



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, April 20, 2017**
Meeting Time: **7:00 pm**

1. ATTENDANCE

2. APPROVAL OF MEETING MINUTES OF MARCH 16, 2017

3. HEARINGS

- A. Z17-06 Owner Christi Haffner, 45 Boston Harbor (Tax Map 7, Lot 17-A), located in the Low Density Residential (R-20) Zoning District, requests a variance from **Section 170-12.B** of the Zoning Ordinance to permit a front setback of 37.8 feet where a front build-to line of 20 feet minimum, 35 feet maximum is required.
- B. Z17-07 Owner DR Lemieux Builders, Inc., 53 Spur Road (Tax Map L, Lot 14-N), located in the Low Density Residential (R-20) Zoning District, requests an equitable waiver of dimensional requirements from **Section 170-12.B** of the Zoning Ordinance to permit a side setback of 11 feet where 20 feet 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
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ZONING BOARD OF ADJUSTMENT - MINUTES

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

1. ATTENDANCE

Members Present: Chris Prior (Chair), Sam Reid (Vice Chair), Otis Perry, Frank Landford, Nicholas Couturier (Alternate), Arianna Adams (Alternate)

Members Not Present: Bob Hall, George Reagan (Alternate)

Staff Present: Elena Piekut (Assistant City Planner), Tracy Smith (Recording Secretary)

The Chair called the meeting to order at 7:00 p.m. He opened the meeting, introduced the Board and staff members to the audience.

2. APPROVAL OF MEETING MINUTES OF JANUARY 19, 2017

Motion: O.Perry made a motion to approve the January 19, 2017 Regular Meeting Minutes as submitted. Seconded by S.Reid. Vote: U/A F.Landford abstained from the vote as he was not present at that meeting.

The Chair described the process used to hear cases.

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.

Frank Leichthammer presented the proposed plan and displayed a plan for viewing. Laurie Leichthammer was also present.

Discussion ensued regarding State requirements pertaining to the location of the structure, a letter issued to the applicant from an engineer regarding safety issues associated with the roof if the structure were attached to the home, clarification that 3.3% of the proposed structure is out of compliance, and that the Building Official requested a fire-rated wall to protect the house.

F.Leichthammer agreed with the Board to add a condition to the variance regarding adding firewall protection to the structure.

Public Hearing Opened.

Patricia Rose, 17 Cote Drive, spoke against the proposed plan and stated her concerns regarding the minimum setback requirements, the pending State approval, the building height, and safety issues regarding the roof. She addressed the location of the structure and suggested moving the structure even though there would be loss of trees.

Robert Briggs, 10 Cote Drive, spoke in favor of the proposed plan.



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F.Leachhammer explained for C.Prior the City and State approval process and the reason for the postponement of construction due to neighbor objection, adding the trees could not be removed due to the regulations and that this location was the only place for the structure. He provided information regarding his previously submitted Conditional Use Permit application to the Planning Board, and explained the conditions of approval.

P.Rose stated the NH DES requires a 20 ft. side setback.

E.Piekut addressed the use and hardship regarding the regulation for the non-removal of trees, and the orientation of the house in relation to the side property line. She confirmed for C.Prior the State requirements regarding setbacks, adding the State has the ability to grant a waiver for the setback. She addressed the Planning Board conditions regarding the Conditional Use Permit.

S.Reid confirmed with E.Piekut the height of the building is part of the variance. She clarified that the height of the rear wall determines the minimum distance of the structure from the principal building.

E.Piekut addressed the hardship regarding the height and angle of the structure.

P.Rose asked whether the Planning Board's condition of approval requiring a surveyed plan had been completed. E.Piekut stated the applicant submitted plans completed by a surveyor and confirmed that plan was not submitted to the Planning Board yet.

STAFF RECOMMENDATION:

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

Public Hearing Closed.

The Chair recognized A.Adams to vote on the case.

Motion: O.Perry made a motion to grant the variance with two conditions:

1. The necessary NH DES permits are approved.
2. The applicant shall construct a 1-hour fire-rated or fire resistant wall along the wall of the proposed structure adjacent to the house.

Seconded by S.Reid. Vote: U/A

- 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.

Derek Fisher presented the application.

Discussion ensued regarding the general construction of building with a ledge and location of the frame, and confirmation of the materials used for the sign design.

Public Hearing Opened.



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STAFF RECOMMENDATION:

Staff recommends that the Zoning Board approve the variance request.

E.Piekut clarified the applicant's hardship regarding the roof of the building and the clearance of the sidewalk, and confirmed for N.Couturier that the sign would not project past the edge of the sidewalk.

Public Hearing Closed.

The Chair recognized N.Couturier to vote on the case.

Motion: S.Reid made a motion to approve the variance. Seconded by O.Perry. Vote: U/A

- 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.

Attorney Denis Robinson, Pierce Atwood, represented the applicant, displayed a plan for viewing, and presented the application. Robert DeColfmacker was also present.

Discussion ensued regarding the location of the proposed sign to the left of the driveway, previous sign locations, that it will be a single free standing sign, the sign will be lit but not internally, and the number of tenants to be listed on the sign.

R.Decolfmacker explained that the building is currently structured in four suites and two suites could be subdivided for a total of six potential units.

Public Hearing Opened.

STAFF RECOMMENDATION:

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

Public Hearing Closed.

R.Decolfmacker confirmed for E.Piekut the approved sign for Great Bay Services would be installed only if the variance is not granted.

E.Piekut addressed the hardship with the property, and confirmed the illumination of the sign would be between 6 a.m. to 9 p.m.

The Chair recognized A.Adams to vote on the case.

Motion: F.Landford made a motion to approve the variance as proposed. Seconded by O.Perry. Vote: U/A



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- D. Z17-04 Owner Aranosan 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.

Attorney F.X. Bruton, Bruton & Berube, PLLC represented the applicant, and presented the proposed plan. Bob Stowell, Tritech Engineering Corporation and Raghbir Singh of R & P Singh, LLC were also present.

Discussion ensued regarding the two drive-through lanes and that the bypass lane is standard, the applicant is not losing any parking, and the order board distance from the abutters.

Public Hearing Opened.

Tom Hurley, 53 Central Avenue, spoke in favor of the project.

Scott Cannon, 298A Dover Point Road and owner of 292 Locust Street, stated his concerns regarding the existing vegetative buffer, light and noise pollution affecting tenants, and the need for additional buffer with a fence. He requested 6 a.m. to 9 p.m. service hours for the drive-through be added as a condition.

S.Reid confirmed with D.Wagner that there is a current issue with light pollution.

Dorothy Wagner, 292A Locust Street, stated her concern regarding the existing vegetative buffer and requested a fence be located on top of the existing retaining wall and extend back to the dumpster. She further stated the fence would address the light and noise issues.

Discussion ensued regarding fence height and materials. E.Piekut noted that fences eight feet or taller require a building permit. F.X.Bruton stated the applicant would prefer a six-foot fence.

R.Stowell recommended a vinyl fence for an effective sound barrier to be placed as close to the ground as possible.

STAFF RECOMMENDATION:

Staff recommends that the Zoning Board approve the variance request.

E.Piekut addressed the hardship regarding shape of the lot and the required front setbacks.

Discussion ensued regarding a possible condition of approval regarding the installation of a fence. E.Piekut explained that the Planning Board will also review this amendment to the approved site plan.

Public Hearing Closed.

O.Perry stated he opposes drive-through services due to air quality concerns, with the understanding that the variance could be granted.



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The Chair recognized N.Couturier to vote on the case.

Motion: S.Reid made a motion to approve the variance as requested with two conditions:

1. Drive-through service hours of operation shall be limited to 6 a.m. to 9 p.m.
2. The applicant shall install a vinyl or plastic (hollow core) fence with no gap at the bottom and with a minimum height of 9 ft. above the asphalt. The fence must extend from the existing fence at Map 15, Lot 72 to the existing dumpster location. Seconded by F.Landford.

Vote: 4/1 Passed - O.Perry opposed the variance.

F.Landford thanked the Board for the cards he received.

4. ADJOURN

Motion: O.Perry made a motion to adjourn at 8:09 p.m. Seconded by S.Reid. Vote: U/A



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO

Meeting Type:	Regular Meeting
Meeting Location:	Council Chambers, City Hall – 288 Central Ave. Dover, NH 03820
Meeting Date:	Thursday, April 20, 2017
Meeting Time:	7:00 pm

INTENT: The Applicant requests a variance to permit a front setback of 37.8 feet where a front build-to line of 20 feet minimum, 35 feet maximum is required.

UNITS PROPOSED: One additional (accessory dwelling)

AGENDA ITEM #: 3-A

ZONING DISTRICT: R-20

FILE: Z17-06

APPLICANT/OWNER: Christi Haffner

LOCATION: 45 Boston Harbor Road (Tax Map 7, Lot 17-A)

ACREAGE: 0.16 acre (6,996 sq. ft.)

EXISTING LAND USE: Single-family dwelling

PROPOSED LAND USE: Single-family dwelling with accessory dwelling unit

SURROUNDING LAND USE: Single-family dwellings

PREVIOUS ZBA ACTION: None

PLANNING BOARD APPROVAL REQUIRED: Yes, Conditional Use Permit for Conservation District impact

ATTACHMENTS: Application, existing and proposed conditions plans

STAFF RECOMMENDATION: Staff supports granting the variance.

