



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - AGENDA

Revised

Meeting Type: Regular Meeting
Meeting Location: Council Chambers, City Hall – 288 Central Ave. Dover, NH 03820
Meeting Date: **Thursday, March 16, 2017**
Meeting Time: **7:00 pm**

1. ATTENDANCE

2. APPROVAL OF MEETING MINUTES OF JANUARY 19, 2017

3. HEARINGS

- A. Z17-01 Owners Frank & Laurie Leichthammer, 15 Cote Drive (Tax Map L, Lot 58-G), located in the Low Density Residential (R-20) Zoning District, request a variance from **Section 170-15.B** of the Zoning Ordinance to permit a distance of approximately nine (9) feet between the principal structure and accessory structure where a minimum distance of 11 feet, four (4) inches is required based on the height of the accessory structure's rear wall.
- B. Z17-02 Owner Derek Fisher (274-276 Central LLC), 274-276 Central Avenue (Tax Map 9, Lot 113-A), located in the Central Business District – General Subdistrict (CBD-G), requests a variance from **Section 170-32.C(19)(b)** of the Zoning Ordinance to permit a sign to project five (5) feet, seven (7) inches over the sidewalk, where signs are prohibited from projecting more than four (4) feet eight (8) inches.
- C. Z17-03 Owner Profero Management & Holdings LLC, 23 Cataract Avenue (Tax Map 13, Lot 23), located in the Medium Density Residential (R-12) Zoning District, requests a variance from **Section 170-32.A and 170-32.D(2)** of the Zoning Ordinance to permit a freestanding sign of up to 40 square feet in area, where the maximum sign area for a freestanding sign in the R-12 is 16 square feet.
- D. Z17-04 Owner Aranosian Oil Company, Inc. and Applicant R&P Singh, LLC, 52 Central Avenue (Tax Map 15, Lot 71), located in the Gateway (B-5) District, requests a variance from **Section 170-12.A and B** of the Zoning Ordinance to permit drive-through services to be located 72 feet and 84 feet from abutting residential structures where a 100-foot setback is required, and 27 feet and 44 feet from abutting residential lot lines where a 50-foot setback is required.

4. OTHER BUSINESS

5. 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, January 19, 2017**
Meeting Time: **7:00 pm**

1. ATTENDANCE

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

Members Not Present: Frank Landford, Arianna Adams (Alternate)

Staff Present: Elena Piekut (Assistant City Planner)

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.

S.Reid asked for a moment of silence for F.Landford's wife Shirley.

2. APPROVAL OF MEETING MINUTES OF DECEMBER 15, 2016

Motion: O.Perry made a motion to approve the December 15, 2016 Regular Meeting Minutes as submitted. Seconded by B.Hall. Vote U/A

3. ELECTION OF OFFICERS

S.Reid recommended this item be delayed to the end of the hearing.

O.Perry made a motion to move this item to the end of the Agenda. Seconded by G.Reagan. Vote U/A

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.

Marcus Fritz, POAH Communities, presented the proposal. Russ Aubertin, Advantage Signs, Inc., was also present.

Discussion ensued regarding clarification of the proposal and confirmation that lack of visibility was the reason for not having a wall sign.

Public Hearing Opened.

Allan Krans, Executive Director of the Dover Housing Authority for Waldron Towers, 3 Green Street, spoke in favor of the proposal.

Discussion ensued regarding the Waldron Towers sign and its location.

STAFF RECOMMENDATION:

The Planning Department recommends that the Zoning Board vote on the variance request. Staff does not oppose the variance request.



**CITY OF
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ZONING BOARD OF ADJUSTMENT - MINUTES

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

Discussion ensued regarding visibility of the sign, and consideration of the sign relocation.

The Chair recognized G.Reagan to sit in on the vote.

Public Hearing Closed.

Discussion ensued regarding consideration of the variance requirements, visibility issues with the wall or freestanding sign, and the comparison of this case with another case.

B.Hall made a motion to deny the variance. There was no second to the motion.

O.Perry made a motion to approve the variance. Seconded by G.Reagan. C.Prior suggested a condition to not permit any new wall signs. O.Perry assented to the condition. Vote: 4/1 Passed

5. ELECTION OF OFFICERS

S.Reid announced he must step down as Chair due to his new position as President of Southeast Land Trust.

S.Reid made a motion to nominate C.Prior as Chair and O.Perry as Vice Chair. O.Perry announced he was not interested in continuing as Vice Chair.

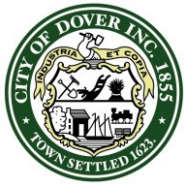
B.Hall confirmed for S.Reid that he did not want to run for the position of Vice Chair.

S.Reid stated he would be willing to serve as Vice Chair until May 2017.

The Board voted by secret ballot. The votes were tallied and the results were announced by S.Reid. C.Prior was elected as Chair and S.Reid was elected as Vice Chair.

6. ADJOURN

Motion: S.Reid made a motion to adjourn at 7:23 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, March 16, 2017
Meeting Time:	7:00 pm

INTENT: The Applicant requests a variance to permit an accessory structure to be located closer to the principal structure than the height of its rear wall as required by Section 170-15.B.

UNITS PROPOSED: N/A

AGENDA ITEM #: 3-A

ZONING DISTRICT: R-20

FILE: Z17-01

APPLICANT/OWNER: Frank & Laurie Leichthammer

LOCATION: 15 Cote Drive (Tax Map L, Lot 58-G)

ACREAGE: 0.68 acre (29,620 sq. ft.)

EXISTING LAND USE: Single-family dwelling

PROPOSED LAND USE: Same

SURROUNDING LAND USE: Single-family dwellings

PREVIOUS ZBA ACTION: None

PLANNING BOARD APPROVAL REQUIRED: Yes, amended Conditional Use Permit required for Conservation District impact 40 feet from reference line, where impact 48 feet from reference line was approved (P15-59)

ATTACHMENTS: Application, plan

STAFF RECOMMENDATION:
Staff does not oppose the variance request.

SUMMARY OF APPEAL AND BACKGROUND

The subject property is located on the south side of Cote Drive on Pomeroy Cove. An existing 1940 ranch home with attached one-car garage is located on the lot. The house is located approximately 35 feet from the side property line (17 Cote Drive) and 42.8 feet from the reference line (highest observable tide line) at its closest point.

The Applicant requests a variance to permit an accessory structure, a 16-foot by 40-foot garage, to be closer to the house than is permitted by Section 170-15.B:

“The minimum distance between any main BUILDING and any accessory BUILDING not structurally attached to such main BUILDING shall be not less than the HEIGHT of the REAR wall of the accessory building.”

The height of a wall is measured to its top plate. Due to incomplete/incorrect building permit information, construction on the structure began in 2015 and was stopped in order to obtain NHDES permitting and a Conditional Use Permit from the Dover Planning Board for Conservation District impacts. Staff recorded a rear wall height of 11 feet, four inches, which would require the new structure to be at least 11 feet, four inches from the principal structure.

The garage is exactly 10 feet from the side property line, meeting the minimum requirement. Because the side of the house is not parallel to the side property line, only a portion of the accessory structure is too close to the house.

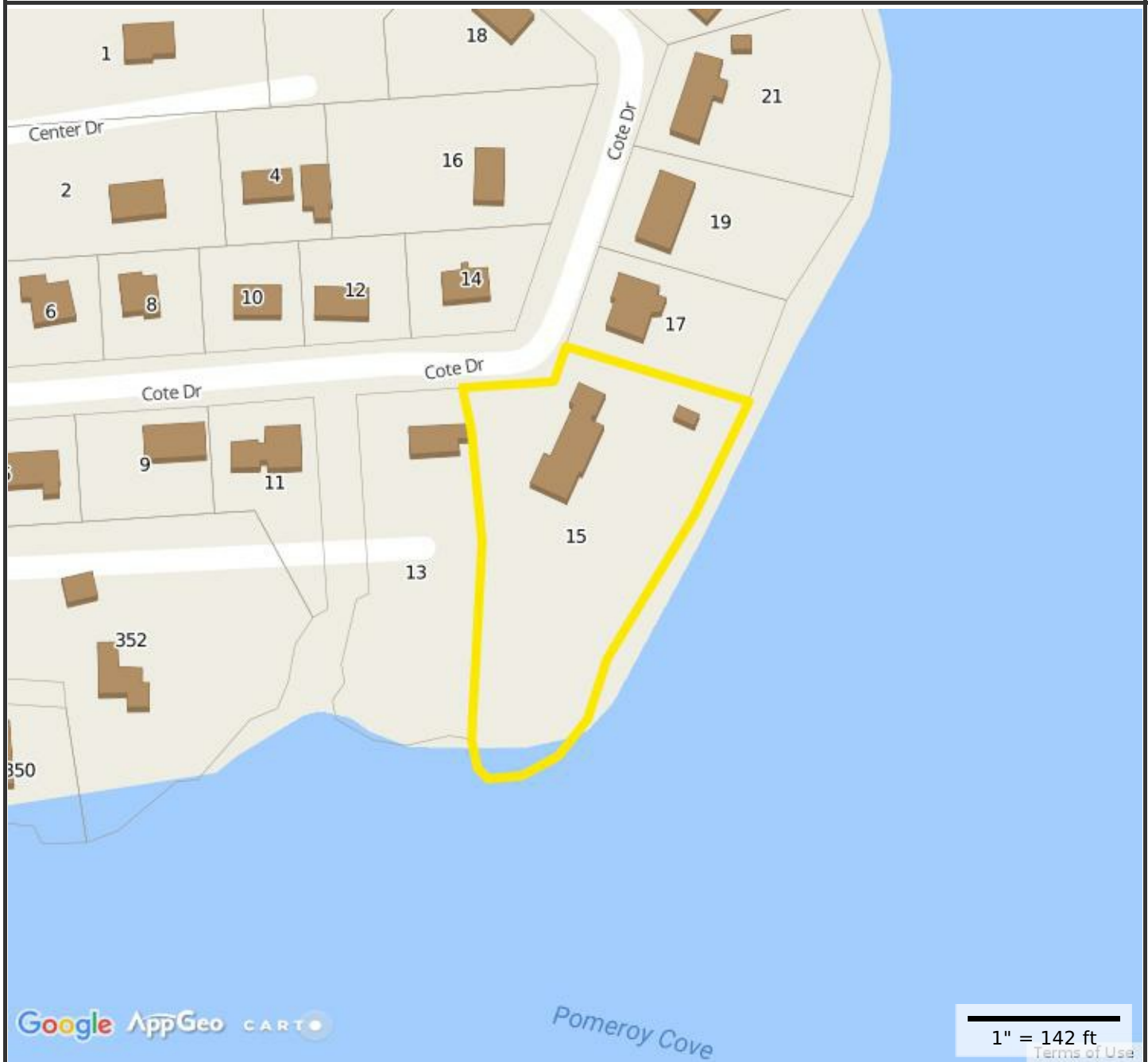
REASON FOR STAFF RECOMMENDATION

The proposed distance between structures is sufficient to meet the intent of the ordinance to provide open space between structures for passage, light access, and air circulation. The Applicant has suggested that he is willing to install a fire-rated wall in order to address the life-safety concerns associated with the open space requirements. The Building Official supports this idea.

An accessory structure for boat storage is a reasonable use of a waterfront property and necessitates the proposed building height. The position of the house in relation to the side property line presents a hardship, as does the lack of any other more suitable location for a garage on the property.

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 L0058-G00000
Location 15 COTE DR
Owner LEICHTHAMMER FRANK N &


**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 02/26/2017



City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Adopted: August 16, 2012]
Planning Office

Office Use Only	Case #:	<u>217-01</u>	Date Received:	<u>JAN 30 2017</u>
	Amount Paid:	\$ <u>286.00</u>	Time Received:	<u>Dover, New Hampshire</u>

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: FRANK & LAURIE LEICHTHAMMER Phone # 603-343-5401
Cell # 413-575-7998
Address of Applicant: 15 COTE DRIVE, DOVER, NH 03820
E-Mail Address: SRSPINC@yahoo.com

PROPERTY OWNER (if different from applicant): _____
Address: _____ Phone # _____
E-Mail Address: _____

PROPERTY/PARCEL INFORMATION

Address: 15 COTE Drive
Brief Directions: TAKE DOVER POINT ROAD (beyond Rt 16 Exit 6) to the end, Turn left on to COTE Drive to #15
Zoning District: R-20 Assessor's Map # L Lot(s) # 58 G

TYPE OF APPEAL: (Please check one)

- | | |
|--|---|
| ☒ Variance | from Section <u>170-15B</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 ADD A 16'x40' LONG GARAGE TO SECURE AND PROTECT OUR VEHICLES, BOAT AND PERSONAL PROPERTY. AND TO BEAUTIFY THE PROPERTY AND NEIGHBORHOOD.

