

CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - AGENDA

Meeting Type: Regular Meeting
Meeting Location: Room 306, McConnell Center – 61 Locust St. Dover, NH 03820
Meeting Date: **Thursday, August 17, 2017**
Meeting Time: **7:00 pm**

1. ATTENDANCE

2. APPROVAL OF MEETING MINUTES OF JULY 20, 2017

3. HEARINGS

- A. Z17-15 Applicant/Owner D.R. Lemieux Builders, Inc., 53 Spur Road (Tax Map I, Lot 14-N), 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 side setback of 11 feet where a minimum of 20 feet is required.
- B. Z17-16 Applicant/Owners Hadley and Shane Moores, 33 Littleworth Road (Tax Map G, Lot 6-D), located in the Assembly and Office (I-4) Zoning District, request a variance from **Section 170-12.B** of the Zoning Ordinance to permit reduced setbacks where 75 feet is required from all property lines. The proposed buildings' distance from side property lines ranges from 17 feet to 42 feet.
- C. Z17-18 Applicant/Owner Saint Mary Academy, 222 Central Avenue (Tax Map 9, Lot 98), located in the Central Business District – General sub-district, requests a variance from **Section 170-32.A** of the Zoning Ordinance to permit the installation of a new freestanding sign where freestanding signs are not permitted.
- D. Z17-19 Applicant Community Action Partnership of Strafford County and Owner County of Strafford, New Hampshire, 262 County Farm Road (Tax Map C, Lot 4), located in the Rural Residential (R-40) Zoning District, requests a special exception per **Section 170-12.A** of the Zoning Ordinance to permit a 24-unit congregate care facility.

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>.



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Meeting Date: **Thursday, July 20, 2017**
Meeting Time: **7:00 pm**

1. ATTENDANCE

Members Present: Chris Prior (Chair), Otis Perry, Nicholas Couturier (Alternate)

Members Not Present: Bob Hall (Vice Chair), Frank Landford, Sam Reid, George Reagan (Alternate)

Staff Present: Elena Piekut (Assistant City Planner)

The Chair called the meeting to order at 7:20 p.m. He opened the meeting, introduced the Board and staff members to the audience, and described the process used to hear cases.

2. APPROVAL OF MEETING MINUTES OF JUNE 15, 2017

Motion: O. Perry made a motion to approve the June 15, 2017 Regular Meeting Minutes as submitted. Seconded by N. Couturier. Vote: U/A

3. HEARINGS

- A. Z17-13 Applicant/Owner Diane Bragdon, 20 Atlantic Avenue (Tax Map 25, Lot 10), located in the Medium Density Residential (R-12) Zoning District, requests a variance from **Section 170-12.B** of the Zoning Ordinance to permit a front setback of approximately one foot where a minimum of five feet is required.

Diane Bragdon represented herself, explaining that the residence and porch have existed for 99 years, the porch was in disrepair and posed a safety concern, there will be no change in footprint, and that meeting the minimum five foot setback would not yield sufficient space for a porch.

Public Hearing Opened.

Paula Searles, 18 Atlantic Avenue, asked for clarification that the porch will be constructed on the front of the house, not on the side closest to her. The Board confirmed the porch is proposed for the front of the structure.

E. Piekut stated that Staff supports the variance, and explained that it continues a condition that has existed for 99 years without negative effect.

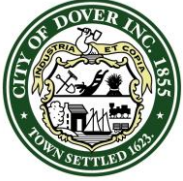
STAFF RECOMMENDATION:

Staff recommends the Board hold a public hearing and make findings as to whether each of the five variance criteria are met. If the Board finds that all five criteria are satisfied, the Board should approve the request. Staff supports the request.

Public Hearing Closed.

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

- B. Z17-14 Applicant/Owner Gordon Clark, c/o GC/AAA Fence, 304 Durham Road (Tax Map I, Lot 123), located in the Hotel/Retail (B-4) Zoning District, requests a variance from **Section 170-12.B** of the Zoning Ordinance to permit a reduced parking area setback where a minimum of 25 feet is required. The



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proposed paved parking area's distance from front and side property lines ranges from 2.3 feet to 18.3 feet.

Attorney Sean O'Connell, Shaheen & Gordon, represented the Applicant. Mike Sievert, MJS Engineering, was also present. Atty. O'Connell explained that the building and lot are nonconforming and reviewed the criteria for granting a variance.

Public Hearing Opened.

E. Piekut stated that Staff supports the variance request.

STAFF RECOMMENDATION:

Staff recommends the Board hold a public hearing and make findings as to whether each of the five variance criteria are met. If the Board finds that all five criteria are satisfied, the Board should approve the request. Staff supports the request.

Public hearing closed.

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

- C. Z17-15 Applicant/Owner D.R. Lemieux Builders, Inc., 53 Spur Road (Tax Map L, Lot 14-N), 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 side setback of 11 feet where a minimum of 20 feet is required.

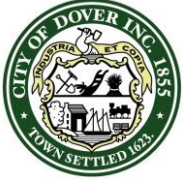
C. Prior stated that due to O.Perry's need to recuse himself from hearing this case, there is not a quorum to consider the case and the hearing will be postponed to August 17, 2017 at 7:00 p.m.

- D. Z17-16 Applicant/Owners Hadley and Shane Moores, 33 Littleworth Road (Tax Map G, Lot 6-D), located in the Assembly and Office (I-4) Zoning District, request a variance from **Section 170-12.B** of the Zoning Ordinance to permit reduced setbacks where 75 feet is required from all property lines. The proposed buildings' distance from side property lines ranges from 17 feet to 42 feet.

C. Prior informed the Board and public that the Applicant's agent, Attorney Abigail Karoutas, submitted an email prior to the meeting requesting that the case be postponed to August 17, 2017 at 7:00 p.m. due to the three-member quorum.

- E. Z17-17 Applicant/Owner Cornelis J. Lotter, 21 Fairway Drive (Tax Map N, Lot 14-K), located in the Rural Residential (R-40) Zoning District, requests a variance from **Section 170-12.A** of the Zoning Ordinance to permit the keeping of "farm animals," specifically a rooster, on a 93,200-square-foot lot, where the keeping of a rooster is permitted only on a lot of at least 100,000 square feet with the animal's shelter located a minimum of 100 feet from any property line.

Cornelis J. Lotter represented himself. C.J. Lotter explained that he keeps five hens and a rooster as a hobby in genetics and developing a new, rare breed of bantam chickens. The chickens are kept in a converted golf cart shed which is vacuumed daily, located 140 feet from the Cochecho Country Club and 200-300' or more to the nearest



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tee off. He noted that the birds are checked by veterinarians yearly and certified free of avian flu and other diseases.

C. Prior asked C.J. Lotter to clarify how many chickens he keeps including chicks. C.J. Lotter explained that he keeps no more than five mature hens and one rooster. The chicks are sent to a farm in Maine until the fall, when he may choose to replace the rooster or hens for breeding purposes. C.J. Lotter added that he does not raise the chicks for business purposes and gives the unneeded chickens away instead.

Public Hearing Opened.

Edward Townsend, 117 Gulf Road, spoke in favor of the variance, noting that the property does not look like a farm, the chickens are not disruptive, and that crows and Gulf Road traffic also create noise in the area.

H. Paul Boackle, 105 Gulf Road, spoke in favor of the variance.

Liz Miller and Tom Davis, 19 Fairway Drive, spoke in favor of the variance, noting that the neighborhood creates a lot of other noise from yard work and the chickens are not very noticeable.

Jaimie Donovan, 12 Trakey Street and member of Cochecho Country Club, 145 Gulf Road, spoke against the variance, noting that ordinances exist for a reason and the zoning ordinance does not permit the Applicant to keep a rooster. He stated that the noise can be heard from many areas of the golf course and suggested that the Applicant and Board consider a method of keeping the rooster from crowing. He noted that Fairway Drive has covenants.

C. Prior asked J. Donovan whether he felt 6,800 square feet of additional lot area at 21 Fairway Drive would make a substantial difference in the effect of the rooster. J. Donovan stated that the ordinance requires 100,000 square feet.

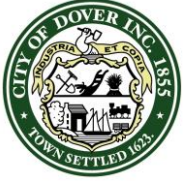
Tim Halverson, 13 Fairway Drive, spoke against the variance as President of the homeowners association, stating that the association's restrictive covenants prevent the keeping of animals other than household pets or animals kept for breeding or commercial purposes.

C.J. Lotter noted that the Zoning Board does not have jurisdiction regarding restrictive covenants and that there are instances where the covenants are not enforced.

E. Piekut stated that Staff supports the variance request, and explained the conditions under which the keeping of "farm animals for family use," which includes up to six hens, goats, or sheep, and "farm animals," which includes all other livestock animals, are permitted. She noted that the Board should focus on the property's size in comparison to the 100,000 square feet of lot area required to keep "farm animals" by right and confirmed that the Zoning Board of Adjustment decision is independent of any private covenants in the neighborhood. She suggested that the Board could add a second condition limiting the number of "farm animals" to one rooster and five hens.

STAFF RECOMMENDATION:

Staff recommends the Board clarify the extent of the Applicant's plan to keep "farm animals" as defined, which may include more than six hens, more than one rooster, or other animals, and consider imposing additional conditions.



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The Board should hold a public hearing and make findings as to whether each of the five variance criteria are met. If the Board finds that all five criteria are satisfied, the Board should approve the request. Staff supports the request and suggests the following conditions:

- 1) The Applicant shall provide at least three square feet of chicken coop and 20 square feet of fenced enclosure per chicken.

Motion: N. Couturier moved to approve the variance request subject to conditions provided by the Planning Department. C. Prior clarified that the second proposed condition is to restrict “farm animals” to mean no more than one rooster and five hens and N. Couturier confirmed. O. Perry seconded. O. Perry stated that the association’s covenants are a civil matter and that he believes the Applicant has met the burden of proof for a variance and that given the small amount of land involved it is a reasonable request. Vote: U/A

4. OTHER BUSINESS

E. Piekut noted that a summary of land use board and commission activities was included in members’ packets.

5. ADJOURN

Motion: O. Perry made a motion to adjourn at 8:12 p.m. Seconded by N. Couturier. Vote: U/A



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO

Meeting Type:	Regular Meeting
Meeting Location:	McConnell Center Room 306 – 61 Locust St. Dover, NH 03820
Meeting Date:	Thursday, August 17, 2017
Meeting Time:	7:00 pm

INTENT: The Applicant requests a variance to permit an 11-foot side setback where 20 feet is required.

UNITS PROPOSED: One

AGENDA ITEM #: 3-A

ZONING DISTRICT: Low Density Residential (R-20)

FILE: Z17-15

APPLICANT/OWNER: DR Lemieux Builders, Inc.

LOCATION: 53 Spur Road (Tax Map L, Lot 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: Z17-07, denial of equitable waiver of side setback requirement

PLANNING BOARD APPROVAL REQUIRED: No

ATTACHMENTS: Application, plan

STAFF RECOMMENDATION: Staff does not oppose the variance.

SUMMARY OF APPEAL AND BACKGROUND

The 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, the Applicant discovered that the front corner of the foundation is 11 feet from the side property line rather than the minimum of 20. The building permit for 53 Spur Road, as well as the building permit for 55 Spur Road (issued by the previous Building Official in 2014), both indicate that “footing location must be certified prior to further construction” and that an inspection is required upon completion of footings.

REASON FOR STAFF RECOMMENDATION

The physical hardships presented by this lot include protected shoreland (see plan) and a driveway right-of-way to 55 Spur Road. Both yield a small area to build without requiring NH DES permitting. Each of the neighboring homes is more than 100 feet from the existing foundation and is unlikely to be affected by a variance from the side setback requirement.

RECOMMENDATION

Staff recommends the Board hold a public hearing and make findings as to whether each of the five variance criteria are met. If the Board finds that all five criteria are satisfied, the Board should approve the request. Staff does not oppose the variance.

**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 6/13/2017
Properties updated 07/13/2017



City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Adopted: August 16, 2012]

<i>Office Use Only</i>	Case #: _____	Date Received: _____
	Amount Paid: \$ _____	Time Received: _____

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: 54 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 ☐ Physical Disability Variance (RSA 674:33-V) ☐ Special Exception ☐ Appeal of Administrative Decision ☐ Equitable Waiver	from Section <u>170-12.A + B</u> 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
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DESCRIBE BRIEFLY YOUR PLANS FOR THE PROPERTY:

To construct a single family residence

VARIANCE REQUIREMENTS

THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY

A. Variance Requested

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

See attached

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

Please demonstrate compliance with the following:

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

See attached

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

See attached

3. Granting the variance would do substantial justice because:

See attached

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

See attached

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:

See attached

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:

See attached

and

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

See attached

OR

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

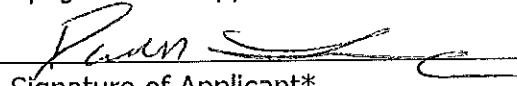
SIGNATURE PAGE

THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS

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

IMPORTANT

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


Signature of Applicant*


Signature of Owner*

*Both Signatures Required

AUTHORIZATION TO ENTER SUBJECT PROPERTY

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

Signature of Property Owner:  Date: 6/24/17

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

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

FRANCIS X. BRUTON, III, ESQUIRE
BRUTON & BERUBE, PLLC
798 CENTRAL AVENUE
DOVER, NH 03820

A. Variance Requested

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

Allowing a foundation and single family residence to be built with a side yard setback of eleven (11) feet where a setback of twenty (20) feet is required.

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

Please demonstrate compliance with the following:

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

The public interest is affected if the proposed variance would constitute a fundamental change in the neighborhood or if there would be a substantial impact on health or safety. Residential use is a permitted use in this zone. The applicant discovered that the foundation had mistakenly been constructed approximately nine (9) feet into the side yard setback and voluntarily disclosed that to City officials. Other residences in this neighborhood are constructed closer than twenty (20) feet to the side property lines of those lots. Allowing this foundation to be used in its present location and allowing a home to be built on the foundation will not change the fundamental character of this neighborhood and would not have a substantial impact on health or safety.

The residence on the lot located to the north of this lot is located approximately 150 feet from the applicant's lot while the residence on the lot located to the south of this lot is located about 50 feet from the applicant's lot. There is an existing driveway which extends across the applicant's lot from Spur Road down to a waterfront residence. If the foundation and home on the applicant's lot had to be moved south by nine (9) feet, it would be moved to within 8 to 10 feet of that existing driveway and would be moved closer to the southerly neighbor and would thereby reduce the setback from that residence which is already closer than the northerly neighbor's house.

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

The spirit of the ordinance is to allow for adequate spacing between structures on adjacent parcels of land. Since the home on the northerly abutting lot is located approximately 150 feet away from the applicant's northerly property line, there will be more than adequate spacing from that residence and the two residences will be screened by existing trees and other vegetation. Denying the variance would require that the applicant's residence be moved closer to the southerly abutter, and the existing between those two dwellings is already less than the distance between the applicant's house and the southerly neighbor. Keeping the applicant's house in its present location will also keep it further away from the existing driveway to the waterfront neighbor's house.