SUMMARY OF APPEAL AND BACKGROUND

The subject property is located on Boston Harbor, to the southwest of Boston Harbor/Dover Point Road. It is separated from the main road by another lot. Its “front” is considered to be the property line nearest Dover Point Road (see map).

The existing home was built around 1930 and is structurally unsound. The Applicant wishes to demolish the home and rebuild a single-family dwelling with accessory dwelling unit on nearly the same footprint. An overhead electrical line prohibits the structure from meeting the front build-to line of 20 feet minimum, 35 feet maximum. The proposed distance from the front property line is 37.8 feet. The lot’s narrow width and nonconformity to minimum lot size and lot frontage permits reduced side setbacks of 6 feet on either side.

REASON FOR STAFF RECOMMENDATION

The new structure and its placement on a similar footprint will not negatively impact property values and is not contrary to the public interest, the use is reasonable and the spirit of the ordinance is observed, and granting the variance does substantial justice. The location of overhead electric lines serving multiple properties presents a hardship preventing the Applicant from meeting the front build-to line. The front build-to line is intended to create consistency along street frontages, while the subject property does not have any street frontage. Granting the variance will not make the house placement any less consistent with neighboring properties.

RECOMMENDATION

Staff recommends the Board hold a public hearing, determine whether each of the five criteria are met, and approve the request.

**Property Information**

Property ID 07017-A00000
Location 45 BOSTON HARBOR RD
Owner HAFFNER CHRISTI S



**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 03/20/2017
Properties updated 04/12/2017

**HOEFLE
PHOENIX
GORMLEY &
ROBERTS, P.A.**

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Of Counsel:
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March 29, 2017

HAND DELIVERED

Chris Prior, Chair
Dover Zoning Board of Adjustment
288 Central Avenue
Dover, NH 03820

Re: Christi Haffner
Property Location: 45 Boston Harbor Road
Tax Map 7/Lot 17-A, R-20 Zone

Dear Mr. Prior and Zoning Board Members:

On behalf of Owner/Applicant, Christi Haffner, we are pleased to submit an original and nine (9) copies of the following in support of Ms. Haffner's variance request:

I. EXHIBITS

1. Zoning Board of Adjustment Application.
2. Plan Set by Ambit Engineering.
 - 1/17/17 Existing Conditions Plan, pg. C1
 - 3/24/14 Variance Plan, pg. C3
3. 3/27/17 Elevations and Floor Plans by Ryan Moe Home Design.
4. Site Photographs.
5. Tax Map 7.

Enclosed please find our check in the amount of \$180.00, to cover the \$100.00 variance fee and the \$80.00 newspaper notice. Please let me know when the sign is ready to be picked up. Per our telephone conversation with the City of Dover Planning Department, the City will obtain the abutters list and prepare the mailing labels. Upon receipt of Application, we will receive an email indicating the fee for preparation of the abutters.

II. PROJECT/HISTORY

45 Boston Harbor Road is a long-existing 6,996 s.f. lot on Little Bay, upon which is located a small wood frame residence with no garage, covering 818 s.f. with a roof peak of 18.9 ft. (**Exhibits 2,3**). The “front” of the lot is toward, but with no frontage on Boston Harbor Road, the main road in the area closer to the Spaulding Turnpike. The home/lot is separated from that road by another lot. Actual access is over a lane (shown on the plans and Tax Map as Boston Harbor Road) which passes through this lot and several others in the vicinity). (**Exhibit 2**).

Haffner intends to raze the existing dated home in favor of a new 2.5 story home placed nearly upon the same footprint (although squared to the lot slightly and moved toward the water 3 feet for required power line clearance). The new home will have primary living space on upper 2 floors, and a 1 bedroom accessory apartment and garage below, new paved driveway accessing the garage, and a pervious paved parking area for the accessory unit. Haffner proposes a porch/deck on the westerly (water) end of the building with an access stairway as a second means of egress into the upper unit at the easterly end of the building. (**Exhibits 2,3**) The proposal is quite modest and giving up interior space for the garage.

Relief is needed because the easterly stairway to access the upper unit is 37.8 ft. from the “front” property line where a maximum of 35 ft. is permitted. In point of fact, however, the “front” setback is illusory because that line is separated from the actual road dictating the “front” by another lot and home. The proposed setback is in keeping with the homes to the immediate north and south (**Exhibit 2,5**). The home cannot be moved closer to the water because the proposed location is at the 50 foot minimum required by NH DES.

III. RELIEF REQUIRED

Article 170-12.B (R-20 Table)-To permit a “front” setback 37.8 ft. from the property line where 35.0 ft. is the maximum permitted.

IV. VARIANCE REQUIREMENT

1. The variances will not be contrary to the public interest.
2. The spirit of the ordinance is observed.

These two requirements are considered together pursuant to Malachy Glen Associates, Inc. v. Town of Chichester, 155 N.H. 102 (2007) and its progeny. The issue is whether granting a variance “would unduly and to a marked degree conflict with the ordinance such that it violates the ordinance’s basic zoning objectives”. *Id.* “Mere conflict with the zoning ordinance is not enough”. *Id.*

The Malachy Glen court further held:

One way to ascertain whether granting the variance would violate basic zoning objectives is to examine whether it would alter the essential character of the locality... . Another approach to [determine] whether granting the variance violates basic zoning objectives is to examine whether granting the variance would threaten the public health, safety or welfare. (emphasis added)

This lot, the home in its location, and access have long existed. Haffner proposes modest, tasteful replacement, taking advantage of the water view by adding a front deck/porch and rear stairway for a second means of egress from the upper unit. The size of the lot and its location on Little Bay do not allow movement of the home in that direction, per NH DES requirement.

The only variance needed is for the “front” setback (the rear of the lot “on the ground”) which very slightly exceeds the 35 ft. maximum. The restriction of minimum 20 maximum 35 feet is to allow consistency among the fronts of homes along a streetscape. Here, however, the “front” lot line is separated from the street by another lot and building. There is simply no reason to require the 35 ft. setback, particularly where the proposal is in keeping with the setbacks of the lots on either side. (**Exhibits 2,4**)

Granting this very minor variance will not change the essential character of the locality, nor will it threaten the public health, safety or welfare. Accordingly, the variance is not contrary to the public interest and observes the spirit of the ordinance.

3. Granting the variance will not diminish surrounding property values.

The new home is in nearly the same location, provides sheltered parking in a garage, improves the look of the home, and requests a very minor variance. Common sense dictates that surrounding property values will not be diminished by granting this slight variance.

4. Denial of the variances results in an unnecessary hardship.

- a. Special conditions distinguish the property from others in the area.

The size of the lot bordering Little Bay, its access, its proximity to the technical road dictating “front” (“Boston Harbor Road”) and the location of the house have long existed. The home will be replaced in nearly the same location, although on a very slightly smaller footprint. The proposed front deck/porch and driveway access from the actual traveled accessway do not allow the home to be moved closer to the water. In any event, moving the home closer to the water creates an impermissible DES required setback to Little Bay. The age, size, and shape of the lot, the location and size of the existing home, Little Bay DES requirement, and the traveled way providing access all combine to create special conditions.

- b. No fair and substantial relationship exists between the general public purposes of the ordinance and its specific application in this instance.

The reason for minimum and maximum front setbacks is to maintain some uniformity for home fronts along a street. In the instant case, the purpose does not make sense because the “front” of the lot is separated from the roadway by another lot. Moreover, the setback of the home from the “front” lot line is in keeping with the homes to the north and south. Additionally, while the subject yard is the “front”, when considering the situation “on the ground” the front of the home actually faces Little Bay. The relief is only 2.8 ft. Accordingly, there is no fair and substantial relationship between the purposes of the maximum front setback requirement and its application in this instance.

- c. The proposed use is reasonable.

This is a residential use in a residential zone with very slight relief requested. The use and variance are reasonable.

5. Substantial justice will be done by granting the variance.

If “there is no benefit to the public that would outweigh the hardship to the applicant” this factor is satisfied. Harborside Associates, L.P. v. Parade Residence Hotel, L.L.C., 162 N.H. 508 (2011). That is, “any loss to the [applicant] that is not outweighed by a gain to the general public is an injustice”. Malachy Glen, supra at 109.

The public will not even notice the 2.8 ft. front setback relief. In fact, the more distant the structure is from the easterly most neighbor, the better. Conversely, denial of the variance denies Haffner this very reasonable and modest new home, appropriately placed on the lot under all of the conditions. There is simply no benefit to the public that outweighs the applicant’s harm if any of the variances are denied.

V. CONCLUSION

For all of the reasons stated, Haffner respectfully requests that the Dover Zoning Board of Adjustment grant the submitted variance request.

