



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, May 18, 2017**
Meeting Time: **7:00 pm**

1. ATTENDANCE

2. APPROVAL OF MEETING MINUTES OF APRIL 20, 2017

3. HEARINGS

- A. Z17-08 Applicant Brad Shejen and Owner David Haskell, 5 Deerfield Drive (Tax Map I, Lot 22-164), located in the Rural Residential (R-4) Zoning District, request a variance from **Section 170-12.B** of the Zoning Ordinance to permit a side setback of 6 feet where 10 feet is required.
- B. Z17-09 Applicant Wolcott Holdings, LLC and Owner Thomas J. Cauley, Sr., 52 Old Rochester Road (Tax Map 40, Lot 25), located in the Thoroughfare Business (B-3) Zoning District, request a variance from **Section 170-12.A** of the Zoning Ordinance to permit a Multi-Family Dwelling where Multi-Family Dwelling is a Use Permitted By Special Exception and the Applicant's proposal does not meet one of the two special exception criteria, which requires that dwelling units are located only on the second story or higher of a newly constructed structure.

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

1. ATTENDANCE

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

Members Not Present: Sam Reid (Vice Chair), Arianna Adams (Alternate), Nicholas Couturier (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. He explained the meeting would not be broadcast live due to the School Board meeting. He described the process used to hear cases.

2. APPROVAL OF MEETING MINUTES OF MARCH 16, 2017

Motion: O.Perry made a motion to approve the March 16, 2017 Regular Meeting Minutes as submitted. Seconded by F.Landford. Vote: U/A Passed - B.Hall and G.Reagan abstained from the vote as they were not present at that meeting.

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.

Attorney Timothy Phoenix of Hoefle, Phoenix, Gormley & Roberts, P.A., represented the applicant, displayed plans for viewing, and presented the criteria pertaining to the application and the proposed plan. He stated the applicant could not attend the meeting due to a conflict with her schedule. Paul Dobberstein of Ambit Engineering was also present.

Public Hearing Opened.

STAFF RECOMMENDATION:

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

E.Piekut presented the Staff recommendation.

Cody Cartnick, 53 Boston Harbor Road, stated if the power lines were placed underground there would be no need for a variance, and that the power lines were placed underground for his home.

Discussion ensued regarding clarification that the power lines service other homes in the surrounding area, and that the lines would still need to be rerouted to do the work and the expense involved.

Michael Garofano, 258 Dover Point Road, requested clarification regarding the two driveways for the single family home with the apartment and asked if this was allowable for the R-20 District.



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E.Piekut briefly explained the City and State regulations regarding Accessory Dwelling Units (ADU), addressed the existing driveways on the property, and provided the procedure for the applicant to obtain a building permit and an ADU Certificate of Use.

Discussion continued regarding clarification of the build to line and access to the property, and the location of the front property line.

Public Hearing Closed.

Motion: O.Perry made a motion to grant the variance. Seconded by B.Hall. Vote: U/A

O.Perry recused himself from hearing item 3.B, and left the room.

The Chair explained the rules of procedure requiring at least three votes for approval, and provided the applicant the opportunity to defer to a later meeting. The applicant elected to proceed.

The Chair recognized G.Reagan to vote on the case.

- 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.

Attorney F.X. Bruton of Bruton & Berube, PLLC, represented the applicant, and presented the criteria pertaining to the application. David Lemieux of DR Lemieux Builders, Inc. was also present.

F.X.Bruton addressed the Staff comments, recited the definition of the structure according to the Zoning Ordinance, and argued that the foundation is a complete structure. He addressed the timing of the foundation survey and when to ask for relief, and clarified this was a mistake by the builder.

Discussion ensued regarding clarification that the property pins were used as a reference for the installation of the foundation and the miscalculation by the builder, and that the applicant spoke to the abutters and stated there were no objections by them regarding the requested waiver.

F.X.Bruton noted the time, procedure, and expense to seek a Lot Line Adjustment (LLA) for 9 ft., and the purpose for the equitable waivers.

D.Lemieux confirmed for B.Hall that he has previously placed over 100 foundations, that he read the tape incorrectly, and that his mistake was unintentional.

Public Hearing Opened.

Michael Garofano, 258 Dover Point Road, requested the Board table the item to consider the LLA in order to stay in compliance with the regulations, and consider future abutters in case the property is sold.



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Discussion ensued regarding the purpose for the equitable waiver, consideration that all other avenues have been considered, the cost and factors associated with a LLA, that the foundation is not crossing the property line, that the abutter's home is located 100 ft. from the foundation, and that the abutter is not opposing the project.

B.Hall stated that the abutters were not present at the meeting to confirm there are no objections, that the applicant presented nothing in writing from the abutter, and that the abutter's house location has no bearing on the case.

F.X.Bruton stated that any future neighbor would buy the home based on the house location. He addressed the nuisance of nonconformity, and the absence of the abutter. He stated that the applicant spoke to the abutter.

STAFF RECOMMENDATION:

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

E.Piekut clarified when an equitable waiver should be granted according to the regulations, and that a request must meet all four criteria. She recommended the Board review the four criteria.

Public Hearing Closed.

The Chair addressed the four criteria to be met. Discussion ensued regarding the structure and expense to change it, and comparison to past equitable waivers that were granted.

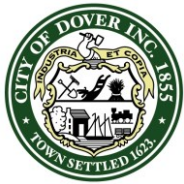
Motion: B.Hall made a motion to deny the equitable waiver as it did not meet the required criteria. Seconded by G.Reagan. Vote: 3/1 F.Landford opposed

4. OTHER BUSINESS

The Chair addressed the email from Sam Reid distributed to the Board members stating he was stepping down as Vice-Chair. The Board voted by secret ballot to elect a new Vice-Chair. The votes were tallied and the results were announced by C.Prior. B.Hall was elected as Vice Chair.

5. ADJOURN

Motion: B.Hall made a motion to adjourn at 7:42 p.m. Seconded by G.Reagan. 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, May 18, 2017
Meeting Time:	7:00 pm

INTENT: The Applicant requests a variance to permit a garage located 6 feet from the side setback, where 10 feet is required.