3. Granting the variance would do substantial justice because:

The New Hampshire Supreme Court has held that an injustice occurs when the injury to the applicant resulting from denying the variance would be greater than any benefit that would accrue to the public if the variance is denied. In this case, similar uses already exist nearby. Denying the variance will not confer a benefit on the general public since adequate spacing will exist between the applicant's house and both the northerly and southerly abutters. Denying the variance would be a detriment to the applicant because that denial would prevent the applicant from the reasonable use of its property.

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

The value of adjacent properties will not be affected because the residential use is a permitted use and the new home to be constructed on this foundation will be a significant distance from adjacent dwellings and will be screened by existing vegetation.

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 applicant's lot is long and narrow and is burdened by an existing driveway which extends from Spur Road to an adjacent waterfront home. The applicant reported the error in locating the foundation as soon as that error was discovered. This is the first time that this applicant has encountered this problem of placing a foundation within the setback. As presently located, the foundation is about 160 feet away from the home on the northerly abutting lot, and it is located further away from the southerly neighbor and from the existing driveway than would be the case if the foundation was located 20 feet from the northerly property line.

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

The general purposes of the ordinance provision are to ensure adequate spacing between adjacent structures. In this case, granting the variance will allow the applicant's house to be located further away from its closest neighbor (on the south) and will still be 160 feet away from the northerly neighbor. Granting the variance will also allow the applicant's house to be located further away from the neighbor's driveway which extends across the applicant's land and which will facilitate maintenance of that driveway, including snow removal.

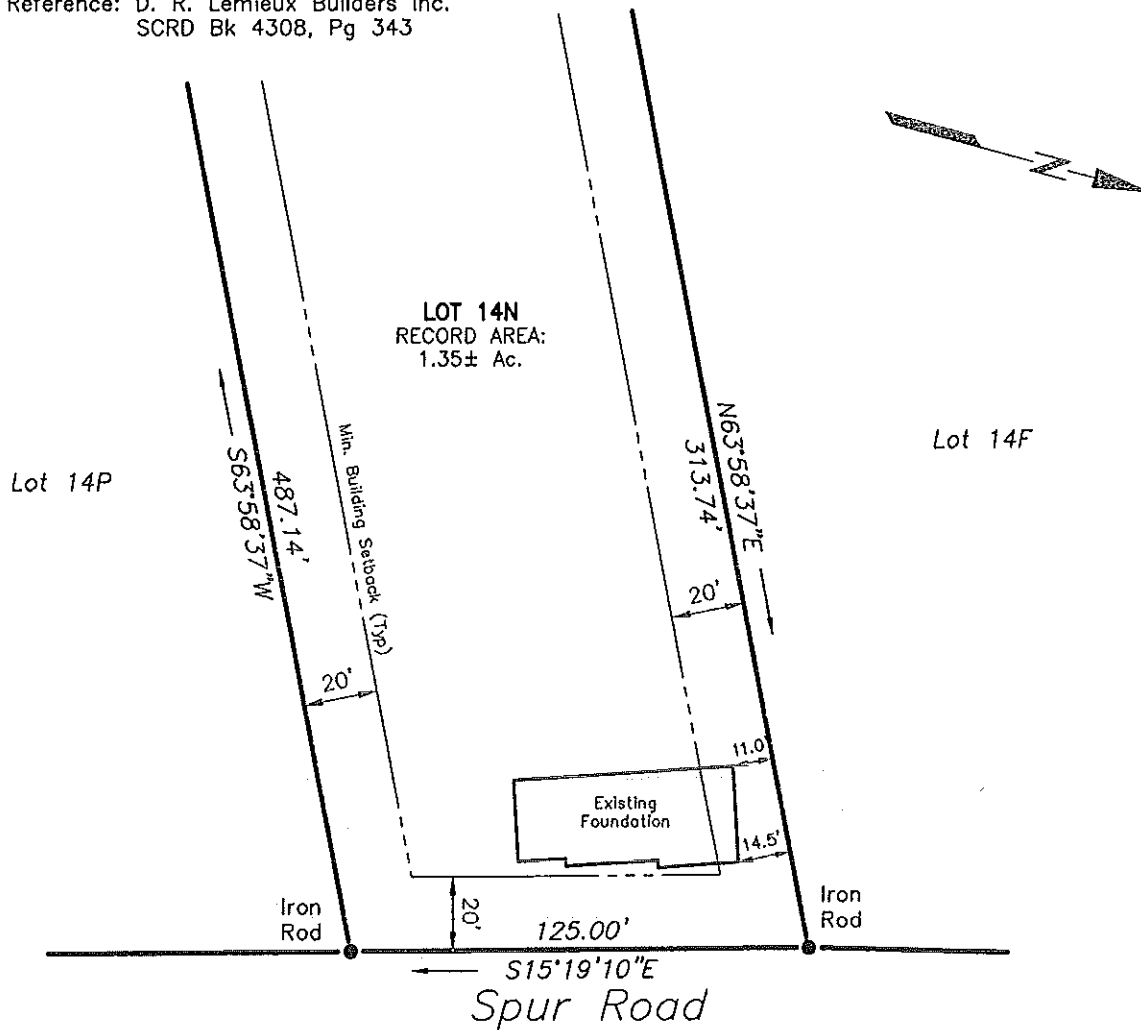
(iii) The proposed use is a reasonable one because:

The construction of the foundation in its present location was done by error and not in a deliberate attempt to circumvent the zoning requirements. The error was reported as soon as it was discovered. Maintaining the present location will result in better overall spacing among the

three abutting residences and will facilitate the use, maintenance and snow removal from the neighbor's driveway which extends across the applicant's land.

Notes:

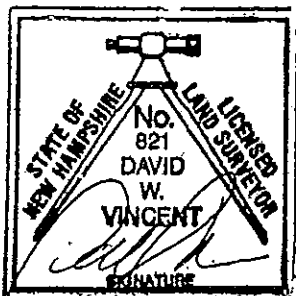
1. This plan does not represent a confirmation of boundary lines nor a determination of title but is solely intended to depict the location of the existing structure to the boundaries depicted on the plan reference in note 2.
2. The boundary lines depicted are based upon "Subdivision of Land for Harold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



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



24 Mar. 2017

Date

David W. Vincent, LLS No. 821

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



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO

Meeting Type: Regular Meeting
Meeting Location: McConnell Center Room 306 – 61 Locust St. Dover, NH 03820
Meeting Date: Thursday, August 17, 2017
Meeting Time: 7:00 pm

INTENT: The Applicant requests a variance to permit side setbacks ranging from 17 to 42 feet, where 75 feet is required.

UNITS PROPOSED: None

AGENDA ITEM #: 3-B

ZONING DISTRICT: Assembly and Office (I-4)

FILE: Z17-16

APPLICANT/OWNER: Hadley & Shane Moores

LOCATION: 33 Littleworth Road (Tax Map G, Lot 6-D)

ACREAGE: 2.36 acres (102,800 square feet)

EXISTING LAND USE:
Warehouse/Office

PROPOSED LAND USE: Same

SURROUNDING LAND USE:
Warehouse, office, manufacturing, single-family dwellings

PREVIOUS ZBA ACTION:
None

PLANNING BOARD APPROVAL REQUIRED: Technical Review Committee approval required at minimum. Site plan approval likely required, dependent on final building and parking plans.

ATTACHMENTS: Application, plan

STAFF RECOMMENDATION:
Staff does not oppose the variance.

SUMMARY OF APPEAL AND BACKGROUND

The property is located on the north side of Littleworth Road and is home to Moores Crane Rental. The existing, 2,880-square-foot metal structure was built in 1970. The property was rezoned from Rural Restricted Industrial (I-2) to a less intensive industrial zone, Assembly and Office (I-4), in 2003. I-4 requires a larger minimum lot size and greater setbacks from property lines. The Applicant seeks a variance from side setback requirements to construct an addition of approximately 8,640 square feet (in order to garage cranes) and a freestanding, 1,680-square-foot office building. The majority of the property is cleared, with vehicles parked on a gravel/dirt surface.

The property is on the edge of the I-4 Zoning District, with single-family dwellings in the Low Density Residential (R-20) to the west and industrial uses in the I-2 across Littleworth Road to the south. A large manufacturing facility is located behind Moores Crane, and nonconforming single-family dwellings, also in the I-4, are located directly south and southeast of the property (35 Littleworth and 29 Littleworth).

REASON FOR STAFF RECOMMENDATION

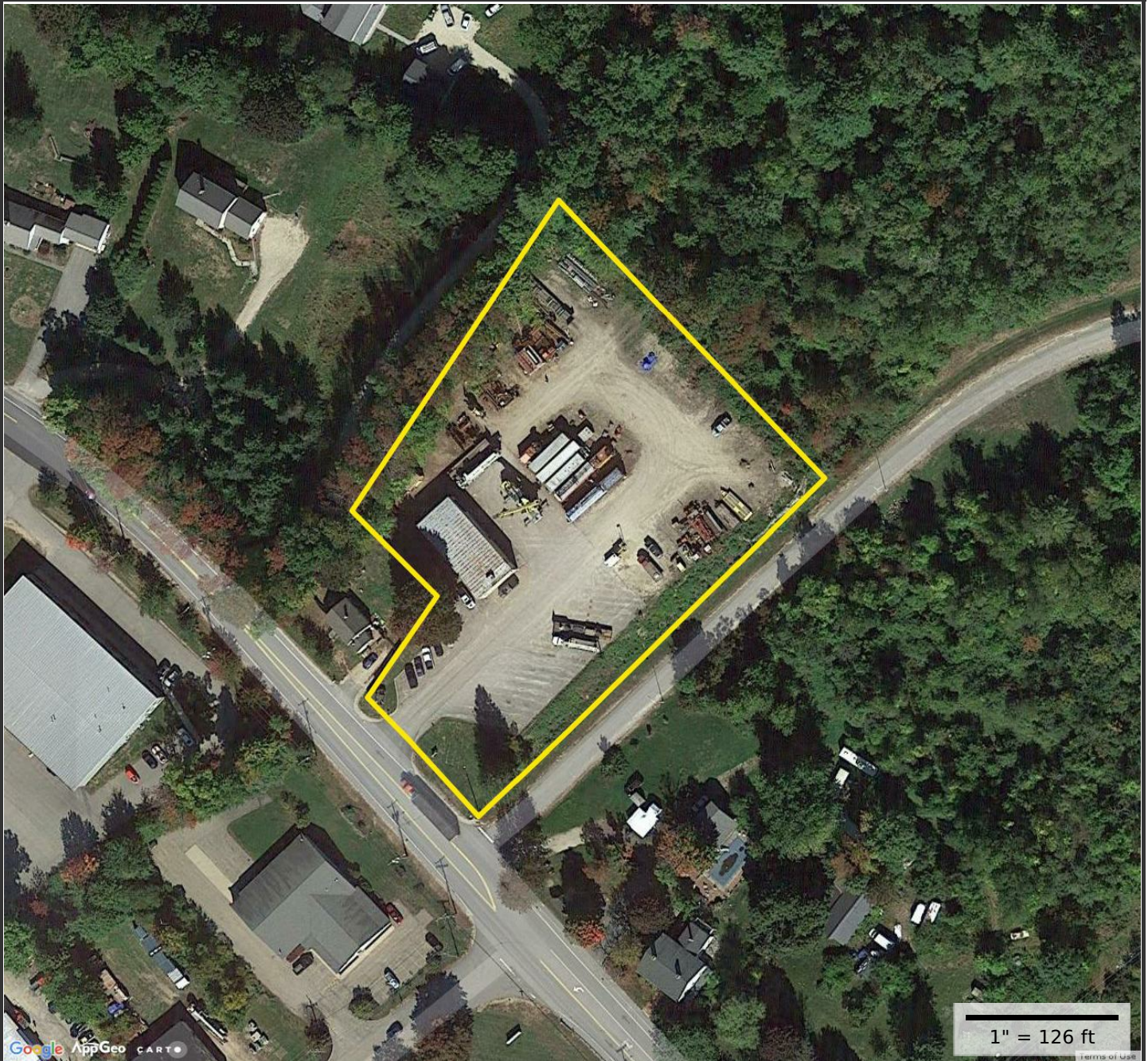
This lot is less than half of the five-acre minimum lot size in the I-4. The existing structure is nonconforming to the 75-foot setback from it's the lot lines shared with 35 and 39 Littleworth Road. The use is reasonable and the size and shape of the lot, as well as the placement of the existing building upon it, present a hardship. The Board should accept testimony and make a finding as to whether the variance(s) diminish the value of surrounding properties. The previous zoning (I-2), allows 10-foot side setbacks and the Applicant has amended his request to allow a blanket variance permitting the I-2 setbacks to be applied to the entire lot. A proposed condition of approval is included below.

RECOMMENDATION

Staff recommends the Board hold a public hearing and make findings as to whether each of the five variance criteria are met. If the Board finds that all five criteria are satisfied, the Board should approve the request. Staff does not oppose the request and suggests the following conditions:

- 1) The current Rural Restricted Industrial (I-2) Zoning District setbacks, as follows, shall apply to all future development on Tax Map G, Lot 6-D:

Principal Building:	Outbuilding/Accessory Use:
Front: 35 feet	Front: 35 feet
Abut a Street: 35 feet	Abut a Street: 35 feet
Side: 10 feet	Side: 10 feet
Rear: 10 feet	Rear: 10 feet
- 2) The plan shall be revised with a reference to this decision and a note and depiction of the setback requirements described in condition 1.

**Property Information**

Property ID G0006-D00000
Location 33 LITTLEWORTH RD
Owner MOORES HADLEY 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 6/13/2017
Properties updated 07/13/2017



City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Revised April 7, 2017]

Office Use Only	Case #:	<u>217-16</u>	Date Received:	<u>RECEIVED</u> <u>Planning Office</u> <u>JUN 29 2017</u>
	Amount Paid:	\$ <u>28800 CF 2645</u>	Time Received:	<u>Dover, New Hampshire</u>

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: Hadley and Shane Moores Phone # (603) 534-3001

Address of Applicant: 4 Cottage Lane, Rollinsford, NH

E-Mail Address: Shane@moorescranerental.com

PROPERTY OWNER (if different from applicant): _____

Address: _____ Phone # _____

E-Mail Address: _____

PROPERTY/PARCEL INFORMATION

Address: 33 Littleworth Road

Brief Directions: On Route 9 - 2,933' West of the intersection of Route 9 and Route 155

Zoning District: I-4 Assessor's Map # G Lot(s) # 6D

TYPE OF APPEAL: (Please check one)

☒ Variance	from Section <u>170-12.B</u> <u>170-41.A</u> of the Zoning Ordinance
☐ Physical Disability Variance (RSA 674:33-V)	from Section _____ of the Zoning Ordinance
☐ Special Exception	per Section _____ of the Zoning Ordinance
☐ Appeal of Administrative Decision	regarding Section _____ of the Zoning Ordinance
☐ Equitable Waiver	per Section _____ of the Zoning Ordinance

DESCRIBE BRIEFLY YOUR PLANS FOR THE PROPERTY:

Please see attached

VARIANCE REQUIREMENTS

THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY

A. Variance Requested

A variance is requested from Section(s) 170-12.B
170-41.A of the Zoning Ordinance to permit:

Please see attached

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:

Please see attached

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

Please see attached

3. Granting the variance would do substantial justice because:

Please see attached

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

Please see attached

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:

Please see attached

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:

Please see attached

and

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

Please see attached

OR

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

SIGNATURE PAGE

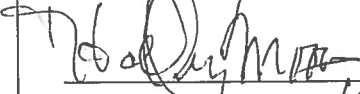
THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS

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

IMPORTANT

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


Signature of Applicant *Shane Moore*


Signature of Owner *Shane Moore*

*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: 06-29-17

AUTHORIZATION

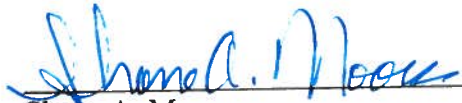
The undersigned,

Shane A. Moores and Hadley S. Moores, Owners/Applicants, with respect to property located at

33 Littleworth Road, Dover, New Hampshire (Tax Map ID G0006-D00000), by virtue of the deed from Shane A. Moores and Joyce M. Moores as Trustees of the Land & Sea Trust, dated December 31, 1996, recorded at Strafford County Registry of Deeds Book 1911, Page 378,

hereby authorize Wyskiel, Boc, Tillinghast & Bolduc, P. A., specifically including, but not limited to, Attorneys Abigail Sykas Karoutas and Christopher A. Wyskiel, to represent the undersigned before the Zoning Board of the City of Dover with respect to the undersigneds' Application for Variances regarding the above referenced property.

