



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - AGENDA

Meeting Type: Regular Meeting
Meeting Location: Council Chambers, City Hall – 288 Central Avenue, Dover, NH 03820
Meeting Date: **Thursday, June 21, 2018**
Meeting Time: **7:00 pm**

1. ATTENDANCE

2. APPROVAL OF MEETING MINUTES OF MAY 17, 2018

3. HEARINGS

- A. Z18-11 Applicant/Owner Robyn Thompson, 321 Back Road (Tax Map M, Lot 105), 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 a horse in a barn set back approximately 95 feet and 72 feet from the two closest lot lines, on a 1.24 acre (54,014-square-foot) lot, where the keeping of farm animals in the R-40 Zoning District is only permitted on a lot of 100,000 square feet (2.3 acres) or more, and where any shelter used to contain said animals is no less than 100 feet from any property boundary.
- B. Z18-12 Applicant/Owner Aramis Black/Real McKoy Properties, LLC, 301 Durham Road (Tax Map H, Lot 1), located in the Hotel/Retail (B-4) Zoning District, requests a variance from **Section 170-12.A** of the Zoning Ordinance to permit an assisted living facility, where assisted living facilities are not permitted in the B-4 Zoning District.
- C. Z18-07 Applicant Industrial Tower and Wireless, LLC and Owners Peter and Susan Rousseau, 200 Henry Law Avenue (Tax Map K, Lot 1), located in the Rural Residential (R-40) Zoning District, request a variance from **Section 170-22.C(1)** of the Zoning Ordinance to permit the construction of a new, 180-foot tall telecommunications tower on the above referenced property, where the construction of new telecommunications towers is only permitted on 15 parcels specified by the Zoning Ordinance.

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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1. ATTENDANCE

Members Present: Chris Prior (Chair), Bob Hall (Vice Chair), Otis Perry, George Reagan, Nick Couturier (joined 7:15 p.m.) (Alternate), Rich Onufry (Alternate), Anthony Sillitta (Alternate)

Members Absent: Frank Landford

Staff Present: Elena Piekut (Assistant City Planner, Zoning Administrator)

The Chair called the meeting to order at 7:03 p.m. He introduced the Board and staff present to the audience and explained the process used to hear cases.

2. APPROVAL OF MEETING MINUTES OF APRIL 19, 2018

Motion: Otis Perry moved to approve the meeting minutes of April 19, 2018 as written. Bob Hall seconded. Chris Prior asked for minor amendments to which Otis Perry and Bob Hall assented. Vote: 4-0-1 with George Reagan abstaining.

Otis Perry moved to reorder the agenda, hearing case Z18-10 first. Bob Hall seconded. Chair Chris Prior asked Anthony Sillitta to vote. Vote: U/A

3. HEARINGS

- A. Z18-10 Applicant Kirt Schuman and Owner Schuman Family Revocable Trust of 2013, 136 County Farm Road (Tax Map C, Lot 3-B1), located in the Rural Residential (R-40) Zoning District, requests a variance from Section 170-12.B to permit a side setback of 20 feet, where a minimum of 25 feet is required.

Kirt Schuman provided an overview of his request, the constraints present on his lot, and how the request meets the five variance criteria.

Public hearing opened.

STAFF RECOMMENDATION:

Assistant City Planner Elena Piekut stated that the Planning Department supports the variance request as the impact is very minor at 96 square feet and the addition would be impeded by wetland buffer, well, and/or septic system infrastructure if placed elsewhere.

Public hearing closed.

Motion: Bob Hall moved to grant the variance, finding that all variance criteria had been met. George Reagan seconded. Chair Chris Prior asked Rich Onufry to vote on the case. Vote: U/A.

- A. Z18-07 Applicant Industrial Tower and Wireless, LLC and Owners Peter and Susan Rousseau, 200 Henry Law Avenue (Tax Map K, Lot 1), located in the Rural Residential (R-40) Zoning District, request a variance from Section 170-22.C(1) of the Zoning Ordinance to permit the construction of a new, 180-foot tall



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telecommunications tower on the above referenced property, where the construction of new telecommunications towers is only permitted on 15 parcels specified by the Zoning Ordinance.

Chair Chris Prior recused himself from hearing the case and left the table.

Vice Chair Bob Hall explained the process used to review the case and invited the Applicant to present additional information.

Attorney Steve Grill represented the applicant. He stated that he wants to address three things: the drive test, the coverage plots, and responses to concerns raised at last hearing. He commented on the petition that abutters have submitted and noted that this type of response can happen wherever a tower is proposed. He argued against the submission from Andrew Nanaa and said that he believes it is “usurping the board’s function” because it is the Board’s job to weigh all concerns and rights and the submission is Mr. Nanaa’s opinion. He said state and federal reviews should not overlap with Zoning Board review. He stated that the new T-Mobile antenna placed on the Cocheco Mill smokestack improved over the 2016 drive test conditions but did not close the gap. He said that they have documented that alternative locations do not suffice and that it is not possible to close the gap without a variance. He said they submitted a real estate market study that shows there will not be an impact and that their appraiser also conferred with other professionals. He stated that the potential environmental effects of the radiofrequency are regulated by the FCC and cannot be regulated by local government. He said the Applicant would also like to set a date for a balloon test and site walk.

Rich Onufry noted that a petition from abutters and its relevance to variance criteria would not come into play if the proposal met zoning requirements, but a variance is required so the petition should not be dismissed.

Ryan Monte de Ramos, a radiofrequency engineer representing T-Mobile, said he has been in the industry for 18 years working for various carriers and provided an overview of the coverage plots submitted. He explained that green represents in-building, or ideal, coverage, while yellow shows in-vehicle coverage. He showed the existing coverage plot.

Vice Chair Bob Hall asked what counts as in-building coverage and Mr. Monte de Ramos said it is when coverage is available 95% of the time but it can depend on type of construction. Mr. Hall asked what acceptable coverage is. Mr. Monte de Ramos said it is a good signal-to-noise ratio, perhaps four to five signal bars, and that the user can get data. Mr. Hall asked for an explanation in layman’s terms and Mr. Monte de Ramos said that you could have a few bars and still be able to use data, but you could also have more bars but not be able to use data because too many people are using the service. Rich Onufry asked how inadequate coverage is determined and Mr. Monte de Ramos said the carrier performs a drive test, testing signal level and number of dropped calls, and takes into account the need stated by subscribers, which is not public information. He then verifies coverage with sample data to demonstrate need.

Anthony Sillitta noted that too many people using their phones during a drive test can represent a gap in coverage, and he wants to know if market share has increased or decreased since 2016. He thinks the drive test does not tell the whole story. Mr. Monte de Ramos said they have a type of study that determines the need for capacity and they make the decision based on the heavily congested sites, and that the criteria is that 60% of the users are having issues. He said they can have coverage but need more capacity. Mr. Sillitta asked if the time of day affects a drive test. Mr. Monte de Ramos said the drive test was focused on signal level, not capacity. Mr. Sillitta said he thinks the Board has to determine if the Applicant’s need is the same as the need for a variance. Mr. Monte de Ramos said there is a need for coverage to close the gap for signal level but capacity is secondary. He said that some people use their phones to



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replace other services. George Reagan asked whether analysis factors in the use of Wi-Fi at home. Mr. Monte de Ramos said it does not, and they look at macro-level coverage.

Bob Hall asked whether there are other technologies available to boost signal strength or repeat signals. Mr. Monte de Ramos said that there are other ways but in this area a macro site is best. He said that a distributed antenna system (DAS) is used for other needs like in big cities or stadiums but doesn't fit this geographical area as it has a small footprint, trees affect it, and it would lead to coverage gaps between DAS units.

Bob Hall noted that the application is for a 180-foot tower and asked what minimum tower height would provide coverage. Mr. Monte de Ramos said coverage was modeled at 177 feet and that they can probably provide coverage above tree line. He said they will have to change the model and they can consider a lower tower, maybe 10 feet lower would be adequate.

Rich Onufry asked whether existing sites were adequate in 2016. Mr. Monte de Ramos said that the smokestack site was built at 150 feet in 2016 and there is still a deficiency in coverage and he can look at the results of that project. Mr. Onufry asked for clarification and Mr. Monte de Ramos said coverage was still inadequate in 2016. Mr. Onufry asked if the proposed tower will be adequate in two years and Mr. Monte de Ramos said antennas are replaced year after year as equipment improves to meet demand. Mr. Onufry asked how the growth of 5G service will affect T-Mobile. Mr. Monte de Ramos said that is mostly the path forward, that some sites use 5G and that networks are becoming self-optimizing networks with AI coming into play. Bob Hall asked if any studies were done on alternate sites where T-Mobile is not already located and Mr. Monte de Ramos said he did prediction plots for 15 sites that wouldn't work. George Reagan asked whether all other sites have been optimized and Mr. Monte de Ramos said they have been. Nick Couturier asked whether signal could be boosted at existing towers to fill the gap. Mr. Monte de Ramos said all improvements with the technology they have has been done, the demand for capacity is high, and that they can't boost the signal too high as it will interfere with other sites and could make the network worse.