UNITS PROPOSED: N/A

AGENDA ITEM #: 3-A

ZONING DISTRICT: R-40

FILE: Z17-08

APPLICANT/OWNER: Brad Shejen/David Haskell

LOCATION: 5 Deerfield Drive (Tax Map I, Lot 22-164)

ACREAGE: N/A (manufactured housing park)

EXISTING LAND USE: Single-family dwelling

PROPOSED LAND USE: Single-family dwelling

SURROUNDING LAND USE: Single-family dwellings

PREVIOUS ZBA ACTION:
None

PLANNING BOARD APPROVAL REQUIRED: No

ATTACHMENTS: Application, plan

STAFF RECOMMENDATION:
Staff supports granting the variance request.

SUMMARY OF APPEAL AND BACKGROUND

The subject property is located on the corner of Deerfield Drive and Pleasant Valley Road within Farmwood Village, also known as Jensen's, a manufactured home park located on 53 acres between Mast Road and Durham Road in the R-40 district. The park was established in the early 1970s, prior to the adoption of the Manufactured Home Parks Ordinance (Chapter 126) in 1977.

Because the Manufactured Home Parks Ordinance does not contemplate setbacks for accessory structures, the dimensional regulations of the underlying zoning district apply. Section 170-15 of the Zoning Ordinance also applies, which requires an accessory structure to be at least as far away from the principal building as the height of the accessory structure's rear wall.

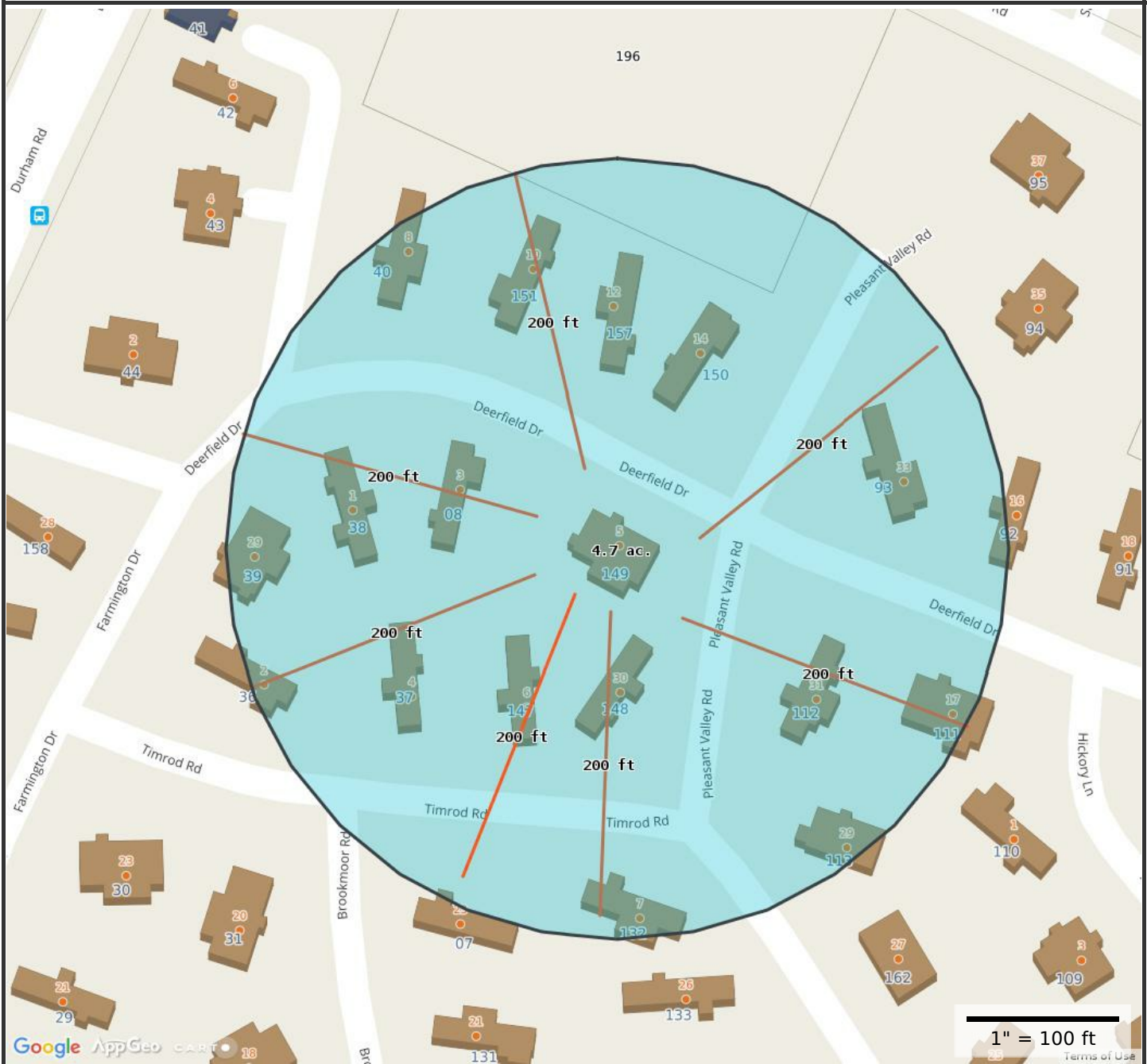
The Applicant proposes locating a small garage 6 feet from the side property line, allowing it to meet the minimum requirement of 8 feet from the house.

REASON FOR STAFF RECOMMENDATION

Many manufactured home park lots present a hardship preventing the addition of outbuildings or additions, especially when they predate the Manufactured Home Parks Ordinance. The addition of a detached, one-car, one-story garage is unlikely to affect the property values of surrounding neighbors. The purpose and intent of the Zoning Ordinance (to promote health, safety, and welfare) is better met by adhering to 170-15 (requiring a minimum 8-foot separation from the house) than by requiring a 10 foot side setback.

RECOMMENDATION

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



**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 05/02/2017



City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Revised April 7, 2017]

Office Use Only Case #:

217-08

Date Received:

RECEIVED
Planning Office

APR 26 2017

Amount Paid:

\$ 222.00

Time Received:

Dover, New Hampshire

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: Brad Shejen Phone # 207-475-5804

Address of Applicant: 1185 State Rd. Eliot, ME

E-Mail Address:

PROPERTY OWNER (if different from applicant): David Haskell

Address: 5 Deerfield Dr. Phone # 603-343-4440

E-Mail Address:

PROPERTY/PARCEL INFORMATION

Address: 5 Deerfield Dr.