Dated this 29th day of June, 2017.


Shane A. Moores
Owner/Applicant


Hadley S. Moores
Owner/Applicant

ABUTTER LIST Z17-16

HADLEY & SHANE MOORES

33 LITTLEWORTH ROAD

Property ID	Location	Owner 1	Owner 2	Owner Address 1	City	State	Zip
G0006-C00000	29 1/2 LITTLEWORTH RD	STOREMASTERS FUNDING III LLC	C/O PACE INDUSTRIES LLC	67 FAULKNER ST	NORTH BIRMA	MA	01862
G0006-B00000	35 LITTLEWORTH RD	HUTCHINGS WILLIS E		184 W HIGH ST	SOMERS	NH	03878
G0004-G01001	38 B LITTLEWORTH RD	38 LITTLEWORTH ROAD LLC		PO BOX 2232	DOVER	NH	03821
G0006-000000	29 LITTLEWORTH RD	ROGERS DOUGLAS S		24 RED FOX LN	BARRING	NH	03825-3551
G0028-001D00	37 LITTLEWORTH RD	DUNPHY MICHAEL B &		37 LITTLEWORTH RD	DOVER	NH	03820
G0004-A00001	1 INDUSTRIAL PARK RD	BEARINGS INC	DUNPHY JOY C	PO BOX 3075	MCKINNEE	TX	75070
G0028-001C00	39 LITTLEWORTH RD	KRUSPKI DAVID J &	C/O PT COUNSELORS	39 LITTLEWORTH RD	DOVER	NH	03820-4314
G0004-000000	14 16 INDUSTRIAL PARK RD	FISH LIPS HOLDING CO LLC	KRUSPKI APRIL M	273 CORPORATE DR STE 150	PORTSMOUTH	NH	03801
G0004-G01002	38 A LITTLEWORTH RD	LITTLEWORTH/INDUSTRIAL PARK PROPERTIES L		140 SILVER ST	DOVER	NH	03820
G0004-G00002	36 LITTLEWORTH RD			165 INDUSTRIAL PARK DRIVE	DOVER	NH	03820
		HADLEY & SHANE MOORES		4 COTTAGE LANE	ROLLINSFORD	NH	03869
		WYSKIEL, BOC, TILLINGHAST & BOLDUC, P.A.		561 CENTRAL AVENUE	DOVER	MH	03820



**Wyskiel,
Boc,
Tillinghast
& Bolduc, P.A.**
Attorneys at Law

*Christopher A. Wyskiel
William E. Boc
**D. Lance Tillinghast
*Michael J. Bolduc
Thomas G. Ferrini
*William R. Phipps
*Laurie Smith Young
Abigail Sykas Karoutas

* also admitted in Maine
**also admitted in MA, ME & VT

June 29, 2017

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

RECEIVED
Planning Office
JUN 29 2017
Dover, New Hampshire

RE: Variance Application of 33 Littleworth Road/Tax Map G/6D

Dear Chairman Prior & Board Members:

This firm represents Hadley and Shane Moores with regard to their application for 2 variances, the first with regard to Section 170-12.B of the Zoning Ordinance as to the applicability of the setbacks in the I-4 Zone with regard to the planned construction and as to any future construction on the subject lot, and a second variance from Section 170-41.A of the Zoning Ordinance, to permit the expansion of an existing non-conforming structure that will increase the structure's non-conformity.

Please allow this letter to serve as an explanation of how this application meets the elements necessary to be granted the requested variances.

Background

Hadley and Shane Moores (the "Moores") have owned the lot at 33 Littleworth Road since early 1997. The lot was originally used as the site for a construction company, but has been used for a crane rental business, Moores Crane Rental Corp., for the majority of the time since they acquired it.

Moores Crane Rental Corp. parks/stores 5-6 large cranes on the lot when they are not on job sites. In addition, they park/store approximately one-half dozen trailers and a few tractors on the lot when they are not on job sites. The company employs 9 full-time employees and several part-time employees, all of whom bring their personal vehicles to the site each work day. There is currently one building on the lot, a 36' wide x 80' long pre-engineered metal two (2) story structure which is used as office space and shop space to support the ongoing business.

At the time of its acquisition in 1997, the property was zoned I-2 ("Rural Restricted Industrial District"). The lot is 2.3 acres and has just over 129 feet of frontage on Littleworth Road. These dimensions conform to the size and frontage requirements of the I-2 zone, which require a minimum size of 20,000 square feet and 100 feet of frontage.

However, in 2003, the zoning of this lot and others in the area was changed to I-4 ("Assembly and Office District"). This was done, in large part, to attract specific users to the area which need the space afforded by the larger lots required in the I-4 zone. This change rendered the subject lot non-conforming as to its area and frontage. The I-4 zone requires a minimum lot size of 5 acres and at least 400 feet of frontage.

The Moores are proposing two additions to the existing building as well as the construction of another structure on the lot (See Exhibit A, Plan of Proposed Construction). Had the Moores' property not been rezoned to I-4 along with the others in this area that were rezoned, no relief would be needed to permit the proposed construction.

Initially, the Moores plan to add a 36' wide x 40' long pre-engineered metal addition to the north of the existing building (shown in orange on Exhibit A). The Moores also plan to add a 120' long x 60' wide pre-engineered metal addition to the back of the existing structure (shown in pink on Exhibit A). When complete, the complete building would be expanded into a 96' wide x 120' long pre-engineered metal structure (See Exhibit A). This building would be used for shop space for crane repair and associated functions and for storage, including to park the cranes and other equipment under cover and in an enclosed space while they are not on a job site (the "Additions"). Parking the cranes and other equipment inside is much better for the equipment than having it exposed to the elements, particularly in the winter. If not stored under cover, snow and ice build-up on the equipment which is difficult to remove and cold temperatures make it hard to start the engines, requiring longer idling time.

The Moores also propose to add a 30'W x 56' L single story structure with a basement to be used as office space (shown in yellow on Exhibit A), moving the office functions in the existing building into the new proposed office building ("Office Building").

With regard to the current proposal, there is no concern about the front or rear setback distances with the proposed Additions or the Office Building, as they comply with the requirements of the I-4 (and I-2) zone. However, the Additions and Office Building are generally within the required 75-foot side setback of the I-4 zone, so a variance from this requirement is needed. While the part of the existing building on the portion of the lot with frontage on Littleworth Road is conforming to the required front setback as (it is approximately 127 feet from Littleworth Road), the remaining side yard of the existing building on that side of the existing structure (roughly parallel to Littleworth Road) only ranges from approximately 30-33 feet from the boundary with the abutting property, which is within the required 75 foot side

setback in the I-2 zone (See Exhibit C, Plan Excerpt with hand drawn distance markers showing approximate distances of existing structure from lot boundaries¹).

Zoning Ordinance Criteria

The requests for both variances are simultaneously addressed.

The first variance sought is from Section 170-12.B (excerpted below in relevant part):

Applicability of Tables of Use and Dimensional Regulations by District. [Amended on 12-09-2009 by Ord. No. 2009.09.09-15.]†††

B. The minimum regulations for LOT size, LOT FRONTAGE, BUILDING SETBACK standards for front, side and REAR YARDS, BUILDING HEIGHTs, and LOT COVERAGE shall be as specified in the Tables of Use and Dimensional Regulations by District.

The second variance is sought from Section 170-41.A (excerpted below in relevant part):

Nonconforming STRUCTUREs. [Amended on 08-01-90 by Ord. No. 8-90; Amended on 02-17-99 by Ord. No. 25-98.] Where a lawful STRUCTURE exists at the effective date of adoption or amendment of this Chapter that could not be built under the terms of this Chapter by reason of restrictions on area, LOT COVERAGE, HEIGHT or yards, its location on the LOT or other requirements concerning the STRUCTURE may be continued so long as it remains otherwise lawful, subject to the following:

A. Except as provided for in 170-40.A and 170-41.D, no such nonconforming STRUCTURE may be enlarged or ALTERed in a way which increases its nonconformity, but any STRUCTURE or portion thereof may be ALTERed to decrease its nonconformity.

Variance Criteria

To be eligible for a variance, the proposed use must meet all five of the conditions in RSA 674:33:

- (1) The variance will not be contrary to the public interest;

¹ These dimensions were measured with a scale, and are approximate only, as the distances were not surveyed.

- (2) The spirit of the ordinance is observed;
- (3) Substantial justice is done;
- (4) The values of surrounding properties are not diminished; and
- (5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

(A) For purposes of this subparagraph, “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area:

(i) 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; and

(ii) The proposed use is a reasonable one.

(B) If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, 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.

1) The variances will not be contrary to the public interest:

When considering the first two criteria of the variance standard, the courts have suggested that the criteria are interdependent and should be construed together. See Chester Rod and Gun Club, Inc. v. Town of Chester, 152 N.H. 577, 580 (2005). Guided by the New Hampshire Supreme Court’s decision in Chester, the Board should consider whether the requested variance would “unduly and to a marked degree” conflict with the basic premises of the zoning ordinance, or alter the essential character of the locality, or threaten the public health, safety, or welfare. Id. at 581. The plans proposed by the application do not conflict with the basic premises of the zoning ordinance, alter the essential character of the locality or threaten the public health, safety or welfare.

The subject lot has a long history of being zoned as part of the I-2 district, and many parcels near to or abutting it are still in the I-2 zone. It was within the I-2 district until about 2003, when the area was rezoned to I-4 because many of the lots in the area are large enough to easily fit within the requirements of the I-4 zone and the City wanted to encourage I-4 permissible uses on those larger lots. The area across Littleworth Road from the subject property is still within the I-2 Zone to this day. On March 8, 2017, Dover’s City Council re-zoned over 106 acres of land just further west along Littleworth Road (Tax Map G, Lots 19-B, 29, 29-A, 29-B, 29-C and 30B) from R-20 and I-4 to the I-2 Zone (See Exhibit B). However, the subject lot is caught within a little cluster of smaller non-conforming lots which remain within the I-4 district.

While the construction of the Additions and Office Building on the subject lot as proposed would require building within the setbacks of the I-4 zoned property, the proposed construction would comply with the requirements of the I-2 zone. The I-4 zone requires that the setbacks on all sides of the buildings on the lot be 75 feet, unless the building is an accessory building, and then the setbacks permitted are 10 feet on the side and rear of the building. However, in the I-2 zone, the setbacks for both primary structures and accessory structures are 35 feet on the front and abutting a street, but only 10 feet on the side and rear.

Because, the proposed construction of the Additions and the Office Building are within the required 75 foot side setbacks of the I-4 district, a variance is needed to permit this encroachment into the setbacks. Importantly, however, the buildings are all outside of the 10 foot side setbacks that would be required in the I-2 zone, or for an accessory structure within the I-4 zone. Moreover, although the southeastern side of the proposed Office Building would be only just over 21 feet from the side of the subject lot, the abutting lot (29 ½ Littleworth Road (Tax Map G/6-C)) is shaped in such a way that a private drive (marked on Exhibit A as to L&P Aluminum Holdings, LLC) of just over 58 feet in width abuts the subject parcel, which would ensure that the side of the Office Building would be at least 79 feet from the boundary of the next abutting parcel with a structure on it, and 118 feet and 167 feet from two of the principal buildings on that lot (29 Littleworth Road (Tax Map G/6) (See Exhibit A and Exhibit D (Tax Map excerpt showing approximate distance measurements)). This placement of the Office Building allows for plenty of space between buildings, and while not in strict conformity with the zoning ordinance, honors the basic premises of the zoning ordinance, does not alter the essential character of the locality or threaten the public health, safety or welfare.

Similarly, although the northern side of the proposed Additions would range from just over 17 feet from the lot line to over 42 feet from the lot line, which is within the 75 foot I-4 setback, the shape of the next abutting lot at 37 Littleworth Road (Tax Map G/28-1-D) ensures that there is a strip of land with no structures on it between the subject lot and the next abutting parcel with a structure on it. Also, there would be approximately 79 feet from the Additions to the edge of the building located at 35 Littleworth Road, and the next closest buildings to the north (at 39 and 37 Littleworth Road (Tax Map G/28-1C and G/28-1D respectively), are approximately 191 feet and 124 feet from the boundary line of the subject parcel. Therefore, the proposed Additions' encroachment into the setback, while not in strict conformity with the zoning ordinance, honors the basic premises of the zoning ordinance, does not alter the essential character of the locality or threaten the public health, safety or welfare.

Along these lines, and while it might be difficult to say which of these buildings would be an "accessory" to the other, the I-4 district contemplates the existence of structures only 10 feet from the side and rear property lines, in that the Table of Uses authorizes accessory structures within 10 feet of the side and rear property lines within this zone. Therefore, construction of these structures at least 10 feet (or more) from the side property boundaries does not conflict with the basic premises of the zoning ordinance or alter the essential character of the locality.

With regard to the variance that is needed for the Additions' expansion of the existing nonconforming structure, although the Additions do render the existing structure less conforming than previously, as explained above, the proposed construction does not conflict with the basic premises of the zoning ordinance, does not alter the essential character of the locality or threaten the public health, safety or welfare.

2. The spirit of the ordinance is observed:

Along the lines of the first criteria, the second criteria asks the Board to determine whether the requested variance complies with the spirit of the ordinance. In addition to the reasons above, the Zoning Ordinance was "designed to promote the health, safety, and the general welfare of Dover's residents...to encourage the maintenance of Dover's economic and aesthetic quality of life; and to encourage the most appropriate use of land throughout the City of Dover." (See Zoning Ordinance at 170-3).

