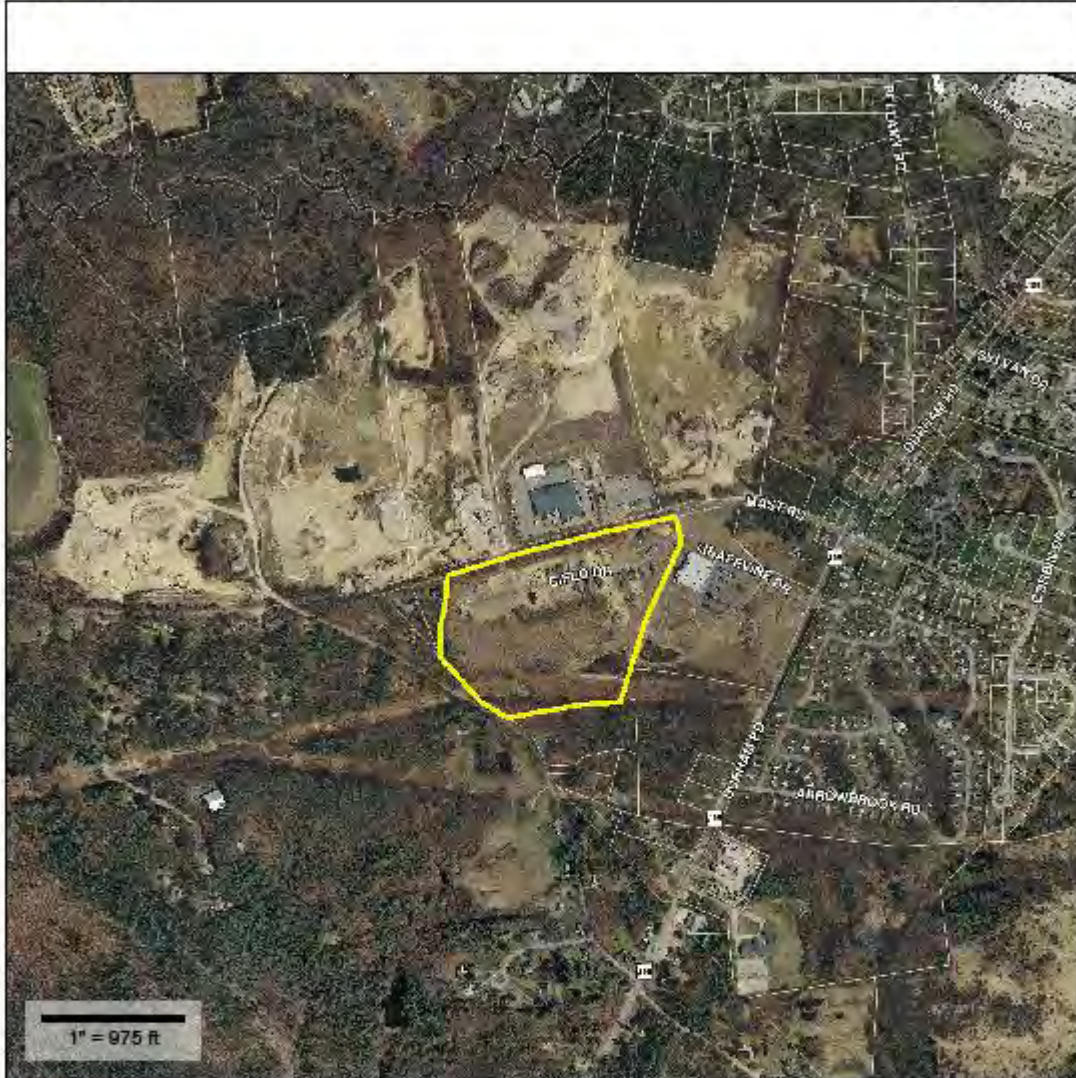
CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z15-17)

Application Type: Equitable Waiver
Applicant: Heron Bay Partners, LLC
Owner: Heron Bay Partners, LLC
Location: 38 Cielo Drive (Tax Map H, Lot 4-38)