Bob Hall asked if there are subscriber complaints. Attorney Steve Grill answered that there might be, they don't know how the corporation decided to look to fill this gap or why this is their priority in 2018. Rich Onufry asked for clarification that they do not have the reason for pursuing this site and Atty. Grill said that it is not available to the Applicant. Mr. Onufry asked if the data they have is the drive test and Atty. Grill said they also have the predictive models, but they don't have data such as number of dropped calls. Mr. Onufry wants to know what data there is. Mr. Monte de Ramos said that the drive test is a real time measurement and it shows disconnections. Bob Hall noted that something must have driven this site to be a high priority, not just driving around checking signal strengths, and Atty. Grill said that he doesn't know that it's a high priority compared to something else but the decision was made to close this gap because people who live or drive through or work in this area don't have adequate service. He said that they don't have granular data but can try to get more information. He said there is no doubt that signal strength is lacking.

Ryan Monte de Ramos reviewed each of his coverage plots for alternative, permitted sites to illustrate how they did not appear to close the gap. He explained the process by which potential sites are considered and preferred.

Public hearing re-opened.

Andrew Nanaa, 5 Industrial Park Drive, on behalf of 3 Mulligan Drive, referred to his written submission to the Board. He said that there are no standards for coverage and that it is based on opinion. He said that outdoor DAS is a practical solution and that even the proposed solution leaves some gaps. He said a DAS solution can target a specific spot, and that there are working outdoor DAS systems through the country and that T-Mobile uses them. He said the



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antennas are placed about one-quarter to one-half mile apart and provide seamless coverage. He said technology has changed and triangulation is no longer necessary. He stated his opinion is that the application should be denied, that the Applicant should be allowed to build a DAS system, with telephone and utility poles available everywhere, and that the Applicant could solve all its issues. He said it would be a viable alternative and the Board would not be dismissing their need out of hand.

Tom Hackett, 43 Samuel Hanson Avenue, referred to the drop zone and asked whether there is written correspondence from the utility that it's okay for the drop zone to overlap the power line easement. He said he now has 55 people on a petition opposing the tower, and only one person thought their service might improve. He believes this demonstrates that granting the variance is not in the public interest. He asked whether the property is conservation land or in current use. He asked about provisions for avoiding conflict with species of concern such as the bald eagles in the area. He said in regards to property values, he has read that a tower can be used to negotiate a lower purchase price in a buyer's market. He asked for a balloon test to be a minimum of eight hours long and that this is more important than a site walk and ample time should be provided to view it from anywhere in the City. He asked whether the antenna on the smokestack was added after the 2016 drive test and if so that there should be updated data. He said he believes that the spirit of the ordinance is not upheld by the proposal and the variance should be denied.

Doug Easton, 2 Penny Lane, disputed the claim that property values will not be negatively affected and discussed the difference between an appraiser and a competitive market analysis. He said value should be based on comparable properties with and without towers. He said that the National Association of Realtors has said that towers do have a detrimental impact on value up to 20%.

Eric Borrin, 117 Back Road, said that the Applicant has not addressed adverse impacts. He is concerned about the meaning of "adequate service" and whether the site is a high priority. He noted that the Applicant needs to demonstrate need but that abutters don't see a need. He said that the Engineer said he didn't look at any sites that weren't given to him but the Board identified sites he did not look at. He noted that the engineer already gave up five percent of the proposed height. He said all evidence was limited to 177-foot-high antennas and allowable height difference for existing towers were not considered. He said that the FCC has not said the facility will be safe but that the Applicant says they will be to a safe standard.

Norm Fracassa, 1 Penny Lane, said he does not see many more facts than at the previous meeting, and instead there are opinions and repetitive graphics. He thought the first graphic was telling in that there is not 100 percent coverage where towers exist. He does not understand how the proposed tower meets the Applicant's objective. He stated that he was aware of what is allowed and prohibited in the neighborhood when he purchased his home. He said he surveyed people with T-Mobile service, asked them to do their own drive tests, and no one complained. He wants to see more facts than graphics. He wants to see proof of what is and isn't financially feasible. He noted that only one example in the real estate market study was from Dover. He believes granting the variance will set a precedent. He thinks the proposal will not solve the problem or meet the objective but will create new leasable space.

Donna Capern, 1 Mulligan Drive, said that she is a T-Mobile customer and a heavy user, but does not have any problem with service at home. She said that T-Mobile is a business and she believes this is more of an economic decision than a technical decision. She said there may be other options to fill the coverage gap, but they may be less economically convenient. She doesn't want to set a precedent with a variance. She objects to the statement that the neighborhood's opinions don't matter.



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Vice Chair Bob Hall asked the Applicant to address the concerns expressed during the public hearing. Atty. Grill explained that even with a 205-foot tower at Middle Road the coverage problem is not solved. He explained that Industrial Tower and Wireless will own the tower and T-Mobile will be the first tenant, but T-Mobile will not benefit from co-locators. He said there is a clear gap between the smoke stack and the site to the south east and he is confident it will be closed adequately with the proposed tower. He said it is illogical that this site would be pursued if there were not some urgency to do so. He stated that the facts are that there is a gap and it can't be closed without the variance for the proposed tower. He said the market study was done by an appraiser and speaks for itself. He stated that the AM radio tower landlord wanted a lease cancellable at will with short notice.

STAFF RECOMMENDATION.

Vice Chair Bob Hall asked Assistant City Planner Elena Piekut to provide the staff recommendation and address the effort to set a site walk and hire a consultant. She explained why a site walk was not scheduled outside of the public meeting and recommended the date for the walk and balloon test be set that evening. She said quotes were requested from three radiofrequency professionals but the scope of work has been better defined and they will be asked for revised quotes. She explained that the Heritage Commission was separately asked by the state to comment on the proposal, but that the state law enabling the creation of heritage commissions also allows the Zoning Board of Adjustment to request their comment on matters affecting or potentially affecting cultural and historic resources. She said if the Board feels those comments might have bearing on any of the variance criteria then they can make that request. She explained that after the staff memo was prepared the Board met with its legal counsel, which provided suggestions of additional information to request and that those should be read into the record if desired by the Board. She said the public hearing should be recessed to be reopened on June 21st and the case should be continued to June 21st.

Motion: George Reagan made a motion to request that the Heritage Commission advise the Zoning Board on this matter. Rich Onufry seconded. Vote: 4-0-1 with Otis Perry abstaining.

Vice Chair Bob Hall noted that the Board is proceeding in hiring a third party review and requested additional information:

- Cost of permitting and construction of the proposed telecommunication facility (relevant under Section 170-22(D)(2)(d)(v)).
- Communications concerning the negotiation(s) referenced in the Application for placing a T-Mobile antenna on the existing towers owned, operated, or used by WTSN and WOKQ (relevant under Section 170-22(D)(2)(d)(v) and 170-22(B)(4)).
- Radio frequency analysis expressing expected frequency propagation and strength from the towers currently servicing WTSN and WOKQ.
- Propagation analysis of existing Sprint 4G coverage within the subject area.
- An explanation, including radio frequency propagation studies where appropriate, of why existing facilities may not be used if expanded pursuant to RSA 12-K, *et seq* and/or the Federal Middle Class Tax Relief and Job Creation Act of 2012, Section 6409.
- Balloon test, with reasonable notice to the public, sufficient to support photo simulation survey.
- Engage a competent photosimulation expert (Caron & Associates Designs) to furnish reasonable photosimulations of proposed tower at nearby locations:
 - Which experience reasonable pedestrian and vehicular traffic,
 - With residential housing developments,
 - Considered in connection with the Historical Architectural Survey and Effects Assessment, and



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- o The nearest New Hampshire municipal border, from an unobstructed vantage point.

Vice Chair Bob Hall also noted the importance of an independent appraiser in evaluating effect on real estate values.

The Board discussed scheduling a site walk. Kevin Delaney, Industrial Tower and Wireless, proposed Saturday, June 9th at 8:00 a.m. with Saturday, June 16th at 8:00 a.m. as a rain date. He said four hours should be sufficient and the earlier in the day the better. Discussion ensued regarding the balloon test.

Vice Chair Bob Hall reminded the Board and public that the site walk is an information gathering effort, a public meeting but not a public hearing, at which no deliberations will occur.

George Reagan asked for more information on distributed antenna systems.

Motion: Otis Perry moved to table the application and recess the public hearing to the June 21, 2018 meeting. Anthony Sillitta seconded. Vote: U/A

Public hearing recessed.

4. OTHER BUSINESS

None.

5. ADJOURN

Motion: Otis Perry moved to adjourn. Anthony Sillitta seconded. Vote: U/A. Adjourned: 9:00 p.m.



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO

Meeting Type:	Regular Meeting
Meeting Location:	Council Chambers, City Hall – 288 Central Ave. Dover, NH 03820
Meeting Date:	Thursday, June 21, 2018
Meeting Time:	7:00 pm

INTENT: The Applicant requests a variance to permit the keeping of a horse, where the lot and barn do not meet minimum area and setback requirements to allow a horse.

UNITS PROPOSED: N/A

AGENDA ITEM #: 3-A

ZONING DISTRICT: Rural Residential (R-40)

FILE: Z18-11

APPLICANT: Robyn Thompson

OWNER: Eric W. and Robyn L. Thompson

LOCATION: 321 Back Road (Tax Map M, Lot 105)

ACREAGE: 1.24 acre (54,014 sq. ft.)

EXISTING LAND USE: Single-family dwelling

PROPOSED LAND USE: Single-family dwelling with farm animal

SURROUNDING LAND USE: Single-family dwellings, agriculture (hayfield lot, Hickory Hill Farm)

PREVIOUS ZBA ACTION:
None

PLANNING BOARD APPROVAL REQUIRED: No

ATTACHMENTS: Application, plans

STAFF RECOMMENDATION: Staff supports granting the variance request.