Both the request for the variance from the setback requirements and the request for the variance to permit the expansion of an existing non-conforming structure which increases its non-conformity meet this criteria. Dover's economy is enhanced by allowing businesses within its borders to succeed. The Applicant's proposal for construction on this lot would facilitate the success of Moores Crane Rental Corp., a Dover business of long standing, by providing it a way to shelter its valuable equipment from the elements, prolonging its useful life. Current outside storage of cranes and trucks is particularly problematic in the winter when snow and ice need to be removed and longer engine warm-up time is needed for these vehicles parked outside. Having the office use separate from the garage use is reasonable given the larger space and heating/cooling needs of crane storage and repair versus office use. Also, by having the cranes under cover, the attractiveness of the lot is increased, as the equipment would not be visible to passersby, and there is significantly less risk that the equipment might constitute an inducement to children or young adults to play on the cranes and equipment, risking injury. Finally, the proposed pre-engineered metal structures, and the use of the lot as the site of a crane rental company, fit in with the aesthetic qualities of that area of Littleworth Road and are an appropriate use of land in the City of Dover.

3. Substantial justice is done:

This criteria requires the Board to consider the facts of each case before it to determine whether justice would be served by granting the variance. One way to consider whether "justice" would be done is to determine whether there is any gain to the public that is greater than the loss suffered by the individual if the variance is not granted. See Farrar v. City of Keene, 158 N.H. 684, 692 (2009). If the Board imagined a scale, it could weigh the loss suffered by the Moores, if they could not build the proposed Additions and Office Building, against the public benefit gained by enforcing the ordinance expressly as written.

Even considering the encroachment into the setbacks as described above, and the increase in non-conformity of the existing structure as encroaching further into the side setbacks than it does at present, it is difficult to think of any loss suffered by the public by permitting the proposed construction. Had the pre-existing I-2 zoning not been changed in 2003 (to attract targeted development on existing larger parcels to the rear of the Moores' lot) the construction proposed here would have occurred as a matter of right. The encroachment into the setbacks is in conformity with the setbacks permitted in the I-2 zone across the street from the subject property and in the nearby newly re-zoned I-2 properties.

In fact, the public would gain by permitting the proposed construction, as the equipment currently stored outside on the site would be under cover, rather than in the open and visible to all who pass by, which is less in line with the spirit of the ordinance than having it outside. Finally, even the I-4 zoning contemplates the possibility of structures closer to the side boundary lines of the property, as it permits construction of accessory structures up to 10 feet away from the side setbacks. For all these reasons, there is no loss to the public by permitting the proposed construction.

Conversely, if the Moores were not permitted to construct the Office Building and Additions as proposed, they would be prevented from using their property in a reasonable manner that would be permitted and fully compliant if the property had not been re-zoned I-4. These factors all weigh more in favor a greater loss to the Moores if they are not permitted to construct the Addition and Office Building as proposed, rather than a finding of any loss to the public if the ordinance was not strictly enforced in these circumstances.

4. The values of surrounding properties are not diminished:

There is no diminution in value to the surrounding properties if the construction as proposed is allowed within the side setbacks and to further expand the non-conformity of a non-conforming structure. As noted previously, when completed, the proposed buildings will be appropriately distant from any other buildings in the vicinity due to the shape and layout of surrounding lots. In addition, arguably the value of surrounding lots could be increased if the equipment and other storage was within structures and hidden from view, rather than visible to passersby.

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

Special conditions of the property that distinguish it from other properties in the area:

As noted above, the lot was previously zoned I-2 before being re-zoned I-4, although the area across the street was left I-2 and nearby parcels were recently re-zoned back to I-2. This lot is a relatively small one, and the 75 foot setbacks required on all sides of a structure in the I-4 zone create a very small buildable envelope on the property, which ranges in width from just over 129 feet to just over 319 feet. Although the property is 400 feet from Littleworth Road to

the rear lot line, when combined with the relatively narrow property dimensions, its "L" shape, and the required 75 foot setbacks, it is hard to site any building on the property in compliance with the setbacks. The other properties in the area are either larger or have a more regular shape which makes these setbacks more reasonable. Therefore, this lot is unique when taking its size, shape and the requirements of the zone into consideration.

No fair and substantial relationship exists between the general public purposes of the requirement for a 75 foot setback from the side setbacks, or prohibiting the expansion of an existing non-conforming structure that would increase its non-conformity, and the specific application of those provisions to the property:

Setbacks are generally required in order to allow for space around buildings and to prevent buildings from being too close to the road or other buildings, all of which overall tend to lessen the density of structures in an area, allow for site lines at the street, and similar outcomes. Rules which prevent expansion of a non-conforming structure which increase its non-conformity serve two purposes. One is to work toward overall conformity with existing zoning rules. The other (in terms of setbacks) is to prevent expansion of a structure in such a way that the desired outcomes of having setbacks are not thwarted. In this case, both the original structure to which the Additions will be added and the Office Building are at least 75 feet from the street, complying with the street setback rules. In addition, as explained above, given the layout of this lot and the abutting lots, as a practical matter, there is sufficient space between the existing buildings and proposed construction so as to achieve the goals of the setbacks although the Additions and Office Building would encroach into the actual setbacks required in the zone. The Additions' increased encroachment of the existing non-conforming structure into side setback near 37 Littleworth Road is toward an area which does not contain a building, and the construction of the Additions would not decrease the distance in the side setback between the Additions and the buildings on 35 Littleworth Road, where there is less space between the structures.

Because the proposed construction encroachments into the setback area do not defeat the purposes of the setback requirements or the reasons to forbid expansion of an existing non-conforming structure which increases its non-conformity, there is no fair and substantial relationship between the general public purposes of these provisions of the Zoning Ordinance and the specific application of those provisions to the property.

The proposed use is a reasonable one:

This lot was rezoned into the I-4 zone in 2003 along with a number of other lots in the area, although the area across the street was left as I-2 and other areas near this lot have recently been re-zoned back to I-2. The proposed construction of the Additions and the Office Building would comply with all setback and other requirements if the lot had remained in the I-2 zone, as the side setback requirements in that zone are only 10 feet, rather than the 75 feet required in the I-4 district. Therefore, the proposed use of the property is a reasonable one.

Chris Prior, Chairman
Zoning Board of Adjustment
June 29, 2017
Page 9

Moreover, the zoning of the I-4 district contemplates construction up to 10 feet from the side and rear setbacks, as accessory structures in that district are permitted to have side and rear setbacks of 10 feet, rather than the 75 feet otherwise required. Therefore, the proposed construction and use of the property is reasonable, given the proximity of this lot to other lots actually zoned I-2 and the features of this lot.

For all these reasons, the Moores respectfully request that the Board grant the requested variances, first from the setbacks to permit the current proposal as it encroaches into the setbacks and to permit any future construction to be in compliance with the setbacks applicable to the I-2 district, and second, to allow expansion of an existing non-conforming structure in a way that increases its non-conformance. Thank you for your consideration.

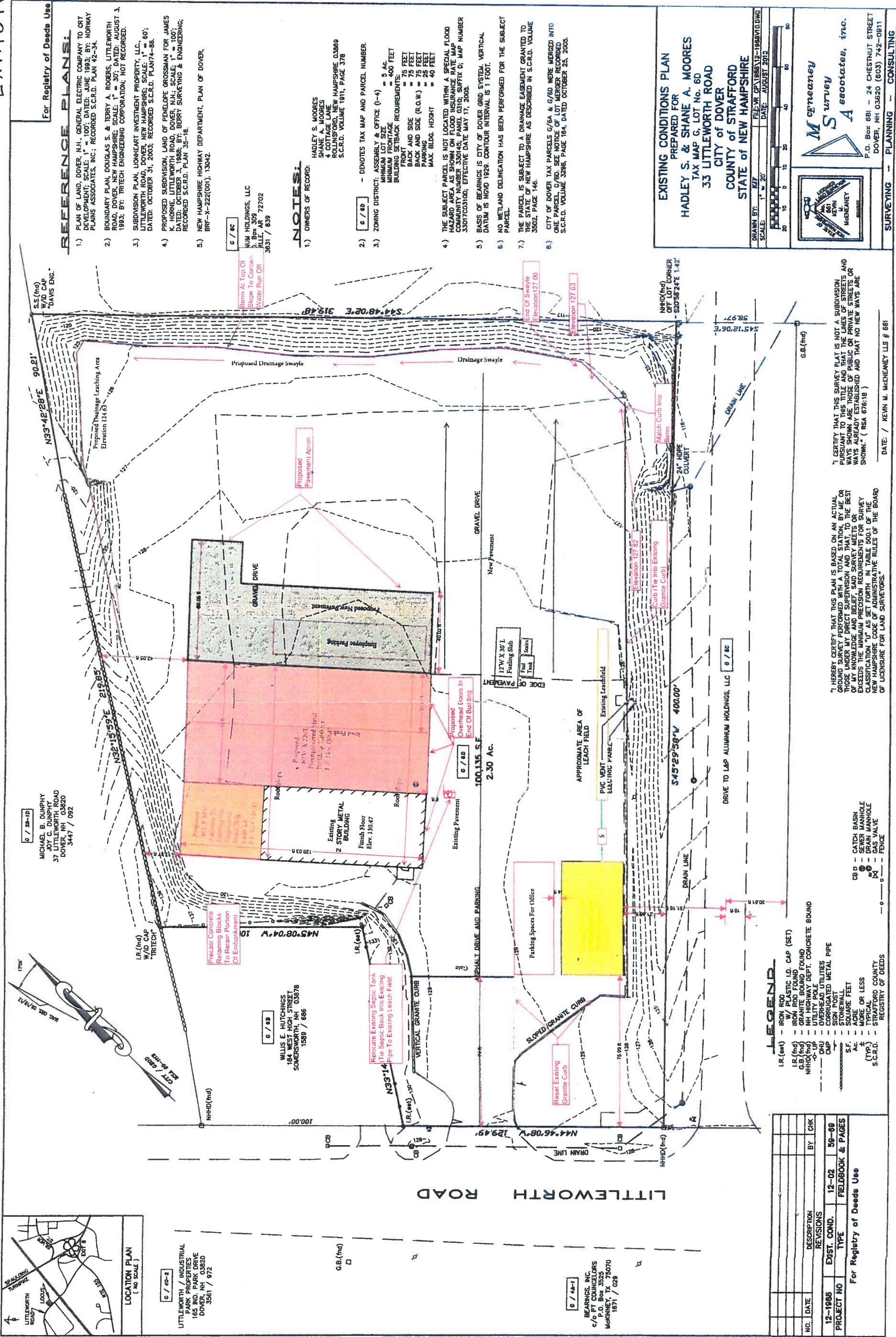
Sincerely,

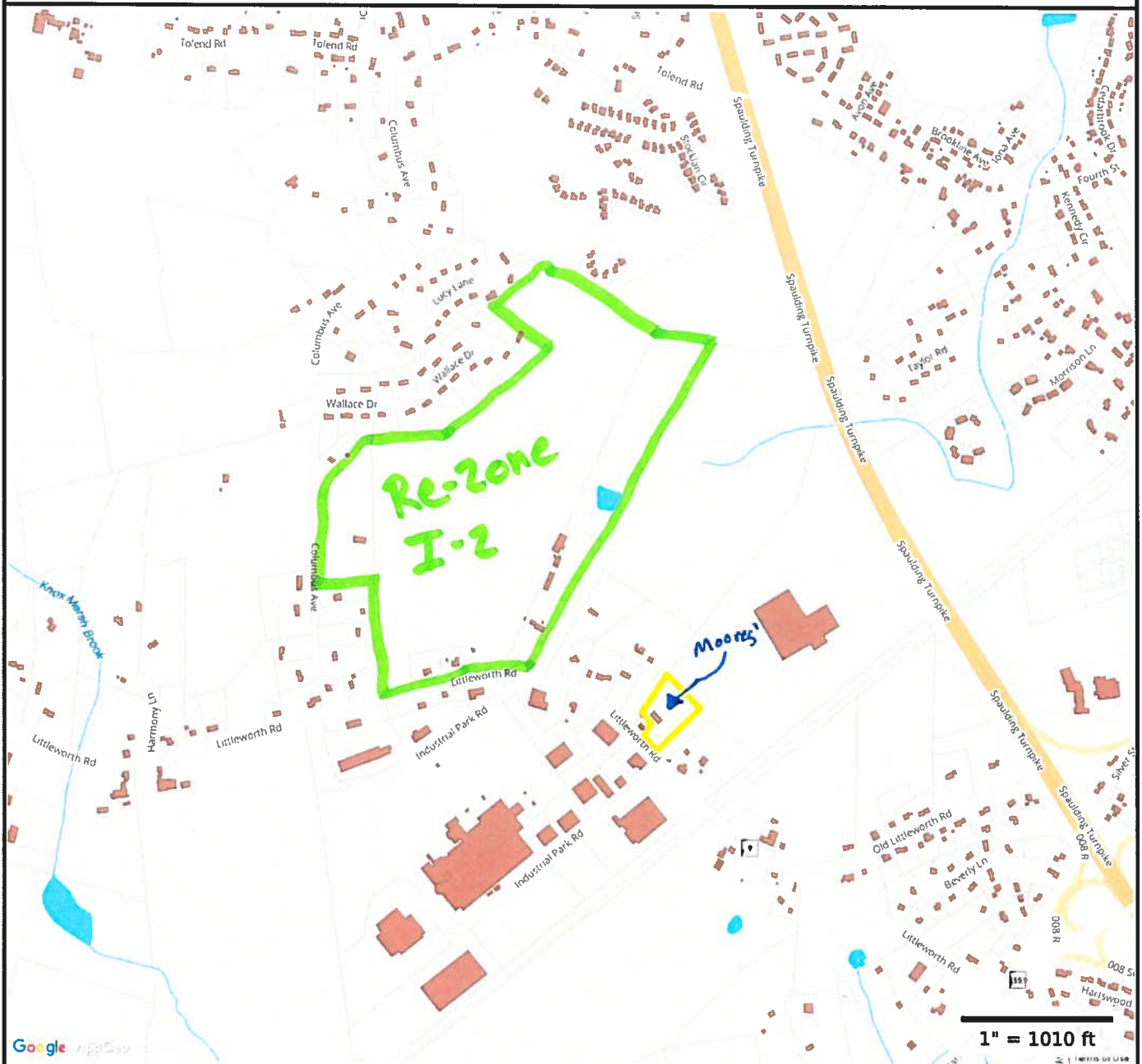
A handwritten signature in black ink, appearing to read 'Abigail Sykas Karoutas', with a long horizontal flourish extending to the right.