Respectfully submitted,

Christi Haffner



By: R. Timothy Phoenix

RTP/msw
Encl.

cc: Christi Haffner
Ambit Engineering
Ryan Moe



City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Adopted: August 16, 2012]

tabbies

EXHIBIT

1

Office Use Only

Case #:

Z17-06

Date Received:

MAR 29 2017

Amount Paid:

\$ 260.00

Time Received:

Dover, New Hampshire

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: Christi Haffner

Phone # 603-271-9250

Address of Applicant: 61 Raymond Road, Deerfield, NH 03087

E-Mail Address: christi.haffner@dhhs.nh.gov

PROPERTY OWNER (if different from applicant): Same

Address: _____ Phone # _____

E-Mail Address: _____

PROPERTY/PARCEL INFORMATION

Address: 45 Boston Harbor Road, Dover, NH

Brief Directions: Spaulding to Rt. 4 to Boston Harbor Road

Zoning District: R-20 Assessor's Map # 7 Lot(s) # 17-A

TYPE OF APPEAL: (Please check one)

☒ Variance

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

☐ Special Exception

☐ Appeal of Administrative Decision

☐ Equitable Waiver

170-12.B
from Section (R-20 Table) of the Zoning Ordinance
from Section _____ of the Zoning Ordinance
per Section _____ of the Zoning Ordinance
regarding Section _____ of the Zoning Ordinance
per Section _____ of the Zoning Ordinance

DESCRIBE BRIEFLY YOUR PLANS FOR THE PROPERTY:

Remove existing house. Erect new house in same location, adding front and rear porch/decks. Also relocation driveway.

VARIANCE REQUIREMENTS

THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY

A. Variance Requested

A variance is requested from Section(s) 170-12.B (R-20 table) of the Zoning Ordinance to permit:

See attached letter for all requirements.

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:

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

3. Granting the variance would do substantial justice because:

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.

Christi Haffner

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.

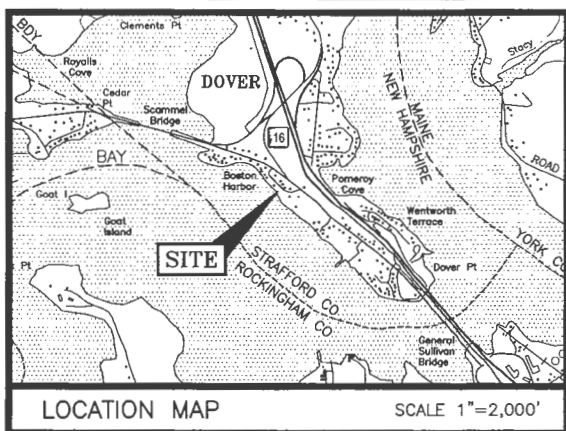
Signature of Property Owner: *Christi Haffner* Date: *March 28, 2017*

ABUTTER LIST: Z17-06

CHRISTI HAFFNER

45 BOSTON HARBOR ROAD

Property ID	Location	Owner 1	Owner 2	Owner Address 1	City	State	Zip
07018-000000	49 BOSTON HARBOR RD	CASEY THOMAS REVOC TRUST OF 2015	CASEY THOMAS & JOHN F III TTEES	49 BOSTON HARBOR ROAD	DOVER	NH	03820
07015-000000	41 BOSTON HARBOR RD	CULLEN PRISCILLA L TRUSTEE	CULLEN PRISCILLA REVOCABLE TRUST	41 BOSTON HARBOR ROAD	DOVER	NH	03820
07014-000000	35 BOSTON HARBOR RD	MCCOOEY JOHN J TRUSTEE	MCCOOEY MADELINE R REVOCABLE TRUST	35 BOSTON HARBOR RD	DOVER	NH	03820-4645
07019-B00000	55 BOSTON HARBOR RD	EASTWOOD MEGAN M		2417 N FREMONT BLVD	FLAGSTAFF	AZ	86001-0930
07016-000000	43 BOSTON HARBOR RD	FUNK DAVID T &	BERGERON SARA J	43 BOSTON HARBOR RD	DOVER	NH	03820
07019-000000	53 BOSTON HARBOR RD	CARTNICK EDWARD C &	CARTNICK CAROLE C	53 BOSTON HARBOR ROAD	DOVER	NH	03820
07019-A00000	57 BOSTON HARBOR RD	BERTHIAUME DOROTHY	BERTHIAUME ALBERT J	PO BOX 22364	PORTSMOUTH	NH	03802-2364
07017-000000	39 BOSTON HARBOR RD	BRUYERE ROBERT W & CHRISTI HAFFNER JOHN R. CHAGNON, LLS, PE	BRUYERE JANET E AMBIT ENGINEERING, INC.	7 SECOND ST 61 RAYMOND ROAD 200 GRIFFIN RD, UNIT 3	LEBANON DEERFIELD PORTSMOUTH	ME NH NH	04027 03037 03801

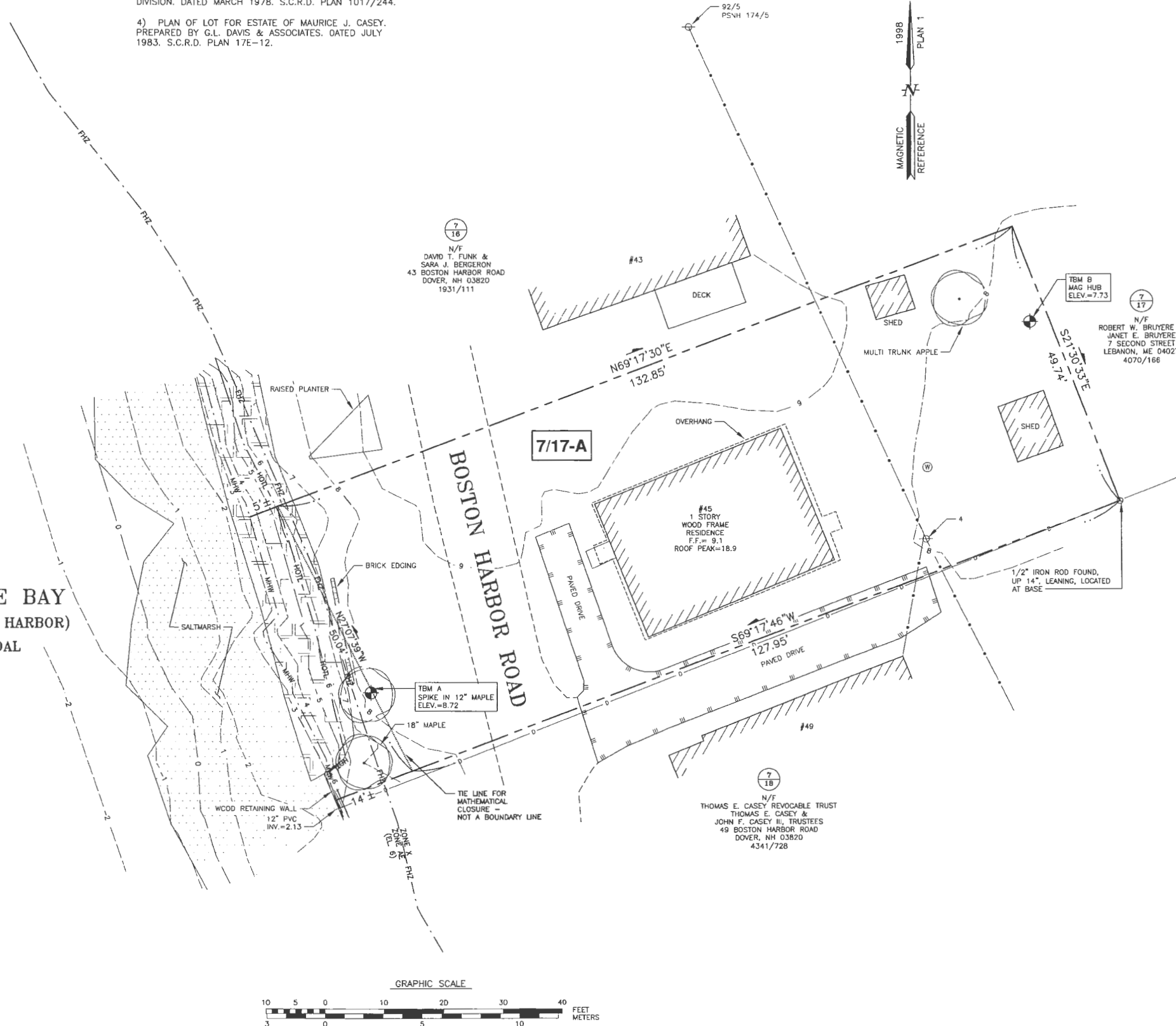


- PLAN REFERENCES:**
- 1) N.H. WETLANDS BOARD APPLICATION PLAN, CHRISTI HAFNER, 45 BOSTON HARBOR ROAD DOVER, NH. PREPARED BY AMBIT SURVEY. DATED OCTOBER 1998. FINAL REVISION DATE DECEMBER 14, 1998. NOT RECORDED.
 - 2) PLAN OF LAND FOR KENNETH ANDERSON. PREPARED BY G. CRAWFORD, SURVEYOR. DATED JULY 1962. S.C.R.D. BOOK 750 PAGE 425.
 - 3) PLAN OF EASEMENT - PALMER, SHEET 1 OF 2. PREPARED BY THE CITY OF DOVER ENGINEERING DIVISION. DATED MARCH 1978. S.C.R.D. PLAN 1017/244.
 - 4) PLAN OF LOT FOR ESTATE OF MAURICE J. CASEY. PREPARED BY G.L. DAVIS & ASSOCIATES. DATED JULY 1983. S.C.R.D. PLAN 17E-12.