BACKGROUND INFORMATION AND SUMMARY OF REQUEST

The property subject to this variance request is a 1.24 acre lot on the north side of Back Road. The home is a c. 1875 Cape. In 2014 two lots were divided from the original lot and its 20' x 25' barn was demolished.

The applicant seeks a variance to keep a horse currently boarded at a neighboring property. A horse is a "farm animal" as defined in Section 170-6 of the Zoning Ordinance, and keeping farm animals in the R-40 Zoning District requires that two conditions be met: the lot is at least 100,000 square feet, and the animal's shelter is at least 100 feet from any property boundary. The applicant's lot is a little more than 54,000 square feet, and she proposes a barn located behind the garage, approximately 95' feet from the front property line, 72 feet from the rear property line, and more than 100 feet from the other boundaries.

REASON FOR STAFF RECOMMENDATION

Nearly half of this property is constrained by wetlands or wetland buffer as well as a 125-foot-wide Eversource easement. The lot to its rear (north and west) is vacant, a hayed field that is also largely wetland. It is very unlikely that more than one home would ever be constructed on that lot. Three other abutters have submitted letters in support of the variance. The property is also in close proximity to an existing farm and horses. As such, property values are unlikely to be affected.

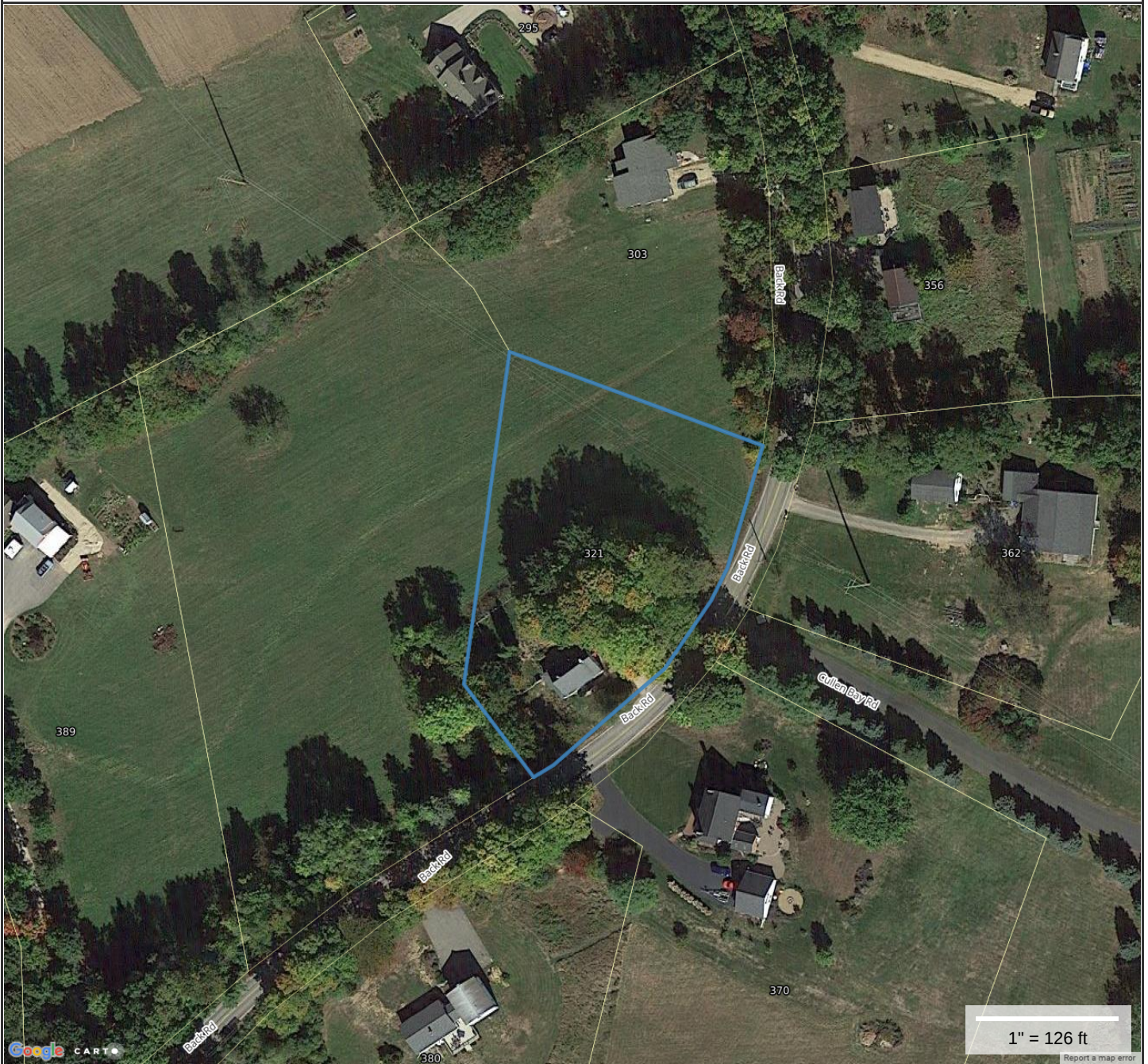
The intent of the R-40 Zoning District is primarily to provide for the City's least dense residential and agricultural uses. The intent of the requirements for keeping farm animals is to ensure sufficient space for the animals and protect neighboring properties from any nuisance. The proposed barn is located as far as feasible from property lines and the request for setback relief is a reasonable one. Both the situation of the barn and the lot among open wetlands/fields result in maintaining open space where the animal will not affect new residences. The presence of wetlands does not prevent fencing an area for the horse as fences are specifically allowed in the Wetlands Protection District without a Conditional Use Permit. The Applicant has also submitted evidence that the horse is a small breed and she will follow best management practices in providing its care and shelter.

The property is an old farmhouse and until recently had a 500-square-foot barn in the side yard.

STAFF RECOMMENDATION

Staff recommends the Board hold a public hearing, evaluate and make findings on the five variance criteria, and grant the variance request. The Board may consider a condition limiting this variance to the keeping of only one farm animal.

321 Back Road

**Property Information**

Property ID M0105-000000
Location 321 BACK RD
Owner THOMPSON ERIC W &

**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 03/29/2018
Properties updated 06/14/2018



City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Revised April 7, 2017]

RECEIVED
Planning Office

Office Use Only Case #:

218-11

Date Received:

MAY 30 2018

Amount Paid: \$

Time Received:

Dover, New Hampshire

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: ROBYN THOMPSON Phone # 603 767 5588

Address of Applicant: 321 BACK RD DOVER NH 03820

E-Mail Address: madhousemenagerie@gmail.com

PROPERTY OWNER (if different from applicant): _____

Address: _____ Phone # _____

E-Mail Address: _____

PROPERTY/PARCEL INFORMATION

Address: 321 BACK RD DOVER, NH 03820

Brief Directions: White antique Cape that sits on BACK RD.

Closest cross street is Cullen Bay RD

Zoning District: R40 Assessor's Map # M Lot(s) # 105

TYPE OF APPEAL: (Please check one)

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

DESCRIBE BRIEFLY YOUR PLANS FOR THE PROPERTY:

We would like to bring our horse home to enjoy. In order to
do that we would like to build a 12x16' barn on our
property to provide shelter.

VARIANCE REQUIREMENTS

THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY

A. Variance Requested

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

One small horse to live on our R40 zoned land that falls short
of 2 acres.
A setback forgiveness of 5 feet from Back RD.
A setback forgiveness of 28 feet on the corner of the barn that
faces 2.92 acres of undeveloped wetland owned by William Hunt,
please see enclosed letter.

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:

Having a small horse on our acreage would not alter the character
of our neighborhood nor would it injure the rights of others
or undermine public interest.

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

Having a horse on R40 zoned land that abutts undeveloped
wetland is a reasonable use of the property. The abutters
most impacted are in support of our request. Please see
enclosed letter from William Hunt.

3. Granting the variance would do substantial justice because:

This is one of the few pieces of land in Dover that is zoned
R40. The variance will allow the land to be used as it was
initially intended.

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

The land will be managed with respect. Horses currently reside in the neighborhood and property values continue to rise. We have also reached out to UNH Extension to oversee our management plan to ensure values are not impacted.

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:

This property had a barn on it prior to the Thompsons purchasing it. This property has been hayed by Mr. Hunt for years to feed horses. This property abuts undeveloped wetland. Bobyn Thompson retired as an equine veterinarian technician and has been educated to properly care for horses and managed land.

and

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

The property in question was divided in a way that prevents reasonable use of R40 zoned land. Eric Thompson was completing his military career when the property was divided. Had the property been offered whole we would have bought the entire property. We have attempted to purchase some of the surrounding land to negate the need for a variance, however, none of our neighbors are interested in selling at this time.

and

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

Having a horse of small size living on the current acreage is consistent with the spirit of the ordinance. Having the horse at home will allow the owners full enjoyment of their property.

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: 5-30-18

William Hunt
245 Back Rd
Dover, NH 03820

Elena Piekut
Assistant City Planner/Zoning Administrator
288 Central Ave.
Dover, NH 03820

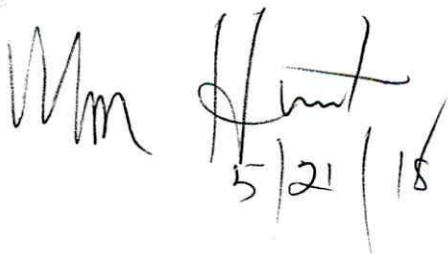
Re: Variance Application for Eric and Robyn Thompson

I am writing today in support of the Thompson's variance request to have a horse on their property located at 321 Back Rd. As the property owner of both M100A and the undeveloped parcel M105/1 I do not oppose their request to place a barn and horse on their property.