Abigail Sykas Karoutas

cc: Hadley and Shane Moores

H:\RE & BUS\Moores Crane Rental Corp\Real Estate\Letter to accompany ZBA Application (final).docx



**Property Information**

Property ID G0006-D00000
Location 33 LITTLEWORTH RD
Owner MOORES HADLEY 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 06/28/2017

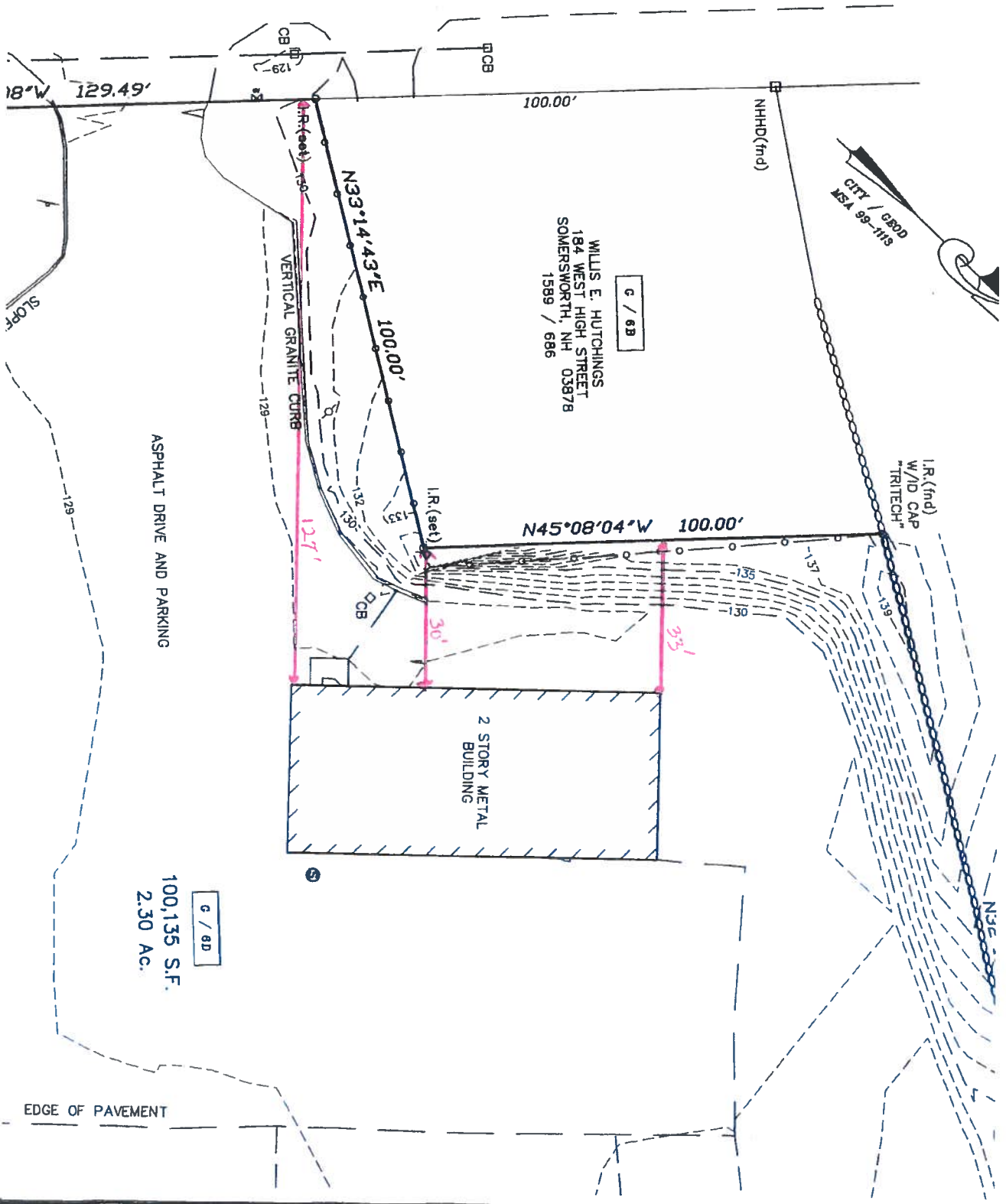
EXHIBIT C


 LOCATION PLAN
 (NO SCALE)

LEWORTH / INDUSTRIAL
 PARK PROPERTIES
 65 IND. PARK DRIVE
 DOVER, NH 03820
 3561 / 972

C / 40-2

TH ROAD



WILLIS E. HUTCHINGS
 184 WEST HIGH STREET
 SOMERSWORTH, NH 03878
 1589 / 686

C / 6B

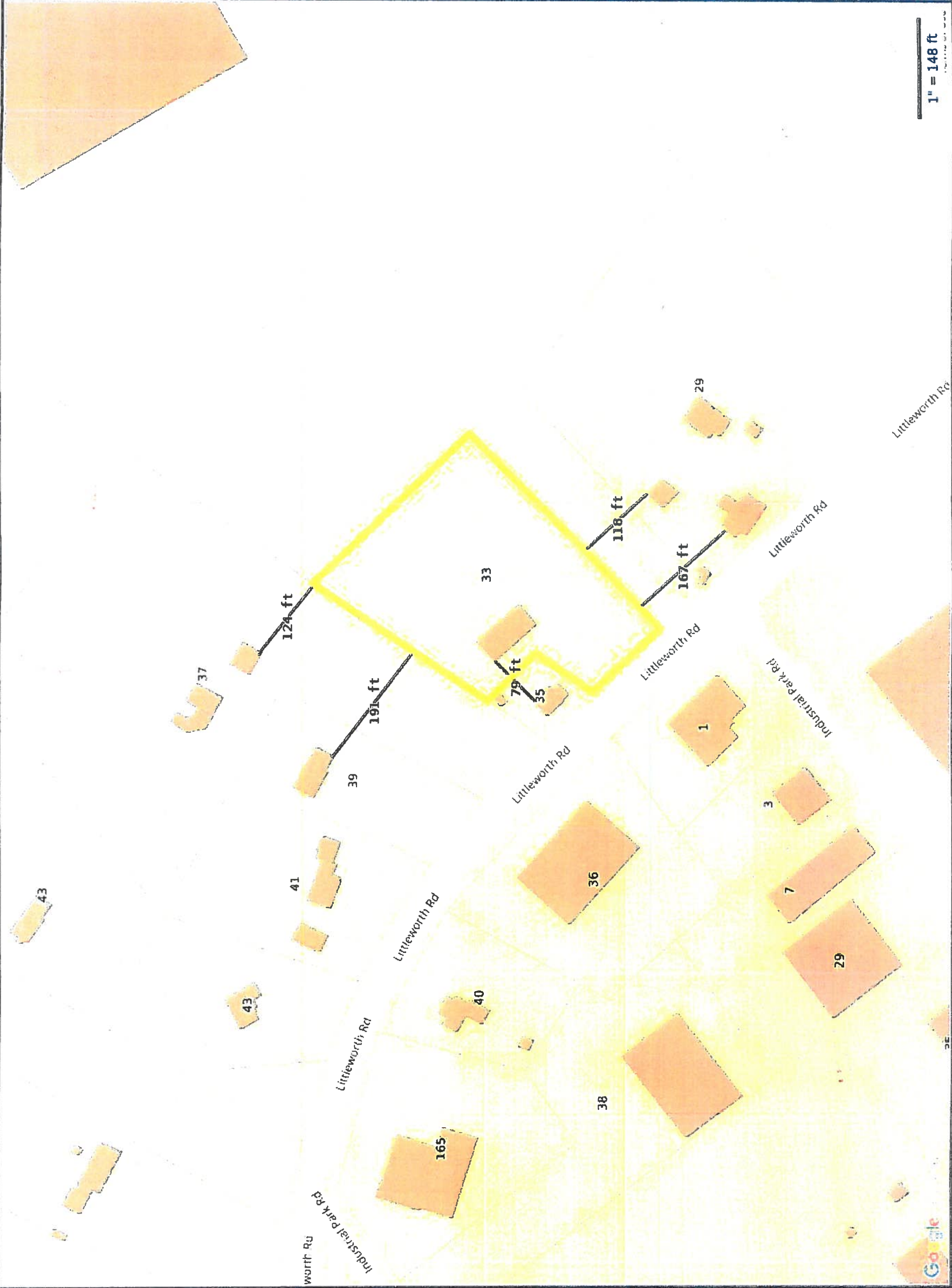
ASPHALT DRIVE AND PARKING

2 STORY METAL BUILDING

100,135 S.F.
 2.30 Ac.

C / 8D

EDGE OF PAVEMENT



Property Information
Property ID G0006-D00000
Location 33 LITTLEWORTH RD
Owner MOORES HADLEY S &



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NOT A LEGAL DOCUMENT

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Parcels updated 03/20/2017
Properties updated 06/25/2017



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO

Meeting Type:	Regular Meeting
Meeting Location:	McConnell Center Room 306 – 61 Locust St. Dover, NH 03820
Meeting Date:	Thursday, August 17, 2017
Meeting Time:	7:00 pm

INTENT: The Applicant requests a variance to permit a new freestanding sign (to replace an existing freestanding sign in another location) where freestanding signs are not permitted.

UNITS PROPOSED: None

AGENDA ITEM #: 3-C

ZONING DISTRICT: Central Business District – General Sub-District

FILE: Z17-18

APPLICANT/OWNER: St. Mary Academy

LOCATION: 222 Central Avenue (Tax Map 9, Lot 98)

ACREAGE: 0.98 acre (42,689 square feet)

EXISTING LAND USE: Educational Institution

PROPOSED LAND USE: Same

SURROUNDING LAND USE: Church, Single-family, two-family, and three-to-four-family dwellings, offices, vehicle refueling/recharging station

PREVIOUS ZBA ACTION:
H89-62/65, variance granted to permit expansion of non-conforming use and a zero-foot rear setback where 12 feet was required

PLANNING BOARD APPROVAL REQUIRED: No

ATTACHMENTS: Application, tax map

STAFF RECOMMENDATION: Staff supports granting the variance.

SUMMARY OF APPEAL AND BACKGROUND

The property is located at 222 Central Avenue, bounded by Central Avenue, Angle Street, Church Street, and Academy Street, and is home to St. Mary Academy.

There is currently a freestanding sign at the front building entrance (on Central Avenue), which appears to predate Planning Department sign permit records. Replacing the sign is an Eagle Scout project proposed by Connor Wade. Per Section 170-32.N(3),

“Non-conforming FREESTANDING SIGNs and PROJECTING SIGNs may be replaced upon approval of a SIGN permit application, provided that the support STRUCTURE of the SIGN remains in place and the dimensions of the SIGN are the same or smaller. If any other nonconforming SIGN is replaced, it shall be replaced in total with a SIGN that is in conformance with the provisions of this Section.”

Mr. Wade proposes replacing the sign in total, as the existing supports are failing and the location is not ideal. However, the Central Business District – General Sub-District prohibits freestanding signs.

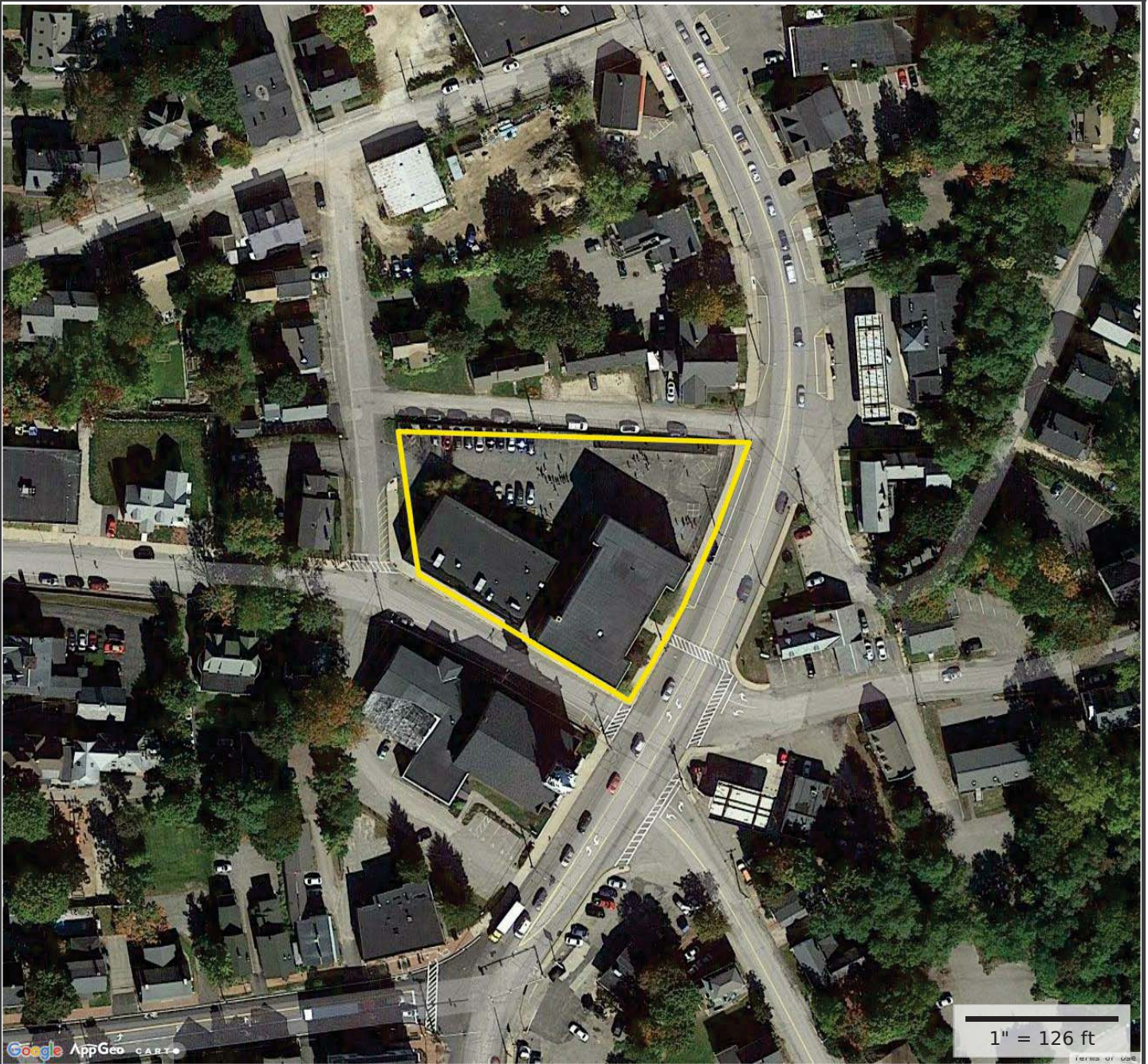
REASON FOR STAFF RECOMMENDATION

The main reason for prohibiting freestanding signs in the Central Business District (in four of its five sub-districts) is because the dimensional regulations require buildings to be located very close to, if not on, the front property line. In this scenario there is no space for an effective freestanding sign, and projecting signs and wall signs are preferred at the pedestrian scale. In several cases, existing buildings that are setback farther from the street than today's zoning would allow have sought relief to permit freestanding signs. Staff is considering an amendment to make an exception for existing buildings that are set back.

The subject property is located at a transitional area close to the Downtown Gateway Sub-District (where limited freestanding signage is permitted) and where the downtown pedestrian nature changes to a more automobile-focused way in and out of downtown.

RECOMMENDATION

Staff recommends the Board hold a public hearing and make findings as to whether each of the five variance criteria are met. If the Board finds that all five criteria are satisfied, the Board should approve the request. Staff supports the request.