VARIANCE REQUIREMENTS

THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY

A. Variance Requested

A variance is requested from Section(s) 170-15B of the Zoning Ordinance to permit:

- (1) The city of Dover requires A SIDELINE Setback AND The Primary Residence IS NOT built Parallel with the property LINE. AN infringement of 21 1/3 sq.ft. of the 640 sq.ft. Building occurs. 96 2/3 % of the structure complies with the ordinance. (2) The STATE of NH based upon the Laws RSA 482-A and RSA 482-B has determined the proposed site is the only location of this Non-conforming property where this may be placed. (3) Thus our reason furthurs VARIANCE Request.

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:

- (1) The structure location meets all the other setback requirements of a Residential (R-20) District.
(2) " " " " " of N.H. Dept. of Environmental Services requirements.
(3) " " " does NOT create an impact within the 150 foot Reference Line of the State.
(4) " " " will not create an impact on the Abutting properties, environment or Public Health.
(5) 18 Abutters signed their approval to the location of the structure where it exists.
(6) It will allow the owner to beautify the property.

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

- (1) Since only 3.3% or 21 1/3 sq.ft. is NOT in Code Compliance. 96 2/3 % of the structure is in Compliance with Section 170-15B
(2) A Garage is an accepted AND Normal outbuilding in a Residential (R-20) district.
(3) It allows the property owners to protect the personal vehicles, boat and property.
(4) It Does NOT infringe upon any other city or state codes of compliance.
(5) The only way to be in compliance would be to attach the garage structure to the principle Residence which is Structurally incapable AS Signed and Sealed by a Professional Engineer's Report which is attached.

3. Granting the variance would do substantial justice because:

- (1) Every citizen should have their right to protect their personal properties.
(2) The structure was built to comply AS close to city and State Code Requirements AS possible EXCEPT that 3% of the structure could NOT comply due to the location of the principal residence on this Non-conforming lot.
(3) Any other placement of the structure location would be NOT in compliance with State laws AND have an environmental effect AND A Non-conforming appearance to the Abutters AND property owners.

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

- (1) The garage structure enhances the functionality of the existing property as well as the property value which in turn will increase the values of surrounding properties.
- (2) By allowing the property owner to house their vehicles, BOATS and other personal property, it creates a cleaner looking and visually pleasing environment.

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:

Due to the fact the principal structure built in 1940 on which is now a non-conforming lot was not built parallel to the property line and state laws prohibit the placement of the structure on any other part of the property a variance is required to allow the property owners to protect their personal property and to improve the appearance of the neighborhood.

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.

Frank M. Leithman Jani A. Feischel
Signature of Applicant*

Frank M. Leithman Jani A. Feischel
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: Frank M. Leithman Date: 1-30-17

Jani A. Feischel

FRONT PROPERTY LINE

Primary
Residence

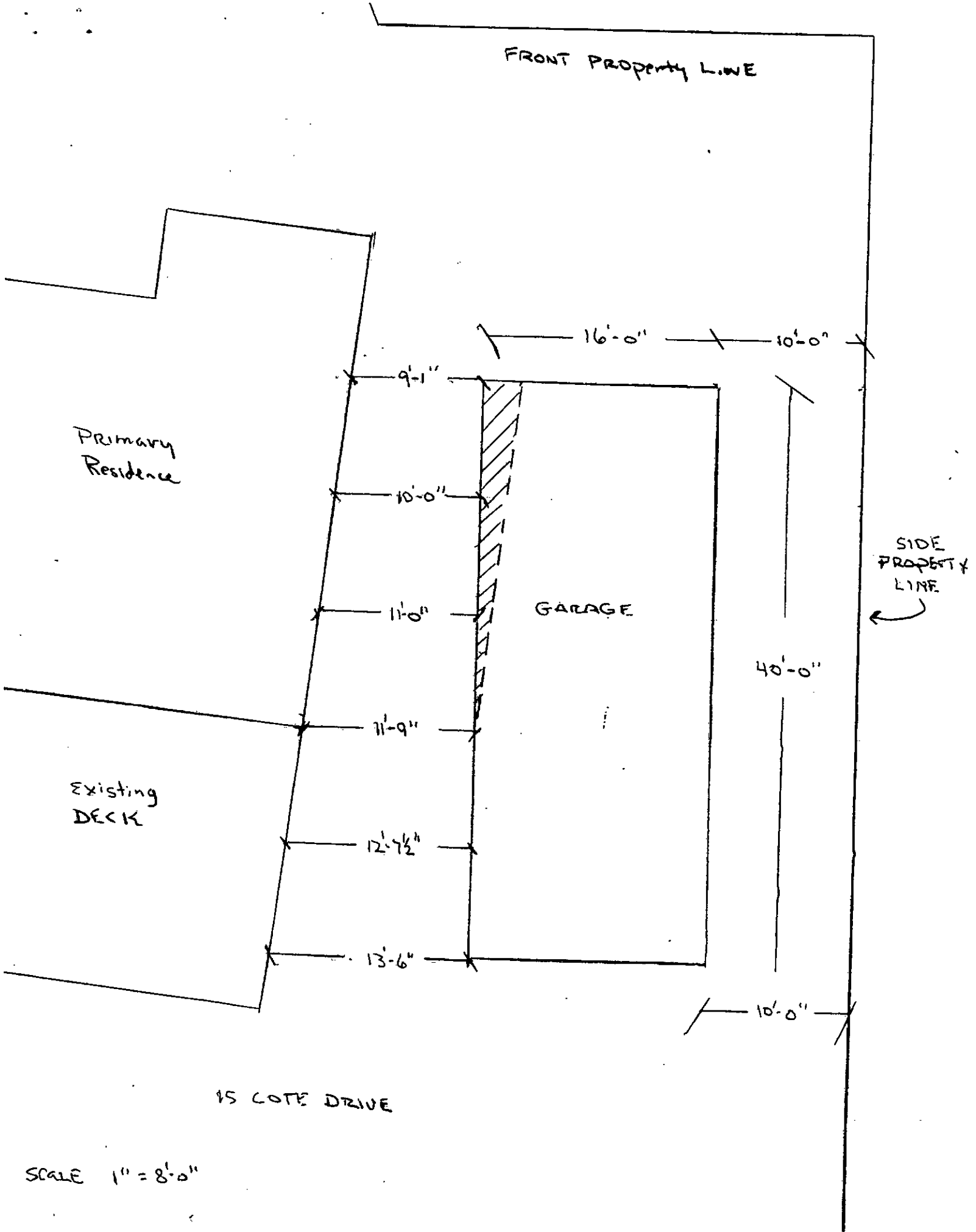
GARAGE

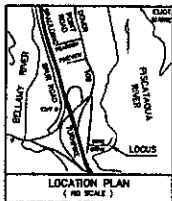
SIDE
PROPERTY
LINE

Existing
DECK

15 COTE DRIVE

SCALE 1" = 8'-0"





L / 880
JOHN R. CLARK
14 COTE DRIVE
DOVER, NH 03820-4607
3542 / 447

L / 888
PATRICIA ROSE
17 COTE DRIVE
DOVER, NH 03820
3500 / 408

L / 889
LEVYAN H. SCHULMAN REVOCABLE TRUST
VERONICA J. SCHULMAN REVOCABLE TRUST
13 COTE DRIVE
DOVER, NH 03820
2281 / 14



4.1 Low Impact Development (LID) "Interconnection Practices"

Maintenance Requirements

- Inspect rain barrel for potential leaks
- Inspect overflow pipe and overflow area to ensure that overflow is draining in non-erosive manner
- Inspect siphon to ensure it is functioning correctly
- Inspect screen and cover to ensure they still function as anticipated and replace if needed
- To prevent damage by freezing water, drain rain barrel and disconnect it from roof leader prior to winter; reconnect in spring
- Inspect larger elements at least annually for accumulation of sediment and debris, and clean debris as warranted by inspection. Cleaners may require servicing under the supervision of a qualified professional, including periodic destruction to control bacteria growth, or application of biocide to control mosquitoes

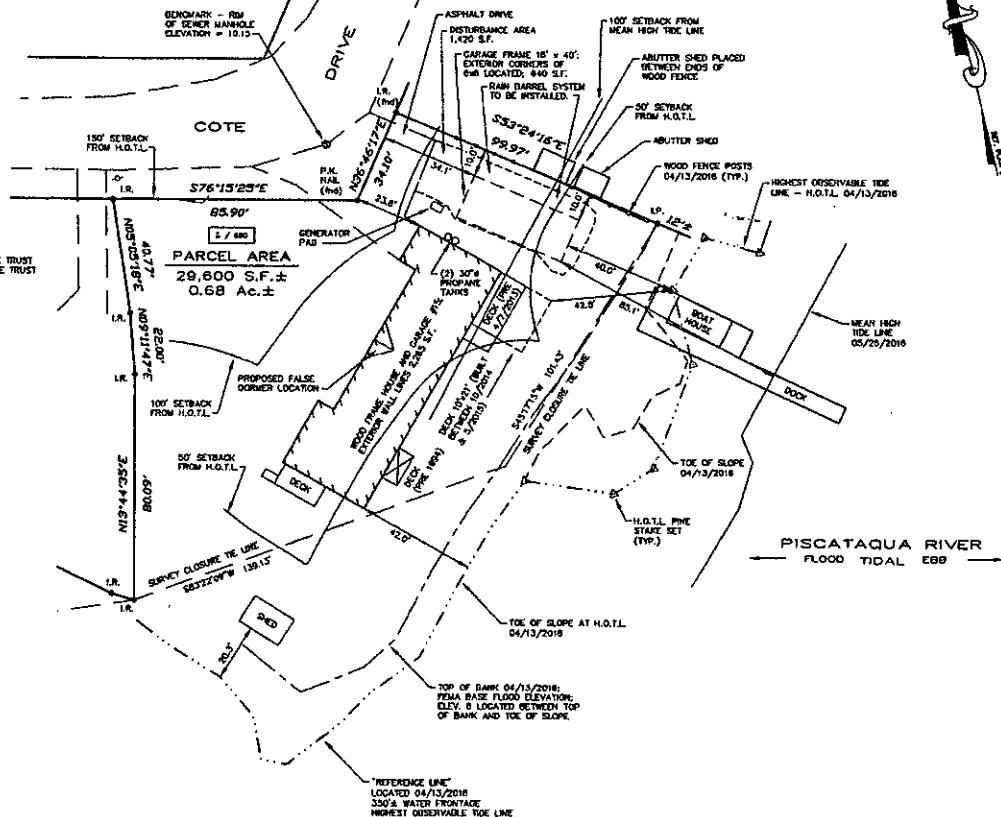
Chapter 4 Designing Best Management Practices - 47

<http://www.des.nh.gov/organization/divisions/water/etm/maintenance/documents/46-00-230-4-1.pdf>

LEGEND

- I.P. = IRON PIPE
- I.R. = IRON ROD
- I.R. (Hd) = IRON ROD (FOUL)
- P.K. = PARKER-VALON
- S.F. = SQUARE FEET
- Ac. = ACRE
- (TYP.) = TYPICAL
- ± = MORE OR LESS
- S.C.R.D. = STRAFFORD COUNTY RECORDS OF DEEDS
- ⊙ = UTILITY POLE
- ⊙ = SEWER MANHOLE
- H.O.T.L. = HIGHEST OBSERVABLE TIDE LINE

NO.	DATE	DESCRIPTION	BY	CHK
1	1/25/17	REVIEW FOR ISSUED LETTER DATED 12/15/2016	LM	BSM
REVISIONS				
15-499	BOUNDARY	16-01	73-74	
PROJECT NO	TYPE	FIELDBOOK & PAGES		





ENGINEERING, P.C.
CIVIL • STRUCTURAL • ENVIRONMENTAL

5 Railroad Street • P.O. Box 359
Newmarket, NH 03857
Phone: (603) 659-4979
Email: mjs@mjs-engineering.com

May 27, 2016

Mr. Frank Leichthammer
15 Cote Drive
Dover, NH 03820

Re: Review of structural integrity of existing structure 15 Cote Drive Dover, NH Map L, Lot 58-G

Dear Mr. Leichthammer:

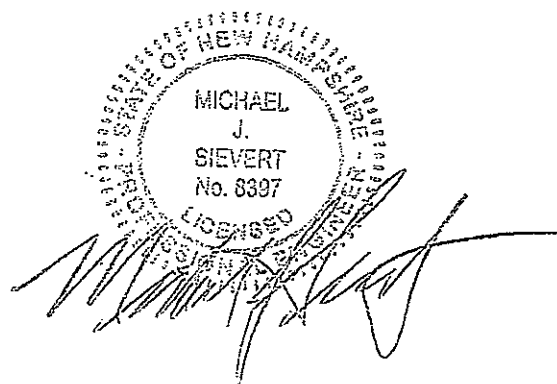
Pursuant to your request, and in support of your response to the NHDES Wetlands Bureau for file #3080, I have inspected the structural members of the existing garage roof and deck at the subject property. It is my professional opinion that the roof rafters and deck joist are in good condition, however, the roof rafters of the existing garage are undersized to meet today's building codes with respect to live loads. This is a common condition of older structures in this area given the updated ground snow loads in the area. The existing roof is not in any eminent danger of collapse, however I do not recommend adding any additional loading to the existing roof in its existing condition.