I have personally known the Thompson's for the past 3 years and have had first hand observance of their horse husbandry. I feel confident that they will treat the land with respect and provide any and all care that their horse will require.

Sincerely,

William Hunt

Handwritten signature of William Hunt and the date 5/21/18.

1

WETLAND
PEMIE
HYDRIC "B"

IR
TBS

PROPOSED LOT
LINES' (TYP)

M/105

LOT 2

N07°20'34"E
277.71'

N70°17'51"W
224.00'

S08°10'03"W
67.28'

PROPOSED
WELL

IR
TBS

105.37'
S15°27'26"W

EXISTING
SEPTIC
X

1 STORY
PATIO
#321
2 STORY
WOOD
FRAME

EXISTING
WELL (TBA)

18.80'

122.00'
S48°37'24"W

BACK

68.63'
S33°55'41"W

ROAD

CULLEN BAY ROAD
(PRIVATE)

PSNH
146/63

PSNH
146/64

M
92I

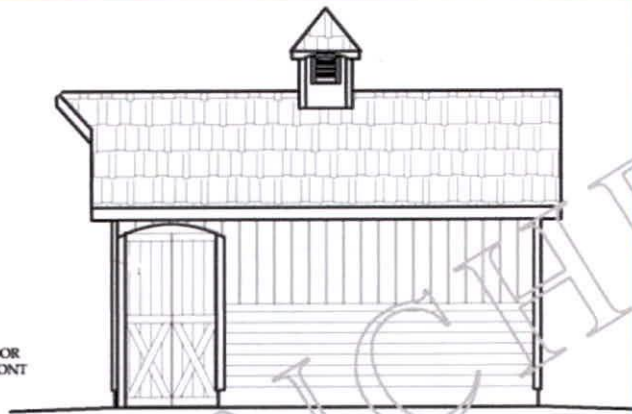
M
93E

M
92

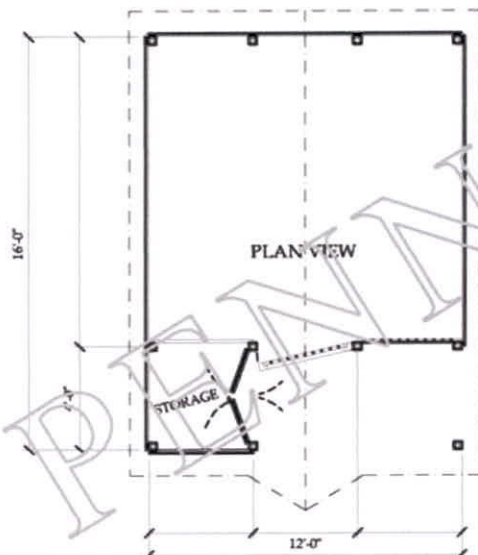




FRONT ELEVATION



RIGHT ELEVATION



PLAN VIEW

The Gypsy Vanner Horse Breed



The Gypsy Vanner Horse is a beautiful breed envisioned by the Gypsies of Great Britain. This horse was selectively bred for over half a century from a vision to create the perfect horse to pull the Gypsy caravan. In 1996 the first Gypsy Vanner Horses came to North America and the Gypsy Vanner Horse Society was established as a registry for the breed. At that time the breed did not have a name, and the name Gypsy Vanner Horse was chosen, because the breed was a Gypsy's

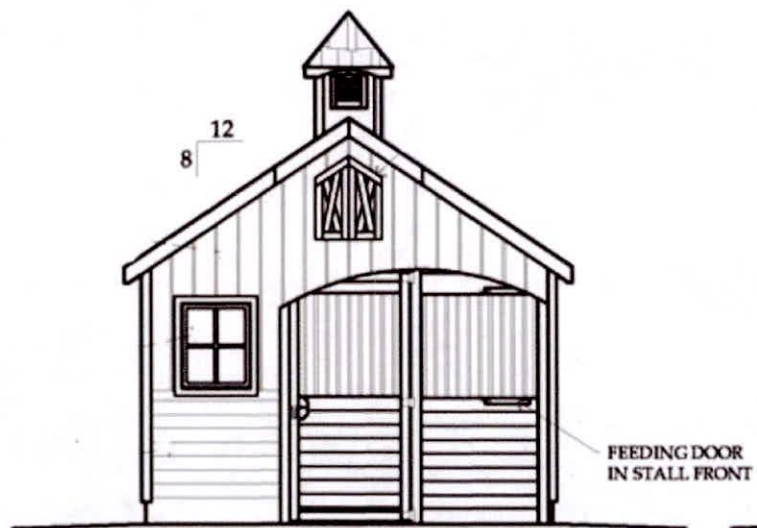
"vanner horse", bred to pull the colorful caraVAN.

They Gypsy Vanner is often referred to as a “people-sized” draft horse. The genetic origins of the breed include the Shire, the Clydesdale, and the native British ponies such as the Dales. The Gypsy Vanner is not a color breed. It is a body type with heavy bone and broad body like a draft, but with the majority of the breed standing 14-15 hands at the withers. The Gypsy Vanner comes in any color, solid, tobiano and splash. The first characteristic often noticed is the abundance of feather flowing from behind the knees and hocks, as well as the long free flowing mane and tail. In addition to amazing looks the Gypsy Vanner posses a temperament that is friendly and engaging.

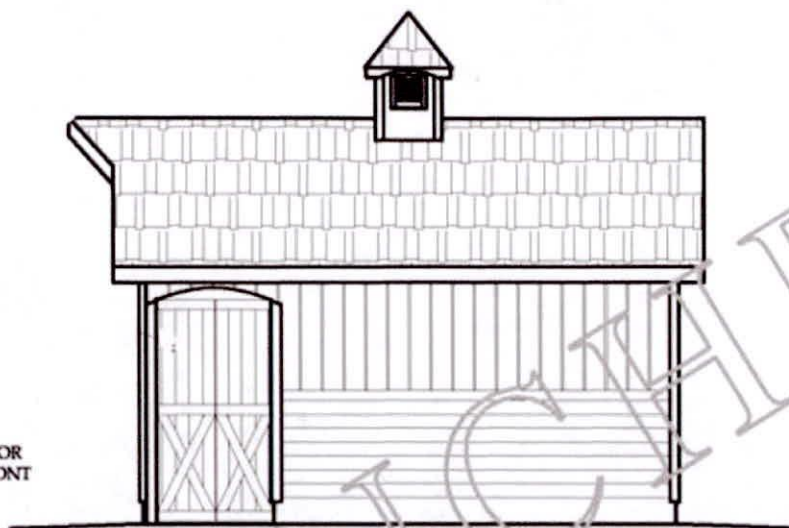
Originally bred to pull the Gypsy wagon, these horse are now being used in all disciplines. You will see them pulling carts and carriages, ridden in the dressage ring, as well as over fences and as western pleasure horses. The Gypsy Vanner is a wonderful family horse and is popular as a trail or therapy horse due to its unflappable nature.

Strong | Intelligent | Docile
Athletic | Colorful | Versatile

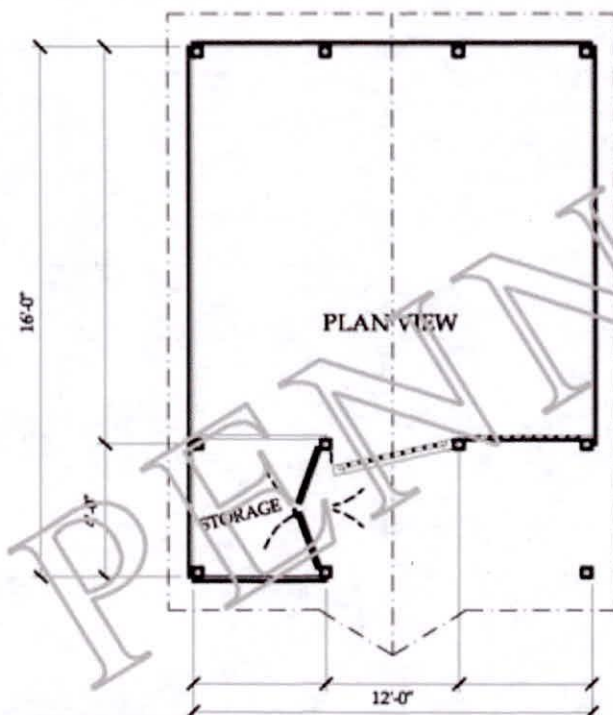




FRONT ELEVATION



RIGHT ELEVATION



Meadow Barn



Housing and Space Guidelines for Livestock

As New Hampshire becomes more urban, the potential for conflict between the farming and non-farming communities increases. By using *best management practices, farmers can greatly reduce or eliminate problems arising from odors and flies, pesticide drips, contamination of surface and ground waters, and damage to neighboring crops. Following best management practices can help eliminate problems that arise between farming activities and other land uses in urban environments.