**Property Information**

Property ID 09098-000000
Location 222 CENTRAL AV
Owner ST MARY'S SCHOOL



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

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Parcels updated 6/13/2017
Properties updated 08/09/2017



City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Revised April 7, 2017]

RECEIVED
Planning Office

Office Use Only Case #:

217-18

Date Received:

JUL 20 2017

Amount Paid: \$

Time Received:

Dover, New Hampshire

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: Saint Mary Academy Phone # 603-742-3299

Address of Applicant: 222 Central Ave., Dover, NH 03820

E-Mail Address: conorwade@comcast.net; bmcguity@stmaryacademy.org

PROPERTY OWNER (if different from applicant): RCBM (Roman Catholic Bishop of Manchester)

Address: 153 Ash St., Manchester Phone # _____

E-Mail Address: pastor@assumptiondovernh.org

PROPERTY/PARCEL INFORMATION

Address: 222 Central Ave. Dover, NH 03820

Brief Directions: _____

Zoning District: CBD-G Assessor's Map # 9 Lot(s) # 98

TYPE OF APPEAL: (Please check one)

- ☒ Variance
☐ Physical Disability Variance (RSA 674:33-V)
☐ Special Exception
☐ Appeal of Administrative Decision
☐ Equitable Waiver

170-32-N(3)
from Section 170-32.A 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:

Taking down current freestanding sign and installing a new freestanding sign (including message board) several feet closer to the road. Also includes minor landscaping, such as planting flowers and putting down mulch. For Eagle Scout project.

VARIANCE REQUIREMENTS

THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY

A. Variance Requested

A variance is requested from Section(s) 170-32.N(3) & 170-32.A of the Zoning Ordinance to permit:

A freestanding sign in a zone where freestanding signs are not permitted. The new sign cannot be placed within the current posts because the new posts will be of different material, and the sign will be moved several feet closer to Central Ave.

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:

We are renovating and beautifying the current sign.

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

It is enhancing the appearance of St. Mary Academy and Dover, and facilitates communication between the school and the general public.

3. Granting the variance would do substantial justice because:

The current sign is older and run-down, and should it be replaced by the new sign, it would bring it up to the standards Dover has implemented in recent years. It also would do the public no good if any non-freestanding sign is installed, as no one would be able to see it, leaving communication between the school and public impossible.

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

Virtually nothing will be changed.

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

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

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

and

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

and

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

OR

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

Because should a wall-mounted sign be installed on the side of the school building, it would not be visible to drivers on Central Ave. Therefore, a freestanding sign is required so that the sign and the school may receive the greatest amount of attention possible.

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.

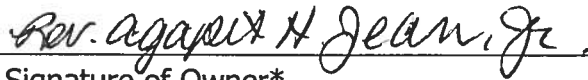
IMPORTANT

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*

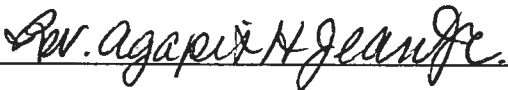


Signature of Owner*

*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: 07/15/17

St. Mary Academy



Property Information

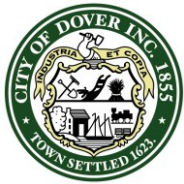
Property ID 09098-000000
Location 222 CENTRAL AV
Owner ST MARY'S SCHOOL



MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT

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Parcels updated 6/13/2017
Properties updated 07/18/2017



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO

Meeting Type:	Regular Meeting
Meeting Location:	McConnell Center Room 306 – 61 Locust St. Dover, NH 03820
Meeting Date:	Thursday, August 17, 2017
Meeting Time:	7:00 pm

INTENT: The Applicant requests a special exception to permit a 24-unit congregate care facility.

UNITS PROPOSED: 24

AGENDA ITEM #: 3-D

ZONING DISTRICT: Rural Residential (R-40) Zoning District

FILE: Z17-19

APPLICANT/OWNER: Community Action Partnership/Strafford County

LOCATION: 262 County Farm Road (Tax Map C, Lot 4)

ACREAGE: 26 acres (1,132,560 square feet)

EXISTING LAND USE: Congregate care facility, nursing home, child care facility, Department of Corrections, Cochecho Valley Humane Society

PROPOSED LAND USE: Same, with additional 24-unit congregate care facility

SURROUNDING LAND USE: Other County Complex uses, single-family dwellings

PREVIOUS ZBA ACTION:
Z02-07, special exception granted to permit 26-unit congregate care facility

PLANNING BOARD APPROVAL REQUIRED: Yes

ATTACHMENTS: Application, plans

STAFF RECOMMENDATION: Staff supports granting the special exception.

SUMMARY OF APPEAL AND BACKGROUND

The property is part of the Strafford County Complex at the intersection of County Farm Road and County Farm Cross Road. The proposed facility will be adjacent to and slightly behind the existing congregate care facility, “Covered Bridge Manor,” for which the Board granted a special exception in 2002.

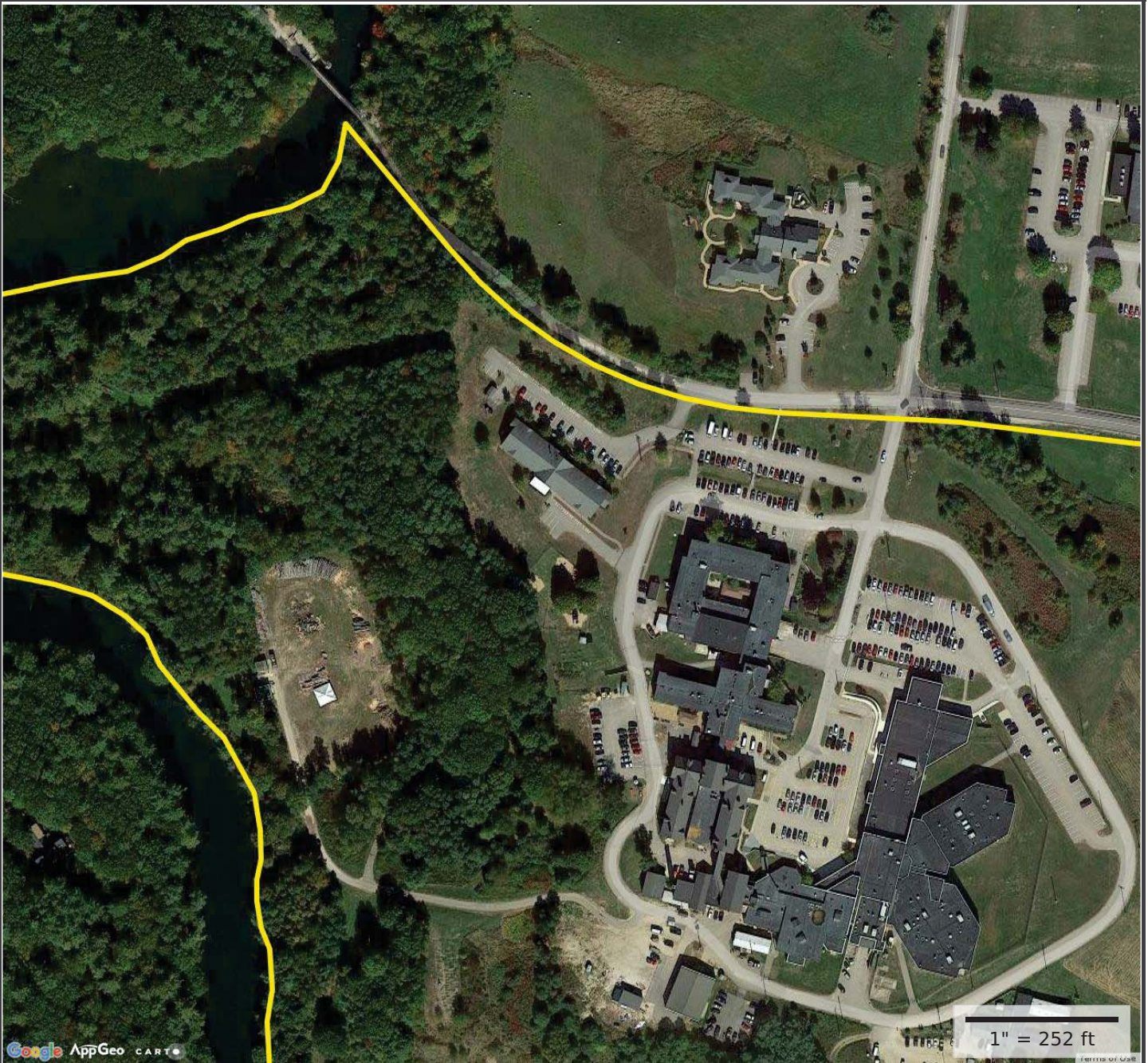
The proposed congregate care facility will contain 24 units. Planning Board site plan approval will be required.

REASON FOR STAFF RECOMMENDATION

The proposed project appears to meet the criteria for a special exception for a congregate care facility use. The number of units (24) is less than the number permitted (37) by the available land area in an area of the R-40 served by public water and sewer. The parking and service areas will be suitably screened from residential uses. Staff opinion is that the general requirements for a special exception are also met by this proposal.

RECOMMENDATION

Staff recommends the Board hold a public hearing and determine whether each of the special exception criteria are met. If the Board finds that all five criteria are satisfied, the Board should approve the request. Staff supports the request.

**Property Information**

Property ID C0004-000000
Location 262 COUNTY FARM RD
Owner STRAFFORD COUNTY



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

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Parcels updated 6/13/2017
Properties updated 08/09/2017



City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Adopted: August 16, 2012]

<i>Office Use Only</i>	Case #: <u>217-19</u>	Date Received: <u>RECEIVED Planning Office</u>
	Amount Paid: \$ _____	Time Received: <u>JUL 26 2017</u>

Dover, New Hampshire

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: Community Action Partnership of Strafford County Phone # (603) 435-2500

Address of Applicant: 642 Central Avenue, P.O. Box 160, Dover, NH, 03821-0160

E-Mail Address: Betsey Andrews Parker, bandrewsparker@straftfordcap.org

PROPERTY OWNER (if different from applicant): County of Strafford, New Hampshire

Address: 259 County Farm Road, Suite 204, Dover, NH, 03820 Phone # (603) 516-6000

E-Mail Address: Raymond F. Bower, rbower@co.strafford.nh.us

PROPERTY/PARCEL INFORMATION

Address: 262 County Farm Road, Dover, NH, 03820

Brief Directions: _____

Zoning District: R-40 Assessor's Map # C-4-0-0 Lot(s) # _____

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:

Community Action Partnership of Strafford County plans to construct a building containing 24 one and two bedroom units for low-income persons over age 62, with a focus on veterans.

SPECIAL EXCEPTION REQUIREMENTS

THIS SECTION TO BE COMPLETED BY SPECIAL EXCEPTION APPLICANTS ONLY

A. General Special Exception Requirements (as set forth in §170-52.C.3 of the Zoning Ordinance)

1. Explain how the requested use would be essential or desirable to the public convenience or welfare.

See attached

2. Detail how the requested use would not create undue traffic congestion or unduly impair pedestrian safety.

See attached

3. Describe how the requested use would not overload any public water, drainage or sewerage system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the City will be unduly subjected to hazards affecting health, safety or the general welfare.

See attached

B. Specific Special Exception Requirements (as may be set forth in the applicable Table of Use)

Explain how the proposal meets the specific special exception requirements as may be set forth in the Table of Use for the zoning district in which the subject property is located:

A. See attached

B.

C.

D.

E.

F.

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*



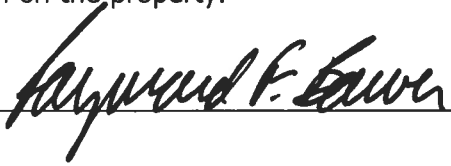
Signature of Owner*

*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:

7/25/17

AUTHORIZATION

The undersigned,

Raymond F. Bower, on behalf of the Strafford County Board of County Commissioners,
Owner of the property known as 262 County Farm Road, (Tax Map ID C-4-0-0),

and

Betsey Andrews Parker, Chief Executive Officer of the Community Action Partnership of
Strafford County, Applicant

hereby jointly authorize Wyskiel, Boc, Tillinghast & Bolduc, P. A., specifically including, but not limited to, Attorneys Abigail Sykas Karoutas and Christopher A. Wyskiel, to represent the undersigned before the Zoning Board of the City of Dover with respect to the undersigneds' Application for Special Exception regarding the above referenced property.

Dated this 25th day of July, 2017.

**Strafford County
Board of County Commissioners**

By: _____

Raymond F. Bower, Duly Authorized, Owner



**Community Action Partnership
of Strafford County**

By: _____

Betsey Andrews Parker, CEO, Applicant





**Wyskiel,
Boc,
Tillinghast
& Bolduc, P.A.**
Attorneys at Law

*Christopher A. Wyskiel
William E. Boc
**D. Lance Tillinghast
*Michael J. Bolduc
Thomas G. Ferrini
*William R. Phipps
*Laurie Smith Young
Abigail Sykas Karoutas

* also admitted in Maine
**also admitted in MA, ME & VT

July 26, 2017

RECEIVED
Planning Office
JUL 26 2017
Dover, New Hampshire

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

RE: Special Exception Application for 262 County Farm Road/Tax Map C-4-0-0

Dear Chairman Prior & Board Members:

This firm represent Community Action Partnership of Strafford County ("CAPSC") with regard to its application for Special Exception to permit construction of a Congregate Care Facility within the R-40 Zone. The land is owned by the County of Strafford, but will be controlled by CAPSC under the terms of a long-term lease from the County. The County of Strafford, through the Board of County Commissioners, joins in this application as a Co-Applicant.

Please allow this letter to serve as an explanation of how this application meets the elements necessary to be granted the requested Special Exception.

Background

CAPSC plans to construct a building containing twenty-four (24) one (1) and two (2) bedroom units for low-income persons over age sixty-two (62). The goal is to fund the project primarily through tax credits, by a grant application scored by the New Hampshire Housing Finance Authority and other grant funding from the United States Department of Housing and Urban Development. This type of funding will require that two (2) of the units in the building be offered at market rates, but otherwise the units will be for the use of low income persons.

Each of the units will include a kitchenette, and each resident will also have access to communal dining and cooking facilities. Amenities such as housekeeping services, rides to the doctor, and classes on a wide variety of topics including financial fitness and personal safety (e.g. fire, identity theft, scams, drug awareness) will be offered. To provide these services, CAPSC staff will generally connect the residents with persons or organizations who can provide these services directly to the residents as needed. A variety of community activities will also be

offered. Except for basic medical checkups which are provided through coordination with an outside service provider, no medical services will be available on-site.

This building will be built adjacent to a similar facility called Covered Bridge Manor, which was also constructed on land owned by the County. Covered Bridge Manor has a substantial waiting list of thirty (30) persons, which equates to a two (2) year duration, showing the need for another facility of this general type. The property in question is not near any residential uses.

Zoning Ordinance Criteria

To qualify for a Special Exception, the applicant must meet both the general criteria for a special exception, as well as the specific criteria applicable to the proposed use.

