

CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - AGENDA

Meeting Type: Regular Meeting
Meeting Location: Council Chambers, City Hall – 288 Central Ave. Dover, NH 03820
Meeting Date: **Thursday, January 19, 2017**
Meeting Time: **7:00 pm**

1. ATTENDANCE

2. APPROVAL OF MEETING MINUTES OF DECEMBER 15, 2016

3. ELECTION OF OFFICERS

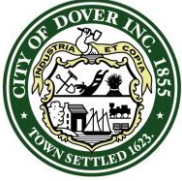
4. HEARINGS

- A. Z16-21 Owner Riverview Residences Dover LLC, 5 Green Street (Tax Map 1, Lot 41), located in the Central Business District – General Subdistrict (CBD-G), requests a variance from **Section 170-32.A** of the Zoning Ordinance to permit a freestanding sign where freestanding signs are not permitted.

5. OTHER BUSINESS

6. 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 online at www.dover.nh.gov. Follow us on Twitter @DoverNHPlanning and find us on Facebook at <https://www.facebook.com/DoverNHPlanning>.



**CITY OF
DOVER**

ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers – City Hall
288 Central Avenue, Dover NH 03820
Meeting Date: **Thursday, December 15, 2016**
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), Nicholas Couturier (Alternate), Arianna Adams (Alternate)

Members Not Present: None

Staff Present: Christopher Parker (Assistant City Manager), 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 NOVEMBER 17, 2016

Motion: B.Hall made a motion to approve the November 17, 2016 Regular Meeting Minutes as submitted. Seconded by F.Landford. Vote U/A

3. HEARINGS

- A. Z16-20 Owner Varney Brook Lands LLC, Pointe Place (Tax Map K, Lot 19-5), located in the Executive Technology Park (ETP) Zoning District and Residential-Commercial Mixed Use (RCM) Overlay District, requests a variance from **Section 170-12.B** of the Zoning Ordinance to permit a lot size of one and one half (1.5) acres where a minimum of three (3) acres is required.

Chad Kageleiry, agent for Varney Brook Lands, LLC, presented the application, and explained the proposed plan. He addressed the petition submitted by the abutters indicating concerns and requests, as well as his rebuttal also submitted. Copies were distributed to the Board members (originals in file).

Discussion ensued regarding the submitted letters, clarification regarding ownership of the access and viability, location and access of the utility easement on the subdivision plan, and change of the property line on the plan.

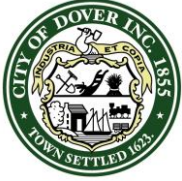
C.Parker clarified information regarding the frontage, access, and the parking lot access via the utility easement as it pertains to the development plan and required by the Planning Board. He confirmed for O.Perry the Lot Line Adjustment application was approved, and the Subdivision application will go before the Planning Board.

F.Landford confirmed with C.Kageleiry the reason for the variance.

Public Hearing Opened.

Carl Vogel, 6 Sierra Drive, spoke against the plan and summarized key points addressed in the letter submitted by the abutters to the Board.

C.Parker clarified the density of the total parcel associated with the 31 unit development pertaining to Dover Point Road and Middle Road, as well as the berm, drainage, and lighting as previously approved by the Planning Board. He addressed the berm on the conceptual plan, and confirmed for C.Vogel the berm is preserved. He further



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clarified issues with the landscaping, lighting, and drainage for C.Vogel. He confirmed for B.Hall that there would be no changes to the original plan except dividing the lot as presented.

S.Reid explained that granting the variance would provide separate ownership of the townhouses which is consistent with the abutters' request.

C.Vogel stated the abutters could support the development based on the information heard at the meeting.

C.Parker stated the Board could not place a condition on the variance to have the townhouses sold as owner occupied.

STAFF RECOMMENDATION:

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

Public Hearing Closed.

Motion: O.Perry made a motion to approve the variance subject to the condition that both properties are developed according to the plan approved by the Planning Board. Seconded by B.Hall. Vote U/A

- A. Z16-19 Appellant Paul & Janet Butler Revocable Living Trust, 196 A Dover Point Road (Tax Map L, Lot 89-H) appeals an administrative decision regarding Section 170-12.B of the Zoning Ordinance as it relates to dimensional requirements at 42 Shore Lane (Tax Map L, Lot 89-G-12) located in the Low Density Residential (R-20) Zoning District. The Appellant believes an administrative decision regarding side and rear setbacks on the subject property was made in error.