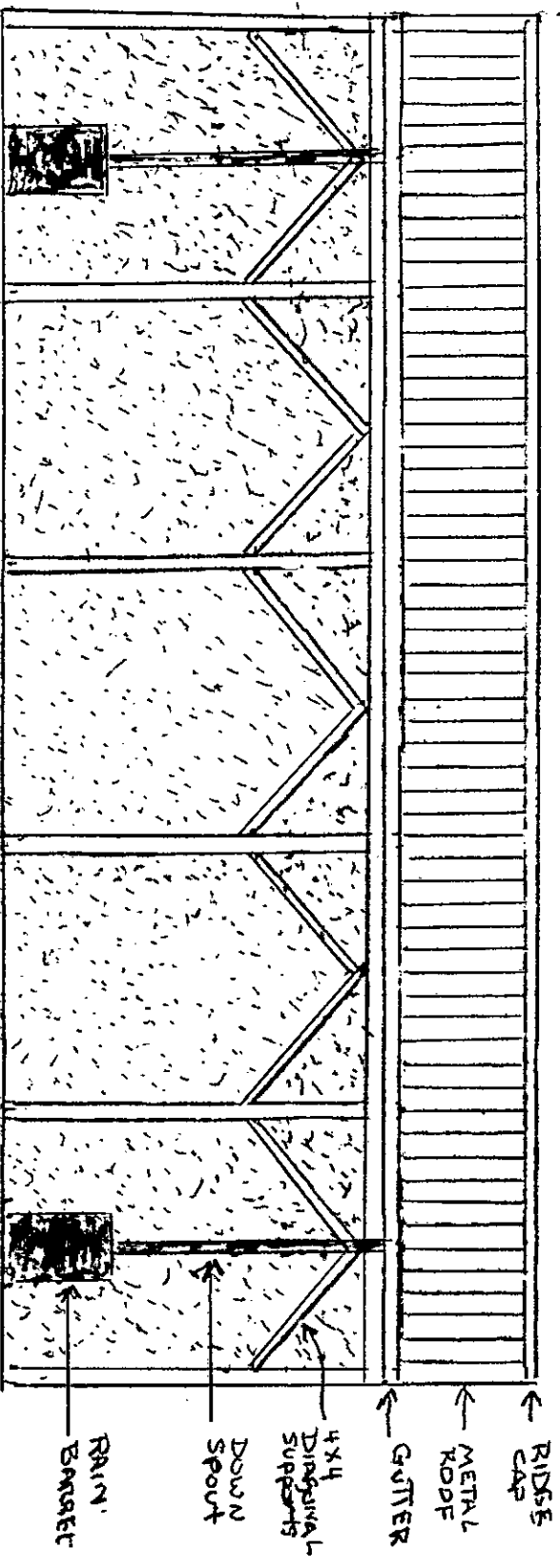
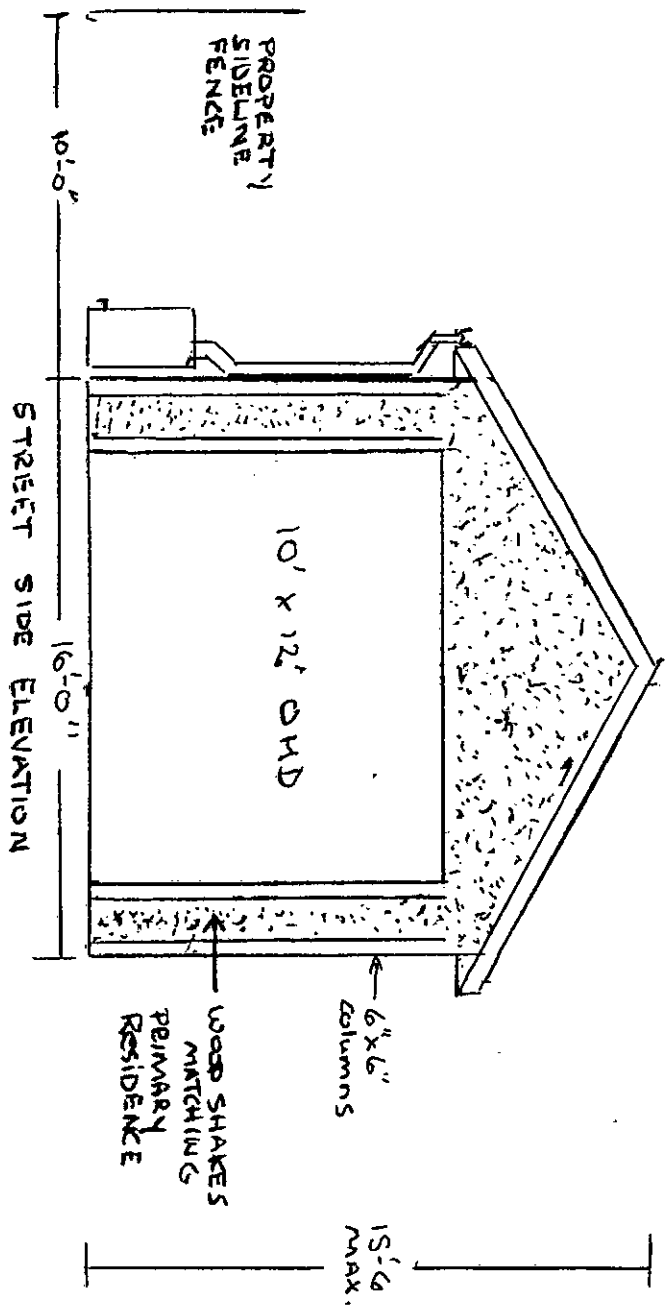
Therefore, in my opinion, relocating the existing accessory structure, currently partially constructed to the north of the existing garage, and attaching it to the north side of the existing garage, is not recommended. The reason for this is that with the current roof design of both buildings, the new configuration will cause a valley area between the two buildings and will result in additional snow loading to the roof and deck.

If you require additional information or have any questions or comments please call (603) 659-4979 x302.

Sincerely,

Michael J. Sievert PE
President





Piekut, Elena

From: Maxfield, Jim
Sent: Thursday, March 9, 2017 3:04 PM
To: Piekut, Elena
Subject: Cote Dr

I support Frank and Laurie Leichthammer's request for a variance from Section 170-15.B at 15 Cote Drive with the condition that the entire wall of the detached structure adjacent to the attached garage of the SFD utilizes a 1 hour fire-rated or fire resistant wall construction method.

James H. Maxfield
Building Official
Master Lic. #9354
City of Dover, NH
262 Sixth Street
Dover, NH 03820-4169
e: j.maxfield@dover.nh.gov
p: 603.516.6038 f: 603.516.6146

Dover: First in New Hampshire, First with you!
<http://www.ci.dover.nh.us>

Please consider conserving our natural resources before printing this e-mail and/or any attachments.

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ABUTTER LIST: Z17-01**15 COTE DRIVE**

Property ID	Location	Owner 1	Owner 2	Owner Address 1	City	State	Zip
L0058-S00000	10 COTE DR	BRIGGS THELMA	BRIGGS ROBERT D	10 COTE DRIVE	DOVER	NH	03820
L0058-K00000	17 COTE DR	ROSE PATRICIA		17 COTE DRIVE	DOVER	NH	03820
L0057-C00000	352 DOVER POINT RD	ZETTERBERG JANET		352 DOVER POINT ROAD	DOVER	NH	03820
L0058-W00000	19 COTE DR	SULLIVAN GORDON A &	SULLIVAN DONNA J	19 COTE DR	DOVER	NH	03820-4644
L0058-N00000	11 COTE DR	O REILLY MARY E &	SCHULTZ JANET L	11 COTE DR	DOVER	NH	03820
L0057-D00000	16 COTE DR	CURTH JOHN B		16 COTE DRIVE	DOVER	NH	03820
L0058-U00000	14 COTE DR	CLARK JOHN R		14 COTE DR	DOVER	NH	03820-4607
L0057-H00000	4 CENTER DR	RICHARDSON CARL J &	RICHARDSON JENNIFER L	4 CENTER DR	DOVER	NH	03820-4646
L0058-X00000	12 COTE DR	CHENEVERT DALE T	CHENEVERT DIANE A	12 COTE DR	DOVER	NH	03820
L0058-L00000	21 COTE DR	LANCASTER DAVID G & MARY E REVOCABLE TRU	LANCASTER DAVID G AND MARY E TRUSTEES	21 COTE DR	DOVER	NH	03820
L0058-F00000	13 COTE DR	SCHULMAN LEUYAN H REVOCABLE TRUST	SCHULMAN VERONICA J REVOCABLE TRUST	13 COTE DR	DOVER	NH	03820
		FRANK LEICHTHAMMER	LAURIE LEICHTHAMMER	15 COTE DR	DOVER	NH	03820



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, March 16, 2017
Meeting Time:	7:00 pm

INTENT: The Applicant requests a variance to permit a sign to protect 5' 7" over the sidewalk, 11" greater than the maximum projection of 4' 8".

UNITS PROPOSED: N/A

AGENDA ITEM #: 3-B

ZONING DISTRICT: CBD-G

FILE: Z17-02

APPLICANT/OWNER: Derek Fisher
(274-276 Central LLC)

LOCATION: 274-276 Central Avenue (Tax Map 9, Lot 113-A)

ACREAGE: Unknown

EXISTING LAND USE: Mixed use: first floor commercial, second/third floor residential

PROPOSED LAND USE: Same

SURROUNDING LAND USE: Mixed uses

PREVIOUS ZBA ACTION: None

PLANNING BOARD APPROVAL REQUIRED: No

ATTACHMENTS: Application, plan

STAFF RECOMMENDATION:
Staff supports the variance request.

SUMMARY OF APPEAL AND BACKGROUND

The subject property is located on the west side of Central Avenue, between Hale Street and Kirkland Street.

The applicant is seeking a variance for a sign to project from the building's front façade farther than is permitted by Section 170-32.C(19)(b) of the Zoning Ordinance. A maximum four-foot, eight-in projection over the sidewalk is permitted. A projection of five feet, seven inches is proposed.

REASON FOR STAFF RECOMMENDATION

Section 170-32.C(19)(b) was adopted in 1987:

"PROJECTING SIGNS shall be prohibited from projecting over a STREET, alley or other PUBLIC SPACE beyond four (4) feet eight (8) inches from a BUILDING façade or two-thirds (2/3) the wide of the SIDEWALK, whichever is less."

Staff's research into the circumstances of this amendment did not uncover the rationale for this measurement. Section 170-32.C(19)(c) also requires:

"A clear space of not less than ten (10) feet shall be provided below all parts of a PROJECTING SIGN..."

This requirement is primarily to ensure the sidewalk plows can pass.

The Applicant's request for a variance from the maximum projection enables the sign to meet the minimum vertical clearance, which is arguably more important to public safety. The building's unique façade, with a "roof" projecting over the first-floor façade and the second-floor façade receding several feet behind the first floor, presents a hardship that required a creative approach to crafting a sign that both projects beyond the roof and supports a sign face *above* the projection rather than hanging from it.

This is consistent with the spirit and intent of the ordinance, which is to facilitate safe and aesthetic communication. The use is a reasonable one. Property values are unlikely to be affected.

RECOMMENDATION

Staff recommends that the Zoning Board hold a public hearing and approve the variance request.