For the purposes of Dover's Zoning Ordinance, CAPSC's project fits the definition of a Congregate Care Facility as set forth in Section 170-6.B of the Zoning Ordinance:

CONGREGATE CARE FACILITIES means a residential facility for elderly persons containing individual, one (1) and two (2) bedroom units. Each unit may also have a kitchenette. The facility shall contain common dining facilities and amenities such as housekeeping, transportation and organized social and recreational activities, and may include limited medical services on site. This facility is intended for and solely occupied by persons sixty-two (62) years of age or older and thereby qualifies as "housing for older persons" under state law.

The general requirements for a Special Exception in Dover's zoning ordinance are as follows (Section 170-52.C(3)(a)-(c)) (in relevant part):

Special exceptions. ZONING BOARD OF ADJUSTMENT shall have the power to hear and decide on application for special exceptions. In applying a special exception, the APPLICANT need not demonstrate hardship, since the basis for the action is of general benefit to the city as a whole. In granting a special exception, the ZONING BOARD OF ADJUSTMENT, with due regard to the nature and condition of all adjacent STRUCTURES and uses and the district within which the same is located, shall find all of the following general conditions to be fulfilled:

- (a) The requested use is essential or desirable to the public convenience or welfare.
- (b) The requested use will not create undue traffic congestion, or unduly impair pedestrian safety.
- (c) The requested use will not overload any public water, drainage or sewerage system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the City will be unduly subjected to hazards affecting health, safety or the general welfare.

In the R-40 district, the following additional requirements apply to Congregate Care Facilities:

CONGREGATE CARE FACILITY [Added 09-15-93 by Ord. No. 19-93]:
CONGREGATE CARE FACILITY is allowed as a Special Exception in accordance with the density and provisions stated below:

A. In the R-40 District in areas not serviced by City water and sewer utilities at a density of one unit per 10,000 sq. ft. of land; in the R-40 District in areas serviced by City water and sewer utilities at a density of one unit per 7,500 sq. ft. of land;

B. Provided that parking and service areas are screened from abutting residential uses.

Analysis of Facts Meeting Criteria

General Requirements to be Met for Special Exceptions:

(a) The requested use is essential or desirable to the public convenience or welfare.

The 2012 Visioning Chapter of Dover's Master Plan includes as a goal, "Facilitating a balanced supply of safe and attractive housing for individuals and families of all incomes." Inclusion of this aspirational goal is a clear indication of its importance to the community. Clearly, the public has an interest in ensuring that all persons have shelter and access to the appropriate level and type of services to meet their needs.

There is currently insufficient affordable space providing shelter and access to supportive services for persons over 62 years of age, with or without disabilities. As noted above, it would take approximately two (2) years to work through the thirty (30) persons currently on the waiting list for Covered Bridge Manor. Construction of the proposed project will make another twenty-four (24) units available to meet the needs of the over 62 years of age population, reducing the wait time. Making additional units with supportive services available to serve this population is desirable to support the public welfare, and to continue to strive toward the goals of the Master Plan.

(b) The requested use will not create undue traffic congestion, or unduly impair pedestrian safety.

The project is sited on County Farm Road, on an approximately 151-acre parcel of land owned by the County. This parcel is part of a network of other County owned property totaling about 280.69 acres, of which 212.53 acres is subject to conservation easement and 68.16 acres are not subject to the conservation easement (See Strafford County Registry of Deeds Book 2661 and Page 222 for the Conservation Easement Deed, and plans 68-5 through 68-11, which document the various parcels subject to (and not subject to) conservation). The location is in a

rural area, away from the crowded downtown. It is across the street from the courthouse and near to other institutional uses such as the above noted Covered Bridge Manor, and the jail, county nursing home, and hospice house. Even taking into consideration the employees who would travel to and from their work at the facility, and the cars belonging to the residents of the twenty-four (24) proposed units, a substantial increase in traffic to and around the area of the proposed project is not anticipated.

The proposed project also calls for the resurrecting a portion of an abandoned road at the end of the existing County Farm Road, and constructing it to City standards. See Exhibit A (Plan). This will provide access to the proposed building without burdening existing public ways or creating undue traffic congestion.

To service the existing uses on the property and principally the courthouse across the street, there is a bus stop at the corner of County Farm Cross Road and County Farm Road creating some pedestrian traffic despite the rural nature of the property. However, there is a low incidence of vehicular traffic, and there are wide and easy site-lines in places where pedestrians might be encountered. The limited amount of traffic to and around this facility will not substantially change pedestrian safety, and therefore not unduly impair pedestrian safety.

(c) The requested use will not overload any public water, drainage or sewerage system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the City will be unduly subjected to hazards affecting health, safety or the general welfare.

The project as proposed has been designed to integrate with the public sewer and water systems, and should not overload those systems. The project also includes a wide and deep drip edge in order to facilitate drainage, as well as a rain garden and infiltration basin. See Exhibit B (drainage and grading plan). It is designed to conform to City standards in this regard.

In addition, part of the project will connect the driveway of the proposed new building to the existing driveway of Covered Bridge Manor, which will facilitate the entry and exit of emergency and other vehicles, by permitting them to pull around and through the driveways of both facilities, rather than having those vehicles back out of the driveway of Covered Bridge Manor, as is currently the case. This enhances municipal access to both the proposed new structure and the existing building, as well as to facilitate the exit of emergency vehicles from both the facilities, thereby improving response times elsewhere in the City.

Finally, it is notable that the proposed new use is the same as, or compatible with, the existing institutional uses on and near the property. There are no hazards to the community or immediate area which could arise from the proposed use. The project will neither overload existing municipal systems, nor cause any area of the City to be subjected to undue hazards.

Specific Requirements for a Special Exception to Permit a Congregate Care Facility in the R-40 Zone:

A. In the R-40 District in areas not serviced by City water and sewer utilities at a density of one unit per 10,000 sq. ft. of land; in the R-40 District in areas serviced by City water and sewer utilities at a density of one unit per 7,500 sq. ft. of land

The lot known as 262 County Farm Road/Tax Map C-4-0-0 is served by City water and sewer utilities. The proposed project has been sized appropriately to take into account density requirements of one unit per 7,500 square feet of land, based upon land areas surveyed for the purposes of the above referenced Conservation Easement plans and deed on record at the Registry of Deeds (See also SCRDP Plan 68-05 attached as Exhibits D-1 and D-2):

Of the approximate 151.05 acres of County-owned land making up the lot known as 262 County Farm Road, approximately 121.35 acres are subject to a conservation easement, leaving 29.7 acres able to support construction (this space is described as “non-easement area #3” in the Conservation Easement deed and plans). 29.7 acres times 43,560 square feet (the number of square feet in an acre) is 1,293,732 square feet.

The ordinance requires 7,500 square feet per unit, allowing a total of 172 units on the subject lot (1,293,732 square feet divided by 7,500 square feet is 172.49). From the 172 possible units, the existing 109 units at Riverside Rest Home and 26 units at Covered Bridge Manor are subtracted, leaving 36 units available for use in accordance with the density calculation ($172 - 109 - 26 = 37$). The proposed building will use only 24 units of the permissible 37 units.

B. Provided that parking and service areas are screened from abutting residential uses.

The subject lot is approximately 151 acres, of which just over 121 acres are subject to a conservation easement. The lot is bordered on the Cochecho River on three sides, and the existing buildings on the lot (the jail, Riverside Rest Home, Covered Bridge Manor, etc.) are generally on the highest part of the property as it slopes away toward the outside edges of the parcel. Due to the size of the lot, with trees and the Cochecho River serving as a boundary around most of the parcel, there are virtually no directly abutting residential uses. Any arguably abutting residential lots are separated from the subject property itself by the Cochecho River or screened from the proposed development by the other existing buildings on the subject lot. The distance between any residential lots and the proposed construction is substantial, further diminishing any potential impact of the new construction on any residential lots. In addition, a considerable portion of the abutting land is vacant and owned by the City of Dover, or is County-owned property across County Farm Road, and therefore is not for residential use. See Exhibit C.

Therefore, although there is no need to specifically add screening to partition the residential uses from the parking or service areas, it is important to note that the majority of the parking for the facility will be located under the proposed structure in the rear of the building.

Chris Prior, Chairman

July 26, 2017

Page 6

This will further shield most of the facility's parking from view. While deliveries will occur through the facility's front door, and there is some parking located in the front of the building, there are no residential uses in the vicinity of the front of the building which would be exposed to the view of these areas.

All of the above reasons illustrate that the proposed project satisfies the general requirements for a Special Exception, as well as the specific requirements for a Special Exception to construct a Congregate Care Facility within the R-40 zone. CAPSC and Strafford County by its Board of Commissioners as landowner respectfully request that the Special Exception be granted.

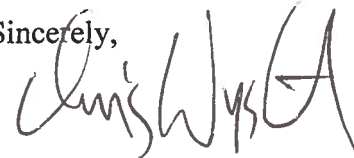
Thank you for your consideration.

Sincerely,



Abigail Sykas Karoutas

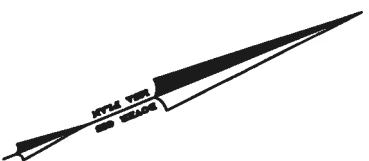
Sincerely,



Christopher A. Wyskiel

cc: CAPSC
Board of Commissioners of Strafford County

-
- PROPOSED ACCESSIBLE PARKING SPACES (8' x 16' WITH 8' x 16' ACCESS ISLE)



- GENERAL SITE PLAN NOTES:
1. THE PURPOSE OF THIS PLAN IS TO DEMONSTRATE THE PROPOSED
 2. 24 UNIT CONCRETE CARE FACILITY LOCATED ON PARCEL C4-A.
 3. TOTAL PARCEL AREA = 151.05 ACRES
 4. TOTAL LEASE AREA = 4.49 ACRES
 5. PARCEL IS LOCATED IN THE R-40 ZONING DISTRICT.
 6. DIMENSIONAL REGULATIONS PER ZONING ORDINANCE.
 7. RURAL RESIDENTIAL DISTRICT:
 8. MINIMUM LOT FRONTAGE = 150 FEET
 9. MINIMUM LOT DEPTH = 100.00 FT
 10. MINIMUM WIDE STRIPS = 10%
FRONT = 40' SIDE = 25' REAR = 30'
 11. MAXIMUM BUILDING HEIGHT = 35'
 12. THE PARCEL IS SERVED BY CITY WATER AND SEWER.
 13. A PORTION OF PARCEL IS LOCATED WITHIN ZONE A (100 YEAR FLOOD)
 14. AS SHOWN ON FEDERAL EMERGENCY MANAGEMENT AGENCY MAP.
 15. COMMUNITY 3301701Z04E DATED SEPTEMBER 30, 2015.
 16. THE PROJECT AREA IS NOT WITHIN ZONE A.
 17. THE LOT KNOWN AS 282 COUNTY ROAD 700/TAX MAP C-4-0-0
 18. CONSISTS OF APPROXIMATELY 151.05 ACRES. OF THIS, APPROXIMATELY
 19. 121.25 ACRES ARE SUBJECT TO A CONSERVATION EASEMENT (SEE
 20. STRATFORD COUNTY RESISTORY OF DEEDS BOOK 2461, PAGE 222 FOR THE
 21. CONSERVATION EASEMENT DEED), AND PLANS 66-5 THROUGH 66-11 ALSO
 22. RECORDED AT THE REGISTRY). THE 28.7 ACRES NOT SUBJECT TO
 23. CONSERVATION EASEMENT SUPPORT CONSTRUCTION (EASEMENT AS
 24. NON-EASEMENT AREA) IN THE CONSERVATION EASEMENT DEED AND
 25. PLANS).
 26. 28.7 ACRES TIMES 43,860 SQ. FT. PER ACRE EQUALS 1,263,732 SQ. FT. -
 27. 28.7 ACRES EQUALS 1,263,732 SQ. FT. - 1,263,732 SQ. FT. TIMES THE
 28. CONSERVATION EASEMENT DEED, EXCEPT FOR CONCRETE CARE
 29. FACILITY - 1,263,732 SQ. FT. DIVIDED BY 7,500 SQ. FT. EQUALS 172.49 -
 30. FROM THE 122 POSSIBLE UNITS, THE PRESENTLY EXISTING 109 UNITS AT
 31. REVERSE REST HOME AND 28 UNITS AT COVERED BRODIE MANOR MUST BE
 32. SUBTRACTED, LEAVING 37 UNITS AVAILABLE FOR USE IN FOR THE
 33. CONSERVATION CARE FACILITY SPECIAL EXCEPTION DENSITY CALCULATION
 34. (UNITS - 109 - 28 = 37). - THE PROPOSED BUILDING WILL CONTAIN ONLY 24
 35. UNITS.