S.Reid recused himself from hearing the appeal due to his affiliation with Attorney Stephen Roberts. O.Perry sat in as Chair.

Paul Butler presented the information included in his application. Janet Butler was also present.

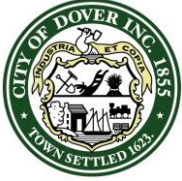
C.Prior addressed the lot on 42 Shore Lane, displayed the map provided on the back of the Staff Memo (original in file), and explained how the frontage is considered.

P.Butler addressed previous conversations he had with C.Parker and Tony McManus. He distributed a letter from Tony McManus to the Board members (original in file).

P.Butler clarified for O.Perry his request for the appeal is that he should be mitigated for the 5 ft. x 935 ft. of land of the property that was lost to him. He stated the house in question was placed 5 ft. too close to the property line which has created a loss in the amount of setback to his own property.

Discussion ensued regarding clarification that the front of the lot is determined by the public right of way.

C.Parker provided a timeline of the Planning Board review pertaining to the case, as well as the lawsuit brought upon the City by P.Butler and another abutter. He stated the Planning Board agreed with the setbacks as presented to them. He further stated the locations of the front, side, and rear setbacks and the building envelope and



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addressed the untimely appeal which should have been brought up in 2007 or 2010, adding the issue is not about the placement of the house but the building envelope of the lot and the setbacks. He further stated the setbacks approved in 2010 is what has been applied to the building permit that was issued in April 2016.

STAFF RECOMMENDATION:

The Zoning Board should dismiss the appeal as it is untimely, since state law (RSA 676:5 I) requires any appeal of an administrative decision be filed with the ZBA within “A reasonable time,” as defined by the Zoning Board Rules and Procedures. Dover’s Zoning Board Rules and Procedures states that 30 days is a reasonable time. This appeal was filed nearly eight years after the Planning Board’s decision, and is therefore untimely.

B.Hall confirmed with C.Parker the placement of the house and the issues of front, side and rear setbacks according to the Zoning ordinance is not referenced by the house, but the lot. C.Parker explained the front of the lot is based according to the public right of way.

O.Perry stated there would be no public hearing for this case.

J.Butler stated the law suit C.Parker previously mentioned was due to their concern for the river caused by poor storm water drainage.

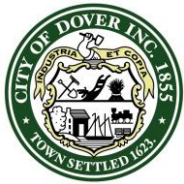
Motion: C.Prior made a motion not to accept jurisdiction of the appeal as it is untimely. Seconded by B.Hall. Vote U/A

S.Reid resumed his seat as Chair at 7:56 p.m.

C.Parker reminded the Board of the Land Use Meet and Greet on January 10, 2017. He provided information regarding the topic for the meeting and requested the Board notify the department if they can attend.

4. ADJOURN

Motion: O.Perry made a motion to adjourn at 7:58 p.m. Seconded by B.Hall. Vote: U/A



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO

Meeting Type:	Regular Meeting
Meeting Location:	Council Chambers – City Hall 288 Central Avenue, Dover, NH
Meeting Date:	Thursday, January 19, 2016
Meeting Time:	7:00 pm

INTENT: The Applicant requests a variance to permit a freestanding sign where freestanding signs are not permitted in the Central Business District.

UNITS PROPOSED: N/A

AGENDA ITEM #: 4-A

ZONING DISTRICT: CBD-G

FILE: Z16-21

APPLICANT/OWNER: Riverview
Residences Dover, LLC

LOCATION: 5 Green Street (Tax Map 1, Lot 41)

ACREAGE: 0.82 acre

EXISTING LAND USE:
Affordable/senior housing (31 units)

PROPOSED LAND USE: Same

SURROUNDING LAND USE: Mixed use development, multifamily dwellings, parking garage/police station, Cochecho River

PREVIOUS ZBA ACTION: None

PLANNING BOARD APPROVAL REQUIRED: No.

ATTACHMENTS: Application

STAFF RECOMMENDATION:
Staff does not oppose the variance request.

SUMMARY OF APPEAL AND BACKGROUND

The subject property is located to the west of Chestnut Street on the southern bank of the Cochecho River. The four-story building contains 31 apartment units. Currently no major signage exists on or around the building to identify it as “Riverview,” and trees and bushes obscure the Chestnut Street side of the building.