**Property Information**

Property ID 09113-A00000
Location 274 276 CENTRAL AV
Owner 274-276 CENTRAL 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 02/26/2017



City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Adopted: August 16, 2012]

Office Use Only	Case #:	<u>217-02</u>	Date Received:	<u>RECEIVED</u> <u>Planning Office</u> <u>FEB 16 2017</u>
	Amount Paid:	\$ <u>337.00</u> <u>ck # 1077</u>	Time Received:	<u>Dover, New Hampshire</u>

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: Derek Fisher Phone # 603-380-4191
Address of Applicant: 274-276 Central Ave / 22 Ann St LN Hampton NH 03842
E-Mail Address: d.fishseven@yahoo.com
PROPERTY OWNER (if different from applicant): _____
Address: _____ Phone # _____
E-Mail Address: _____

PROPERTY/PARCEL INFORMATION

Address: 274-276 Central Ave Dover NH 03820
Brief Directions: Between Federal Cigar and Pipe Central
Zoning District: CBD Assessor's Map # 9 Lot(s) # 113-A-0

TYPE OF APPEAL: (Please check one)

☒ Variance	from Section <u>170-32</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:

(Wing-Itz) Restaurant and Bar with second floor residential

VARIANCE REQUIREMENTS

THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY

A. Variance Requested

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

Permission to allow a projecting sign ~~for~~ the frame to be 5'7" in order to achieve 10' headway from sidewalk.

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:

This request will not effect the character of the neighborhood, safety or general public wellbeing.

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

To allow the proposed sign frame to be 5'7" achieving the required 10' sidewalk headway. And General public safety.

3. Granting the variance would do substantial justice because:

It will continue progress of revitalization of the CBD district and Central Ave.

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

The proposed sign variance will not diminish surrounding property values because it would only add to the commercial mixed use properties on Central Ave. As you are aware the City of Dover is promoting an environment for small businesses like Wing-Tz to succeed.

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:

Cause of the required 10' sidewalk headway and the ledge of the overhang of 274-276 Central Ave. It is necessary to ask for an exception of 170-32, in order to protect public safety.

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:

This variance will allow no unnecessary hardship or harm to any surrounding properties or businesses should result from granting this variance.

and

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

This variance will allow the frame of the sign to be sound in highwinds and inclement weather.

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:

Because of the height requirements and the mounting restrictions of the property, this sign cannot be installed in the same way the other properties allow. This variance would allow for this property to have adequate height for the 10' headway for 170-32.

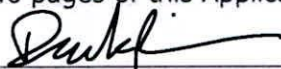
SIGNATURE PAGE

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*



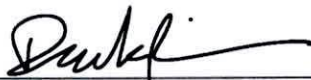
Signature of Owner*

*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:



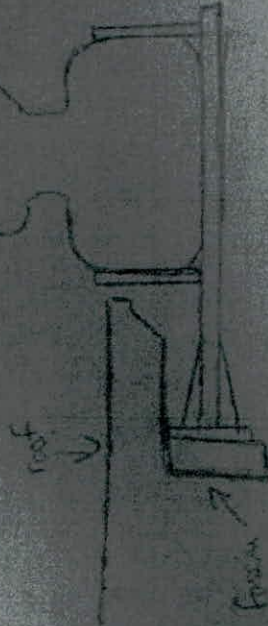
Date:

2/23/2017



New England Sign Supply Company

7 Roessler Road Woburn, Ma 01801
A Full Line Digital, Electrical and Commercial Supplier



22/5

WING

ME

MATERIAL:

A - TS2x2x1/8

B - TS1 1/2 x 1 1/2 x 1/8

C - 1/2 x 1 1/2 FB

D - 1/4 x 2 FB (x2)

E - 1/2" □

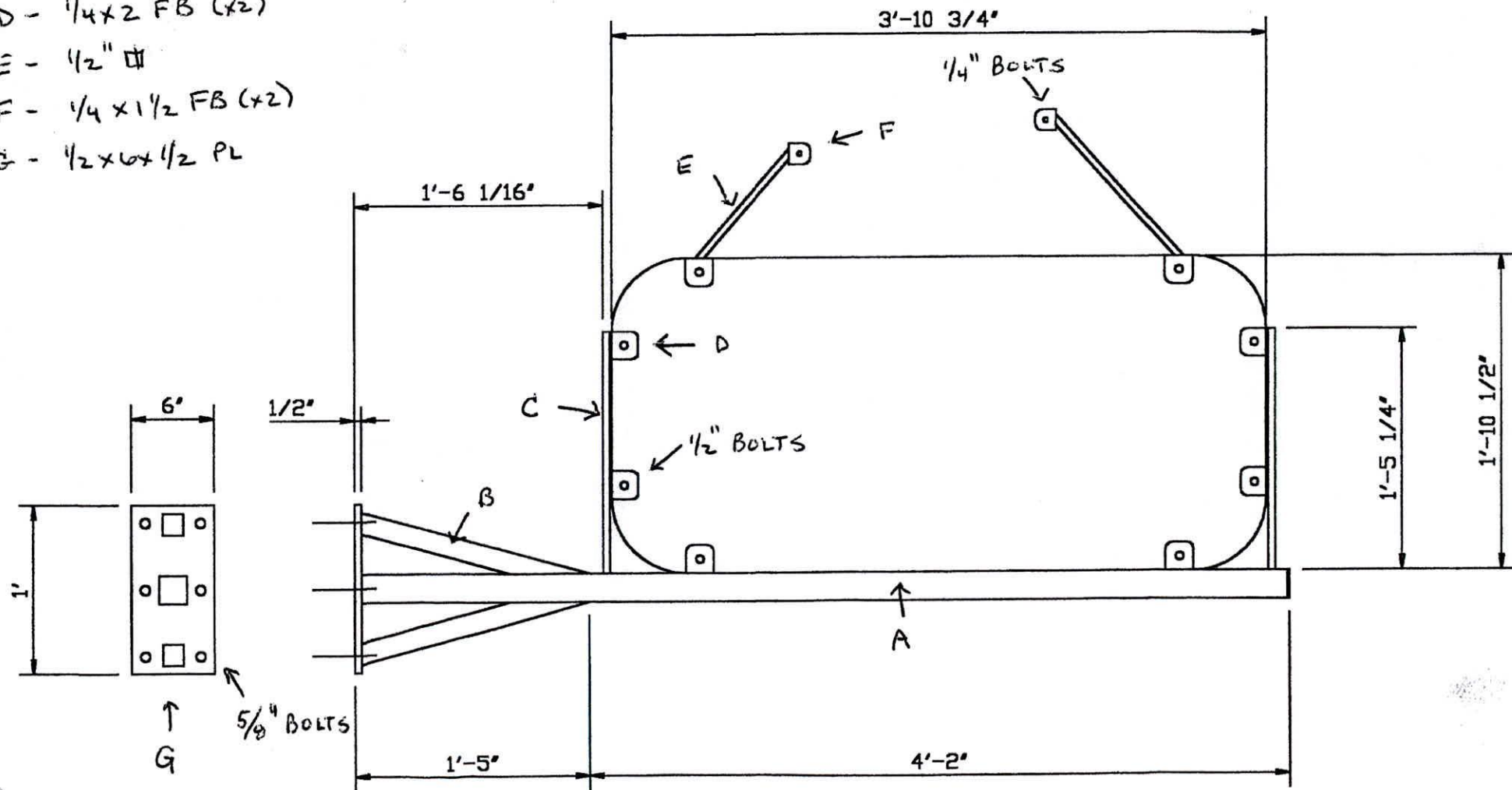
F - 1/4 x 1 1/2 FB (x2)

G - 1/2 x 6 x 1/2 PL

RECEIVED
Planning Office

FEB 16 2017

Dover, New Hampshire



attention any errors that we notice, **YOU ARE RESPONSIBLE FOR APPROVAL OF PROOFS, PROOF READING AND ERRORS.**



Wing Butchery
◀ EST. 2007 ▶



Wing Butchery
◀ EST. 2007 ▶

Double sided Wing-itz sign

Disclaimer: All artwork is copyrighted and cannot be reproduced without Wayne Chaloux's permission. It is illegal to duplicate or reproduce copyrighted artwork without prior written permits.

Approving the proof must be your responsibility before your job can proceed to production. Wayne Chaloux's Custom World & Auto Body-Signs & Graphix cannot be responsible to proof nor approve your work for any typographic errors, omissions, or mistakes. While we will bring to your attention any errors that we notice, **YOU ARE RESPONSIBLE FOR APPROVAL OF PROOFS, PROOF READING AND ERRORS.**

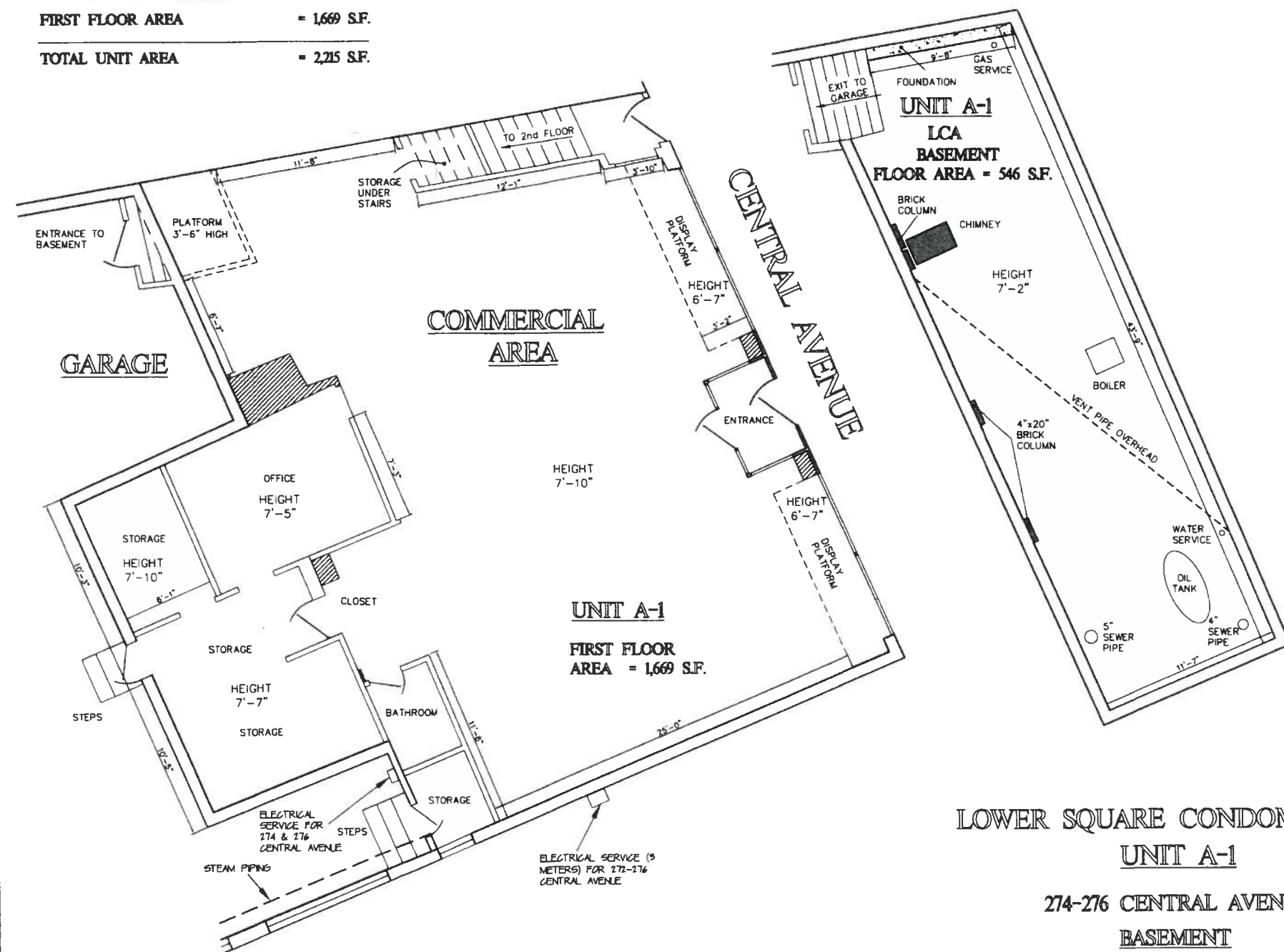
[See More](#)