Brief Directions: Rt. 108 across from Hannaford

At Farmwood Village

Zoning District: R-40 Assessor's Map # I Lot(s) # 22-164

TYPE OF APPEAL: (Please check one)

☒ Variance

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

☐ Special Exception

☐ Appeal of Administrative Decision

☐ Equitable Waiver

from Section 170-12.8 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:

single unattached garage 14x24

VARIANCE REQUIREMENTS

THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY

A. Variance Requested

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

For side setback to be 6 ft instead of 10 ft.

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:

It doesn't affect any of the abutters

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

It is still within his boundaries

3. Granting the variance would do substantial justice because:

It would allow him to have a garage

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

It doesn't interfere with the neighbors

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

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

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

There is no other place to put the garage on the property so he needs the 6ft side line setback to be able to build the garage.

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:

With the side line setback he would be able to build the garage

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.

Bradley E. Shylin
Signature of Applicant*

David Haskell
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: David Haskell Date: 4/24/17

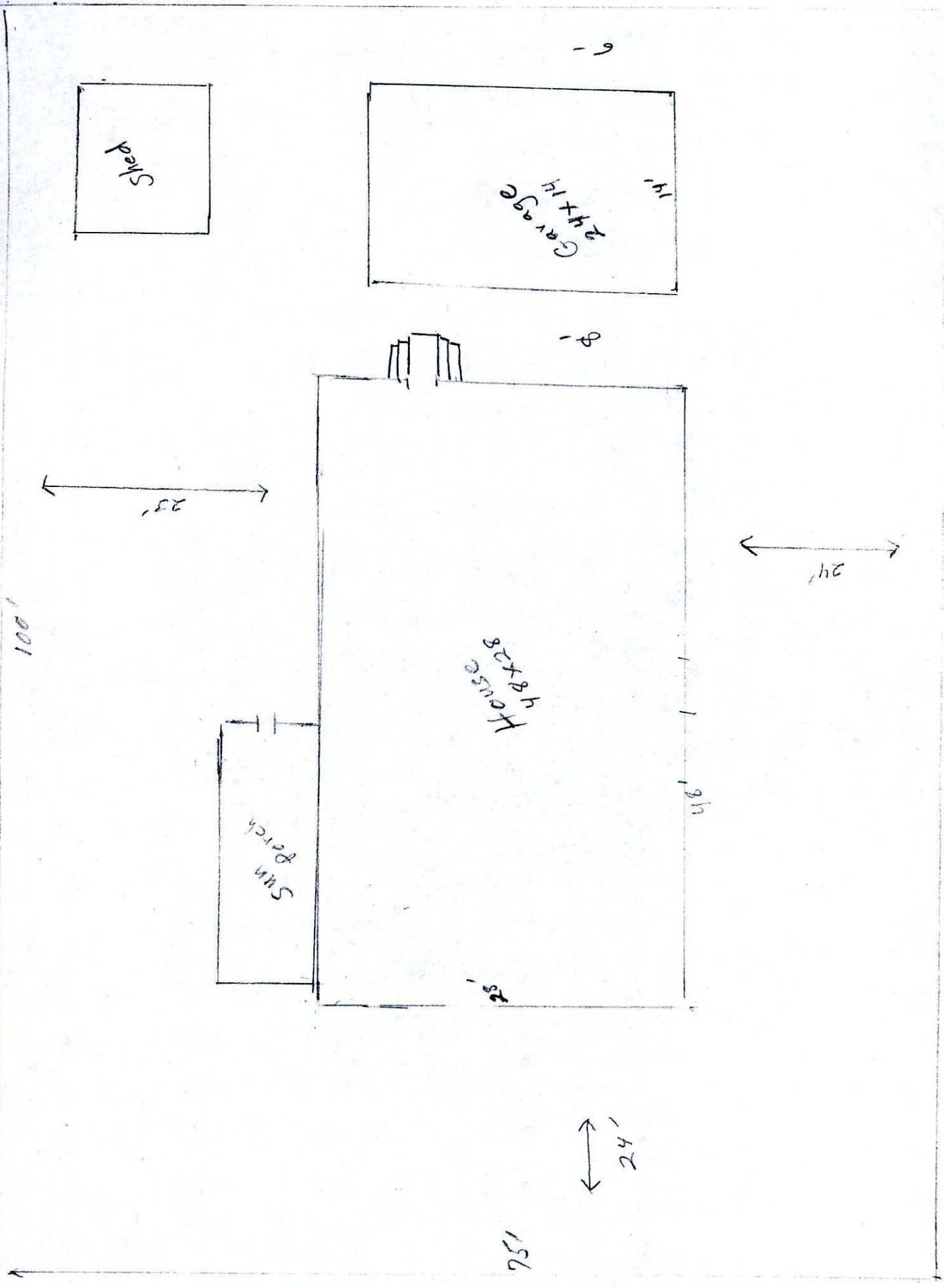
ABUTTER LIST: Z17-08 BRAD SHEJEN/DAVID HASKELL 5 DEERFIELD DRIVE**FIRST CLASS MAILINGS:**

	Owner 1	Owner 2	Address	City	State	ZIP
8 Deerfield	Michael L Talon	Gina M Talon	8 Deerfield Dr	Dover	NH	03820
10 Deerfield	Lisa M LeBlanc		10 Deerfield Dr	Dover	NH	03820
12 Deerfield	David Hughes		12 Deerfield Dr	Dover	NH	03820
14 Deerfield	John D Fincher	Helen F Fincher	14 Deerfield Dr	Dover	NH	03820
1 Deerfield	Tyler M Stanley	Kevin M Stanley	1 Deerfield Dr	Dover	NH	03820
3 Deerfield	Scott A Wentworth		3 Deerfield Dr	Dover	NH	03820
16 Deerfield	Patricia Kefalis	Michael Gallagher	13 Kenilworth Ln	Bradford	MA	01835
33 Pleasant Valley	William E Lynch	Particia R Lynch	33 Pleasant Valley Rd	Dover	NH	03820
31 Pleasant Valley	Nicole R Osborn	Wayne Allen Goss	3 Grady's Ln	Dover	NH	03820
17 Deerfield	Gordon F Pepper	Jean T Pepper	17 Deerfield Dr	Dover	NH	03820
29 Pleasant Valley	John C Melanson	Priscilla M Melanson	29 Pleasant Valley Rd	Dover	NH	03820
30 Pleasant Valley	Karen R Edwards		30 Pleasant Valley Rd	Dover	NH	03820
7 Timrod	Marilyn Sierra		7 Timrod	Dover	NH	03820
23 Brookmoor	Donna L Fowler		93 Spruce Ln	Dover	NH	03820
2 Timrod	Irene D Shearer		2 Timrod Rd	Dover	NH	03820
4 Timrod	Geraldine Riecks	Jeremy Riecks	18 Doe Run Ln	Stratham	NH	03885
6 Timrod	Jesse N Comolli	Trustee	6 Timrod Rd	Dover	NH	03820-5320
29 Farmington	Judith B Walksh	Trustee	29 Farmington Dr	Dover	NH	03820