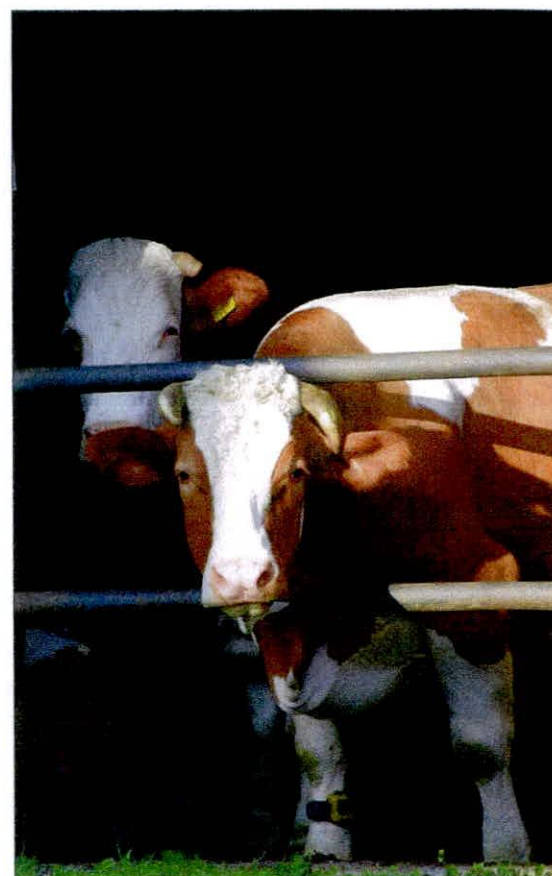
Farming activities may involve full-time, part-time or backyard farmers. Existing commercial farms, as defined by RSA 21:34-a, are protected by the Right to Farm Law; RSA chapter 432. It allows for properly managed agricultural enterprises to continue operating in residential areas.

Housing

Most farm animals need some kind of shelter to escape the elements. Most people think winter is the most important time to provide shelter but an animal's natural coat can allow them to tolerate much colder temperatures than people can. Summer heat can by far, be harder on animals than winter if shade is not available to them either by trees or structures if they are out on pasture, or lack of ventilation in a barn or building. Many livestock animals like pigs and rabbits, do not sweat, so heat stroke can quickly set in. A simple, three-sided shelter with an open front will meet the needs of many farm animals on pasture and is often the building of choice to raise healthy livestock. When designing a three-sided animal shelter, make sure the open side faces south, away from prevailing winds. Locate the structure on an elevated, well-drained site and keep winter access in mind for feeding and water handling.

UNH Cooperative Extension Programs

	Community and Economic Development
	Food and Agriculture ☐
	Natural Resources
	Youth and Family



*Refer to the "Manual of Best Management Practices (BMPs) for Agriculture in New Hampshire" for specific guidelines on proper animal waste handling and barnyard management. Online: <https://www.agriculture.nh.gov/publications-forms/documents/bmp-manual.pdf> or call the New Hampshire Department of Agriculture, Markets & Food, at 603-271-3551.

□ ere are several factors to consider when planning adequate livestock shelter in cold weather:

- Air quality: Animal shelters should be open, providing natural ventilation, or enclosed, using fans and proper air inlets around the ceiling perimeter to provide good air circulation. Tight buildings result in a buildup of respiration gases, and animal odors, which can irritate the animal's lungs and cause pneumonia. Dangerous ammonia levels¹ can also build up and lead to suffocation death of animals and their caretakers.
- Drafts: Animals can stand cold temperatures, but you should protect them from drafts. Constructing panels in front of an open building can reduce drafts. Consider drafts at animal height, not person height. When animals are allowed to run loose in a pen instead of being hitched, they will search for the most comfortable spots as needed.
- Dry bedding area: Animals will be far more comfortable in the cold if they have clean, dry bedding. A thick, dry bed provides insulation from the cold ground and decreases the amount of energy the animal has to expend to keep warm. Shelter from the snow and rain allows an animal's coat to remain dry, which provides maximum insulating value.
- Fresh water²: All animals need water to survive. Under cold conditions, provide fresh water often or use freeze-proof watering devices. Animals will drink more when water is 50°F.
- Adequate food: Animals can endure severe cold temperatures if they eat enough food (energy) to maintain their energy reserves (body fat). Animals need energy for growth and maintenance. Extra energy is expended to keep warm. □ erefore, they will require additional amounts of good quality feed during cold weather. For herbivores, free choice hay in hay racks should be supplied in addition to a purchased feed.

Space

Refer to the table on the next page for estimates on the space needs of various animals for exercise yards and pasture. If zero pasturing is practiced, you will have to provide adequate purchased feed, have an exercise yard and develop a sound plan for manure management.

If you do provide pasture, the number of animals it will support per acre depends on soil fertility and environmental considerations. □ ese conditions vary widely across the state. Rotational grazing³ — the practice of sectioning off a piece of a pasture with electric fencing and confining animals in that section, then repositioning the fence and moving animals to another section depending on grass growth — prevents pastures from being overgrazed, helps prevent internal parasite loads, and will support more animals than a set stock system.

□ e following table lists the suggested minimum space required, housing types and fencing needs of various farm species, along with the number of animals that will meet the food, fiber, recreation and other needs of an average family farmstead. □ is is a rough guide. For more information and guidance, contact your local County Field Specialist.

¹ Dangerous ammonia levels: [http://www1.agric.gov.ab.ca/\\$department/deptdocs.nsf/all/agdex8271/\\$file/086-6.pdf](http://www1.agric.gov.ab.ca/$department/deptdocs.nsf/all/agdex8271/$file/086-6.pdf)

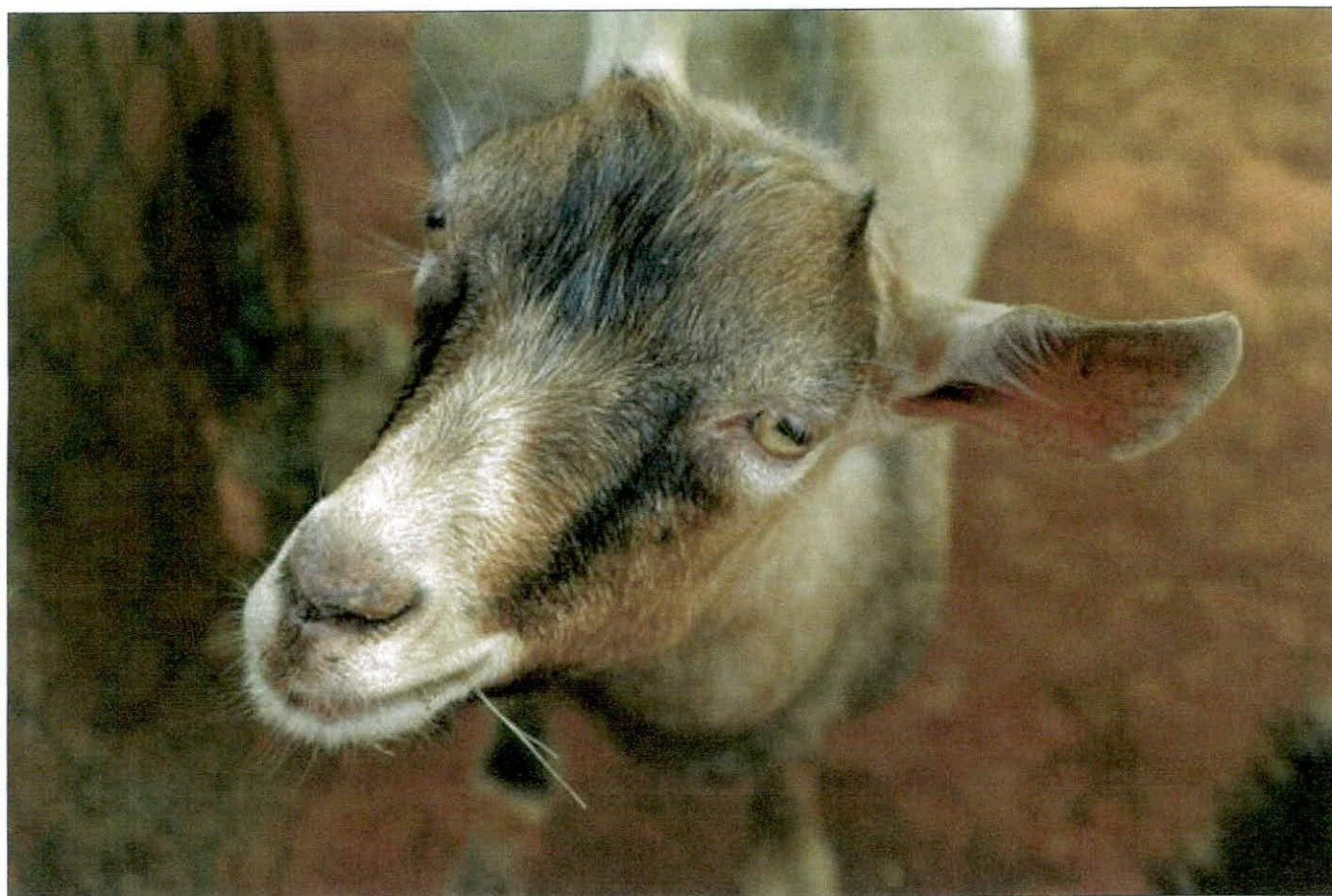
² Individual water requirements: <http://www.ag.ndsu.edu/pubs/ansci/livestoc/as1763.pdf>

³ Rotational Grazing Guide: <https://extension.psu.edu/four-steps-to-rotational-grazing>