Property ID	Location	Owner 1	Owner 2	Owner Address 1	City	State	Zip
ABUTTER LIST:		Z17-02	DEREK FISHER				
CERTIFIED MAILINGS:							
09113-A00000	274-276 CENTRAL AV	DEREK FISHER		22 ANNS LANE	HAMPTON FALLS	NH	03842
02019-000000	333 CENTRAL AV	THE FOSTERS BUILDING LLC		333 CENTRAL AVE	DOVER	NH	03820
02021-000000	295 CENTRAL AV	TRI COUNTY REALTY INC		192 DOVER POINT RD	DOVER	NH	03820-4632
02022-000000	291 CENTRAL AV	CUMBERLAND FARMS INC		100 CROSSING BLVD	FRAMINGHAM	MA	01702
09104-000000	250 CENTRAL AV	GALLUP CAROL J TRUSTEE	GALLUP CAROL J REV TRUST	7 TWIN POND CIR	EXETER	NH	03833-4731
09105-000000	12 KIRKLAND ST	FOSTER FAMILY GRANDCHILDREN TR	FOSTER P AND R AND HAYWARD C AND	194 DOVER POINT RD	DOVER	NH	03820-4632
09110-000000	11 13 KIRKLAND ST	BAMFORD DAVID K		466 CENTRAL AVE SUITE 12	DOVER	NH	03820
09111-000000	256 CENTRAL AV	ROBBINS SIDNEY FAMILY TRUST		PO BOX 1535	DOVER	NH	03821
09113-000000	266 276 CENTRAL AV	WOODMAN BLOCK HOLDINGS LLC		P O BOX 643	HAMPTON FALLS	NH	03844
09113-B00000	266 270 CENTRAL AV	266-270 CENTRAL AVENUE LLC		20 ARCH ST	DOVER	NH	03820
09114-000000	278 286 CENTRAL AV	THE WOODMAN CONDOMINIUMS	C/O WOODMAN BLOCK HOLDINGS LLC	P O BOX 643	HAMPTON FALLS	NH	03844
09116-000000	5 HALE ST	ST THOMAS EPISCOPAL CHURCH	C/O PARISH ADMINISTRATOR	5 HALE ST	DOVER	NH	03820
23016-000000	279 CENTRAL AV	DOVER HOUSING AUTHORITY		62 WHITTIER STREET	DOVER	NH	03820
23021-000000	263 CENTRAL AV	KOSTIS ENTERPRISES LLC		263 CENTRAL AVENUE	DOVER	NH	03820
23022-000000	257 CENTRAL AV	MCQUADE WILLIAM P & PALMER PATRICIA M	MCQUADE FAMILY REVOCABLE TRUST	PO BOX 1409	DOVER	NH	03820
FIRST CLASS MAILINGS:							
09114-000001	282 1 CENTRAL AV	STODDART MARY E &	STODDART WILLIAM D IV	4752 PINNACLE DR	BRADENTON	FL	34208-8497
09114-000002	282 2 CENTRAL AV	COLWELL-ELLIS DARLENE TRUSTEE	COLWELL-ELLIS REVOCABLE FAMILY TRUST	282 2 CENTRAL AV	DOVER	NH	03820-4179
09114-000003	282 3 CENTRAL AV	ROYCE BRIAN J		229 BLANTON AVE	NASHVILLE	TN	37210
09114-000004	282 4 CENTRAL AV	TRAYNER CHRISTINE E TRUSTEE	TRAYNER CRISTINE ELIZABETH REVOCABLE TRU	125 MAIN ST APT 55	NEWMARKET	NH	03857-1641
09114-000005	282 5 CENTRAL AV	STEVENS AARON L		282 CENTRAL AVE UNIT 5	DOVER	NH	03820
09114-000006	282 6 CENTRAL AV	DE BOER SASKER L		26 TIDEWATER FARM ROAD	GREENLAND	NH	03840
09114-000007	282 7 CENTRAL AV	KARMERIS PAMELA L		144 LEACH RD	ELIOT	ME	03903-2261
09114-000008	282 8 CENTRAL AV	HALLOWELL MARIAN		282 CENTRAL AVE #8	DOVER	NH	03820
09114-000009	282 9 CENTRAL AV	KENNY BRIAN P		282 9 CENTRAL AV	DOVER	NH	03820
09114-000010	282 10 CENTRAL AV	NOLIN APRIL E		282 CENTRAL AVE UNIT 10	DOVER	NH	03820
09114-000011	282 11 CENTRAL AV	GOODREAU SCOTT &	GOODREAU LINDA	11 COUNTRY CLUB ESTATES	DOVER	NH	03820
09114-000012	282 12 CENTRAL AV	REED CAROL A		282 CENTRAL AVE UNIT 12	DOVER	NH	03820
09114-000013	3 HALE ST	3 HALE STREET REALTY LLC		3 HALE ST	DOVER	NH	03820
09114-000014	286 CENTRAL AV	JALAPENO HOLDINGS LLC		100 MIDDLE ST	PORTSMOUTH	NH	03801
09114-000015	284 CENTRAL AV	DANICHA INVESTMENTS LLC		4 HARBOR PLACE UNIT G	PORTSMOUTH	NH	03801
09114-000016	280 CENTRAL AV	HYNES MARC & CAROLYN &	HYNES JOSHUA	22 ATKINSON ST	DOVER	NH	03820
09114-000017	278 CENTRAL AV	CHEMISTRY HAIR STUDIO LLC		278 CENTRAL AVE	DOVER	NH	03820
02001-000000	288 CENTRAL AV	CITY OF DOVER		288 CENTRAL AVE	DOVER	NH	03820

UNIT A-1

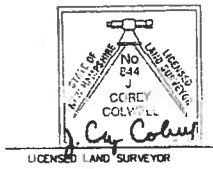
LCA - BASEMENT FLOOR AREA = 546 S.F.
FIRST FLOOR AREA = 1,669 S.F.
TOTAL UNIT AREA = 2,215 S.F.



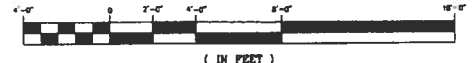
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FEB 16 2017
Dover, New Hampshire

LOWER SQUARE CONDOMINIUMS UNIT A-1 274-276 CENTRAL AVENUE BASEMENT

FILING OF THESE SHEETS IS FOR CONDOMINIUM PURPOSES ONLY, PURSUANT TO RSA 356-B IT DOES NOT CONSTITUTE A SUBDIVISION OF LAND.
"I CERTIFY THAT THIS PLAN IS ACCURATE AND IS IN COMPLIANCE WITH THE PROVISIONS OF NEW HAMPSHIRE RSA 356-B:20(1) AND THAT ALL UNITS SHOWN HAVE BEEN SUBSTANTIALLY COMPLETED."
PURSUANT TO NEW HAMPSHIRE REVISED STATUTES ANNOTATED 676:16, III AND IV AND 672:14
"I CERTIFY THAT THIS SURVEY PLAT IS NOT A SUBDIVISION PURSUANT TO THIS TITLE AND THAT THE LINES OF STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED AND THAT NO NEW WAYS ARE SHOWN."
A COPY OF THIS PLAN HAS BEEN FILED WITH THE LOCAL PLANNING BOARD.



6-20-12
DATE



CONDOMINIUM FLOOR PLAN THE LOWER SQUARE CONDOMINIUMS

TAX MAP 9 LOT 113
PROPERTY OF
WOODMAN BLOCK HOLDINGS, LLC
266-276 CENTRAL AVENUE
COUNTY OF STRAFFORD
NEW HAMPSHIRE

DATE JULY 15, 2011
SHEET 2 OF 5

PROJECT NO. 05731
SCALE 1/4" = 1'

MSC
CIVIL ENGINEERS &
LAND SURVEYORS, INC.

170 COMMERCIAL WAY
SUITE 102
PORTSMOUTH, NH 03801
PHONE: 603-431-2222
FAX: 603-431-0910
WWW.MSCENGINEERS.COM

MSC
CIVIL ENGINEERS &
LAND SURVEYORS, INC.



PHONE: 603-431-2222
FAX: 603-431-0910
www.mscengineers.com
170 COMMERCE WAY
SUITE 102
PORTSMOUTH, NH 03801