City of Dover

August 13, 2015



Property Information

Property ID: H0004-000046
Location: CIELO DR
Owner: HERON BAY PARTNERS LLC



**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 #: <u>215-17</u>	Date Received: <u>RECEIVED Planning Office AUG 07 2015 Dover, New Hampshire</u>
	Amount Paid: \$ <u>372.00</u>	Time Received: _____

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: Berry Surveying & Engineering Phone # 603-332-2863
Address of Applicant: 335 Second Crown Point Road, Barrington, NH 03825
E-Mail Address: crberry@metrocast.net
PROPERTY OWNER (if different from applicant): Heron Bay Partners LLC
Address: 242 Central Ave, Dover, NH 03820 Phone # 742-2121
E-Mail Address: _____

PROPERTY/PARCEL INFORMATION

Address: 38 Cielo Drive
Brief Directions: Mast Road to Cielo Drive, Down Cielo to the end of construction.

Zoning District: I-4 Assessor's Map # H Lot(s) # 4-38

TYPE OF APPEAL: (Please check one)

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

DESCRIBE BRIEFLY YOUR PLANS FOR THE PROPERTY:

To Finalize the structure being built so it can be soled in September to a contracted buyer.

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:

8-7-15



BERRY SURVEYING & ENGINEERING

335 Second Crown Point Road
Barrington, NH 03825
Phone: (603) 332-2863
Fax: (603) 335-4623
www.BerrySurveying.Com

8-5-15

Abutters List

Owner:

Tax Map H, Lot 4

Heron Bay Partners, LLC
242 Central Ave.
Dover, NH 03820

Abutters (Town of Madbury):

Tax Map 9, Lot 63

Candia South Branch Brook Holdings LLC
PO Box 410
Candia, NH 03034

Tax Map 9, Lot 66

Scott D. Nicol
6 Freshet Rd.
Madbury, NH 03823

Tax Map 9, Lot 66-A

Daniel & Mihaela Sabin
8 Freshet Rd.
Madbury, NH 03823

Tax Map 9, Lot 74

Heron Bay Partners, LLC
242 Central Ave.
Dover, NH 03820

Tax Map 9, Lot 20, 20-A

Robert & Diane Hodgson, Trustees
Hodgson Rev. Trust
11 Freshet Rd.
Madbury, NH 03823

Tax Map 9, Lot 19-A

William & Sara-Beth Ramey
9 Freshet Rd.
Madbury, NH 03823

Tax Map 9, Lot 19-B

John & Cindy Seid
7 Freshet Rd.
Madbury, NH 03823

Tax Map 9, Lot 19-C

John & Thelma Gitschier
5 Freshet Rd.
Madbury, NH 03923

Tax Map 9, Lot 21-A

Raymond S. & Barbara A Evans
23 Freshet Rd.
Madbury, NH 03823

Tax Map 9, Lot 21-B

Molly G. Hodgson, Trustee
Molly G. Hodgson, Rev. Lvg. Trst.
21 Freshet Rd.
Madbury, NH 03823

**BERRY SURVEYING & ENGINEERING**

335 Second Crown Pt. Rd., Barrington, NH 03825
(603) 332-2863 / (603) 335-4623 FAX
www.BerrySurveying.Com

Abutters (Town of Dover):

Tax Map H, Lot 53

H53 Mast Rd. LLC
340 Central Ave. #202
Dover , NH 03820

Tax Map H, Lot 5-A

Robert H Torr
207 Durham Road
Dover, NH 03820

Tax Map H, Lot 4-001

Scott A & Renee L Torr
217 Durham Rd.
Dover, NH 03820-5300

Tax Map H, Lot 4-003

Dover Fields Condominium
c/o VC Dover Investments LLC
48 Constitution Dr.
Bedford, NH 03110