CERTIFIED MAILINGS:

196 Mast Road	Dale Ralph Goodwin &	Jeannie Frost Trust	196 Mast Rd	Dover	NH	03820
Jensens Residential Communities LLC, 13 Brookmoor Road, Map I Lot 22	Jensens Residential Communities, LLC		PO Box 608	Southington	CT	06489
5 Deerfield	David Haskell & Carol Shejen	Trustees	5 Deerfield Dr	Dover	NH	03820

Lot Size 100' x 75' 5 Deerfield Dr.



(over)





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, May 18, 2017
Meeting Time:	7:00 pm

INTENT: The Applicant requests a variance to permit multi-family dwellings with residential on the first floor, where such use is permitted only by special exception provided that the first floor is non-residential.

UNITS PROPOSED: 14 (plus one existing)

AGENDA ITEM #: 3-B

ZONING DISTRICT: B-3

FILE: Z17-09

APPLICANT/OWNER: Wolcott Holdings, LLC/Thomas J. Cauley, Sr.

LOCATION: 52 Old Rochester Road (Tax Map 40, Lot 25)

ACREAGE: 1.72 acres (74,923 sq. ft.)

EXISTING LAND USE: Commercial and one, two-story apartment

PROPOSED LAND USE: Commercial in existing and new proposed building; 14 residential units

SURROUNDING LAND USE:
Office/warehouse, Long Hill Park, single- and two-family dwellings

PREVIOUS ZBA ACTION:
H84-50: Denied sp. ex. for multi-family (22 units)
H85-02: Denied sp. ex. for multi-family (28 units)
H85-17: Denied sp. ex. for multi-family (14-16 units)
H85-68: Approved variance to permit an apartment to be added to the existing retail building.

PLANNING BOARD APPROVAL REQUIRED:
Yes, site plan review

ATTACHMENTS: Application, plan

STAFF RECOMMENDATION: Staff supports granting the variance request with conditions.

SUMMARY OF APPEAL AND BACKGROUND

The subject property is located on the west side of Old Rochester Road, between Strafford Road and Long Hill Road. It is currently home to a retail store and one apartment. Multi-family dwellings are permitted in the Thoroughfare Business (B-3) Zoning District by special exception with two special conditions: the lot must contain at least 5,000 square feet for each dwelling unit, and dwelling units are only allowed in the second story or higher of a new structure. Because the Applicant does not propose non-residential first floor space, they cannot meet the second condition and must instead request a variance and demonstrate a hardship that prevents the second condition from being met (thus preventing a special exception from being granted).

REASON FOR STAFF RECOMMENDATION

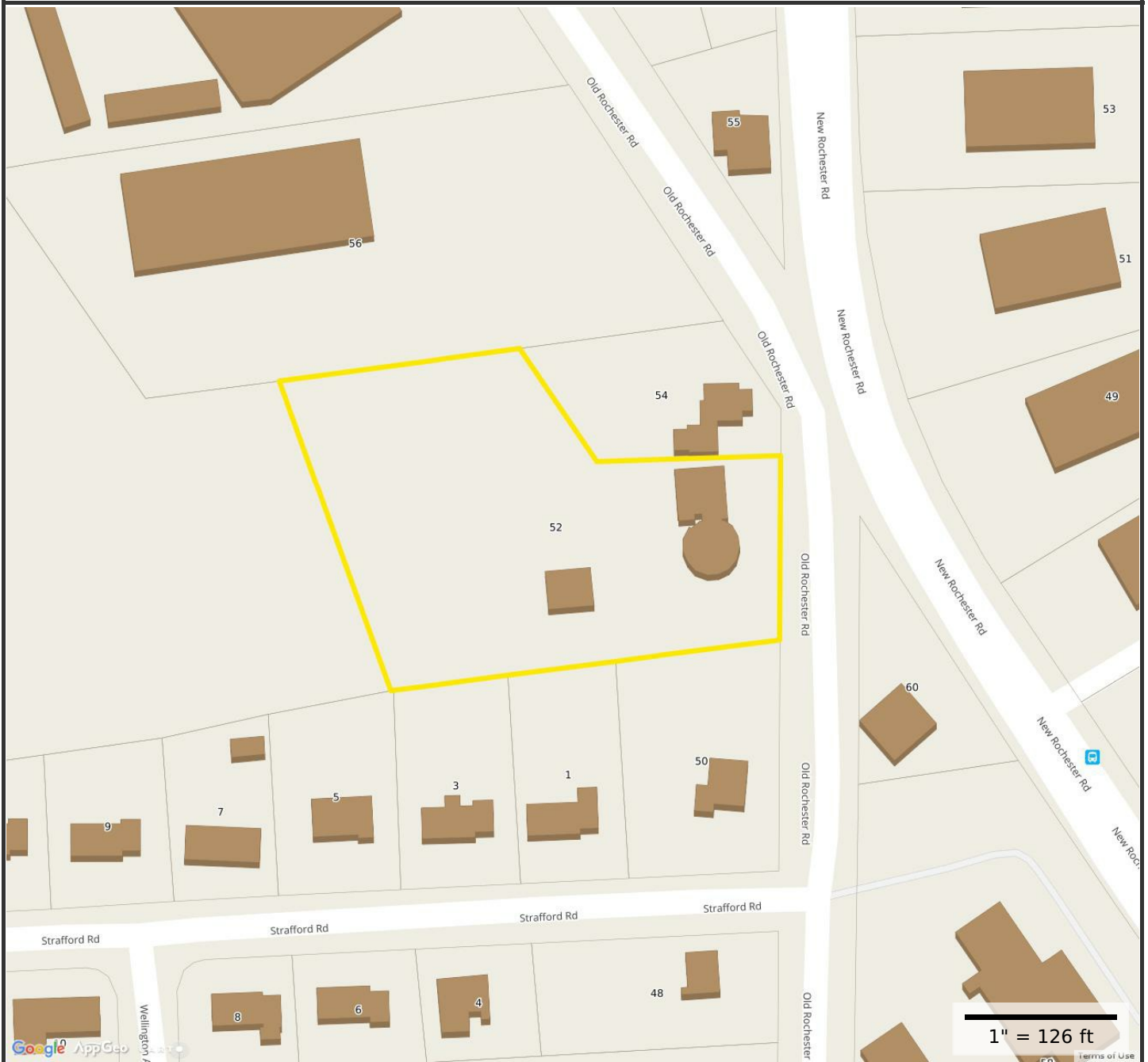
According to ZBA records, previous applicants have sought relief to establish multi-family dwellings on this lot three times in the past. The shape and size of the lot does present some hardship to creating attractive commercial or subdividing the land. The proposal *would* meet one of the two special exception criteria, requiring 5,000 square feet of land area per dwelling unit.