LEGEND:

EXISTING	PROPOSED	NOW OR FORMERLY
N/F		RECORD OF PROBATE
RP		STRAFFORD COUNTY REGISTRY
SCRD		OF DEEDS
11		MAP 11 / LOT 21
RR SPK FND	RR SPK SET	RAILROAD SPIKE FOUND/SET
IR FND	IR SET	IRON ROD FOUND/SET
IP FND	IP SET	IRON PIPE FOUND/SET
DH FND	DH SET	DRILL HOLE FOUND/SET
NHHD FND		NHDDT BOUND FOUND
TB FND		TOWN BOUND FOUND
BND w/DH	BND w/DH	BOUND w/ DRILL HOLE
FM	FM	STONE BOUND w/DRILL HOLE
S	S	SEWER LINE
G	G	GAS LINE
D	D	STORM DRAIN
W	W	WATER LINE
100	100	UNDERGROUND ELECTRIC
97x3	98x0	OVERHEAD ELECTRIC/WIRES
		CONTOUR
		SPOT ELEVATION
		EDGE OF PAVEMENT (EP)
		WOODS / TREE LINE
		UTILITY POLE (w/ GUY)
		GAS SHUT OFF
		WATER SHUT OFF/CURB STOP
		GATE VALVE
		HYDRANT
		METER (GAS, WATER, ELECTRIC)
		CATCH BASIN
		TELEPHONE MANHOLE
		SEWER MANHOLE
		DRAIN MANHOLE
		WELL
		PHOTO LOCATION/DIRECTION
		AIR CONDITIONER UNIT
		TEST PROBE
		MONITORING WELL
		TEST PIT
		SIGNS
		EDGE OF WETLAND FLAGGING
		SWAMP / MARSH
		ASBESTOS CEMENT PIPE
		CAST IRON PIPE
		CORRUGATED METAL PIPE
		CONCRETE MASONRY UNIT
		COPPER PIPE
		DUCTILE IRON PIPE
		POLYVINYL CHLORIDE PIPE
		REINFORCED CONCRETE PIPE
		VITRIFIED CLAY PIPE
		ELEVATION
		EDGE OF PAVEMENT
		FINISHED FLOOR
		INVERT
		TEMPORARY BENCHMARK
		TYPICAL
		VERTICAL/SLOPED GRANITE CURB
		CAPE COD BERM
		CENTERLINE
		LANDSCAPED AREA

**LITTLE BAY
(BOSTON HARBOR)
TIDAL**



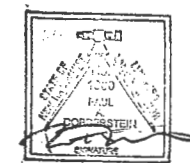
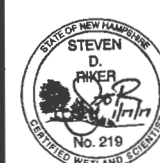
AMBIT ENGINEERING, INC.
Civil Engineers & Land Surveyors
200 Griffin Road - Unit 3
Portsmouth, N.H. 03801-7114
Tel (603) 430-9282
Fax (603) 430-2315

NOTES:

- 1) PROJECT LOCATION:
45 BOSTON HARBOR ROAD
DOVER, NEW HAMPSHIRE
- PARCEL I.D.:
TAX MAP 7 / LOT 17-A
- OWNER:
CHRISTI HAFNER
61 RAYMOND ROAD
DEERFIELD, NH 03037
1948/351
- ZONING DISTRICT:
R-20
- EXISTING LOT AREA:
6,996± S.F.
D.16D6± ACRES
- 2) PORTIONS OF THE PARCEL ARE IN A SPECIAL
FLOOD HAZARD AREA (ZONE AE, EL. 6) AS SHOWN ON
FIRM PANEL 33017C0340E. MAP REVISION DATE
SEPTEMBER 30, 2015.
- 3) THE PURPOSE OF THIS PLAN IS TO SHOW THE
RESULT OF A TOPOGRAPHIC SURVEY OF TAX MAP 7 LOT
17-A IN THE CITY OF DOVER.
- 4) VERTICAL DATUM IS MEAN SEA LEVEL NAVD88.
BASIS OF VERTICAL DATUM IS REDUNDANT RTN GPS
OBSERVATIONS (±0.3').
- 5) HIGHEST OBSERVABLE TIDE LINE DELINEATED BY
STEVEN D. RIKER, CWS ON 12/29/16 IN ACCORDANCE
WITH THE FOLLOWING STANDARDS:
A) U.S. ARMY CORPS OF ENGINEERS WETLANDS
DELINEATION MANUAL: TECHNICAL REPORT Y-87-1
(JAN. 1987), AND REGIONAL SUPPLEMENT TO THE
CORPS OF ENGINEERS WETLAND DELINEATION
MANUAL: NORTHCENTRAL AND NORTHEAST REGION,
VERSION 2.0, JANUARY 2012.
B) FIELD INDICATORS OF HYDRIC SOILS IN THE UNITED
STATES, VERSION 7.0, USDA-NRCS, 2010 AND
(FOR DISTURBED SITES) FIELD INDICATORS FOR
IDENTIFYING HYDRIC SOILS IN NEW ENGLAND,
VERSION 3, NEWPPCC WETLANDS WORK GROUP
(APRIL 2004).
C) NATIONAL LIST OF PLANT SPECIES THAT OCCUR IN
WETLANDS: NORTHEAST (REGION 1). USFWS (MAY
1988).
D) CLASSIFICATION OF WETLANDS AND DEEPWATER
HABITATS OF THE UNITED STATES. USFWS MANUAL
FWS/OBS-79/31 (1987).
E) "IDENTIFICATION AND DOCUMENTATION OF VERNAL
POOLS IN NEW HAMPSHIRE" (1997). NEW
HAMPSHIRE FISH AND GAME DEPARTMENT.
- 6) HIGHEST OBSERVABLE TIDE LINE FLAGS FIELD
LOCATED BY AMBIT ENGINEERING, INC.

**HAFFNER RESIDENCE
45 BOSTON
HARBOR ROAD
DOVER, N.H.**

NO.	DESCRIPTION	DATE
0	ISSUED FOR COMMENT	1/17/17
REVISIONS		



SCALE 1"=10' JANUARY 2017

EXISTING CONDITIONS
PLAN

C1

IMPERVIOUS SURFACE AREAS 45 BOSTON HARBOR ROAD (TO PROPERTY LINE)		
STRUCTURE	EXISTING IMPERVIOUS (S.F.)	PROPOSED IMPERVIOUS (S.F.)
MAIN STRUCTURE	818	816
DECK	0	189
CONCRETE PADS	13	0
SHEDS	121	121
STAIRS	0	125
PAVED DRIVE	263	195
BOSTON HARBOR ROAD (GRAVEL)	599	599
TOTAL	1,814	2,045
LOT SIZE	6,996	6,996
% LOT COVERAGE	25.9%	29.2%

N.H. DES IMPACT AREAS

PERMANENT IMPACT: *809 S.F.
TEMPORARY IMPACT: 797 S.F.
*PERMANENT IMPACT AREAS ARE NEW IMPACT AREAS

CITY OF DOVER VARIANCE REQUEST TABLE		
NO.	VARIANCE REQUEST	SECTION
1	PROPOSED FRONT SETBACK OF 37.8' WHERE 20' MINIMUM AND 35' MAXIMUM IS REQUIRED	170-12.B.

CONSTRUCTION SEQUENCE

- DO NOT BEGIN CONSTRUCTION UNTIL ALL LOCAL, STATE AND FEDERAL PERMITS HAVE BEEN APPLIED FOR AND RECEIVED.
- INSTALL SILT/STOCK TO CONTROL EROSION AND SEDIMENTATION PRIOR TO ANY EARTH MOVING ACTIVITIES.
- CONSTRUCT STABILIZED CONSTRUCTION ENTRANCE IF NEEDED.
- STRIP AND STOCKPILE LOAM FROM SITE. STOCKPILES SHALL BE SURROUNDED WITH SILT FENCE TO CONTROL SEDIMENT RUN OFF.
- INSTALL AND MAINTAIN EROSION CONTROL DEVICES AS SHOWN ON THE PLANS.
- CONSTRUCT SITE IMPROVEMENTS.
- LOAM AND SEED DISTURBED AREAS IN ACCORDANCE WITH VEGETATIVE PRACTICE AND GENERAL CONSTRUCTION NOTES. CUT AND FILL SLOPES SHALL BE SEEDED IMMEDIATELY AFTER THEIR CONSTRUCTION.
- PLANT LANDSCAPING.
- REMOVE TRAPPED SEDIMENTS FROM COLLECTION DEVICES AS APPROPRIATE, AND THEN REMOVE TEMPORARY EROSION CONTROL MEASURES.