Tax Map H, Lot 2, 58

City of Dover
288 Central Ave.
Dover, NH 03820

Tax Map H, Lot 3

Andrew T & Emily J Moore
283 Durham Rd.
Dover, NH 03820-5300



BERRY SURVEYING & ENGINEERING

335 Second Crown Pt. Rd., Barrington, NH 03825
(603) 332-2863 / (603) 335-4623 FAX
www.BerrySurveying.Com

Tax Map H, Lot 2-B

Paul L & Catherine E Lemieux
David Lemieux Family Trust
291 Durham Rd.
Dover, NH 03820

Tax Map H, Lot 2-AOPN, 2-A, 2-A1, 2-A2

Joanne Johnson
18 Freshet Rd.
Dover, NH 03820

Tax Map H, Lot 5-B1

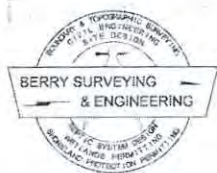
David D. Jr. & Pamela R. Brownne
324 Mast Rd.
Dover, NH 03820

Tax Map H, Lot 5-B

Agnes M. Taranto
330 MAST RD
Dover, NH 03820

Tax Map H, Lot 59, 59-A, 61

Candia South Branch Brook Holdings LLC
PO Box 410
Candia, NH 03034

**BERRY SURVEYING & ENGINEERING**

335 Second Crown Pt. Rd., Barrington, NH 03825
(603) 332-2863 / (603) 335-4623 FAX
www.BerrySurveying.Com

First-class mail to the individual owners in the association within 200ft of project:

Sheila Pierog
28 Cielo Dr.
Dover, NH 03820

Nancy G. Skinner, Trustee
30 Cielo Dr.
Dover, NH 03820

Jeanette Netzel
32 Cielo Dr.
Dover, NH 03820

Pamela S Beane Successor Trustee
Ronald B. Newell, Irrevocable Trust
34 Cielo Dr.
Dover, NH 03820

Karen B Duffy
536 Middle Rd.
Dover, NH 03820

Patricia T. Labrie, Trustee
39 Cielo Dr.
Dover, NH 03820

Nancy J. Echols
37 Cielo Dr.
Dover, NH 03820

Karen and Patrick Duffy
36 Cielo Drive
Dover, NH 03820

Professionals:

Christopher R. Berry
Berry Surveying & Engineering
335 Second Crown Point Rd
Barrington, NH 03820



BERRY SURVEYING & ENGINEERING

335 Second Crown Pt. Rd., Barrington, NH 03825
(603) 332-2863 / (603) 335-4623 FAX
www.BerrySurveying.Com



BERRY SURVEYING & ENGINEERING

335 Second Crown Point Road

Barrington, NH 03825

Phone: (603) 332-2863

Fax: (603) 335-4623

www.BerrySurveying.Com

crberry@metrocast.net

August 4, 2015

City of Dover
Zoning Board of Adjustments
288 Central Ave
Dover, NH 03820

Re: Unit #38 Equitable Waiver
Cielo Drive
Dover, NH

Mr. Chair and Members of the Dover Zoning Board of Adjustments,

On behalf of Heron Bay Partners, Berry Surveying & Engineering (BS&E) is requesting an equitable waiver to Unit #38 whereas it was built approximately 21 feet from unit #36 where 24 feet is required.

Background and General Narrative:

Heron Bay Partners, being a responsible development and building company in the City of Dover, employed BS&E to plan for, stake out, and certify the location of the last few units in the current phase of construction on Cielo Drive, off Mast Road.

In the planning stages of placing Unit #38, we accidentally, without malicious intent, offset the existing structure on Unit #36 21 feet instead of the required 24 feet. It is our common practice to give an additional foot of safety, if possible, in the event the structures move slightly during construction. The number in the mind of the designer was 20 feet, and therefore it was offset 21 feet, where 24 feet is required. The designer knew the offset was 24 feet, because the other units designed at the same time, across the street, were laid out correctly.

Specific Equitable Waiver Request & Criteria for Approval:

The request is specifically to the Table of Dimensions within the I-4 zone which require there to be 24 feet between structures, where there exists 20.7' between units #36 & #38.