The Applicant is proposing approximately 1,200 square feet of new, first-floor commercial space detached from the proposed residential units. In total this would provide 4,000 square feet of commercial space (there is 2,800 today plus a 1,200 sq. ft. garage). In this particular location, it is reasonable to locate commercial uses nearer to Old Rochester Road rather than at the rear of the lot under dwelling units. However, this is a commercial zone, and to be consistent with other B-3 mixed use projects, the development should provide additional commercial square feet. An additional 1,300 sq. ft. (2,500 total new, or 1/3 of the new residential footprint) would be appropriate.

RECOMMENDATION

Staff recommends the Board hold a public hearing, determine whether each of the five criteria are met, and if all five criteria are met, approve the request. If the Board decides to approve the request, staff suggests the following conditions of approval:

1. The Applicant shall provide a minimum of 2,500 square feet of new commercial space.
2. The Applicant shall construct and obtain a Certificate of Occupancy for new commercial space prior to obtaining a building permit for the proposed dwelling units.

**Property Information**

Property ID 40025-000000
Location 52 OLD ROCHESTER RD
Owner CAULEY THOMAS J SR



**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 05/02/2017



City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Adopted: August 16, 2012]

Office Use Only	Case #:	<u>217-09</u>	Date Received:	<u>RECEIVED Planning Office</u>
	Amount Paid:	\$ <u>308.00</u> <u>ck#4575 ck#1463</u>	Time Received:	<u>APR 25 2017</u> <u>Dover, New Hampshire</u>

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: Wolcott Holdings LLC Phone # (603) 765-6305

Address of Applicant: 171 Columbus Avenue, Dover, NH 03820

E-Mail Address: Jim Wolcott (jwolcott3@yahoo.com)

PROPERTY OWNER (if different from applicant): Thomas J. Cauley, Sr.

Address: 52A Old Rochester Road, Dover, NH 03867 Phone #

E-Mail Address:

PROPERTY/PARCEL INFORMATION

Address: 52 Old Rochester Road, Dover, NH 03820

Brief Directions: Indian Brook Drive to Old Rochester Road (Old Audio Experts Bldg across from Willand Auto)

Zoning District: B-3 Assessor's Map # 40 Lot(s) # 25

TYPE OF APPEAL: (Please check one)

☒ Variance	from Section <u>170-11</u> of the Zoning Ordinance
☐ Physical Disability Variance (RSA 674:33-V)	from Section <u></u> of the Zoning Ordinance
☐ Special Exception	per Section <u></u> of the Zoning Ordinance
☐ Appeal of Administrative Decision	regarding Section <u></u> of the Zoning Ordinance
☐ Equitable Waiver	per Section <u></u> of the Zoning Ordinance

DESCRIBE BRIEFLY YOUR PLANS FOR THE PROPERTY:

The applicant desires to construct fourteen (14) residential units, with one (1) building containing eight (8) units and the other building containing six (6) units.

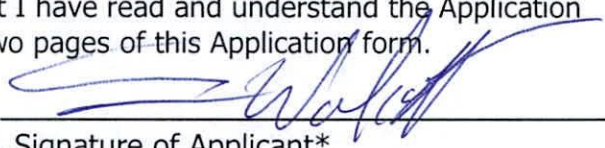
SIGNATURE PAGE

THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS

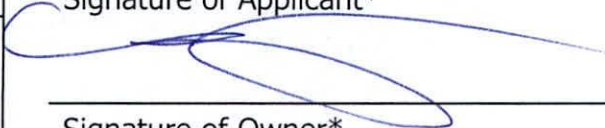
I, the undersigned Applicant, hereby certify that the information contained within this Application is complete and accurate, and I acknowledge that I have read and understand the Application Instructions, which are set forth on the first two pages of this Application form.

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*

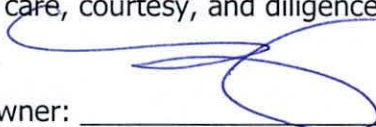


Signature of Owner*

*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: 4/20/17

Wolcott Holdings LLC

Variance Application

52 Old Rochester Road

Dover, New Hampshire

INTRODUCTION

The property subject to this application is located at 52 Old Rochester Road and is depicted on the City's Tax Maps at Map 40, Lot 25. The property consists of two (2) existing commercial spaces, totaling approximately 3,200 sq. ft. of commercial space and one (1) existing apartment, totaling approximately 1,500sq. ft. of residential space. The entire size of the parcel is approximately 1.723 acres and is located in the B-3 zoning district.

The Applicant, Wolcott Holdings, LLC has the property under agreement, and desires to construct fourteen (14) residential units, with one building containing eight (8) units and the other building containing six (6) units.