The Applicant requests a variance to permit the installation of a new freestanding sign, where freestanding signs are not permitted in the Central Business District – General Subdistrict due to the form-based zoning that requires locating new structures on or near the front property line. The proposed sign is approximately 5 feet high and 18 square feet in area. No illumination is proposed.

By right, the applicant could install a 40-square-foot wall sign on both the Chestnut Street and Green Street facades, or a 24-square-foot project sign on both facades. External, internal, and direct illumination are all permitted 24 hours per day in this subdistrict.

REASON FOR STAFF RECOMMENDATION

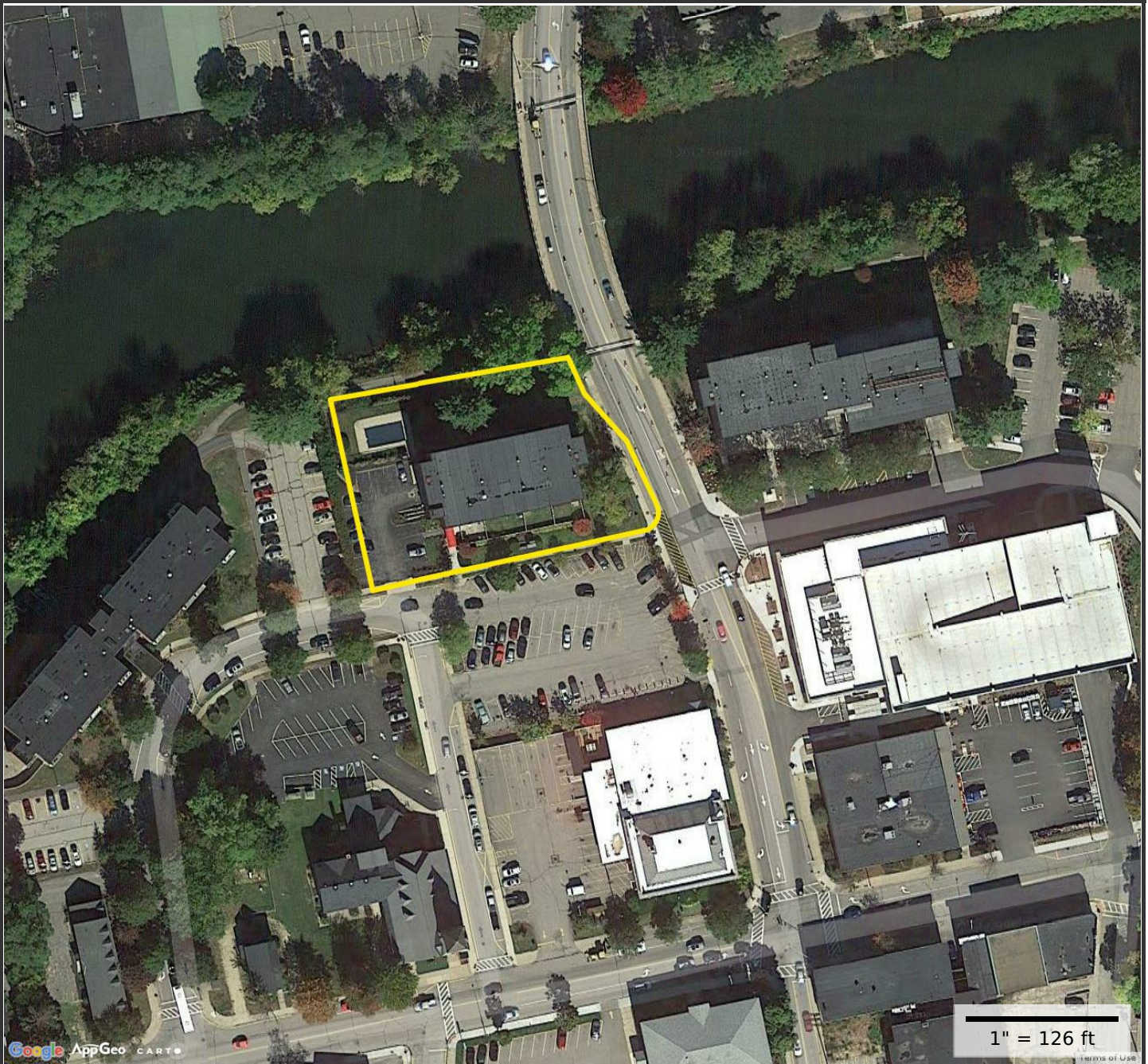
The Applicant also owns the abutting mixed-use building at 40 Chestnut Street, and has received a sign permit to replace the *existing* freestanding sign on that property with a new freestanding sign that utilizes the existing granite supports. That sign, and the proposed sign requested with this variance, share a common design/color scheme.