Suggested Space and Housing Guidelines for Fully Mature Farm Animals

Animal	Horse	Beef Cow	Dairy Cow	Dairy Goat	Pig	Sheep	Hen	Broiler	Turkey
Unit	1 horse	1 cow	1 cow	1 goat	1 pig	1 sheep	1 hen	1 broiler	1 turkey
Enclosed Housing Area/Animal	- Tie stalls 45 sq. □; 5' x 9' - Box stall 12' x 8' or 10' by 10'	75-100 sq. □	75-100 sq. □	20-25 sq. □	48 sq. □ with exercise yard; 100 sq. □ without exercise yard	20-25 sq. □	3-4 sq. □	3-4 sq. □	6 sq. □
Exercise Yard Area/Animal	200 sq. □	100-125 sq. □	100-125 sq. □	50 sq. □	200 sq. □	50 sq. □	10 sq. □	-----	20 sq. □
Pasture Area/Animal	1-2 acres	1-2 acres	1-2 acres	0.2-0.3 acres	12-14 sows/acre/rotational pasture	0.2-0.3 acres	-----	-----	100 sq. □
Type of Housing and Boundary Setback	Enclosed ventilated barn or open 3-sided barn. Setback 50 □	Open front 3-sided barn. Setback 50 □	Open front 3-sided barn, free-stall or enclosed stanchion barn. Setback 50 □	Enclosed barn with removable side panels or windows. Setback 50 □	Enclosed barn, huts, shed, hutches or lean-to. Setback 50 □	Open front 3-sided shed. Setback 50 □	Enclosed barn. Setback 50 □	Enclosed barn. Setback 50 □	Enclosed barn. Setback 50 □
Fencing	-Electric -Wooden rail -Woven wire	-Barbed wire -Electric -Woven wire	-Barbed wire -Electric -Woven wire	-Electric -Woven wire	-Electric -Plank rail	-Electric -Woven wire	-Chicken wire	-----	-Chicken wire
Family Needs	1 horse per family member	1/2 - 1 beef animal/year; raise 2 animals/yr to provide continuous supply	1-2 cows	2-3 goats	2 pigs per yr.	6 sheep	6 hens	24 broilers	12 turkeys

Note to municipal planners: □ e minimum space and housing guidelines in the chart apply to both commercial farms and backyard operations. However, you should not apply the numbers of animals suggested in the "Family Needs" category to commercial farms when dra□ng ordinances regulating agriculture in your community.



Created: June, 2009
Updated: December 2017

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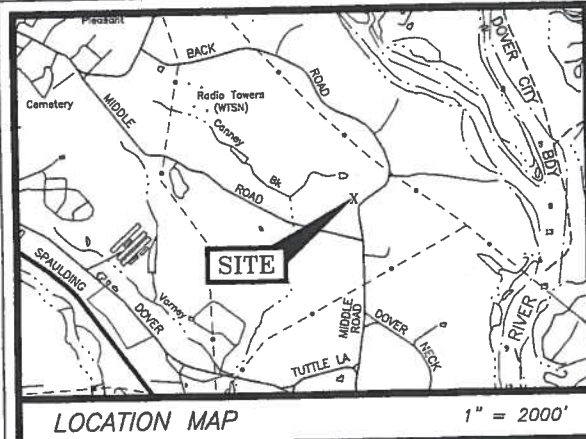
About the Authors

Original fact sheet written by David Seavey and John Porter, Extension Educators, June 2009. Updated by Dot Perkins, Field Specialist, Dairy Forages and Livestock Team, December 2017.

For More Information

State Office
Taylor Hall
59 College Rd.
Durham, NH 03824
<http://extension.unh.edu>

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Information Line
answers@unh.edu
1-877-EXT-GROW
(1-877-398-4769)
9 am–2 pm M–F
Search key words:
“UNH Education Center”



LEGEND:

N/F NOW OR FORMERLY
RP RECORD OF PROBATE
SCRD STRAFFORD COUNTY
REGISTRY OF DEEDS

MAP 11/LOT 21

IR FND IRON ROD FOUND
IP FND IRON PIPE FOUND
IR TBS IRON ROD TO BE SET
TBA TO BE ABANDONED
WETLAND

ABUTTERS TO MAP M LOT 105

N/F NANCY E. & WILLIAM C. HUNT
245 BACK ROAD
DOVER, N.H. 03820
967/62

N/F CULLEN BAY HOMEOWNERS ASSOC.
C/O LORI LANDER, TREASURER
1 CULLEN BAY ROAD
DOVER, N.H. 03820
1579/399

N/F GREGORY W. HUNT
295 BACK ROAD
DOVER, N.H. 03820
3803/139

N/F NANCY & CHARLES MAGLARAS
362 BACK ROAD
DOVER, N.H. 03820
1270/218

N/F RENE R. & ELIZABETH H. DUBOIS
389 BACK ROAD
DOVER, N.H. 03820
2065/486

N/F CAROLYN SPENCER
356 BACK ROAD
DOVER, N.H. 03820
3855/356

N/F DAVID F. & JULIANNE M. SMITH
380 BACK ROAD
DOVER, N.H. 03820
3672/536

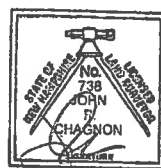
N/F CHRISTINA B. HOLLINGER
346 BACK ROAD
DOVER, N.H. 03820
3342/567

N/F CATHERINE BENET
370 BACK ROAD
DOVER, N.H. 03820
3691/865

N/F SIX HIGH STREET, LLC
& TUEY TRUST OF 2003
56 WESTVILLE ROAD #4
PLAINSTON, N.H. 03865
3555/410

PLAN REFERENCES

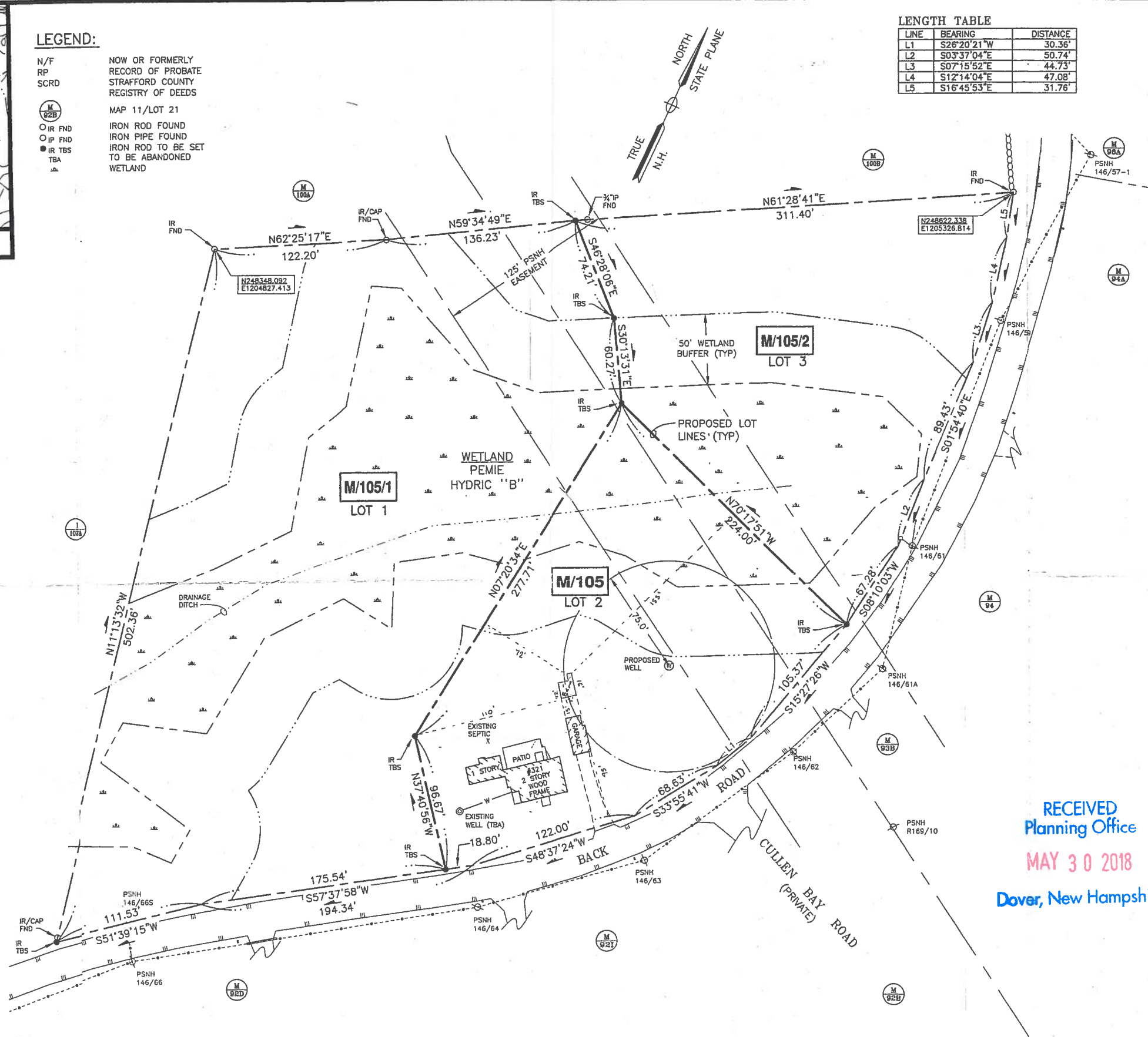
- 1) PLAN OF LAND OF CHRISTOPHER F. & CLAIRE J. SHERIDAN, BACK ROAD, DOVER, N.H. SCALE: 1" = 50' DATED SEPTEMBER 1976 BY RICHARD P. TOWLE. SCRD PLAN 31A-137.
- 2) BOUNDARY LINE ADJUSTMENT AND SUBDIVISION PLAN, RENE R. & ELIZABETH H. DUBOIS AND CLAIRE SHERIDAN, EMERY LANE & BACK ROAD, DOVER, N.H. SCALE: 1" = 60', DATED MAY 9, 2005, REVISED THROUGH 6/23/05, BY TRITECH ENGINEERING CORP. SCRD PLAN 80-55.
- 3) LOT LINE ADJUSTMENT PLAN PREPARED FOR WILLIAM C. & NANCY E. HUNT, TAX MAP M, LOTS 100 & 100A, 245 & 281 BACK ROAD, CITY OF DOVER, COUNTY OF STRAFFORD, STATE OF NEW HAMPSHIRE, SCALE: 1" = 100', DATED APRIL 10, 2012, REVISED THROUGH 7/10/12 BY McENEANEY SURVEY ASSOCIATES, SCRD PLANS 104-15 & 104-16.