NOTES CONT.:
8) VERTICAL DATUM IS MEAN SEA LEVEL NAVD88. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GPS OBSERVATIONS ($\pm 0.3'$).
9) PORTIONS OF THE PARCEL ARE IN A SPECIAL FLOOD HAZARD AREA (AE, EL.6) AS SHOWN ON FRIM PANEL 33017C0340E, MAP REVISION DATE SEPTEMBER 30, 2015.
10) THE ENTIRE LOT IS WITHIN THE 250' PROTECTED SHORELAND.
11) ARCHITECTURALS FROM RYAN MOE HOME DESIGN.
12) PREVIOUS NHDES PERMITS: 1998-01979



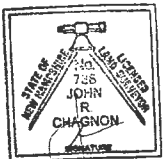
AMBIT ENGINEERING, INC.
Civil Engineers & Land Surveyors
200 Griffin Road - Unit 3
Portsmouth, N.H. 03801-7114
Tel (603) 430-9282
Fax (603) 430-2315

- NOTES:
- PARCEL IS SHOWN ON THE CITY OF DOVER ASSESSOR'S MAP 7 AS LOT 17-A.
 - OWNER OF RECORD:
CHRISTI HAFNER
61 RAYMOND ROAD
DEERFIELD, NH 03087
BK 1948 /PG 351
APPLICANT:
CHRISTI HAFNER
61 RAYMOND ROAD
DEERFIELD, NH 03087
 - EXISTING LOT AREA:
6,996 S.F.
0.1606 AC.
 - PARCEL IS LOCATED IN IN THE LOW DENSITY RESIDENTIAL (R-20) DISTRICT.
 - DIMENSIONAL REQUIREMENTS:
LOT AREA: 20,000 S.F.
FRONTAGE: 125 FT.
SETBACKS: FRONT: 20 - 35 FEET*
SIDE: 6 FEET*
REAR: 30 FEET
ACCESSORY BLDG.: FRONT: 5'
SIDE: 6'*
REAR: 10'
MAX. LOT COVERAGE: 30%
*NON-CONFORMING LOT, DOVER SECTION 170-14.
 - THE PURPOSE OF THIS PLAN IS TO SHOW THE INFORMATION FOR A PROPOSED VARIANCE ON LOT 17-A MAP 7 OF THE CITY OF DOVER ASSESSOR'S MAPS.
 - HIGHEST OBSERVABLE TIDE LINE DELINEATED BY STEVEN D. RIKER, CWS ON 12/29/16 IN ACCORDANCE WITH THE FOLLOWING STANDARDS:
A) U.S. ARMY CORPS OF ENGINEERS WETLANDS DELINEATION MANUAL. TECHNICAL REPORT Y-87-1 (JAN. 1987). AND REGIONAL SUPPLEMENT TO THE CORPS OF ENGINEERS WETLAND DELINEATION MANUAL: NORTHEASTAL AND NORTHEAST REGION, VERSION 2.0, JANUARY 2012.
B) FIELD INDICATORS OF HYDRIC SOILS IN THE UNITED STATES, VERSION 7.0, USDA-NRCS, 2010 AND (FOR DISTURBED SITES) FIELD INDICATORS FOR IDENTIFYING HYDRIC SOILS IN NEW ENGLAND, VERSION 3, NEWPPCC WETLANDS WORK GROUP (APRIL 2004).
C) NATIONAL LIST OF PLANT SPECIES THAT OCCUR IN WETLANDS: NORTHEAST (REGION 1), USFWS (MAY 1988).
D) CLASSIFICATION OF WETLANDS AND DEEPWATER HABITATS OF THE UNITED STATES. USFWS MANUAL FWS/OBS-79/31 (1997).
E) "IDENTIFICATION AND DOCUMENTATION OF VERNAL POOLS IN NEW HAMPSHIRE" (1997). NEW HAMPSHIRE FISH AND GAME DEPARTMENT.

HAFFNER RESIDENCE
45 BOSTON
HARBOR ROAD
DOVER, N.H.

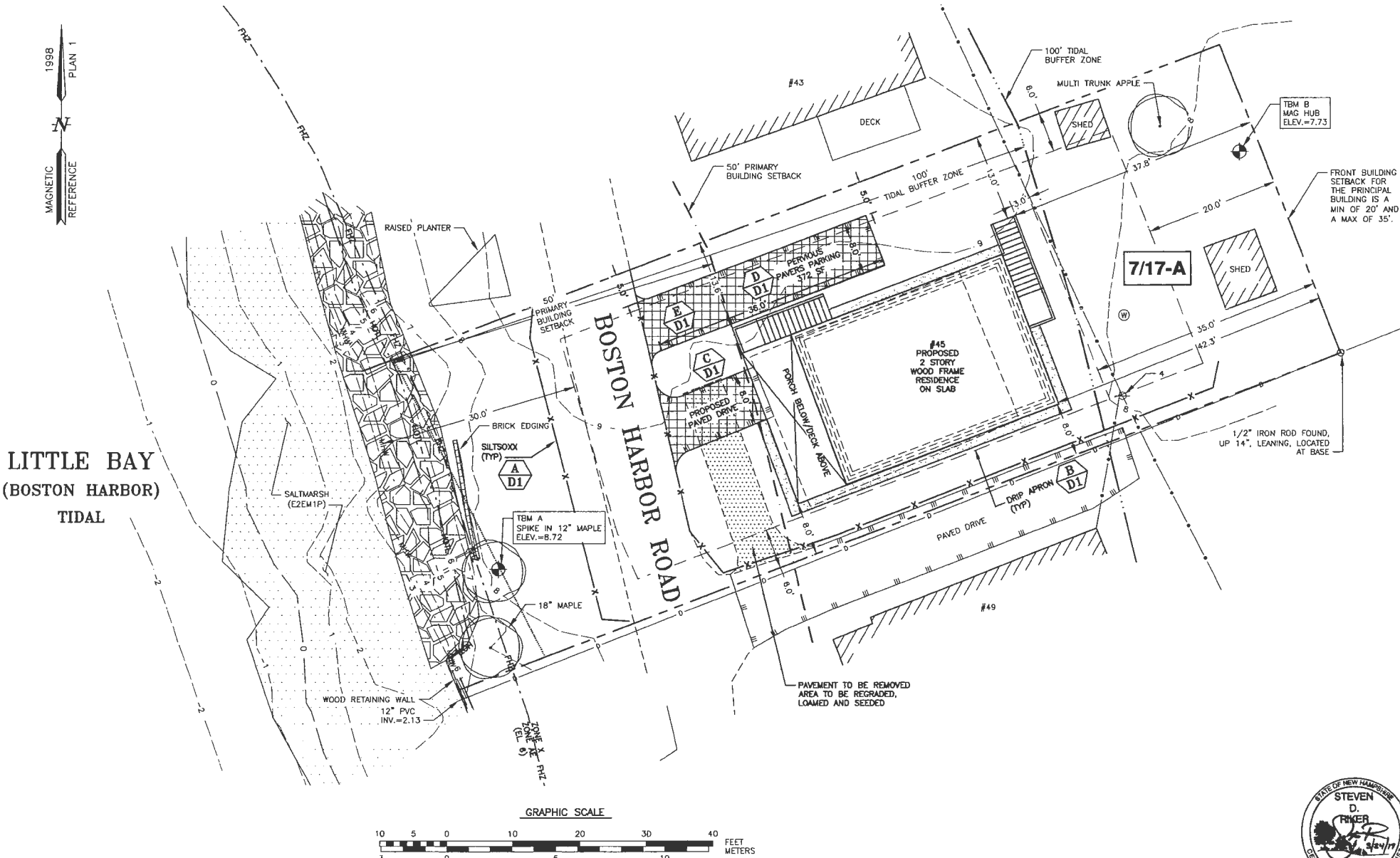
1	ISSUED FOR APPROVAL	3/24/14
0	ISSUED FOR COMMENT	1/17/17
NO.	DESCRIPTION	DATE

REVISIONS



SCALE 1"=10' JANUARY 2017

VARIANCE PLAN C3





PRELIMINARY PLAN - NOT FOR CONSTRUCTION

Ryan Moe Home Design
Email: info@RyanMoe.com
Phone/ Fax: 800-782-1985
www.RyanMoe.com

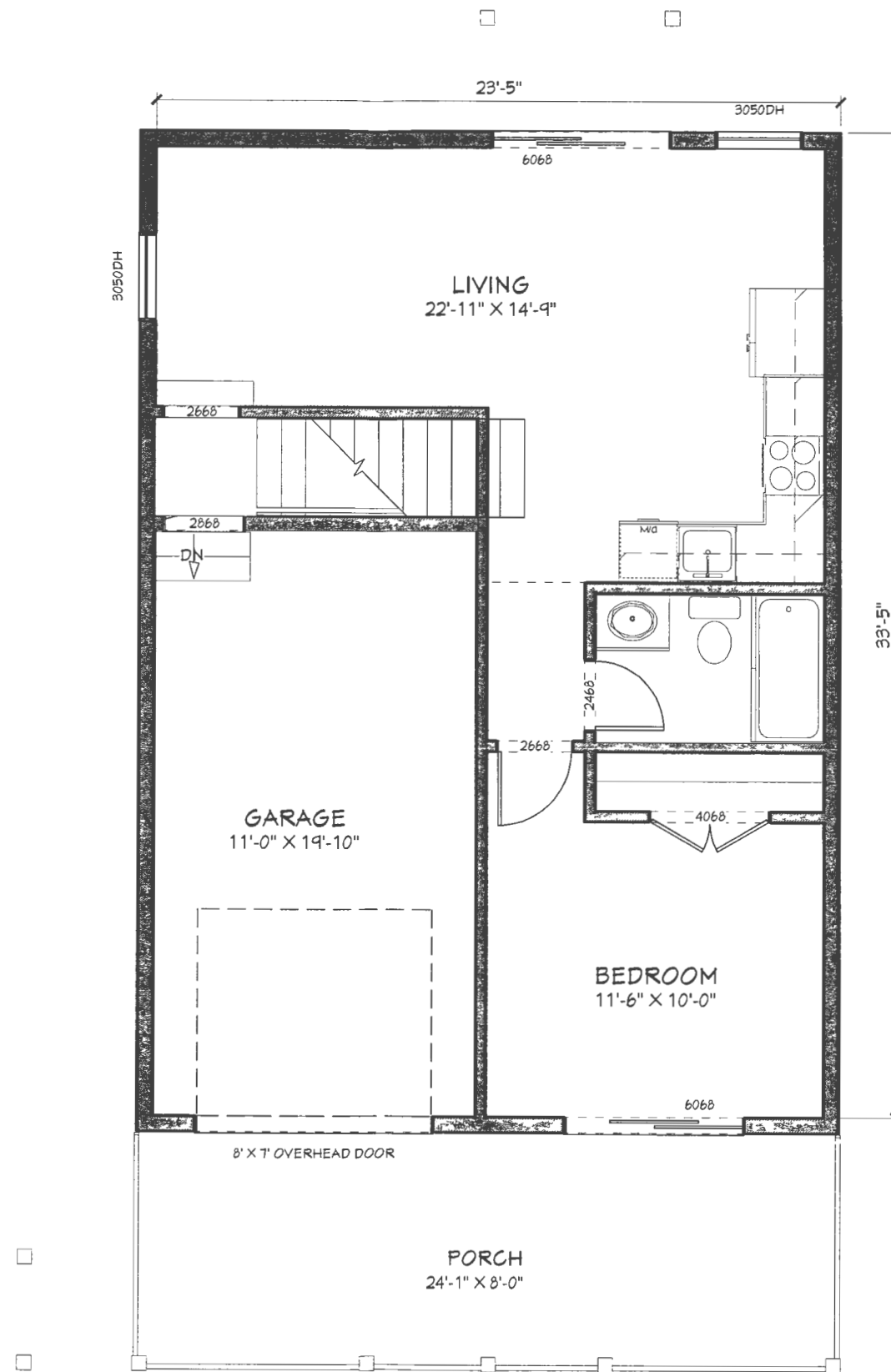
Project Info:
Haffner Residence
© 2011 RYAN MOE HOME DESIGN