The intent of prohibiting freestanding signs in the General Subdistrict is consistent with the rest of the zoning regulations in this district, which for new construction requires a 0’ or neighborhood average front setback. In other words, conforming structures and lots have no space for freestanding signs by design. The existing nonconformity of the subject property, as well as the established landscaping, prevent the successful use of wall signage while leaving space for a possible freestanding sign.

Where a large freestanding sign exists across the street, a new freestanding sign is unlikely to impact property values.

RECOMMENDATION

Staff recommends that the Zoning Board hold a public hearing and vote on the variance request. Staff does not oppose the variance request.

**Property Information**

Property ID 01041-A00000
Location 5 GREEN ST
Owner RIVERVIEW RESIDENCES DOVER LLC



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

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

Parcels updated 01/11/2017
Properties updated 01/11/2017



City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Adopted: August 16, 2012]

Office Use Only	Case #:	<u>216-21</u>	Date Received:	<u>RECEIVED</u> <u>Planning Office</u>
	Amount Paid:	\$ _____	Time Received:	<u>DEC 20 2016</u>

Dover, New Hampshire

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: Advantage Signs Inc. Phone # (603) 224-7446

Address of Applicant: 128 Hall St., Ste. C, Concord, NH 03301

E-Mail Address: russ.aubertin@advantagesigns.net

PROPERTY OWNER (if different from applicant): Riverview Residences Dover LLC

Address: 40 Court St Suite 700 , Boston, MA 02108 Phone # (617) 449-1014

E-Mail Address: dparker@poah.org

PROPERTY/PARCEL INFORMATION

Address: 5 Green Street, Dover, NH 03820

Brief Directions: _____

Zoning District: CBD-G Assessor's Map # 1 Lot(s) # 41

TYPE OF APPEAL: (Please check one)

☒ Variance	from Section <u>170-32.A</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:

We would like to install a new post & panel sign along Chestnut street. The new sign will notify prospective tenants of affordable housing available at the property.

VARIANCE REQUIREMENTS

THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY

A. Variance Requested

A variance is requested from Section(s) 170-32.A of the Zoning Ordinance to permit:

The installation of a new post & panel property identification sign along Chestnut St.

B. The Five Variance Criteria (as set forth in NH RSA 674:33, I(b))

Please demonstrate compliance with the following:

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

The new sign would identify affordable housing at the property. The location of the
proposed sign is in an innocuous location that causes no detriment to any neighboring
real estate values.

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

POAH Communities (the property's management company) is also responsible for
Cocheco Park, which is directly across Chestnut St. The proposed sign will tie the
properties together under the same "umbrella".

3. Granting the variance would do substantial justice because:

the new sign would notify prospective tenants of an affordable housing opportunity within close
proximity of downtown.

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

The proposed location for the new sign is not immediately adjacent to other properties. A wall sign is allowed at the property, but it will not be as visible by people driving and walking by.

NOTE: please complete EITHER paragraph 5A OR paragraph 5B. Staff recommends that you complete paragraph 5B only if you feel you cannot meet the requirements set forth in paragraph 5A.

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

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

and

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

and

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

OR

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

The property is used for affordable housing. Across Chestnut st from the property is also an affordable housing property under the same ownership. Ideally the two properties will be tied together by the addition of a new sign. The new sign would also increase public awareness to notify prospective tenants.

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

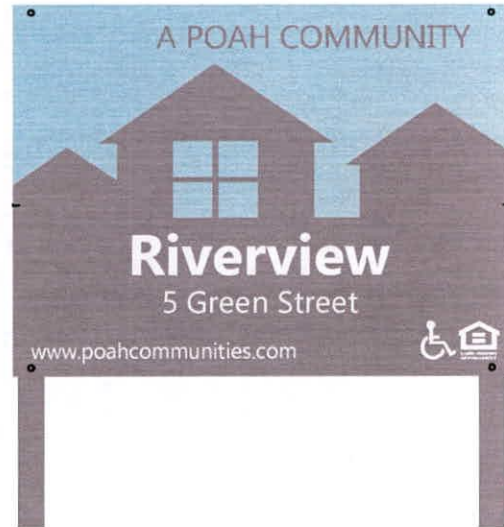
I, and my successors, hereby authorize members of the Dover Zoning Board, Planning Department and other pertinent City Departments and boards to enter my property for the purpose of evaluating this application, including performing inspections during the application phase, post-approval phase, construction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