OWNER'S SIGNATURE

Claire Sheridan

2/6/14
DATE



LENGTH TABLE

LINE	BEARING	DISTANCE
L1	S26°20'21"W	30.36'
L2	S03°37'04"E	50.74'
L3	S07°15'52"E	44.73'
L4	S12°14'04"E	47.08'
L5	S16°45'53"E	31.76'



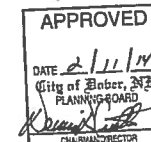
AMBIT ENGINEERING, INC.

Civil Engineers & Land Surveyors

200 Griffin Road - Unit 3
Portsmouth, N.H. 03801-7114
Tel: (603) 430-9282
Fax: (603) 436-2316

NOTES:

- 1) PARCEL IS SHOWN ON THE CITY OF DOVER ASSESSOR'S MAP M AS LOT 105.
- 2) OWNER OF RECORD:
CLAIRE SHERIDAN
321 BACK ROAD
DOVER, N.H. 03820
907/259 & 1060/377
- 3) PARCEL IS NOT IN A FLOOD HAZARD ZONE AS SHOWN ON FIRM PANEL 33017C0340D, EFFECTIVE MAY 17, 2005.
- 4) EXISTING LOT AREA:
238,623 S.F.
5.4780 AC.
PROPOSED LOT AREAS:
LOT 1 127,492 S.F. 2.9268 AC.
LOT 2 53,832 S.F. 1.2358 AC.
LOT 3 57,300 S.F. 1.3154 AC.
- 5) PARCEL IS LOCATED IN THE R40 (RURAL RESIDENTIAL DISTRICT).
- 6) DIMENSIONAL REQUIREMENTS:
MIN. LOT AREA: 40,000 S.F.
FRONTAGE: 150 FT.
SETBACKS: FRONT: 40 FT.
SIDE: 25 FT.
REAR: 30 FT.
MAXIMUM STRUCTURE HEIGHT: 35 FT.
LOT COVERAGE: 10%
- 7) PARCEL BOUNDARY FROM SURVEY AND PLAN BY McENEANEY SURVEY ASSOCIATES, INC. DATED OCTOBER 23, 2013. USED WITH PERMISSION.
- 8) WETLANDS DELINEATED BY JOHN P. HAYES III, CWS NO.15 ON 11/6/13 AND FIELD LOCATED BY AMBIT ENGINEERING ON 11/7/13.
- 9) STREET ADDRESSES FOR EACH LOT SHALL BE ASSIGNED BY THE BUILDING INSPECTOR AT THE TIME OF ISSUANCE OF A BUILDING PERMIT.
- 10) THE PARCEL IS SUBJECT TO AN EASEMENT TO PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE RECORDED AT STRAFFORD COUNTY REGISTRY OF DEEDS 442/417.
- 11) ALL ON SITE UTILITIES SHALL BE INSTALLED UNDERGROUND.
- 12) THE PURPOSE OF THIS PLAN IS TO SUBDIVIDE TAX MAP M LOT 105 INTO 3 SINGLE FAMILY LOTS.



RECEIVED
Planning Office
MAY 30 2018
Dover, New Hampshire

NO.	DESCRIPTION	DATE
3	ADDED NHDES SUBDIVISION APPROVAL No.	1/31/14
2	MAP & LOT NUMBERS	12/20/13
1	PSNH EASEMENT	12/13/13
0	ISSUED FOR APPROVAL	11/27/13
REVISIONS		

MINOR SUBDIVISION TAX MAP M - LOT 105

FOR
CLAIRE SHERIDAN
321 BACK ROAD
CITY OF DOVER
COUNTY OF STRAFFORD
STATE OF NEW HAMPSHIRE

SCALE: 1" = 40'

NOVEMBER 2013

FB 269, PG 1 DOVER FILE No. P13-63 2256

NHDES SUBDIVISION APPROVAL: SA 2013 010330

From: Sagamore Animal Hospital [<mailto:sagamorevet@gmail.com>]
Sent: Tuesday, May 22, 2018 2:29 PM
To: Piekut, Elena <E.Piekut@doover.nh.gov>
Subject: Robyn Thompson

Hi Elena,

I am writing a brief letter of recommendation on behalf of Robyn Thompson residing at 321 Back Rd, Dover,NH. I have been caring for Robyn's animals over the last 3 years. I have always been impressed by her conscientious care of her many animals including horses (draft) dogs and bunnies. Her animal husbandry knowledge and handling techniques are fantastic and she is always an advocate for her charges. I would trust her to care for any of my animals!

I am aware that this is in reference to a zoning requirement on space and I would comment that her Gypsy Vanner horse is a small and very calm breed. They have been bred to pull small carriages and travel and live with their people as they traveled around Europe.

If there are any specific questions I am happy to help.

Sincerely,

Dr Michael T Schafer DVM
Sagamore Animal Hospital
Rye, NH
603-431-8785

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

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Dover Planning Department
288 Central Ave
Dover, NH 03820

Re: Variance Request for Eric and Robyn Thompson
321 Back Rd
Dover, NH 03820
Zoned R40

As an abutter of the Thompsons we see no reason to oppose the variance request allowing for one small horse on their property.

The Thompsons have opened a line of communication and will make themselves available should any concerns or questions arise.

Signed,



CHRISTOPHER BERG

Address:

303 Back Rd
Dover, NH 03820

Dover Planning Department
288 Central Ave
Dover, NH 03820

RECEIVED
Planning Office

MAY 29 2018

Dover, New Hampshire

Re: Variance Request for Eric and Robyn Thompson
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Zoned R40

As an abutter of the Thompsons we see no reason to oppose the variance request allowing for one small horse on their property.

The Thompsons have opened a line of communication and will make themselves available should any concerns or questions arise.

Signed,

A handwritten signature in black ink, appearing to be 'M. A. M.' or similar, written in a cursive style.

Address:

385 Back Rd
Dover NH 03820

Dover Planning Department
288 Central Ave
Dover, NH 03820

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Planning Office

JUN 08 2018

Dover, New Hampshire

Re: Variance Request for Eric and Robyn Thompson
321 Back Rd
Dover, NH 03820
Zoned R40

As an abutter of the Thompsons we see no reason to oppose the variance request allowing for one small horse on their property.

The Thompsons have opened a line of communication and will make themselves available should any concerns or questions arise.

Signed,

Nancy L. Maglaras

Address:

*362 Back Road
Dover, NH
03820*

Z18-11**321 Back Road**

Property ID	Location	Owner 1	Owner 2	Owner Address 1	City	State	Zip
M0092-B00000	CULLEN BAY RD	CULLEN BAY HOMEOWNERS ASSC	C/O LORI LANDER-TREASURER	6081 SILVER KING BLVD UNIT 306	CAPE CORAL	FL	33914-8033
M0092-D00000	380 BACK RD	SMITH DAVID F &	SMITH JULIANNE M	380 BACK RD	DOVER	NH	03820
M0092-I00000	370 BACK RD	MARINO JOSEPH A		370 BACK ROAD	DOVER	NH	03820
M0093-B00000	362 BACK RD	MAGLARAS NANCY	MAGLARAS CHARLES	362 BACK ROAD	DOVER	NH	03820
M0094-000000	356 BACK RD	SPENCER CAROLYN		356 BACK RD	DOVER	NH	03820
M0100-A00000	245 BACK RD	HUNT NANCY E	HUNT WILLIAM C	245 BACK ROAD	DOVER	NH	03820
M0100-B00000	295 BACK RD	HUNT GREGORY W		295 BACK RD	DOVER	NH	03820
M0105-001000	BACK RD	HUNT WILLIAM C & NANCY TRUSTEES	HUNT FAMILY 2007 REVOCABLE TRUST	245 BACK RD	DOVER	NH	03920
M0105-002000	303 BACK RD	BERG CHRISTOPHER D & ROBYN THOMPSON	BERG KAREN J	303 BACK RD 321 BACK ROAD	DOVER DOVER	NH NH	03820 03820



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO

Meeting Type:	Regular Meeting
Meeting Location:	Council Chambers, City Hall – 288 Central Ave. Dover, NH 03820
Meeting Date:	Thursday, June 21, 2018
Meeting Time:	7:00 pm

INTENT: The Applicant requests a variance to permit an assisted living facility

UNITS PROPOSED: 24 beds, 2 accessory apartments

AGENDA ITEM #: 3-B

ZONING DISTRICT: Hotel/Retail (B-4)

FILE: Z18-12

APPLICANT/OWNER: Aramis Black/Real McKoy Properties, LLC

LOCATION: 301 Durham Road (Tax Map H, Lot 1)

ACREAGE: 2.95 acres (128,502 sq. ft.)