- 1.) *"Does the request involve a Dimension requirement, not a use restriction"*
 - a. Yes. The request is to allow a distance of 20.7' between structures where 24 feet is required. The residential use is allowed within the zone.
- 2.) *"....explain how the nonconformity was discovered after the structure was substantially completed or after a vacant lot in violation had been transferred to a bona fide purchaser AND how the violation was not an outcome of ignorance of the law or bad faith but resulted from a legitimate mistake"*
 - a. The nonconformity was discovered after the structure was built, sided, roofing installed, concrete floors poured and windows installed the beginning days of August 2015. It was discovered by the survey field crew of BS&E who were instructed to go locate the exact

location so further planning could be conducted on Unit #40 & #42. When the information was brought back to the office for note reduction and analysis it was determined that the structure was 3.3 feet too close to Unit #36.

- b. This was not done out of malice, and is the complete fault of BS&E. The owners and contractors did everything they should have done to ensure its proper placement. They planned its placement, and requested it be surveyed located on the ground prior to pouring of the concrete. This was not done out of ignorance of the ordinance by BS&E whereas we know that 24 feet is required between units, only that a mistake was made in the offsetting of Unit #36. As referenced above this is witnessed by the fact that all the other planned, staked, and certified units are 24+ feet apart. BS&E conducts many projects in the City of Dover, for these applicants and others, and do not make it common practice to make mistakes of this kind or conduct themselves in an un-professional manner as to do this with malicious intent or bad faith.

3.) *"Explain how the nonconformity does not constitute a nuisance nor diminish the value or interfere with future uses of other property in the area"*

- a. The 3.3 foot nonconformity does not constitute a nuisance nor diminish the value of Unit #36 whereas the variant in distance is imperceptible to the eye and immeasurable by most people. There is a topographic break where a wall has been constructed to separate use areas between the two units, which further blurs the perception of the variant in distance. Lastly, simple reduction of 3.3 feet in residential use does not constitute a nuisance given the proximity of all other units within the development.
- b. There is no future use of either unit permitted, and therefore this request is not a limiting factor.

4.) *"Explain how the cost of correction far outweighs any public benefit to be gained"*

- a. The structure is nearly complete. If the mistake was found during footing construction, BS&E would have born the cost of removing footings and replacing them in the correct position. In places where the setback is tighter, we commonly locate the footing forms for this very reason. In this case we were confident the contractor had room to place this correctly, but BS&E planned it and laid it out incorrectly. The correction cost far outweighs the benefit gained by having the structure, at the one singular point, be 24 feet away from the abutting Unit #36

Thank you for your time and attention to this matter. We hope you look favorably upon these two requests.

BERRY SURVEYING & ENGINEERING

Christopher R. Berry
Principal, President



BERRY SURVEYING & ENGINEERING

148 Second Crown Pt. Rd., Barrington, NH 03825
(603) 332-2863 / (603) 335-4623 FAX
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335 Second Crown Point Road

Barrington, NH 03825

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(1) Cielo Drive looking at Unit #36 (Left) and #38 (Right)