1/2/2017



ADVANTAGE
Signage

281 Mt. Pleasant, NJ 08067
603-224-7446 • 603-224-8888 f
www.advantage-signs.net

Job Name:

Riverview

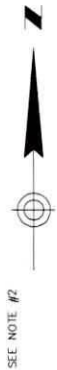
Sales Rep:
Russ Aubertin
Drawn By:
KA
Date:
10/19/16
Revision #:
Original

Design © Advantage Signs, Inc. 2016

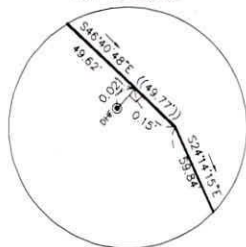
PRODUCTION WILL NOT BEGIN UNTIL ALL
APPROVALS ARE RECEIVED AT THE OFFICE

APPROVED BY: ☐ APPROVED BY: ☐ APPROVED BY: ☐ APPROVED BY: ☐

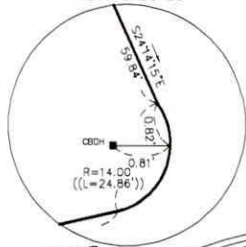
Sign Types:
Monument as shown
Supporting documents
provided



DETAIL B
NOT TO SCALE



DETAIL C
NOT TO SCALE



DARREN J. HARDY, LLS
REG. NO. 915
CHAS. H. SELLS, INC.
155 MAIN DUNSTABLE ROAD
NASHUA, NEW HAMPSHIRE

ENCROACHMENTS

- A METAL GUARDRAIL ±0.5'
- B CONCRETE SIDEWALK ±0.5'
- C CONCRETE PAD ±1.0'

COCHECO RIVER

20' DRAINAGE
EASEMENT

BITUMINOUS WALK
N81°21'00"E
199.18'

MAP 1-B LOT 1-42
SEE "DETAIL A"

POOL

MAP 1-B LOT 1-41
5 GREEN STREET
NOW OR FORMERLY
COCHECO PARK ASSOCIATES
BOOK 1031 PAGE 835
DISPOSITION PARCEL R/4/1
TOTAL AREA = 35,542± S.F.
BUILDING AREA = 8227± S.F.
(24 units for moderate income and
7 units for senior citizens)
SEE BK 1027 PG 393
BUILDING HEIGHT = 40.65'

BUILDING HEIGHT

CHESTNUT STREET
(PUBLIC - VARIABLE WIDTH)

Sign Location

GREEN STREET
(PUBLIC - 50' WIDE)

GRAPHIC SCALE



(IN FEET)
1 inch = 40 ft

P.O.B.
LEAD DISK FOUND
W/ "X" FLUSH IN CONCRETE
(HELD FOR POSITION)
N: 254489.7773
E: 1194612.1448

TBM
BACK BOLT OF HYDRANT
ELEV=63.81'

NEW ENGLAND TELEPHONE &
TELEGRAPH (20 WIDE)

PUBLIC SERVICE CO.
OF NEW HAMPSHIRE
EASEMENT

CROSS WALK

GRANITE CURB

GRANITE CURB

GRANITE CURB

GRANITE CURB

GRANITE CURB

GRANITE CURB



CITY OF DOVER

CITY OF DOVER – ORDINANCE

Posted: April 12, 2016

Ordinance Number: O – yyyy.mm.dd -
Ordinance Title: Updating the Dover Zoning Ordinance
Chapter: 170

(11) The terms of this Section shall not ~~be construed so as to exclude~~ **apply to** SIGNs being necessary for the public welfare and, as such, are required by the municipal, **State, or Federal** government. ~~and historical associations, etc.~~

(12) The material and construction of any SIGN or supporting elements shall be in accordance with the Building and Electrical Codes (in use by the City at the time of installation) and all other applicable City regulations.