CONDOMINIUM FLOOR PLAN
THE LOWER SQUARE CONDOMINIUMS

REV	DATE	DESCRIPTION
1	06/15/12	REVISED UNIT DESIGNATIONS AND ADDED UNIT HEIGHTS
2	06/15/12	NO CHANGES TO SHEET

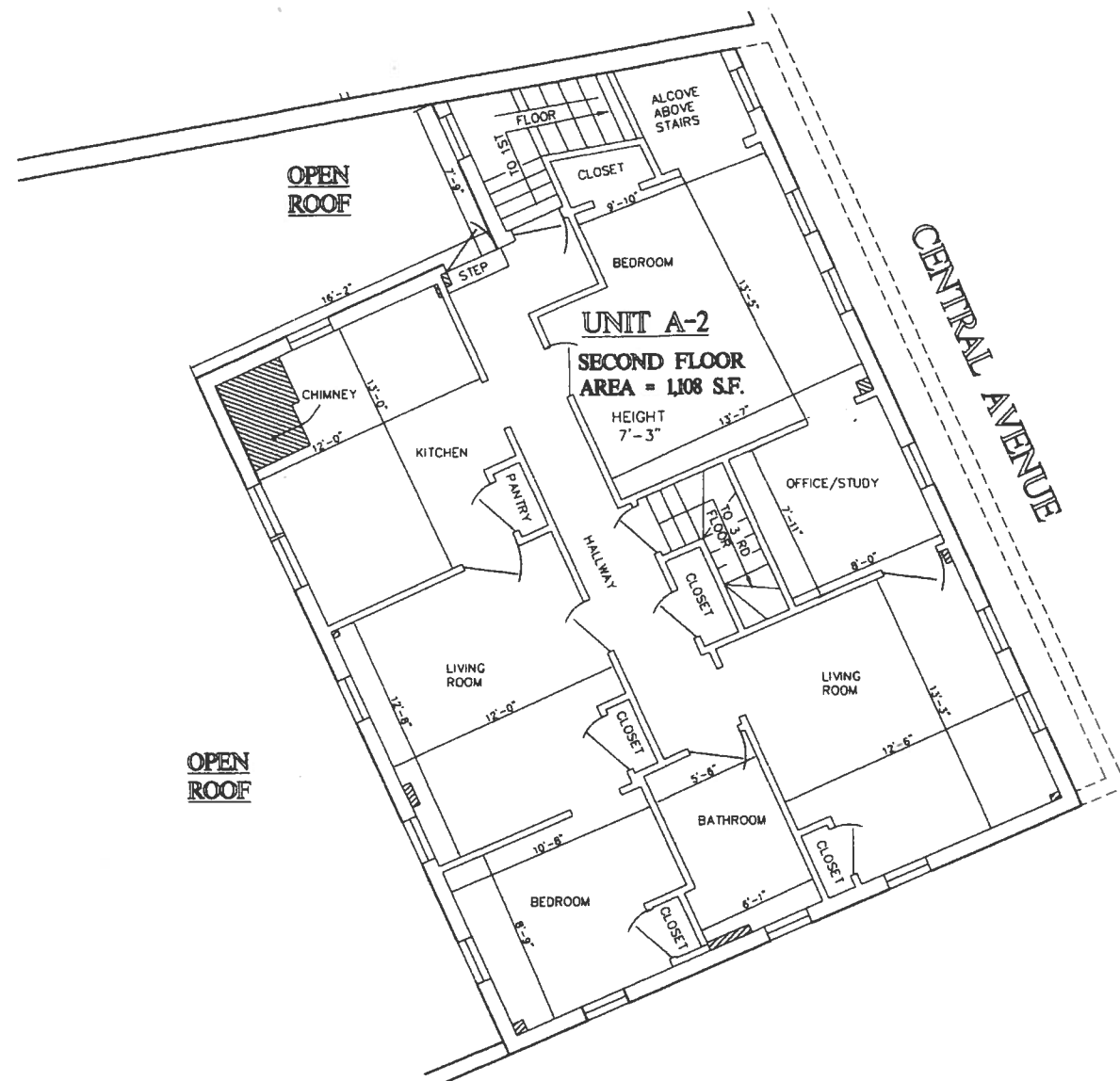
DRAWN BY: JDC
CHECKED BY: JDC

TAX MAP 9 LOT 113
PROPERTY OF
WOODMAN BLOCK HOLDINGS, LLC
266-276 CENTRAL AVENUE
COUNTY OF STRAFFORD
NEW HAMPSHIRE
DOVER

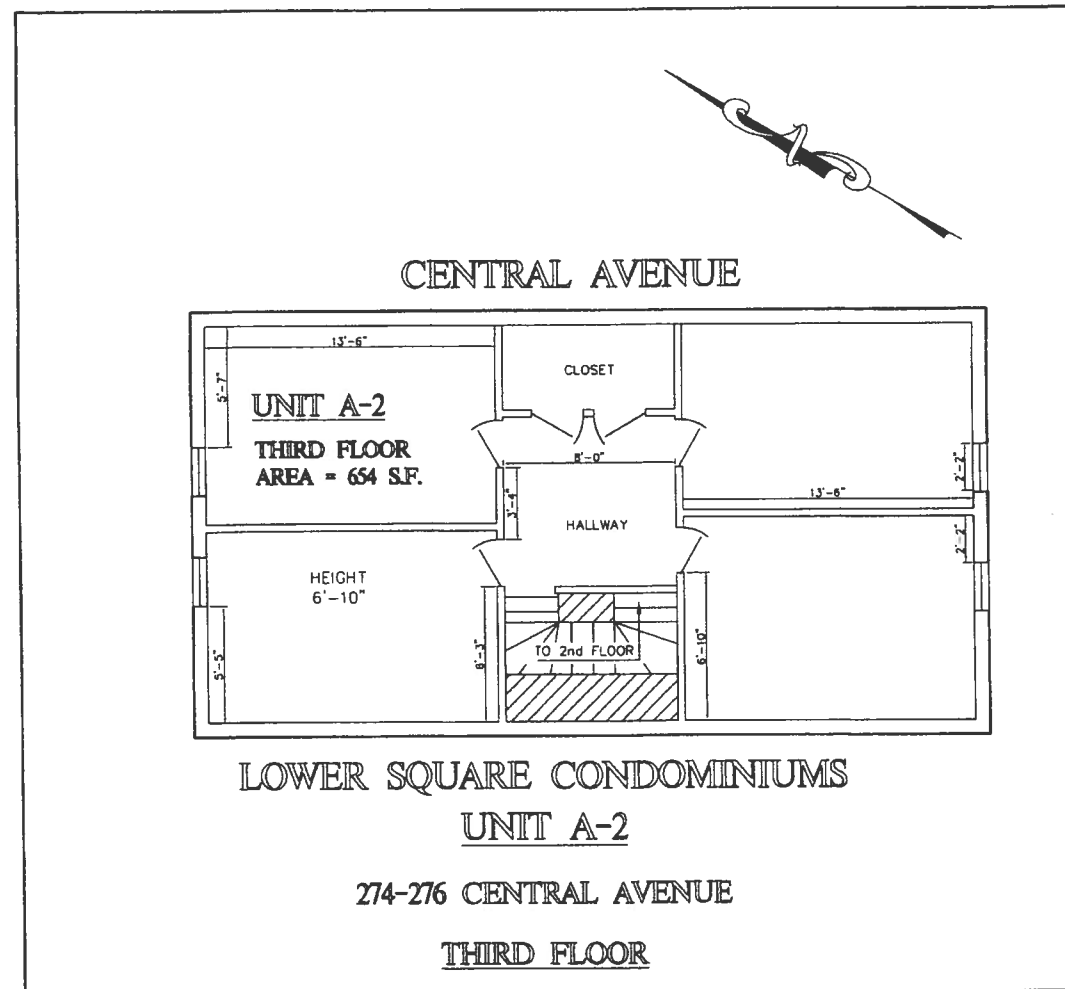
DATE: JULY 15, 2011
SHEET 3 OF 5

PROJECT NO. 05731
SCALE 1/4" = 1'

UNIT A-2
SECOND FLOOR AREA = 1,108 S.F.
THIRD FLOOR AREA = 654 S.F.
TOTAL UNIT AREA = 1,762 S.F.



LOWER SQUARE CONDOMINIUMS
UNIT A-2
274-276 CENTRAL AVENUE
SECOND FLOOR



LOWER SQUARE CONDOMINIUMS
UNIT A-2
274-276 CENTRAL AVENUE
THIRD FLOOR

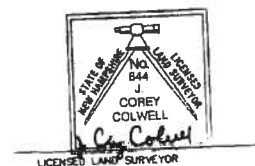
FILING OF THESE SHEETS IS FOR CONDOMINIUM PURPOSES ONLY, PURSUANT TO RSA 356-B. IT DOES NOT CONSTITUTE A SUBDIVISION OF LAND.

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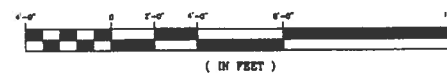
PURSUANT TO NEW HAMPSHIRE REVISED STATUTES ANNOTATED 676:18, II AND IV AND 672:14:

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

A COPY OF THIS PLAN HAS BEEN FILED WITH THE LOCAL PLANNING BOARD.



6-20-12
DATE





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, March 16, 2017
Meeting Time:	7:00 pm

INTENT: The Applicant requests a variance to permit a freestanding sign up to 40 sq. ft. in area where the maximum sign area is 16 sq. ft. in the R-12.

UNITS PROPOSED: N/A

AGENDA ITEM #: 3-C

ZONING DISTRICT: R-12

FILE: Z17-03

APPLICANT/OWNER: Profero Management & Holdings, LLC

LOCATION: 23 Cataract Avenue (Tax Map 13, Lot 23)

ACREAGE: 11.06 acres

EXISTING LAND USE: Offices, educational facility (former McIntosh College)

PROPOSED LAND USE: Same

SURROUNDING LAND USE: Single-family and multi-family dwellings, elementary school, Spaulding Turnpike

PREVIOUS ZBA ACTION: H69-12: To permit an educational institution in the single residence (R1) zone
H83-32: unknown (file missing)
H89-20: unknown (file missing)

PLANNING BOARD APPROVAL REQUIRED: No

ATTACHMENTS: Application, plan

STAFF RECOMMENDATION:
Staff does not oppose the variance request.

SUMMARY OF APPEAL AND BACKGROUND

The subject property is located between Exit 8, Cataract Avenue, and Rutland Street, behind Woodman Park Elementary School. The lot has approximately 900 feet of frontage on Cataract Avenue and 50 feet of frontage on Rutland Street.

The original McIntosh College required a use variance to locate in a residential district in 1969. The property is still in a residential zoning district, R-12, which permits signs up to 16 square feet in area. This is consistent with other residential districts (R-40, R-20, RM-U, RM-SU, and CBD-R; HR is more restrictive). A “development identification sign” up to 20 square feet in area is permitted where a site includes multiple tenants, provided that it is attached to a screening wall or landscape planter (see 170-6 for definition).

The Applicant requests a variance to permit a freestanding sign of up to 40 square feet (dimensions not specified), located to the left of the entrance on Cataract Avenue.

REASON FOR STAFF RECOMMENDATION

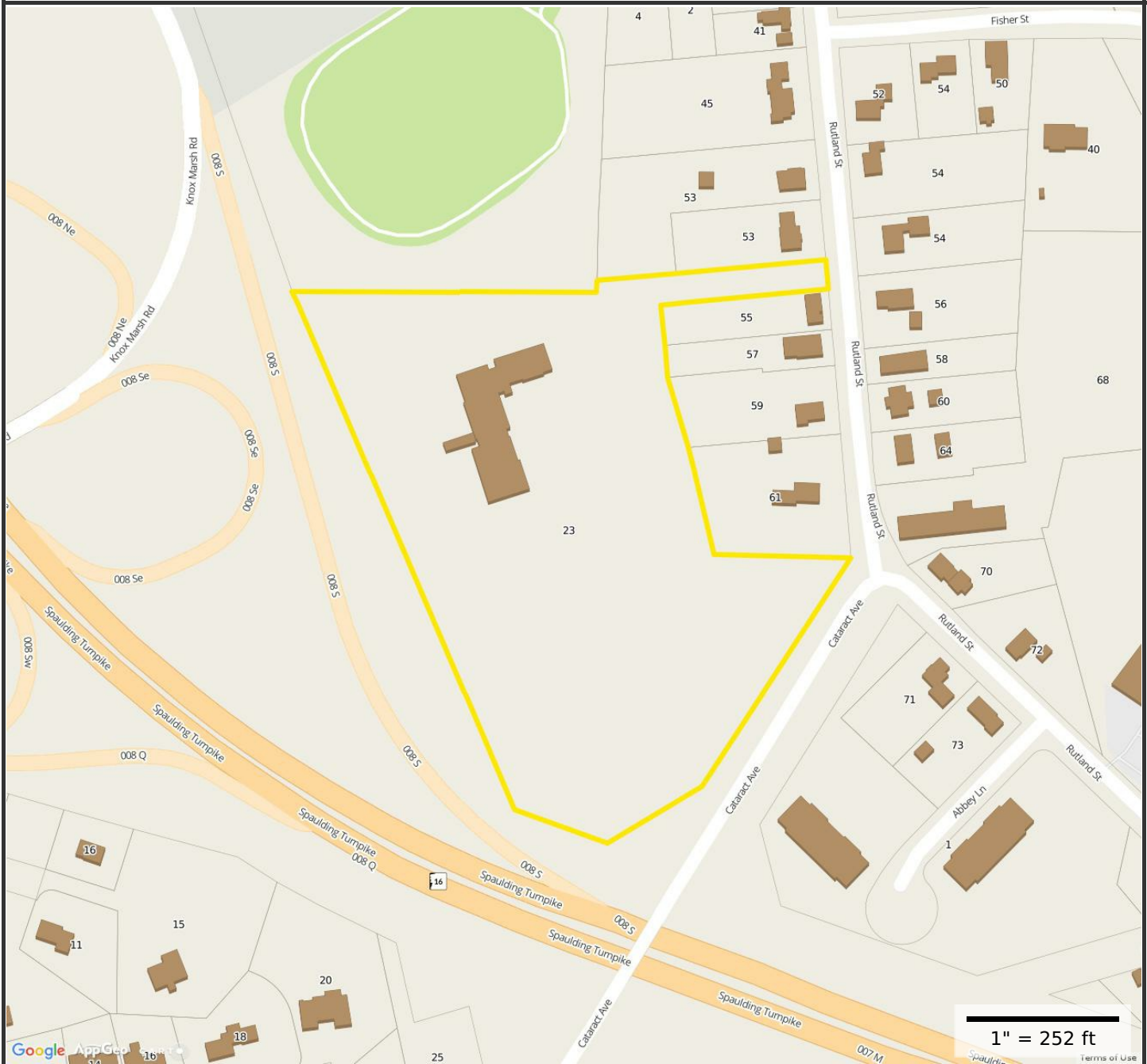
The structure on this lot is located approximately 500 feet from Cataract Avenue. A 16-square-foot wall sign on the building would not be sufficient for motorists on Cataract Avenue.

A 40-square-foot sign is two-and-a-half times the permitted maximum size, and two times as large as the development identification sign that would be permitted (if attached to a landscape planter).

The “hardship” faced by the Applicant is the challenge of representing multiple tenants on a freestanding sign at the street.

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 13023-000000
Location 23 CATARACT AV
Owner PROPERO MANAGEMENT & HOLDINGS 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 02/26/2017



City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Adopted: August 16, 2012]

Office Use Only Case #:

217-03

Date Received:

RECEIVED
Planning Office

FEB 23 2017

Amount Paid: \$ 196.00

ck# 12889

Time Received: Dover, New Hampshire

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: Profero Management & Holdings LLC Phone # (603) 767-5012

Address of Applicant: 232 Gulf Road, Dover, NH 03820 (Attn: Robert J. DeColfmacker)

E-Mail Address: RDecolfmacker@aol.com

PROPERTY OWNER (if different from applicant): same

Address: _____ Phone # _____

E-Mail Address: _____

PROPERTY/PARCEL INFORMATION

Address: 23 Cataract Avenue

Brief Directions: Exit 7, NH 108-S, from Spaulding Turnpike, Left onto Central Ave at Exit,
Right onto Rutland Street, and third left off Rutland to Cataract.

Zoning District: R-12 Assessor's Map # 13 Lot(s) # 23

TYPE OF APPEAL: (Please check one)

☒ Variance

from Section 170-32(19)(D)(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:

Continued leasing of property.

VARIANCE REQUIREMENTS

THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY

A. Variance Requested

A variance is requested from Section(s) 170-32(19)(D)(2) of the Zoning Ordinance to permit:
a sign having a SIGN AREA under the Ordinance of no more than forty square feet, where 16 square feet are permitted.

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:

granting the variance would neither alter the character of the locality nor threaten the public health, safety or welfare. The sign is to be located at the Cataract Avenue entrance and while visible from the street, will not be visible to neighbors from their properties. The sign will also be located such that it is visible from the street and will inform but will not distract travelers. Therefore, the sign as proposed poses no public health, safety or welfare concerns.