BERRY SURVEYING & ENGINEERING

335 Second Crown Point Road

Barrington, NH 03825

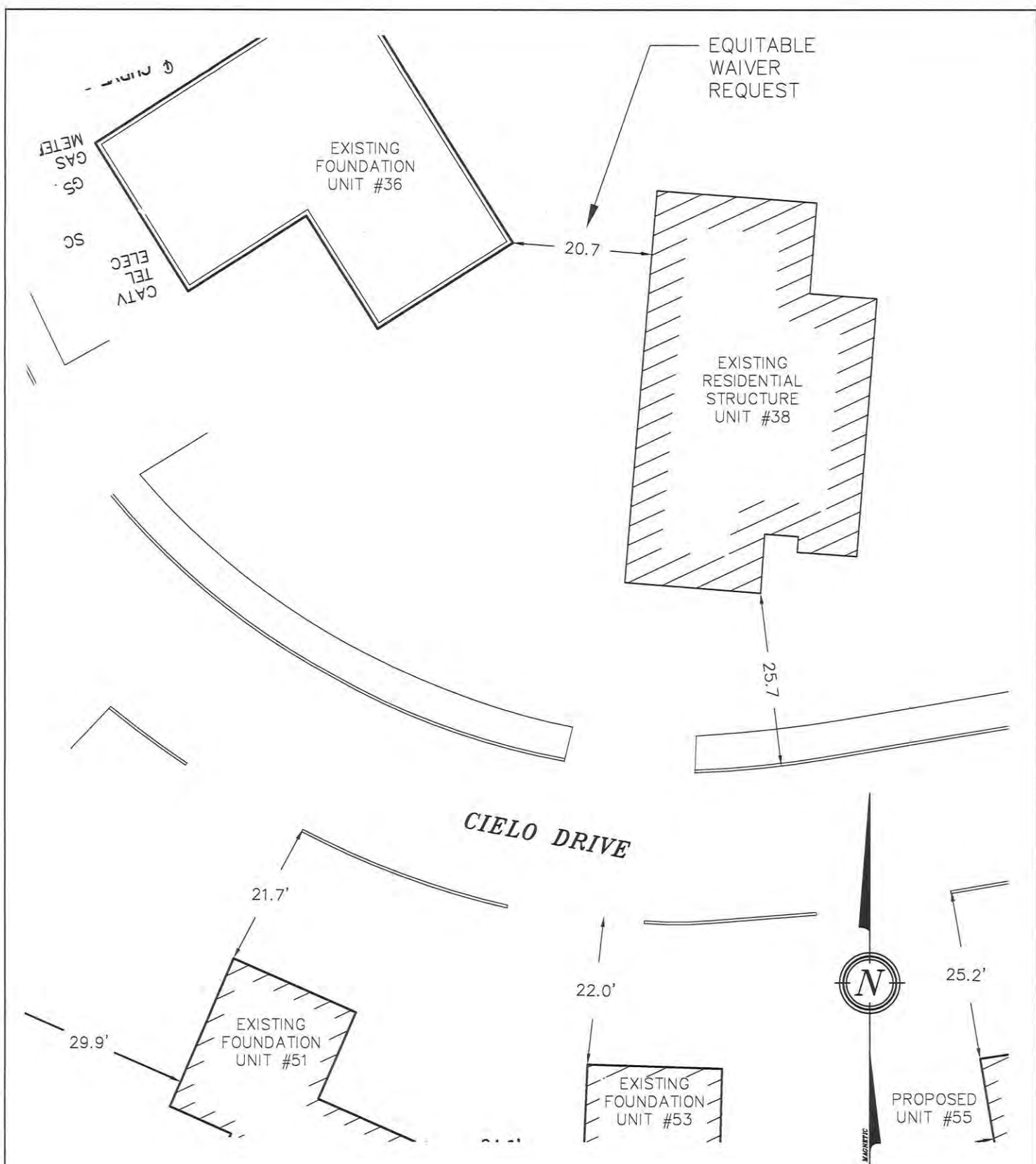
Phone: (603) 332-2863

Fax: (603) 335-4623

www.BerrySurveying.Com



(1) Cielo Drive looking at the neighborhood.



THIS IS NOT A BOUNDARY SURVEY

ZONE :
I-4
RCM OVERLAY DISTRICT
S.C.R.D.
BOOK 3561, PAGE 656
PLAN # 107-59

SETBACKS:
EXTERNAL LOT LINE:
50'
DWELLING FRONT YARD:
20'
DISTANCE BETWEEN
BUILDINGS: 24'

EQUITABLE WAIVER REQUEST PLAN FOR HERON BAY PARTNERS, LLC CIELO DRIVE UNIT #38 DOVER, N.H. TAX MAP H, LOT 4	
	BERRY & SURVEYING ENGINEERING 335 SECOND CROWN POINT RD. BARRINGTON, N.H. 332-2863
	SCALE : 1 IN. EQUALS 20 FT.
	DATE : JULY 29, 2015
	FILE NO. : DB 2015-033 (UNIT #38)