**SITE LAYOUT PLAN
COACHECHO MANOR
COUNTY FARM ROAD
CITY OF DOVER
STRAFFORD COUNTY
NEW HAMPSHIRE**

PREPARED FOR

JULY 2017

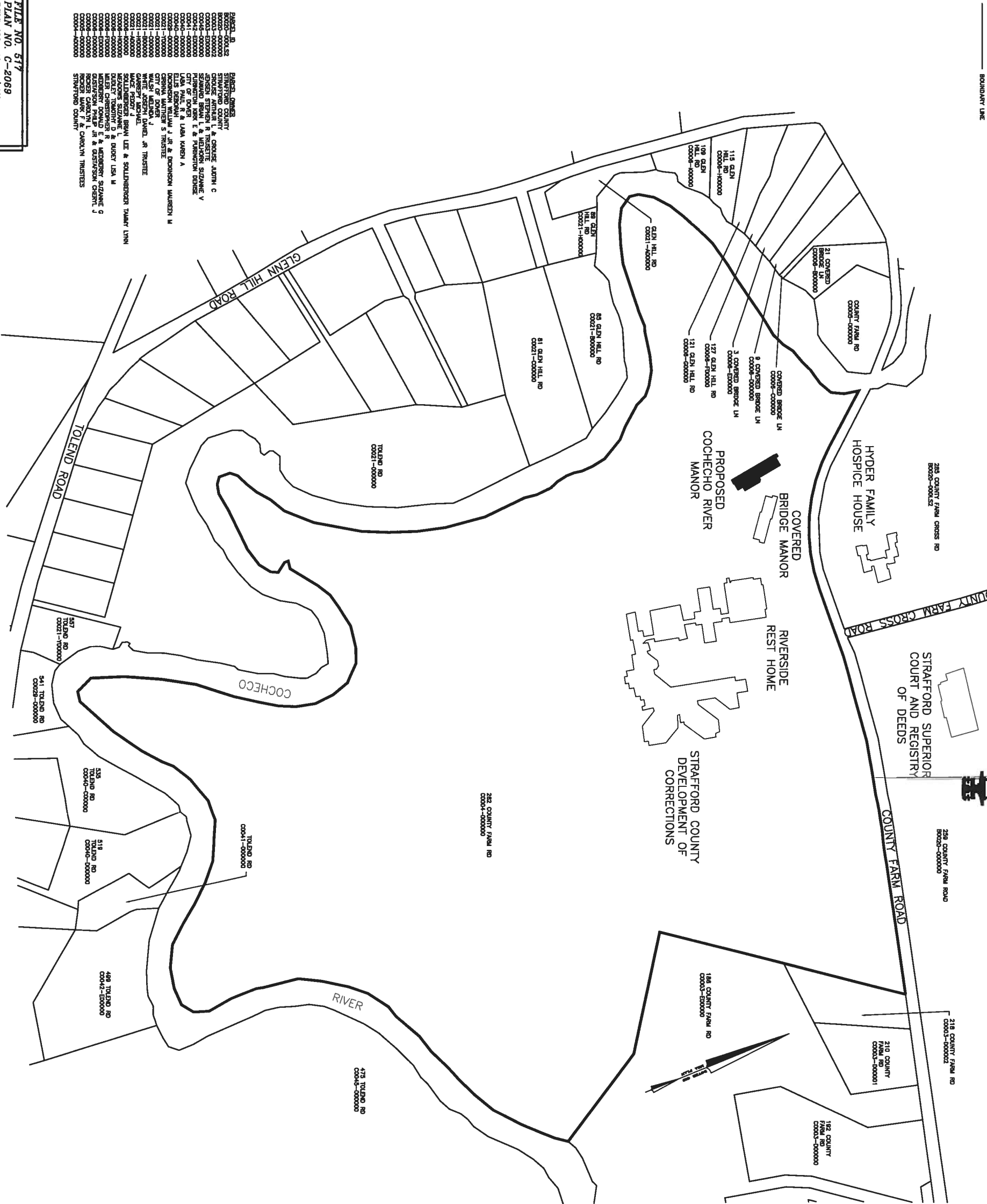
GRAPHIC SCALE



(IN FEET)
1 INCH = 30 FEET

1 INCH = 20 METERS

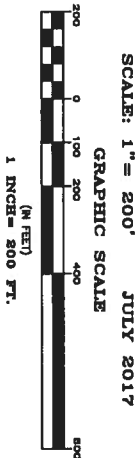
ZBA-2



- GENERAL SITE PLAN NOTES:
1. THE PROPOSED DEVELOPMENT PLAN IS TO DEPICT THE PROPOSED 24 UNIT CONgregate CARE FACILITY LOCATED ON PARCEL C4-A.
 2. TOTAL PARCEL AREA = 151.05 ACRES
 3. TOTAL LEASE AREA = 4.49 ACRES
 4. PARCEL IS LOCATED IN THE R-40 ZONING DISTRICT.
 5. DIMENSIONAL REGULATIONS PER ZONING ORDINANCE.
 6. MINIMUM LOT AREA = 40,000 SF
 7. MINIMUM LOT COVERAGE = 10%
 8. MINIMUM YARD SETBACKS:
 - FRONT = 40' SIDE = 25' REAR = 30'
 9. MAXIMUM BUILDING HEIGHT = 35'
 10. THE PARCEL IS SERVICED BY CITY WATER AND SEWER.
 11. A PORTION OF PARCEL IS LOCATED WITHIN ZONE A (100 YEAR FLOOD) AS SHOWN ON FEDERAL EMERGENCY MANAGEMENT AGENCY MAP.
 12. COMMUNITY 33017C0305E DATED SEPTEMBER 30, 2015.
 13. THE PROJECT AREA IS NOT WITHIN ZONE A.
 14. THE LOT KNOWN AS 282 COUNTY FARM ROAD/TAX MAP C-4-0-0 CONSISTS OF APPROXIMATELY 151.05 ACRES. OF THIS, APPROXIMATELY 121.35 ACRES ARE SUBJECT TO A CONSERVATION EASEMENT DEED RECORDED AT THE REGISTRY. THE 29.7 ACRES NOT SUBJECT TO THE CONSERVATION EASEMENT DEED, AND PLANS 88-5 THROUGH 88-11 ALSO RECORDED AT THE REGISTRY.~ THE 29.7 ACRES NOT SUBJECT TO CONSERVATION EASEMENT SUPPORT CONSTRUCTION (DESCRIBED AS "NON-EASEMENT AREA #3" IN THE CONSERVATION EASEMENT DEED AND PLANS).~
 15. 29.7 ACRES TIMES 43,580 SQ. FT. PER ACRE EQUALS 1,283,732 SQ. FT.~ THE ORDINANCE REQUIRES 7,500 SQUARE FEET PER UNIT TO SATISFY THE REQUIREMENTS FOR A SPECIAL EXCEPTION FOR A CONGREGATE CARE FACILITY.~ 1,283,732 SQ. FT. DIVIDED BY 7,500 SQ. FT. EQUALS 172.49.~ FROM THE 172 POSSIBLE UNITS, THE PROPOSED DEVELOPMENT HAS AT PROPOSED 172 UNITS.~ THE 172 UNITS ARE LOCATED WITHIN THE PROPOSED REST HOME AND MANOR.~ THE 172 UNITS MUST BE SUBTRACTED, LEAVING 37 UNITS AVAILABLE FOR USE IN FOR THE CONGREGATE CARE FACILITY SPECIAL EXCEPTION DENSITY CALCULATION (172-109-26 = 37).~ THE PROPOSED BUILDING WILL CONTAIN ONLY 24 UNITS.

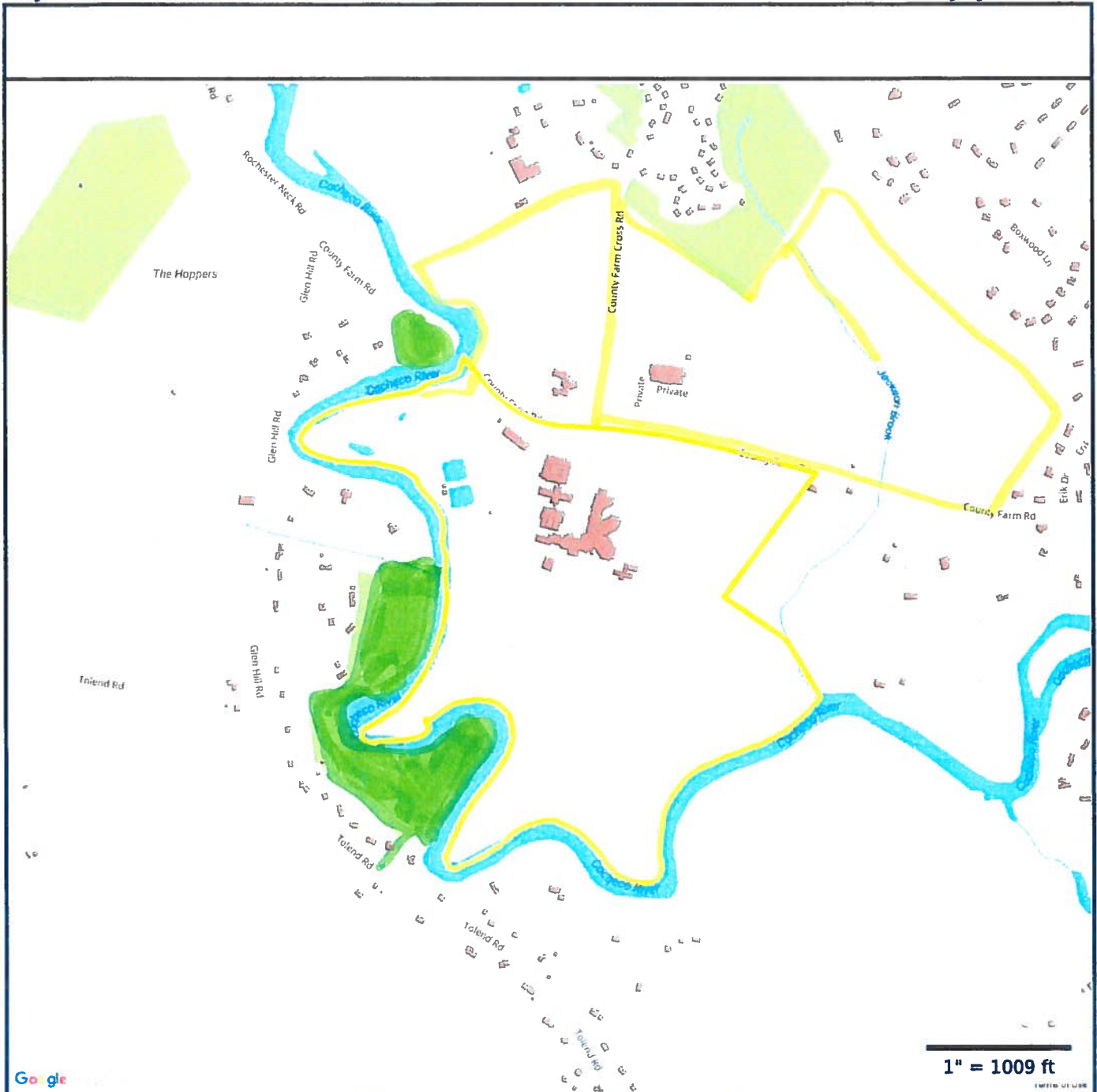
PARCEL C4-A
 TOTAL PARCEL AREA:
 151.05 ACRES
 STRAFFORD COUNTY COMMISSIONERS
 c/o COUNTY ADMINISTRATOR
 P.O. BOX 798
 DOVER, NH 03820

OVERALL PARCEL PLAN
 COCHECHO RIVER MANOR
 COUNTY FARM ROAD
 CITY OF DOVER
 STRAFFORD COUNTY
 NEW HAMPSHIRE
 PREPARED FOR:
 COMMUNITY ACTION
 PARTNERSHIP OF STRAFFORD
 COUNTY



FILE NO. 517
 PLAN NO. C-2069
 DWG NO. 17078\NP-1
 F.B. NO. SDR-TJR

PARCELS IN
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**Property Information**

Property ID C0004-A00000
Location COUNTY FARM CROSS RD
Owner STRAFFORD COUNTY



**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 6/13/2017
 Properties updated 07/20/2017

City Owned
 County owned
 Cobbleco River
 or other water

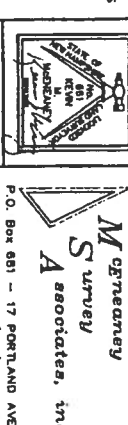


NOTES:

- 1) OWNER OF RECORDING COMPANY
COUNTY FARM ROAD
DOVER, NEW HAMPSHIRE 03801
TELEPHONE 253-2211
S.C.R.D. VOL. 251, PAGE 521
S.C.R.D. VOL. 252, PAGE 274
- 2)

B / 20

 - DROPPED TAX MAP / 20 NO.
- 3) THE INTENT OF THIS PLAN IS TO DELINEATE THE AREAS OF THE COUNTY THAT ARE SUBJECT TO BE ACQUIRED BY THE STATE FOR THE PROTECTION OF NEW HAMPSHIRE FORESTS. REFERENCE IS MADE TO THE ASSENTMENT DOCUMENT FOR MORE PARTICULAR RESTRICTIONS OF THE VARIOUS TRACTS SHOWN.
- 4) PORTIONS OF THE COUNTY LANDS MAY BE SUBJECT TO LEASES OR RESTRICTIONS THAT WERE NOT RESEARCHED AS PART OF THIS PLAN.
- 5) THE COUNTY LANDS ARE SUBJECT TO THE FOLLOWING:
 - 1) THAT PORTION OF THE PROPERTY ADJUTING THE CONCORD RIVER IS SUBJECT TO THE DAM PRIVILEGE AND FLOWAGE RIGHTS OF THE CITY OF DOVER KNOWN AS THE "HESSEY HILL PRIVILEGE". SEE SORD BOOK #1, PAGE 112.
 - 2) THAT PORTION OF THE PROPERTY ADJUTING THE CONCORD RIVER AND THE WATSON/WALSHOWN DAM, SEE SORD BOOK #153, PAGE 140.
 - 3) THAT PORTION OF THE PROPERTY ADJUTING THE CONCORD RIVER MAY BE SUBJECT TO AND AFFECTED BY THE DAM PRIVILEGE AND FLOWAGE RIGHTS OF THE WATSON HYDROELECTRIC ASSOCIATES AT THE WATSON/WALSHOWN DAM. SEE SORD BOOK #153, PAGE 140.
 - 4) THERE IS DESCRIBED IN SORD BOOK #125, PAGE 327, TRACT #1, A PORTION OF THE PROPERTY ADJUTING THE CONCORD RIVER, AND A RIGHT TO PASS AND REVEAS TO SUCH BURIAL PLACES AS WERE NOT FOUND DURING THE SURVEY. THEIR LOCATION IS UNDETERMINED.
 - 5) THE PROPERTY IS SUBJECT TO AN EASEMENT TO PUBLIC SERVICE UTILITIES FOR THE CONDUCT OF TRANSMISSION LINES AND A TELEPHONE COMPANY PER SORD BOOK #54, PAGE 70.
 - 6) THE PROPERTY IS SUBJECT TO AN EASEMENT TO NEW ENGLAND TELEPHONE & TELEGRAPH COMPANY AND PUBLIC SERVICE COMPANY OR NEW HAMPSHIRE POWER & LIGHT COMPANY FOR OVERHEAD UTILITY EASEMENT PER SORD BOOK #101, PAGE #14.
- 6) NO LAIOUT WAS FOUND FOR COUNTY FARM ROAD OR COUNTY FARM ROAD AND RIVER ROAD. THE LOCATION OF THE RIVER ROAD WAS DEDUCED AND CALCULATED USING EXISTING MONUMENTATION, PHYSICAL FEATURES, AND ROAD CONSTRUCTION.



DOVER, NH 03820 (603) 742-08	
SURVEYING - PLANNING - CONSULTING	

AREA TABLE

CONSERVATION EASEMENT	#1	233,141 S.F.	/	5.35 Ac.
	#2	1,158,611 S.F.	/	26.60 Ac.
	#3	4,334,460 S.F.±	/	99.5 Ac.±
	#4	690,923 S.F.	/	15.86 Ac.
	SUBTOTAL	6,417,135 S.F.±	/	147.32 Ac.±
SPECIAL PROVISION CONSERVATION EASEMENT	#1	499,632 S.F.	/	11.47 Ac.
	#2	345,206 S.F.	/	7.92 Ac.
	#3	524,835 S.F.	/	12.05 Ac.
	#4	168,145 S.F.	/	3.86 Ac.
	#5	850,647 S.F.	/	19.53 Ac.
	#6	452,253 S.F.	/	10.38 Ac.
	SUBTOTAL	2,840,718 S.F.	/	65.21 Ac.
TOTAL AREA SUBJECT TO CONSERVATION EASEMENT NON-EASEMENT		9,257,853 S.F.	/	212.53 Ac.
	#1	404,723 S.F.	/	9.29 Ac.
	#2	1,270,343 S.F.	/	29.16 Ac.
	#3	1,293,872 S.F.	/	29.70 Ac.
	SUBTOTAL	2,968,938 S.F.	/	68.16 Ac.
TOTAL LAND AREA		12,226,791 S.F.±	/	280.69 Ac.±



SHEET 5

SHEET 6

C.E. #4

S.P.C.E. #2

C.E. #1

COUNTY FARM CROSS ROAD