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

The purpose of the ordinance is to "promote the health, safety, morals and the general welfare of Dover's residents by serving to facilitate the adequate provision of transportation, water, sewer, schools, parks and other public requirements; to encourage the maintenance of Dover's economic and aesthetic quality of life; and to encourage the most appropriate use of land throughout the City of Dover." Dover Ordinance, Section 170-3. An attractive sign directing travelers to the occupants of 23 Cataract Avenue will facilitate transportation and encourage Dover's economic and aesthetic quality of life.

3. Granting the variance would do substantial justice because:

having inadequately sized signage for the property would result in a loss to the owner and the occupants of the property, which loss would not be outweighed by any gain to the public in having a smaller sign. While there is aesthetic gain to the public generally in having appropriately sized signage, the proposed sign is attractive and appropriately sized to its location. Further, the location is not generally visible by persons other than travelers along Cataract Avenue. Therefore, there is no public gain in having a smaller sign at this location.

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

the sign will not be visible from neighboring properties. There is a hedge buffer between the sign and the apartment complex located across Cataract Avenue (1 Abbey Lane, Map 14, Lot 114) that will impair view of the signage from that location and others along Rutland Street.

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

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

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

The property is a large tract (approximately 11 acres) located in the R-12 District adjacent to the Spaulding Turnpike. Its proximity to Spaulding Turnpike does not make it ideal for single family development, which is the primary purpose of the R-12 District. Historically the property was used as college offices and a bookstore and was serviced by a single sign which is no longer present. A portion of the property is currently used by a single non-profit tenant, Great Bay Services, and the property owner intends to lease to additional tenants that will require signage along Cataract Avenue to direct the public to the property users.

and

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

The purpose of the ordinance provision is to provide adequately sized signage that is informative and appropriately notifies the public of uses and occupants of the property. In order to achieve its purpose as applied to a property of the size and use of 23 Cataract Avenue, a larger sign is required to accommodate multiple users and uses. The minimum lot size in the R-12 zone is 12,000 SF, and if one sign were allowed for each lot and use that could be created from this 11 acre parcel, the total signage would far exceed what is proposed.

and

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

The proposed sign is appropriate in size and located in an area which will minimize views from neighboring properties while adequately informing travelers along Cataract Avenue of the uses and occupants of 23 Cataract Avenue.

OR

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

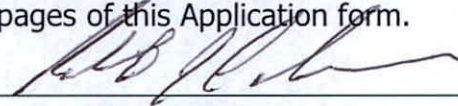
SIGNATURE PAGE

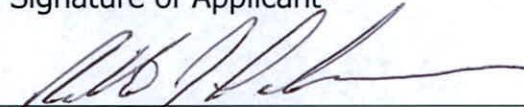
THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS

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

IMPORTANT

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


Signature of Applicant*


Signature of Owner*

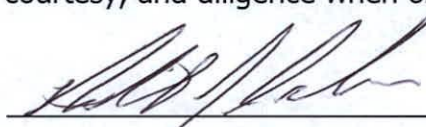
*Both Signatures Required

Profero Management & Holdings LLC
By its Manager, Robert J. DeColfmacker

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:





Map

Google

Sign in

Restoration Church

Abbey Ln

Rutland St

Cataract Ave

Cataract Ave

Spaulding Turnpike

Spaulding Turnpike



89 Oak St. Dover, NH 03820 • 603.742.1517

Job Description: Freestanding Sign

Date: 1.26.17

Proof #: 01

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Freestanding Sign

A:



B:



C:



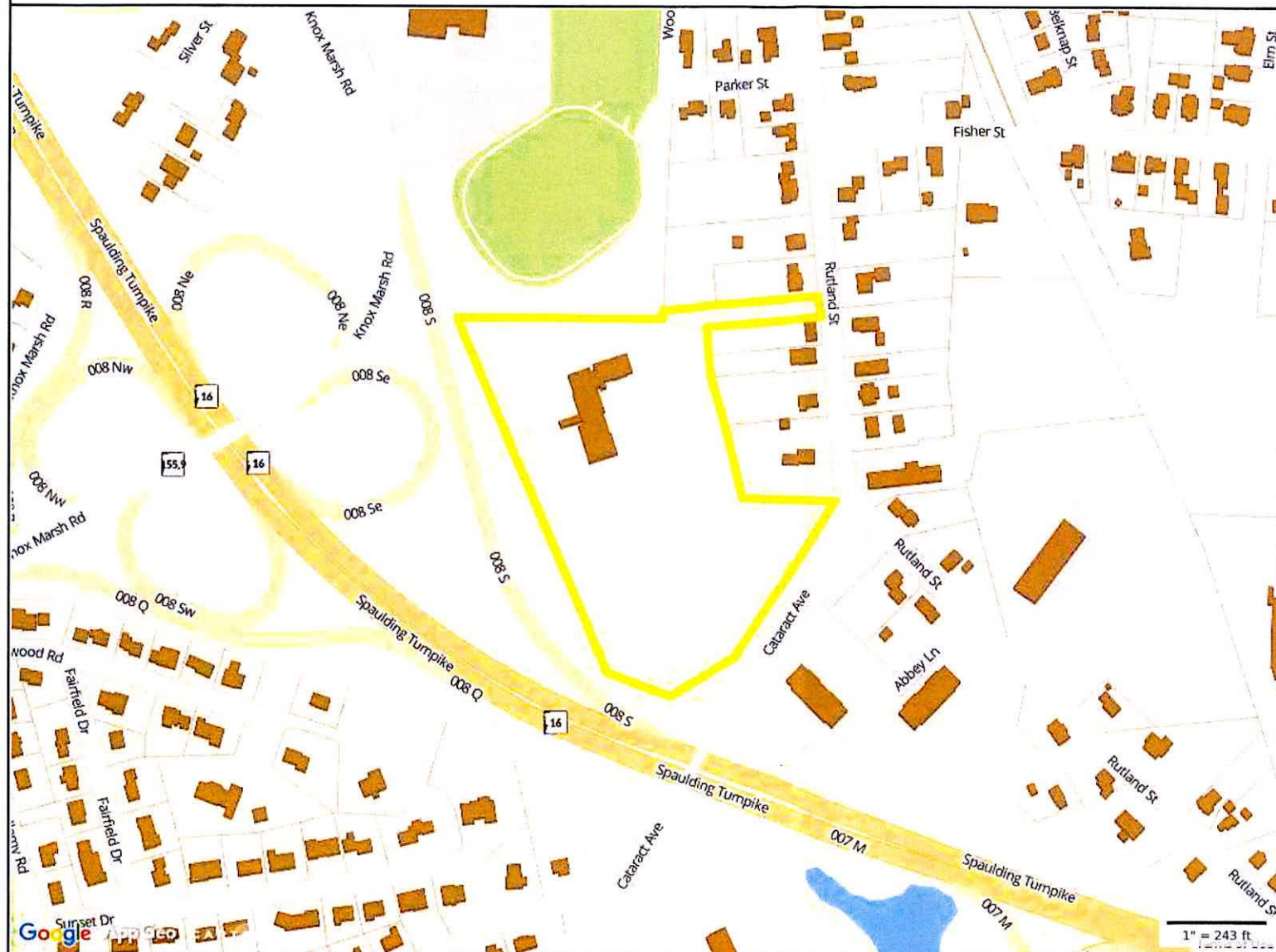
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Property Information
Property ID 13023-000000
Location 23 CATARACT AV
Owner PROPERO MANAGEMENT & HOLDINGS LLC



**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 02/19/2017



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Parcels updated 01/11/2017
Properties updated 02/19/2017

Map Theme Legends

Zoning

- R-12 - MEDIUM DENSITY RESIDENTIAL
- R-20 - LOW DENSITY RESIDENTIAL
- R-40 - RURAL RESIDENTIAL
- RM-U - URBAN DENSITY MULTI-FAMILY RESIDENTIAL
- RM-SU - SUBURBAN DENSITY MULTI-FAMILY RESIDENTIAL
- B-1 - NEIGHBORHOOD BUSINESS
- B-3 - THOROUGHFARE BUSINESS
- B-4 - HOTEL / RETAIL
- B-5 - RURAL COMMERCIAL / RETAIL
- CBD - CENTRAL BUSINESS DISTRICT
- CWD - COACHEHO WATERFRONT DISTRICT
- I-1 - RESTRICTED INDUSTRIAL
- I-2 - RURAL RESTRICTED INDUSTRIAL
- I-4 - OFFICE AND ASSEMBLY
- ETP - ENTERPRISE / TECHNOLOGY
- O - OFFICE
- LBW - LITTLE BAY WATERFRONT
- H - HOSPITAL
- HR - HERITAGE RESIDENTIAL

City of Dover



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, March 16, 2017
Meeting Time:	7:00 pm

INTENT: The Applicant requests a variance to permit drive-through services 72-84 feet from abutting residential structures where a 100 foot setback is required.

AGENDA ITEM #: 3-D

ZONING DISTRICT: B-5

FILE: Z17-04

APPLICANT/OWNER: R&P Singh, LLC/Aranosian Oil Company, Inc.

LOCATION: 52 Central Avenue (Tax Map 15, Lot 71)

ACREAGE: 0.63 acre (27,443 sq. ft.)

EXISTING LAND USE:

Convenience store/gas station

PROPOSED LAND USE:

Convenience store/gas station with drive-through

SURROUNDING LAND USE:

Commercial, multi-family dwellings

PREVIOUS ZBA ACTION: Z99-17:

Variance granted for setback of gas pump canopy

Z07-17: Variance granted for canopy within 30' of front property line and within 25' of side property line

PLANNING BOARD APPROVAL REQUIRED: Yes, amended site plan

ATTACHMENTS: Application, plan

STAFF RECOMMENDATION:

Staff supports the variance request.

SUMMARY OF APPEAL AND BACKGROUND

The subject property is located at the intersection of Central Avenue and Locust Street across from the Exit 7 southbound onramp. It is located in the Gateway (B-5) Zoning District, directly abutting the Central Business District – Downtown Gateway sub-district on two sides.

The Applicant requests a variance from the requirements of the B-5 Zoning District, which permits drive-through service only with a 50-foot setback from residential abutting lot lines and 100-foot setback from abutting residential structures. The subject property abuts two, three-family dwellings. Drive-through service is proposed 72 feet from one dwelling and 84 feet from the other.

REASON FOR STAFF RECOMMENDATION

The Applicant received Planning Board approval for this site in 2008. Drive-through service was contemplated at the time, but was subject to the same setbacks as it is today. The Planning Board required the following note on the approved plan:

14.) THERE SHALL BE NO DRIVE-THROUGH SERVICE ALLOWED. IN THE EVENT DRIVE-THROUGH SERVICE IS PROPOSED IN THE FUTURE, THE SITE PLAN SHALL BE RESUBMITTED WITH AN APPROPRIATE TRAFFIC CONTROL STUDY AND TRAFFIC IMPROVEMENTS. THE APPLICANT AGREES TO PAY FOR A PEER REVIEW OF THE TRAFFIC STUDY IF DRIVE-THROUGH SERVICE IS PROPOSED IN THE FUTURE.