Preliminary
Plan
Not For
Construction

DRAWN BY:
RDM
PROJECT:
42470
ISSUE DATE:
3/27/2017
SHEET NO:

1

EXHIBIT
3



LOWER LEVEL PLAN

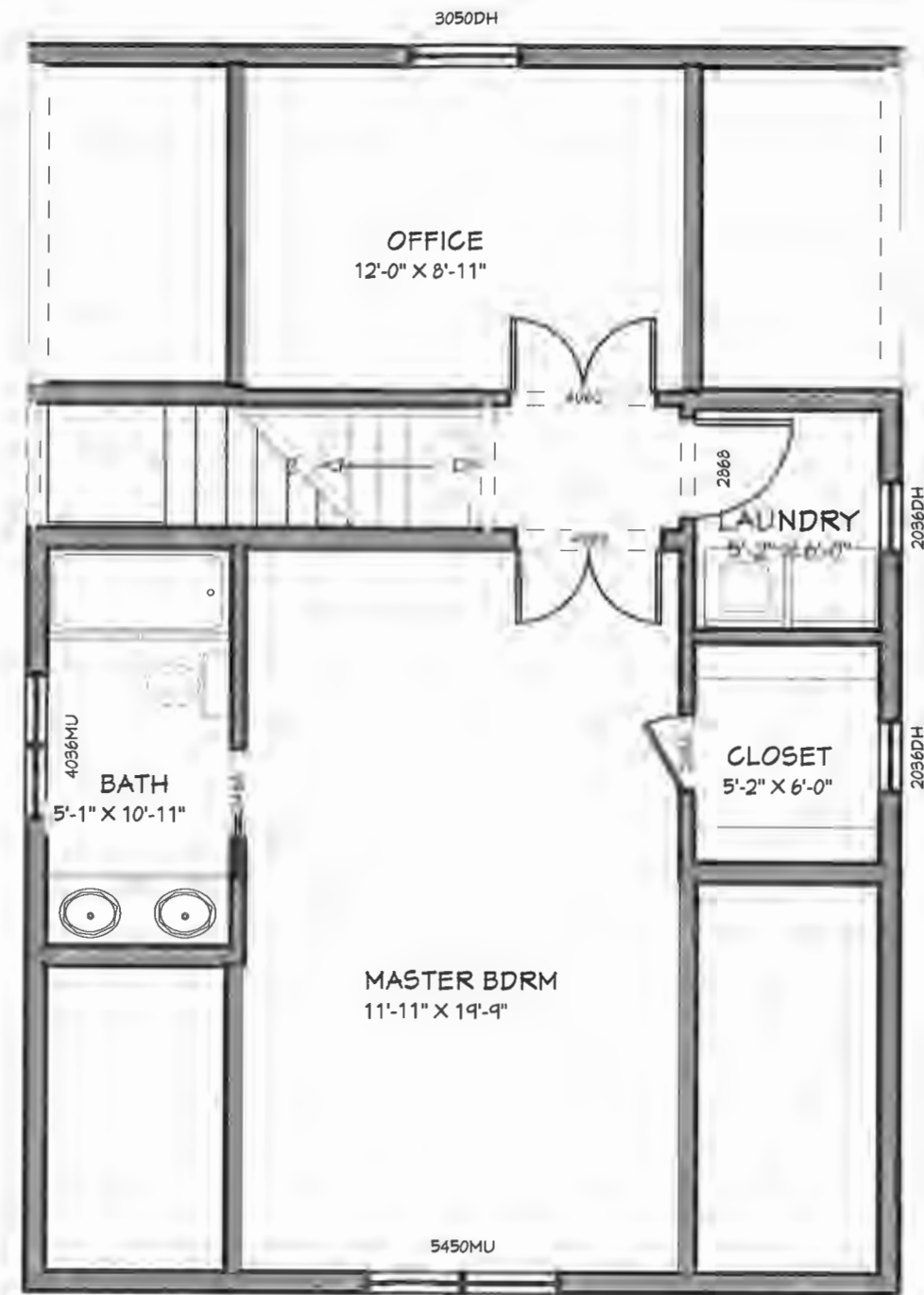
PRELIMINARY PLAN - NOT FOR CONSTRUCTION

Ryan Moe Home Design
Email: info@RyanMoe.com
Phone/ Fax: 800-782-1985
www.RyanMoe.com

Project Info:
Haffner Residence
© 2011 RYAN MOE HOME DESIGN

Preliminary
Plan
Not for
Construction

DRAWN BY:	RDM
PROJECT#:	42478
ISSUE DATE:	3/21/2011
SHEET NO:	2



UPPER LEVEL PLAN

PRELIMINARY PLAN - NOT FOR CONSTRUCTION

Ryan Moe Home Design
Email: info@RyanMoe.com
Phone / Fax: 800-782-1985
www.RyanMoe.com

Project Info:
Haffner Residence
© 2017 RYAN MOE HOME DESIGN

Preliminary
Plan
Not for
Construction

DRAWN BY:
RDM
PROJECT#: 42478
ISSUE DATE: 3/27/2017
SHEET NO:

4



FRONT ELEVATION

PRELIMINARY PLAN - NOT FOR CONSTRUCTION

Ryan Moe Home Design
Email: info@RyanMoe.com
Phone / Fax: 800-782-1985
www.RyanMoe.com

Project Info:
Haffner Residence
© 2011 RYAN MOE HOME DESIGN

Preliminary
Plan
Not for
Construction

DRAWN BY:
RDM
PROJECT#:
42478
ISSUE DATE:
3/27/2011
SHEET NO:

5



REAR ELEVATION

PRELIMINARY PLAN - NOT FOR CONSTRUCTION

Ryan Moe Home Design
www.RyanMoe.com
Email: info@RyanMoe.com
Phone/ Fax: 800-782-1985

Project Info:
Haffner Residence
© 2017 RYAN MOE HOME DESIGN

Preliminary
Plan
Not for
Construction

DRAWN BY:
RDM
PROJECT:
42478
ISSUE DATE:
3/27/2017
SHEET NO:
6



LEFT ELEVATION

PRELIMINARY PLAN - NOT FOR CONSTRUCTION

Ryan Moe Home Design
Email: info@RyanMoe.com
Phone / Fax: 800-782-1985
www.RyanMoe.com

Project Info:
Haffner Residence
© 2017 RYAN MOE HOME DESIGN

Preliminary
Plan
Not for
Construction

DRAWN BY:
RDM
PROJECT:
42478
ISSUE DATE:
3/27/2017
SHEET NO:
7



RIGHT ELEVATION

PRELIMINARY PLAN - NOT FOR CONSTRUCTION

Ryan Moe Home Design
Email: info@RyanMoe.com
Phone/ Fax: 800-782-1985
www.RyanMoe.com

Project Info:
Haffner Residence
© 2011 RYAN MOE HOME DESIGN

Preliminary
Plan
Not For
Construction

DRAWN BY:
RDM
PROJECT#: 42478
ISSUE DATE: 3/27/2017
SHEET NO: 8

Google Maps 45 Boston Harbor Rd

tabbles

EXHIBIT

4



Imagery ©2017 Google, Map data ©2017 Google 50 ft

Google Maps 45 Boston Harbor Rd



Imagery ©2017 Google, Map data ©2017 Google 20 ft

EXHIBIT

5

**Property Information**

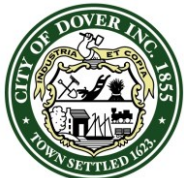
Property ID 07017-A00000
Location 45 BOSTON HARBOR RD
Owner HAFFNER CHRISTI S



**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 03/20/2017
Properties updated 03/27/2017



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO

Meeting Type:	Regular Meeting
Meeting Location:	Council Chambers, City Hall – 288 Central Ave. Dover, NH 03820
Meeting Date:	Thursday, April 20, 2017
Meeting Time:	7:00 pm

INTENT: The Applicant requests an equitable waiver, where a foundation has already been constructed, to permit a side setback of 11 feet where 20 feet is required.