The parcel is unique with respect to its size and shape when compared to all of the abutting parcels that surround the parcel (see attached map). Specifically, the lot is quite large when considering the residential uses located nearby and configured as a "pork chop" lot, with the first 150 +/- feet of the lot forming the narrow "neck" of the pork chop with the property widening to almost double in width after the neck. The shape of the lot makes the lot conducive to locating residential units within the "wide" portion of the lot and toward the rear of the lot. However, given the distance from the frontage and roadway, and in order to provide safe traffic flow for the residential units, the Applicant seeks a variance from the zoning ordinance, which requires the first floor of a new structure contain commercial space. The existing development on the parcel limits the development options. However, at the same time, the existing commercial development helps to satisfy the "mixed use" concept within the B-3 zone. Given the odd shape of the lot and given that the new proposed structures are located beyond the visible frontage portion of the lot, the applicant respectfully suggests that the location of commercial spaces in the new residential structure is unnecessary, and for the reasons set forth herein, requests a variance from Section 170-11, which requires conformity to the B-3 Table of Uses.

The Applicant believes that its request for a variance is reasonable, and can be supported by the following evidence.

APPLICANT'S REQUEST FOR VARIANCES **FACTS SUPPORTING THIS REQUEST**

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

The Applicant respectfully submits that the proposed use represents a reasonable use of the property in question. The proposed use is not only reasonable, given the surrounding uses, but is complementary to the existing uses within the property. The net result is that the "mixed

use” concept intending within the B-3 zone is maintained. Introducing a commercial component to the proposed new buildings to be built by the Applicant would interfere with the proposed residential uses by creating issues of safety with respect to cars having to utilize the internal driveways within the property to access any potential business use of any new building constructed. The proposed use will not be contrary to the public interest as the use will not alter the essential character of the locality. Quite the opposite, the grant of the variance will allow the Applicant to maintain the essential residential character of the rear portion of the property, while maintaining the existing commercial used already on the property.

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

The Applicant respectfully submits that if the variance was granted, the spirit of the ordinance would be observed because the use in question would permit a use which is suitable for the property considering the existing uses of the property, the shape of the property, and given the surrounding uses of properties. The grant of the variance would result in an encouragement of the most appropriate use of the land, as the “mixed-use” concept within the B-3 zone would be obtained. By granting the variance the intent of the ordinance will be sustained as it relates to residential uses, as the future residents within the property will enjoy a peaceful and safe environment within the property without the threat of business and/or commercial uses being introduced to a portion of the property. To be contrary to the public interest or injurious to the public rights of others, the variance must unduly and in a marked degree conflict with the ordinance, such that it violates the ordinance’s basic zoning objective. In this instance, the grant the variance would promote the public health, safety and general welfare by protecting the existing residents and will promote the mixed use aspect of the B-3 zone within the property.

3. Granting the variance would do substantial justice because:

This test requires a balancing of the benefit to the Applicant versus the burden to public. In this instance, there would be no burden to the public whatsoever in terms of allowing the Applicant to construct residential uses on the first floor of each proposed new building. Conversely, the burden to the Applicant would be significant, as commercial space within the apartment building would be un-rentable and would increase safety risks to potential residents in the new proposed structures. Accordingly, the benefit to the Applicant would exceed the burden to the public, thus, resulting in substantial justice being done.

4. Explain how the proposal would not diminish the surrounding property values:

It is respectfully submitted that all of the surrounding property values have a value associated with them which is premised upon the existence of the existing buildings located on the Applicant’s property. In this instance, the property is located in an area where commercial units exist along the frontage area of lots, with a mixture of residential uses. In addition, the property is, and would be, heavily buffered along the property line that is adjacent to single-family home uses. The grant of the variance will maintain a consistent residential use with respect to the property in the rear, while maintaining the commercial uses that already exist and function on the property. The additional units will utilize private parking areas that will be

contained within the rear portion of the parcel. There are no negative aspects with respect to the Applicant's proposal, and there are no activities proposed by the Applicant that would have any negative affect upon the value of the surrounding properties.

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 large enough, and much larger than those within the general surrounding area, to sustain the use of the property as it currently exists, and to allow, without any negative affect, additional residential uses within the property. It would be a detriment and hardship, in this context, to require that the first floor in each of the proposed residential buildings is to have a commercial aspect to them. Requiring such a use would be inappropriate given the surrounding uses, and given the concerns of safety the applicant would have in terms of introducing a commercial traffic flow throughout the back and side portion of the property. The unique shape of the lot promotes a residential use, but not a commercial use. By allowing the variance, the Applicant would be able to proceed with orderly development of the project in a way that actually protects the health, safety and general welfare not only of the potential residents within the proposed new residential buildings, but for the general public as well.

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

The general purpose of the ordinance is to promote orderly development and to protect the health, safety, and general welfare of the public. In this instance, the Applicant seeks to maintain the status quo with respect to the existing commercial uses located on the property, while providing the mixed use of residential, but in an area that will provide promote safety. Requiring a commercial use in the rear of the property will not advance the general purposes of the ordnance, or the purposes of the B-3 (Business thoroughfare)zone, which is intended to promote commercial uses on the first floor of new structures along the thoroughfare (frontage portion of a lot.)

In light of the above, the Applicant respectfully submits that requiring a commercial use on the first floor of new residential buildings for this parcel is unnecessary in light of the general public purposes of the zoning ordinance, and that there is no relationship between the general public purpose of the ordinance and the specific application of the zoning requirement to this parcel, given the unique characteristics of the property, which include its size, its shape and its existing uses.

(iii) The proposed use is a reasonable one:

The Applicant submits that the proposed use is reasonable as it provides for the Applicant to expand the use of the property in a manner that is consistent with the existing commercial uses. The use is reasonable because it provides for additional housing for those within the City, but, by eliminating the requirement that a first floor be used for business purpose, addresses the safety aspects of the project for those that will reside within the new structures. Further, it would be unreasonable to expect a business to locate in this area, so far from the main thoroughfare and flow of commercial activity along Old Rochester Road.