(13) On a CORNER LOT, no FREESTANDING SIGN or support element shall be erected to materially impede vision between a HEIGHT of two and a half (2 ½) feet and eight (8) feet above curb grades in the same area bounded by the STREET lines of such CORNER LOT and a straight line joining points along said STREET lines thirty (30) feet from point of their intersection except as otherwise provided in this Section.

(14) Essential directional SIGNs not exceeding four (4) square feet, in area, are permitted indicating entrance and exit driveways. **Said SIGNs shall not be subject to the permitting requirements of this Section.**

(15) SIGNs not exceeding two (2) square feet, in area, are permitted in parking LOTs indicating aisles or reserved areas or spaces. **Said SIGNs shall not be subject to the permitting requirements of this Section.**

(16) One (1) SIGN not exceeding thirty-two (32) square feet **is permitted** on a BUILDING or project under construction, ~~identifying the architect, owner and/or contractor.~~ Such SIGN shall be removed upon the receipt of a CERTIFICATE OF OCCUPANCY **or upon the expiration of the BUILDING permit.** **Said SIGN shall not be subject to the permitting requirements of this Section.**

(17) WALL SIGNs shall conform to the following additional regulations:

(a) No WALL SIGN shall be located in such a manner so as to extend above the next floor's window sill or descend below the top of the lower floor's lintel.²

(b) In all nonresidential zoning districts where a business/premises fronts on more than one (1) public STREET or municipal parking LOT, one (1) WALL SIGN shall be permitted ~~for~~ **upon** each FRONTAGE. The SIGN AREA displayed shall not exceed that area permitted by the FRONTAGE on that public STREET or parking LOT.³

²See Figure 2 of the SIGN Diagrams, Part I, included at the end of this Chapter.

³See Figure 3 of the SIGN Diagrams, Part I, included at the end of this Chapter.

ABUTTER LIST: Z16-21

Property ID	Location	Owner 1	Owner 2	Owner Address 1	City	State	Zip
02083-000LS5	ORCHARD ST	INNATE LLC		1 WALDRON CT	DOVER	NH	03820
02083-000LS4	ORCHARD ST	HOLGATE LIMITED PARTNERSHIP		130 CENTRAL AVE	DOVER	NH	03820
01040-000000	133 WASHINGTON ST	U S POSTAL SERVICE		133 WASHINGTON ST	DOVER	NH	03820
01038-000000	151 WASHINGTON ST	DOVER BAPTIST CHURCH		151 WASHINGTON ST	DOVER	NH	03820
31005-000000	47 CHESTNUT ST	HARLECH LLC		273 CORPORATE DR STE 150	PORTSMOUTH	NH	03801
02083-000000	46 CHESTNUT ST	CITY OF DOVER		288 CENTRAL AVE	DOVER	NH	03820
01041-A00000	5 GREEN ST	RIVERVIEW RESIDENCES DOVER LLC	C/O PRESERVATION HOUSING MANAGEMENT	3100 BROADWAY STE #1234	KANSAS CITY	MO	64111
02083-000LS2	ORCHARD ST	340 CENTRAL LLC		340 CENTRAL AVE STE 202	DOVER	NH	03820
02083-000LS9	ORCHARD ST	394 CENTRAL AVENUE LLC		388 CENTRAL AVENUE	DOVER	NH	03820
02083-000LS8	ORCHARD ST	CUSACK GILLIAN P		392 CENTRAL AVE UNIT 1	DOVER	NH	03820
02083-000LS6	ORCHARD ST	KELLY DAVID F &	KELLY MERILEE B	392 CENTRAL AVE UNIT 2	DOVER	NH	03820
06003-001000	FIRST ST	FIRST STREET AT GARRISON LLC		466 CENTRAL AVE STE 12	DOVER	NH	03820
02083-000LS3	ORCHARD ST	GEORGAKILAS PETER & PAULA TRUSTEES	GEORGAKILAS PETER AND PAULA LIV REV TR	62 SILVER ST	DOVER	NH	03820-3951
01042-000000	3 GREEN ST	DOVER HOUSING AUTHORITY		62 WHITTIER STREET	DOVER	NH	03820
02083-000LS1	ORCHARD ST	364 CENTRAL AVENUE ASSOCIATES LLC	C/O AVISE PROPERTIES	80 NASHUA RD STE 24	LONDONDERRY	NH	03053
02083-000LS7	ORCHARD ST	SMESTAD STEVEN A		PO BOX 4333	PORTSMOUTH	NH	03801