UNITS PROPOSED: One

AGENDA ITEM #: 3-B

ZONING DISTRICT: R-20

FILE: Z17-07

APPLICANT/OWNER: DR

Lemieux Builders, Inc.

LOCATION: 53 Spur Road (L, 14-N)

ACREAGE: 1.35 acre (58,806 sq. ft.)

EXISTING LAND USE: Vacant

PROPOSED LAND USE: Single-family dwelling

SURROUNDING LAND USE:
Single-family dwellings

PREVIOUS ZBA ACTION:
None

PLANNING BOARD APPROVAL REQUIRED: No

ATTACHMENTS: Application, foundation certification plan

STAFF RECOMMENDATION:
Staff opposes granting the equitable waiver request.

SUMMARY OF APPEAL AND BACKGROUND

The subject property is a vacant 1.35-acre lot located toward the north end of Spur Road. It has a small amount of frontage on the Bellamy River but is mostly blocked from the river by another lot which does not have street frontage. This lot (55 Spur Road) is also owned by the Applicant.

The Applicant indicates he believed the structure would be 22 feet from the side property line at its nearest point, where a 20-foot minimum setback is required. Upon the completion of a foundation certification survey, which is required by Building Inspections prior to further construction to ensure the structure was placed as intended, the Applicant discovered that the front corner of the foundation is 11 feet from the side property line rather than the minimum of 20.

REASON FOR STAFF RECOMMENDATION

State law (NH RSA 674:33-a) requires that the ZBA grant an equitable waiver if all of the following four criteria are met (emphasis added):

(a) That the violation was not noticed or discovered by any owner, former owner, owner's agent or representative, or municipal official, **until after a structure in violation had been substantially completed**, or until after a lot or other division of land in violation had been subdivided by conveyance to a bona fide purchaser for value;

(b) That the violation was not an outcome of ignorance of the law or ordinance, failure to inquire, obfuscation, misrepresentation, or bad faith on the part of any owner, owner's agent or representative, but was instead caused by either a good faith error in measurement or calculation made by an owner or owner's agent, or by an error in ordinance interpretation or applicability made by a municipal official in the process of issuing a permit over which that official had authority;

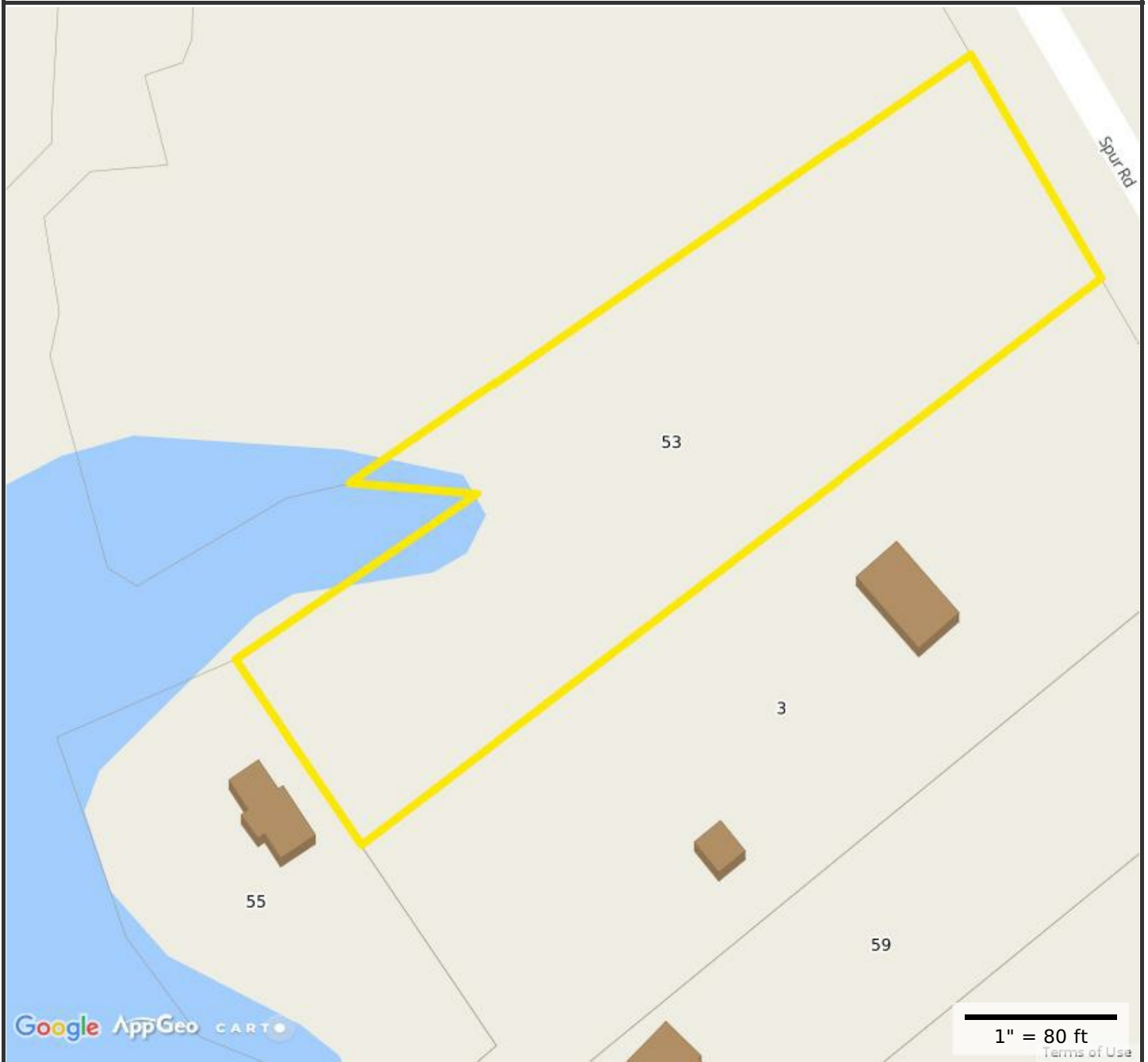
(c) That the physical or dimensional violation does not constitute a public or private nuisance, nor diminish the value of other property in the area, nor interfere with or adversely affect any present or permissible future uses of any such property; and

(d) That due to the degree of past construction or investment made in ignorance of the facts constituting the violation, the cost of correction so far outweighs any public benefit to be gained, that it would be inequitable to require the violation to be corrected.

Although the Board may determine that three of the criteria have been met, the structure is not substantially complete. The foundation certification requirement exists specifically to ensure that a structure is being located where it was proposed, and prevents structures from being substantially completed before an error is discovered.

RECOMMENDATION

Staff recommends the Board hold a public hearing, determine whether each of the four criteria are met, and deny the request.

**Property Information**

Property ID L0014-N00000
Location 53 SPUR RD
Owner D R LEMIEUX BUILDERS INC



**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 03/20/2017
Properties updated 04/12/2017



City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Adopted: August 16, 2012]

Office Use Only

Case #:

217-07

Date Received:

RECEIVED
Planning Office

MAR 30 2017

Amount Paid:

\$ 260.00

Time Received:

Dover, New Hampshire

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: D R Lemieux Builders Inc. Phone # (603) 235-4370

Address of Applicant: PO Box 1163, Rochester, NH 03866

E-Mail Address: David Lemieux / lemieux.inc@comcast.net

PROPERTY OWNER (if different from applicant): Same

Address: _____ Phone # _____

E-Mail Address: _____

PROPERTY/PARCEL INFORMATION

Address: 53 Spur Road, Dover, NH 03820

Brief Directions: _____

Zoning District: R-20 Assessor's Map # L Lot(s) # 14-N

TYPE OF APPEAL: (Please check one)

☐ Variance

from Section _____ of the Zoning Ordinance

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

from Section _____ of the Zoning Ordinance

☐ Special Exception

per Section _____ of the Zoning Ordinance

☐ Appeal of Administrative Decision

regarding Section _____ of the Zoning Ordinance

☒ Equitable Waiver

per Section _____ of the Zoning Ordinance

DESCRIBE BRIEFLY YOUR PLANS FOR THE PROPERTY:

EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS

THIS SECTION TO BE COMPLETED BY EQUITABLE WAIVER APPLICANTS ONLY

An Equitable Waiver of Dimensional Requirements is requested from Article 170 Section 12(B) of the Zoning ordinance to permit a 9 foot encroachment of the foundation being within the twenty (20) foot side yard setback, as defined by the RM-40 Table Uses and Dimensional Requirement (Footnote 1).

1. Does the request involve a dimension requirement, not a use restriction? yes no

See attached.

2. a) Explain how the violation has existed for 10 years or more with no enforcement action, including written notice, being commenced by the city **OR** b) explain how the nonconformity was discovered after the structure was substantially completed or after a vacant lot in violation had been transferred to a bona fide purchaser **AND** how the violation was not an outcome of ignorance of the law or bad faith but resulted from a legitimate mistake.