ABUTTER LIST: Z17-09

WOLCOTT HOLDINGS, LLC/THOMAS J. CAULEY, SR 52 OLD ROCHESTER ROAD

Property ID	Location	Owner 1	Owner 2	Owner Address 1	City	State	Zip
40018-C00000	51 NEW ROCHESTER RD	CAMPBELL GILBERT G TRUSTEE	CAMPBELL GILBERT 2006 REVOCABLE TRUST	176 CHURCH ST	LOWELL	MA	01852
40019-000000	55 OLD ROCHESTER RD	STEWART JUDY N		55 OLD ROCHESTER RD	DOVER	NH	03820
40023-000000	56 OLD ROCHESTER RD	TRIMCO INC		250 ROLLINS ROAD	ROLLINSFORD	NH	03869
40024-000000	54 OLD ROCHESTER RD	MOCLOCK MARK W		54 OLD ROCHESTER RD	DOVER	NH	03820
40043-000000	58 NEW ROCHESTER RD	STRAFFORD FARMS RESTAURANT INC		58 NEW ROCHESTER ROAD	DOVER	NH	03820
40044-000000	60 NEW ROCHESTER RD	MIDON PROPERTY MANAGEMENT SERVICES		60 NEW ROCHESTER RD	DOVER	NH	03820
D0009-000000	50 OLD ROCHESTER RD	BRILLARD RICKY A & MARY S REV LIV TRUST	BRILLARD RICKY A AND MARY S TRUSTEES	167 VARNEY RD	DOVER	NH	03820
D0009-D00000	7 STRAFFORD RD	MARSHALL CRAIG	MARSHALL BARBARA J	7 STRAFFORD RD	DOVER	NH	03820
D0009-E00000	9 STRAFFORD RD	PARADIS GERTRUDE REVOC TRUST	GERTRUDE PARADIS TRUSTEE	9 STRAFFORD ROAD	DOVER	NH	03820
D0009-G00000	5 STRAFFORD RD	WATKINS HANNELORE E	WATKINS CHARLES A	5 STRAFFORD ROAD	DOVER	NH	03820
D0010-P00000	3 STRAFFORD RD	KELLEHER DANIEL T TRUSTEE	KELLEHER D AND L REV TRUST	3 STRAFFORD RD	DOVER	NH	03820
D0010-T00000	1 STRAFFORD RD	GAGNON MADELEINE	GAGNON CONRAD	1 STRAFFORD ROAD	DOVER	NH	03820
		FRANCIS X. BRUTON, III, ESQUIRE	BRUTON & BERUBE, PLLC	798 CENTRAL AVENUE	DOVER	NH	03820
		TRITECH ENGINEERING INC	ROBERT J. STOWELL, P.E., L.L.S.	755 CENTRAL AVENUE	DOVER	NH	03820
		THOMAS J. CAULEY, SR		52A OLD ROCHESTER ROAD	DOVER	NH	03820
		WOLCOTT HOLDINGS, LLC		171 COLUMBUS AVENUE	DOVER	NH	03820
D0010-A00000	32 LONG HILL RD	CITY OF DOVER ***NO FEE ASSESSED***		288 CENTRAL AVE	DOVER	NH	03820

Abutters List
Wolcott Holdings, LLC

Variance Application
52 Old Rochester Road
Tax Map 40, Lot 25
Dover, New Hampshire

Job No. 17102

Page 1 of 2

Map D, Lot 9	Ricky & Mary Brillard Revocable Living Trust 167 Varney Road Dover, NH 03820
Map D, Lot 9G	Charles & Hannelore Watkins 5 Strafford Road Dover, NH 03820
Map D, Lot 10A	City of Dover 288 Central Avenue Dover, NH 03820
Map D, Lot 10P	D & L Kelleher Revocable Trust 3 Strafford Road Dover, NH 03820
Map D, Lot 10T	Conrad & Madeleine Gagnon 1 Strafford Road Dover, NH 03820
Map 40, Lot 23	Trimco, Inc. 250 Rollins Road Rollinsford, NH 03869
Map 40, Lot 24	Mark W. Moclock 54 Old Rochester Road Dover, NH 03820
Map 40, Lot 44	Midon Property Management Services 60 New Rochester Road Dover, NH 03820

Abutters List
Wolcott Holdings, LLC

Variance Application
Tax Map 40, Lot 25
Dover, New Hampshire

Job No. 17102

Page 2 of 2

200 Feet:

Map D, Lot 9D

Craig & Barbara Marshall
7 Strafford Road
Dover, NH 03820

Map D, Lot 9E

Gertrude Paradis Revocable Trust
9 Strafford Road
Dover, NH 03820

Map 40, Lot 18B
Map 40, Lot 18C
Map 40, Lot 18D
Map 40, Lot 18E

Gilbert Campbell 2006 Revocable Trust
176 Church Street
Lowell, MA 01852

Map 40, Lot 19

Judy N. Stewart
55 Old Rochester Road
Dover, NH 03820

Owner:

Map 40, Lot 25

Thomas J. Cauley, Sr.
52A Old Rochester Road
Dover, NH 03820

Applicant:

Wolcott Holdings, LLC
171 Columbus Avenue
Dover, NH 03820

Engineer:

Robert J. Stowell, P.E., L.L.S
Tritech Engineering Corporation
755 Central Avenue
Dover, NH 03820

Attorney:

Francis X. Bruton III, Esquire
Bruton & Berube, PLLC
798 Central Avenue
Dover, NH 03820