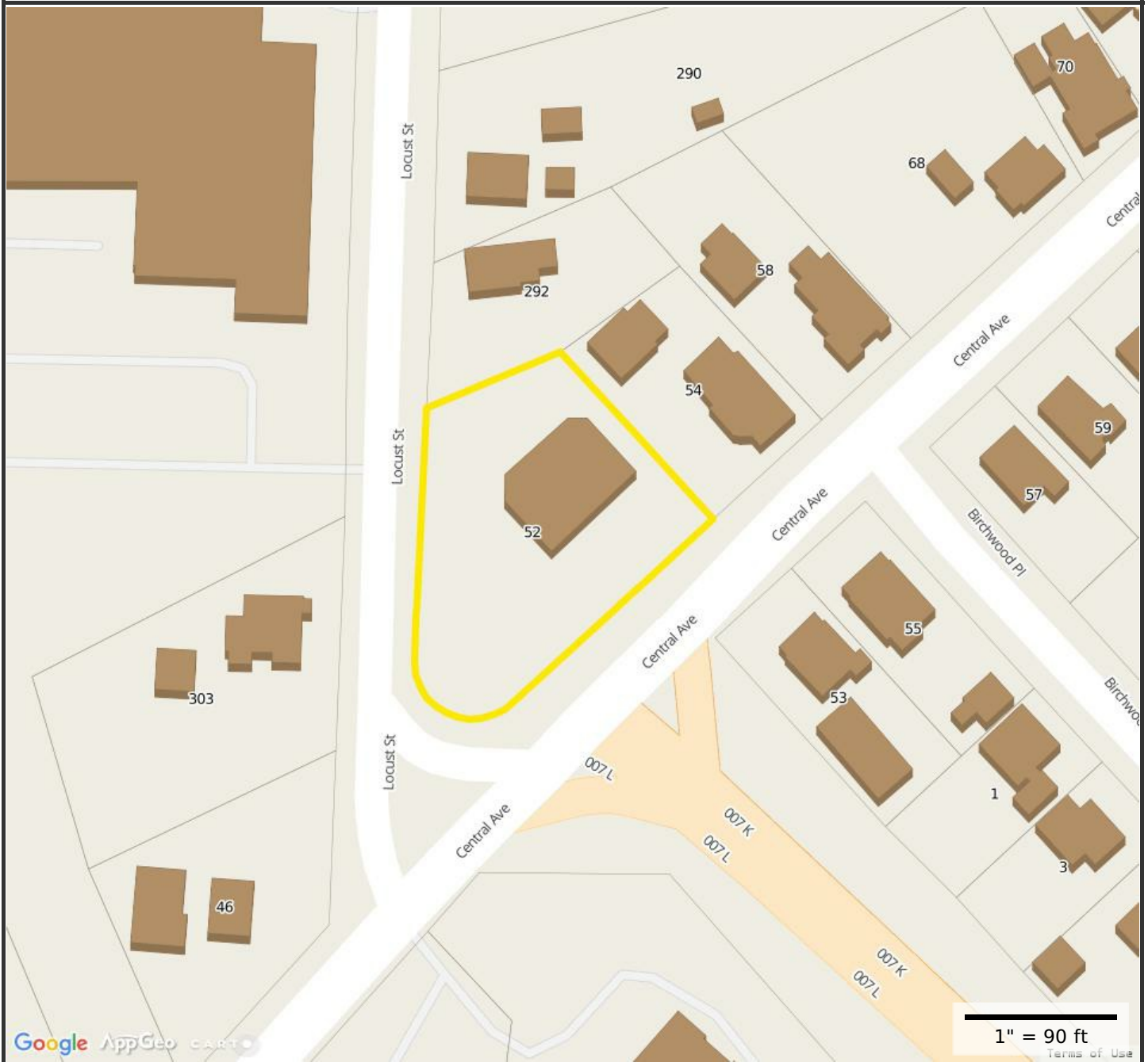
The Applicant must return to the Planning Board for a site plan amendment approval. A Technical Review Committee meeting was held February 23, and the Committee has suggested that the Planning Board restrict drive-through hours of operation to 6:00 am to 9:00 pm.

A fence provides existing screening on both property lines, and the required Planning Board review may result in additional vegetative screening. The use is reasonable, considering that it is permitted with conditions and exists across the street at Burger King. Property values are unlikely to be impacted.

Although the property meets minimum lot size and lot frontage requirements, its size, shape, and accesses to Locust Street and Silver Street present a hardship that prevents meeting all setback requirements. In addition to the need for a variance for drive-through setbacks, the property required a variance in 2007 to locate the canopy within the 50-foot front setbacks. Staff has identified said 50-foot front setbacks as an item for review and possible amendment, as they seem to be too restrictive in this zoning district.

RECOMMENDATION

Staff recommends that the Zoning Board hold a public hearing and approve the variance request.

**Property Information**

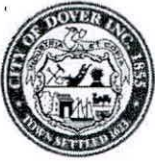
Property ID 15071-000000
Location 52 CENTRAL AV
Owner ARANOSIAN OIL CO INC



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

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Parcels updated 01/11/2017
Properties updated 03/08/2017



City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Adopted: August 16, 2012]

Office Use Only

Case #:

217-04

Date Received:

RECEIVED
Planning Office

Amount Paid:

\$ 324.00
ck #2073

Time Received:

FEB 27 2017
Dover, New Hampshire

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: R & P Singh, LLC

Phone # 617-899-3499

Address of Applicant: 52 Central Avenue, Dover, NH 03820

E-Mail Address: raghbirtamber@yahoo.com

PROPERTY OWNER (if different from applicant): Aranosian Oil Company, Inc.

Address: 557 North State Street, Concord, NH

Phone # _____

E-Mail Address: _____

PROPERTY/PARCEL INFORMATION

Address: 52 Central Avenue

Brief Directions: The property is located at the corner of Central Avenue and Locust Street.

Zoning District: B-5

Assessor's Map # 15

Lot(s) # 71

TYPE OF APPEAL: (Please check one)

☒ Variance

from Section 170-12.A + B of the Zoning Ordinance

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

from Section _____ of the Zoning Ordinance

☐ Special Exception

per Section _____ of the Zoning Ordinance

☐ Appeal of Administrative Decision

regarding Section _____ of the Zoning Ordinance

☐ Equitable Waiver

per Section _____ of the Zoning Ordinance

DESCRIBE BRIEFLY YOUR PLANS FOR THE PROPERTY:

To add drive through window service.

VARIANCE REQUIREMENTS

THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY

A. Variance Requested

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

Adding drive up window service to the existing restaurant where the window would be located 27 feet from the property line with the Central Avenue
abutter where 50 feet is required, and 72 feet from that residence where 100 feet is required, and 44 feet from the property line for the
Locust Street abutter where 50 feet is required and 84 feet from that residence where 100 feet is required. The restaurant use of
the property is a permitted use in the B-5 zone, although drive up service is subject to some restrictions.

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

Please demonstrate compliance with the following:

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

The public interest is affected if the proposed variances would constitute a fundamental change in the neighborhood or if there would be
a substantial impact on health or safety. This is a commercial property with gasoline pumps, convenience store, and restaurant
located in an area which is primarily commercial, including other restaurant, gasoline and convenience stores. Adding drive
up window service does not change the essential character of either this property or this neighborhood, since other nearby properties
already have drive up window service. The restaurant use is a permitted use in this zone.

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

The spirit of the ordinance is to restrict drive-in windows for eating establishments in order to protect nearby residences and to prevent traffic
from backing up onto adjacent streets. Both of those purposes would be satisfied by this proposal. There is existing substantial
vegetation and fencing between the subject property and the adjacent apartment buildings which will provide both visual screening and sound
attenuation, and ample space is provided for vehicles waiting to be served so that there will not be vehicle backup onto Central Avenue.
The location of the drive up window allows a dozen vehicles to stack up. The window will be located 72 feet from the 3 unit apartment
building on Central Avenue and 84 feet from the 3 unit apartment building on Locust Street.

3. Granting the variance would do substantial justice because:

The New Hampshire Supreme Court has held that an injustice occurs when the injury to the applicant resulting from denying the variance
would be greater than any benefit that would accrue to the public if the variance is denied. In this case, similar uses already exist nearby.
Denying the variance will not confer a benefit on the general public. The site has adequate space for vehicles to back up entirely within the lot and the
window will be adequately screened from the adjacent apartment buildings. Denying the variance would be a detriment to the applicant
because that denial would prevent the applicant from the full use of its property and other nearby properties have drive up windows.

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

This property already is used for a gasoline station, convenience store, and restaurant and those uses will not substantially change. Many of the properties in the surrounding area have commercial uses, including restaurants, convenience stores, gasoline stations, offices or multi-unit apartment buildings. Other restaurants in this area already have drive up window service. The two closest residential structures are 3 unit apartment buildings, and although those buildings are located less than 100 feet from the proposed drive up window, each of those buildings is located a sufficient distance away and each is adequately screened by vegetation and fencing so that neither will be adversely affected by the proposed window. Parking, vehicular access and egress and internal vehicle stacking at this site are ample for the existing commercial use and for the modest increase in use that will result from adding a drive upwindow.

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:

Although other properties in this area are used for a restaurant, or convenience store, or gasoline station, this property is different in that it is the only one to offer all 3 uses. Only one other property has frontage and access to both Central Avenue and Locust Street. The size and configuration of the lot and building limit where a drive up window could be located.

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:

Restaurant use is a permitted use in this zone. The addition of a drive up window is a modest expansion of an existing permitted restaurant use. The setback restrictions for drive up windows is intended to limit the impact of such a window service on abutting residential properties. In this case, the size of the existing lot limits where a drive up window could be located. The window will be located 72 feet from the Central Avenue apartment building and 84 feet from the Locust Street apartment building, which are substantial distances, and both of those apartment buildings are screened by fencing and vegetation from the proposed window.

and

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

Restaurant use and drive up window service are both permitted uses in this zone, although there are setback requirements for drive up windows. The existing commercial uses of this property will not change. There is adequate space on the property for vehicle parking, access, egress, and stacking. Other properties in the area already have drive up window service.

OR

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

SIGNATURE PAGE

THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS

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

IMPORTANT

PROPERTY IDENTIFICATION SIGN
MUST BE POSTED ON THE PROPERTY
FOR THE 5 DAYS PRIOR TO HEARING.

FAILURE TO POST MAY RESULT IN
APPLICATION NOT BEING ACCEPTED.

Signature of Applicant*

Signature of Owner*

*Both Signatures Required

AUTHORIZATION TO ENTER SUBJECT PROPERTY

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

Signature of Property Owner:

Date:

Abutters List

Citgo Drive-Thru Window Variance Application

R & P Singh, LLC

Tax Map 15, Lot 71

52 Central Avenue
Dover New Hampshire

Job No. 15112

Page 1 of 2

Abutters:

Map 15, Lot 19

GTY Ma/N.H. Leasing, Inc.
c/o Getty Realty Corp.
2 Jericho Plaza Wing C Ste. 110
Jericho, NY 11753-1681

Map 15, Lot 20

David & Cheryl Bruhm
2 Raynes Farm Road
Madbury, NH 03823

Map 15, Lot 21

Map 15, Lot 22

Map 15, Lot 68

Double Diamond Holdings South, LLC
340 Central Avenue #202
Dover, NH 03820

Map 15, Lot 69

Betty Noonkester
290 Locust Street
Dover, NH 03820

Map 15, Lot 70

Scott & Paula Cannon
298A Dover Point Road
Dover, NH 03820

Map 15, Lot 72

Dved LLC
15 Hanson Street Unit E
Dover, NH 03820

Map 15, Lot 73

Walter & Edmund McCabe
29 Lincoln Street
Dover, NH 03820

Map 15, Lot 74

Todd & Julie Vanaken
68 Central Avenue
Dover, NH 03820

Map 17, Lot 60

Carolyn L. Italien
59 Central Avenue
Dover, NH 03820

Map 17, Lot 61

Amy Chapman
57 Central Avenue
Dover, NH 03820

Map 17, Lot 67

James & Jane Durning
55 Central Avenue
Dover, NH 03820

Map 17, Lot 68

Thomas A. Hurley
53 Central Avenue
Dover, NH 03820

Abutters List

Citgo Drive-Thru Window Variance Application

R & P Singh, LLC

Tax Map 15, Lot 71

52 Central Avenue
Dover New Hampshire

Job No. 15112

Page 2 of 2

Map 17, Lot 76

Arc CafeUSA001 LLC
2325 E. Camelback Road #1100
Phoenix, AZ 85016

Map 17, Lot 76E1

White Mountain Subway LLC
377 Whittier Highway
Moultonborough, NH 03254

Owners:

Aranosian Oil Company, Inc.
557 North State Street
Concord, NH 03301

Applicant:

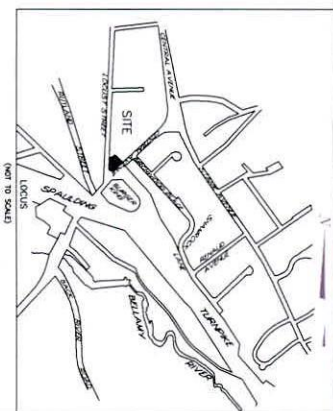
R & P Singh, LLC
52 Central Avenue
Dover, NH 03820

Agent:

Tritech Engineering Corporation
755 Central Avenue
Dover, NH 03820

Agent:

James H. Schulte, Esquire
Bruton & Berube, PLLC
798 Central Avenue
Dover, NH 03820



- [illegible]

REVISIONS	
DATE:	DESCRIPTION:
2-27-17	REVISED PER TRC COMMENTS AND ADDED SETBACK DISTANCES FOR ZBA APPLICATION

TRITECH
ENGINEERING CORPORATION

755 CENTRAL AVENUE
DOVER, NEW HAMPSHIRE 03820
TELEPHONE 603 742 8107
FAX 603 742 2690

SHEET NO.

DRIVE-THRU SITE PLAN



ARANOSIAN
OIL COMPANY

CENTRAL AVE. & LOCUST STREET
DOVER, NEW HAMPSHIRE

FEBRUARY 9, 2017 JOB No. 15112
SCALE: 1" = 20'

SP-1

(P17-14)