See attached.

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

See attached.

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

See attached.

NOTE: The Board must find in the affirmative on all four questions or the request must be denied

SIGNATURE PAGE

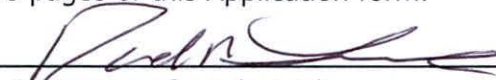
THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS

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:

3/30/17

D R Lemieux Builders, Inc
Map L, Lot 14 N
53 Spur Road, Dover, NH

RECEIVED
Planning Office
MAR 30 2017
Dover, New Hampshire

**APPLICATION FOR
EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS**

1. Does the Request involve a dimension requirement, not a use restriction?

In this instance, yes, the relief being requested does involve a dimension requirement.

2. a) Explain how the violation has existed for 10 years or more with no enforcement action, including written notice, being commenced by the City OR b) explain how the nonconformity was discovered after the structure was substantially completed or after a vacant lot in violation had been transferred to a bona fide purchaser AND how the violation was not an outcome of ignorance of the law or bad faith but resulted from a legitimate mistake.

The nonconformity involves an encroachment into the 20 foot side yard setback by a portion of the foundation that was recently poured. The contractor believed in good faith that, when measuring from the applicable property line, that he was complying with the applicable setback of 20'. The encroachment is depicted on the plan included herein, and is 9 feet into the setback. The encroachment was discovered when the property was subject to a structure location plan. The violation was the result of a measurement miscalculation as to the side yard setback as it relates to the foundation. The builder actually believed in good faith, and intended, that the structure was being constructed at least 2 feet away from the side yard setback.

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

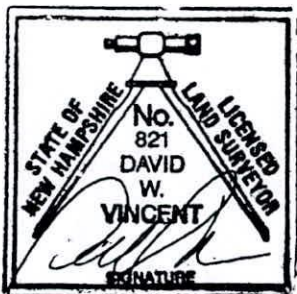
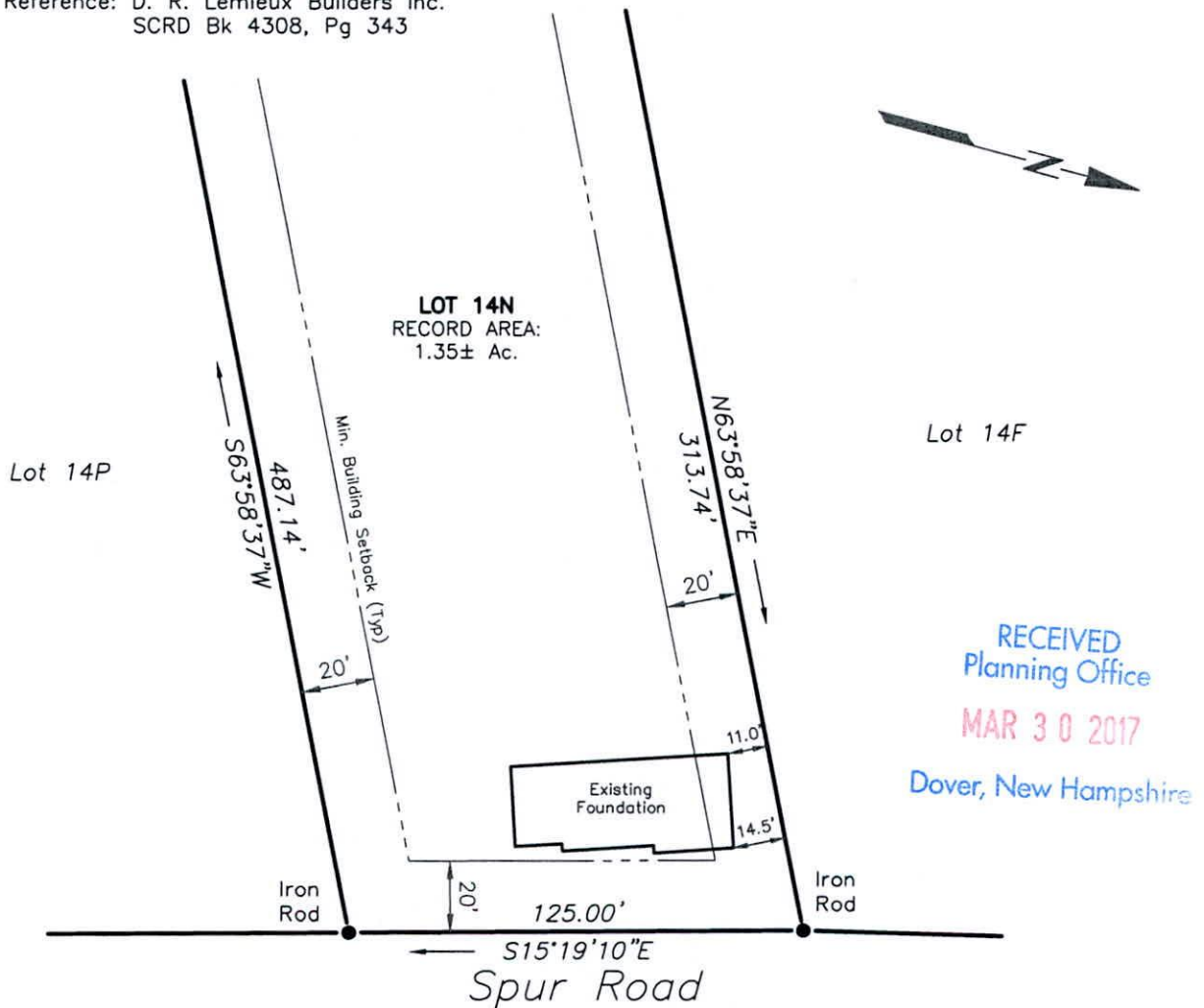
The nonconformity does not constitute a nuisance as the foundation of the structure is located along a property line that abuts a lot that is comprised of 4 acres, where the location of the nearest structure (a garage) is more than 100 feet from the foundation. As such, the waiver will not result in overcrowding or interference with the open space or any abutter's use and enjoyment of their property.

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

The cost of correction (approximately \$20,000.00) far outweighs any public benefit as the buffer where the encroachment exists is a side yard buffer, with the nearest structure being more than 100 feet away, with no encroachment within the applicable buffers that exist on the property to protect the adjacent shore land. Thus, in this instance, there would be no public benefit at all in requiring the structure to be moved.

Notes:

1. This plan does not represent a confirmation of boundary lines nor a determination of title but is solely intended to depict the location of the existing structure to the boundaries depicted on the plan reference in note 2.
2. The boundary lines depicted are based upon "Subdivision of Land for Harold & Hazel Cate, Dover, NH," dated Oct. 18, 1988, prepared by Bruce L. Pohopek, Land Surveyor, SCR D Plan No. 35-36.
3. Deed Reference: D. R. Lemieux Builders Inc.
SCR D Bk 4308, Pg 343



David W. Vincent, LLS No. 821

24 Mar. 2017

Date

PLOT PLAN

D. R. Lemieux Builders Inc.
Tax Map L / Lot 14N
53 Spur Road
Dover, NH

David W. Vincent
Land Surveying Services
PO Box 1622
Dover, NH 03821-1622
Ph: 603-664-5786
www.landsurveyingservices.net

Scale: 1"=50'	Date: 03/24/17	ML_L14N
Dwg: 001cpp	Checked: dwv	Job: 17_001

**ABUTTER LIST
FOR
D R LEMIEUX BUILDERS INC.
Map L, Lot 14-N
53 Spur Road, Dover, NH
March 30, 2017**

RECEIVED
Planning Office
MAR 30 2017
Dover, New Hampshire

MAP/LOT

OWNER/APPLICANT:

MAP L/LOT 14-N	D R LEMIEUX BUILDERS INC. PO BOX 1163 ROCHESTER, NH 03866
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ABUTTERS:

MAP J/LOT 8-A	STATE OF NEW HAMPSHIRE C/O NH FISH AND GAME 11 HAZEN DR CONCORD, NH 03301
MAP L/LOT 12	RUSSEL E. CHARLESTON STEPHANIE LEFLEM 23 NUTE RD DOVER, NH 03820
MAP L/LOT 13	ADAM R. FOGG PATRICIA NAGLE 149 MILL RD DURHAM, NH 03824
MAP L/LOT 14-L	ANDREW KOELLMER NATALIE HOGINSKI 59 SPUR RD DOVER, NH 03820
MAP L/LOT 14-A	DAVID LEMIEUX PO BOX 1163 ROCHESTER, NH
MAP L/LOT 14-F	DALE S. ROEMER, TRUSTEE DALE S. ROEMER REV. TRUST 51 SPUR RD DOVER, NH 03820
MAP L/LOT 14-M	CAROLYN A. LAVOIE PIERRE C. LAVOIE 175 DOVER POINT ROAD A DOVER, NH 03820
MAP L/LOT 14-P	NATALIE KOELLMER 59 SPUR RD DOVER, NH 03820

**ABUTTER LIST
FOR
D R LEMIEUX BUILDERS INC.
Map L, Lot 14-N
53 Spur Road, Dover, NH
March 30, 2017**

**PROFESSIONALS:
ATTORNEY**

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BRUTON & BERUBE, PLLC
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DOVER, NH 03820