**Property Information**

Property ID 40025-000000
Location 52 OLD ROCHESTER RD
Owner CAULEY THOMAS J SR



**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 04/17/2017

N

TRITECH
ENGINEERING CORPORATION

**TAX MAP 40
LOT 23**

TRIMCO INC.
250 ROLLINS ROAD
ROLLINSFORD, N.H.
SCRD 2094-201

**TAX MAP 40
LOT 24**

MARK W. MOCLOCK
59 OLD ROCHESTER ROAD
DOVER, N.H. 03820
SCRD 4386-779

**TAX MAP 40
LOT 25**

75,032 SQ.FT.
1.723 ACRES

6 PROPOSED RESIDENTIAL UNITS

**TAX MAP D
LOT 10A**

CITY OF DOVER
288 CENTRAL AVENUE
DOVER, N.H. 03820
SCRD 981-330

**TAX MAP D
LOT 9G**

CHARLES & HANNELORE WATKINS
5 STRAFFORD ROAD
DOVER, N.H. 03820
SCRD 846-393

**TAX MAP D
LOT 10P**

D & L KELLEHER REV. TR.
3 STRAFFORD ROAD
DOVER, N.H. 03820
SCRD 1992-574

**TAX MAP D
LOT 10T**

CONRAD & MADELEINE GAGNON
1 STRAFFORD ROAD
DOVER, N.H. 03820
SCRD 1202-741

**TAX MAP D
LOT 9**

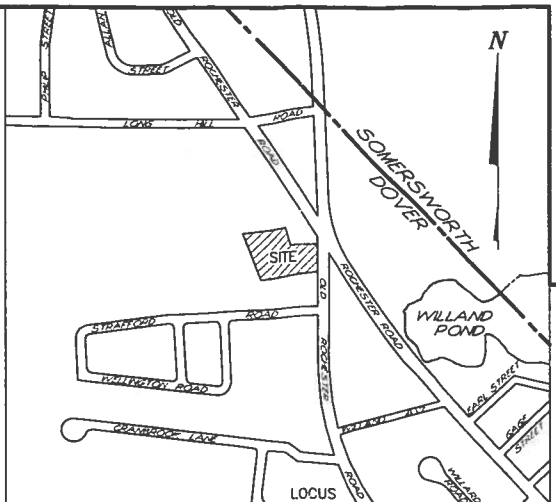
RICKY & MARY BRILLARD RE. LIV. TR.
187 VARNEY ROAD
DOVER, N.H. 03820
SCRD 3175-270

**MAP 40
LOT 44**

MIDON PROPERTY
MANAGEMENT SERVICES
60 NEW ROCHESTER ROAD
DOVER, N.H. 03820
SCRD 2266-330

NOTES

- 1.) INTENT. THIS PLAN IS INTENDED TO ACCOMPANY A VARIANCE APPLICATION AND A SPECIAL EXCEPTION APPLICATION FOR THE SUBJECT PROPERTY WHICH WOULD ALLOW FOR THE CONSTRUCTION OF 14 ADDITIONAL RESIDENTIAL UNITS TO BE CONSTRUCTED WITHOUT THE CONSTRUCTION OF NON-RESIDENTIAL USES ON THE FIRST FLOOR.
- 2.) CURRENT OWNER: THOMAS J. CAULEY SR.
52A OLD ROCHESTER ROAD
DOVER, N.H. 03820
- 3.) TOTAL AREA: 75,032 SQ. FT. = 1.723 ACRES
- 4.) TAX MAP 40 LOT 25
- 5.) PROJECT DEED REFERENCE: BOOK 2134 PAGE 379
- 6.) PROJECT PLAN REFERENCE: LOT LINE ADJUSTMENT PLAN PREPARED FOR COLONIAL DOVER PROPERTIES, LLC AND CITY OF DOVER, N.H. LONG HILL ROAD & NH ROUTE 168 DOVER, NEW HAMPSHIRE. MCNEANDY SURVEY ASSOCIATES JANUARY 4, 1999 SCRD #55-79. RAYMOND G. SWEATT & PERLEY J. COLE FINAL PLAN STRAFFORD WOODS CL. DAYS & ASSOCIATES MAY 1960 SCRD Po 7, Fo 2, PLAN #7
- 7.) ZONING: B-3
MIN. LOT SIZE: 20,000 SQ. FT.
MIN. FRONTAGE: 125 FT.
MIN. SETBACKS:
FRONT: 50 FT.
SIDE: 12 FT.
REAR: 15 FT.
- 8.) THE RAW UNADJUSTED CLOSURE OF OUR RANDOM POINT TRAVERSE WAS 1 PART IN 80,000, AND WAS ACCOMPLISHED USING A LEICA TC 703 TOTAL STATION, DURING THE MONTH OF NOVEMBER, 2016.
- 9.) SUBJECT PARCEL IS NOT WITHIN A FEDERALLY DESIGNATED SPECIAL FLOOD HAZARD ZONE (FLOOD HAZARD ZONE A - PANEL 0310E, MAP No. 33017C0310E, DATE: 9-30-2015).
- 10.) LOT IS SERVICED BY MUNICIPAL WATER AND SEWER.
- 11.) BASIS OF BEARING: DOVER GIS SYSTEM WAS USED TO DETERMINE LOCATION, DIRECTION AND DATUM.



1" = 30'

TRITECH
ENGINEERING CORPORATION

766 CENTRAL AVENUE
DOVER, NEW HAMPSHIRE 03820
TELEPHONE 603 742 8107
FAX 603 742 3830

VARIANCE APPLICATION PLAN

THOMAS J. CAULEY SR.
52A OLD ROCHESTER ROAD
DOVER, NEW HAMPSHIRE

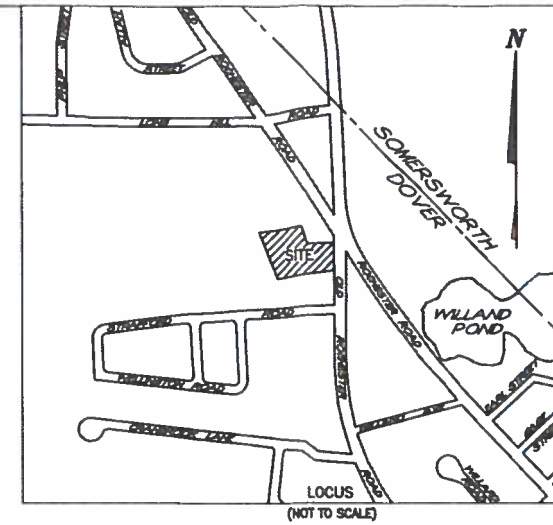
APRIL 20, 2017
JOB No. 17102
SCALE: 1" = 30'

SHEET No.

VA-1

N

TRITECH
ENGINEERING CORPORATION



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TRITECH
ENGINEERING CORPORATION

708 CENTRAL AVENUE
DOVER, NEW HAMPSHIRE 03820
TEL: 603-688-7482
FAX: 603-688-7482

REVISIONS
DATE: DESCRIPTION:

VARIANCE APPLICATION PLAN

THOMAS J. CAULEY SR.

52A OLD ROCHESTER ROAD
DOVER, NEW HAMPSHIRE

APRIL 20, 2017 JOB No. 17102
SCALE: 1" = 30'

SHEET No.

VA-1