EXISTING LAND USE: Unfinished 12-bed Elderly Assisted Care Home

PROPOSED LAND USE: Assisted Living Facility

SURROUNDING LAND USE: Single family dwellings, combined light manufacturing, retail, warehousing, and office uses

PREVIOUS ZBA ACTION:

Z06-13: variance granted to permit beauty salon
Z13-18: variance granted to permit and elderly assisted care home for 8-10 residents/2 staff apartments

Z13-18A: variance granted to permit an increase to 12 beds and 2 staff apartments

PLANNING BOARD APPROVAL REQUIRED: Yes

ATTACHMENTS: Application, plans

STAFF RECOMMENDATION: Staff does not oppose granting the variance request.

BACKGROUND INFORMATION AND SUMMARY OF REQUEST

The property subject to this variance request is a 2.95-acre lot on the Madbury town line on Durham Road. It was once a single family home, containing a beauty salon (by variance), and subsequently was granted variances in 2013 to convert an expanded structure to an elderly assisted care home, first with 8-10 beds (and two staff apartments), then with 12 beds (and two staff apartments). Site plan approval for the 12-bed facility was obtained in October 2015 and the project is partially constructed.

The applicant requests a new variance to permit an assisted living facility with 24 beds (and two staff apartments). The building footprint will not be altered, and the increased number of beds will fit within the existing layout. Because of the increase in the number of residents served, the use is now classified as an “assisted living facility” rather than an “elderly assisted care facility,” both of which are defined by Section 170-6 of the Zoning Ordinance.

The current site plan approval must be amended, during which process the Planning Board will review any increased impact to utilities and the surrounding environment. At the time of application, the applicant has indicated that the increased number of beds will likely result in the extension of public sewer to the site. If not, the applicant is in the process of obtaining an abutting lot in Madbury in order to support an expanded subsurface septic disposal system.

REASON FOR STAFF RECOMMENDATION

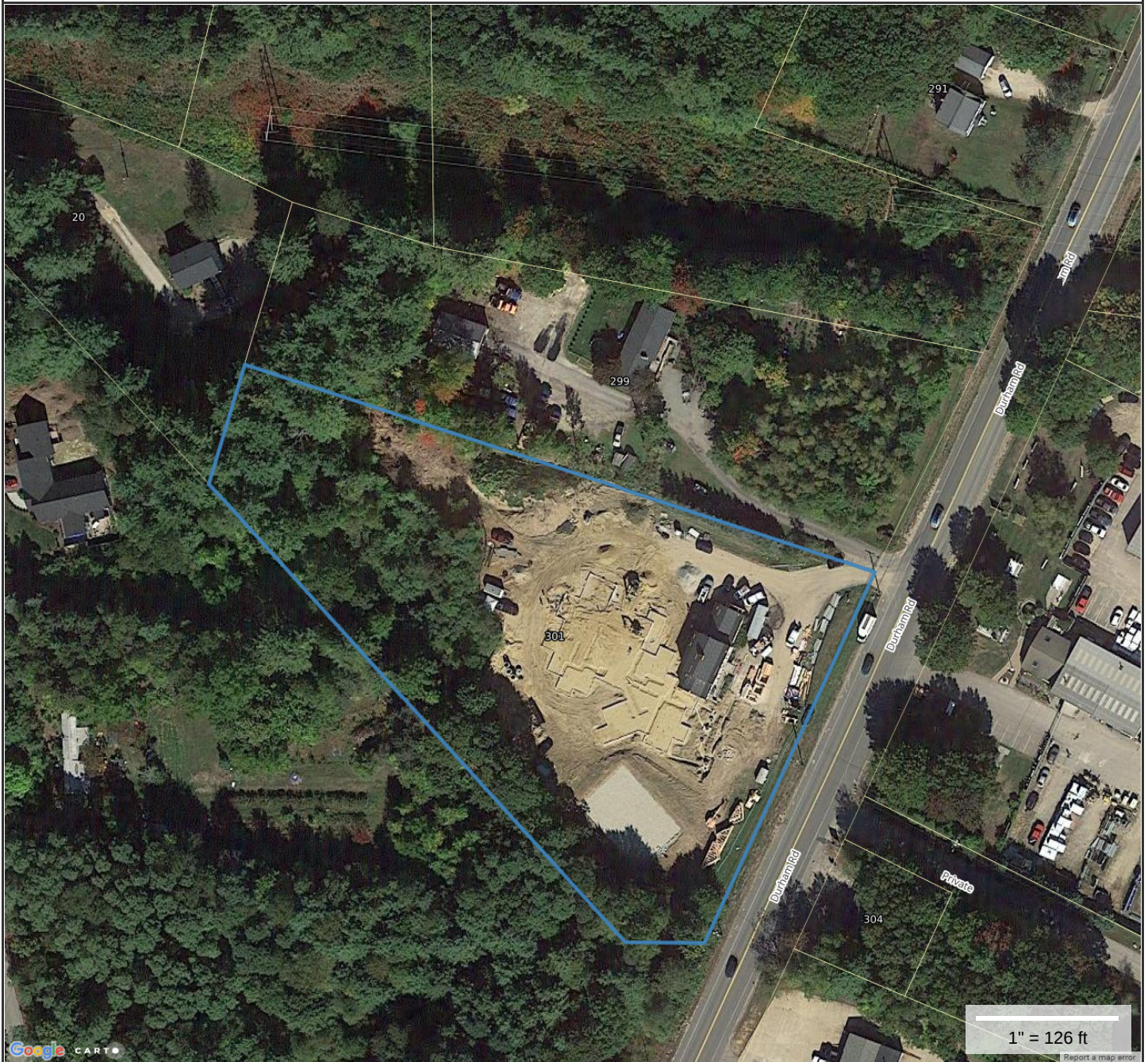
The Zoning Board has twice previously considered and granted variances for a similar use on this property. Staff is of the opinion that the use is not incompatible with others nearby, as the Zoning District permits retail and hospitality uses as well as other commercial uses. Where changes will be limited to a small increase in the number of parking spaces as well as potential adjustments to landscaping, lighting, and stormwater management, the proposal is unlikely to have an effect on property values or be more inconsistent with the ordinance than the existing approval. The proper disposal of sewage from the increased occupancy will be addressed during site plan review and a condition of approval is proposed to that effect.

STAFF RECOMMENDATION

Staff recommends the Board hold a public hearing, evaluate and make findings on the five variance criteria, and grant the variance request with the following condition:

1. The facility shall be served either by public sewer or by a septic system approved by the NH Subsurface Systems Bureau and the Town of Madbury, if necessary.

301 Durham Road

**Property Information**

Property ID H0001-000000
Location 301 DURHAM RD
Owner REAL MCKOY PROPERTIES LLC

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

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

Parcels updated 03/29/2018
Properties updated 06/14/2018



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO

Meeting Type:	Regular Meeting
Meeting Location:	Council Chambers, City Hall – 288 Central Ave. Dover, NH 03820
Meeting Date:	Thursday, June 21, 2018
Meeting Time:	7:00 pm

INTENT: The Applicant requests a variance to permit an assisted living facility

UNITS PROPOSED: 24 beds, 2 accessory apartments

AGENDA ITEM #: 3-B

ZONING DISTRICT: Hotel/Retail (B-4)

FILE: Z18-12

APPLICANT/OWNER: Aramis Black/Real McKoy Properties, LLC

LOCATION: 301 Durham Road (Tax Map H, Lot 1)

ACREAGE: 2.95 acres (128,502 sq. ft.)

EXISTING LAND USE: Unfinished 12-bed Elderly Assisted Care Home

PROPOSED LAND USE: Assisted Living Facility

SURROUNDING LAND USE: Single family dwellings, combined light manufacturing, retail, warehousing, and office uses

PREVIOUS ZBA ACTION:

Z06-13: variance granted to permit beauty salon
Z13-18: variance granted to permit and elderly assisted care home for 8-10 residents/2 staff apartments

Z13-18A: variance granted to permit an increase to 12 beds and 2 staff apartments

PLANNING BOARD APPROVAL REQUIRED: Yes

ATTACHMENTS: Application, plans

STAFF RECOMMENDATION: Staff does not oppose granting the variance request.

BACKGROUND INFORMATION AND SUMMARY OF REQUEST

The property subject to this variance request is a 2.95-acre lot on the Madbury town line on Durham Road. It was once a single family home, containing a beauty salon (by variance), and subsequently was granted variances in 2013 to convert an expanded structure to an elderly assisted care home, first with 8-10 beds (and two staff apartments), then with 12 beds (and two staff apartments). Site plan approval for the 12-bed facility was obtained in October 2015 and the project is partially constructed.

The applicant requests a new variance to permit an assisted living facility with 24 beds (and two staff apartments). The building footprint will not be altered, and the increased number of beds will fit within the existing layout. Because of the increase in the number of residents served, the use is now classified as an “assisted living facility” rather than an “elderly assisted care facility,” both of which are defined by Section 170-6 of the Zoning Ordinance.

The current site plan approval must be amended, during which process the Planning Board will review any increased impact to utilities and the surrounding environment. At the time of application, the applicant has indicated that the increased number of beds will likely result in the extension of public sewer to the site. If not, the applicant is in the process of obtaining an abutting lot in Madbury in order to support an expanded subsurface septic disposal system.

REASON FOR STAFF RECOMMENDATION

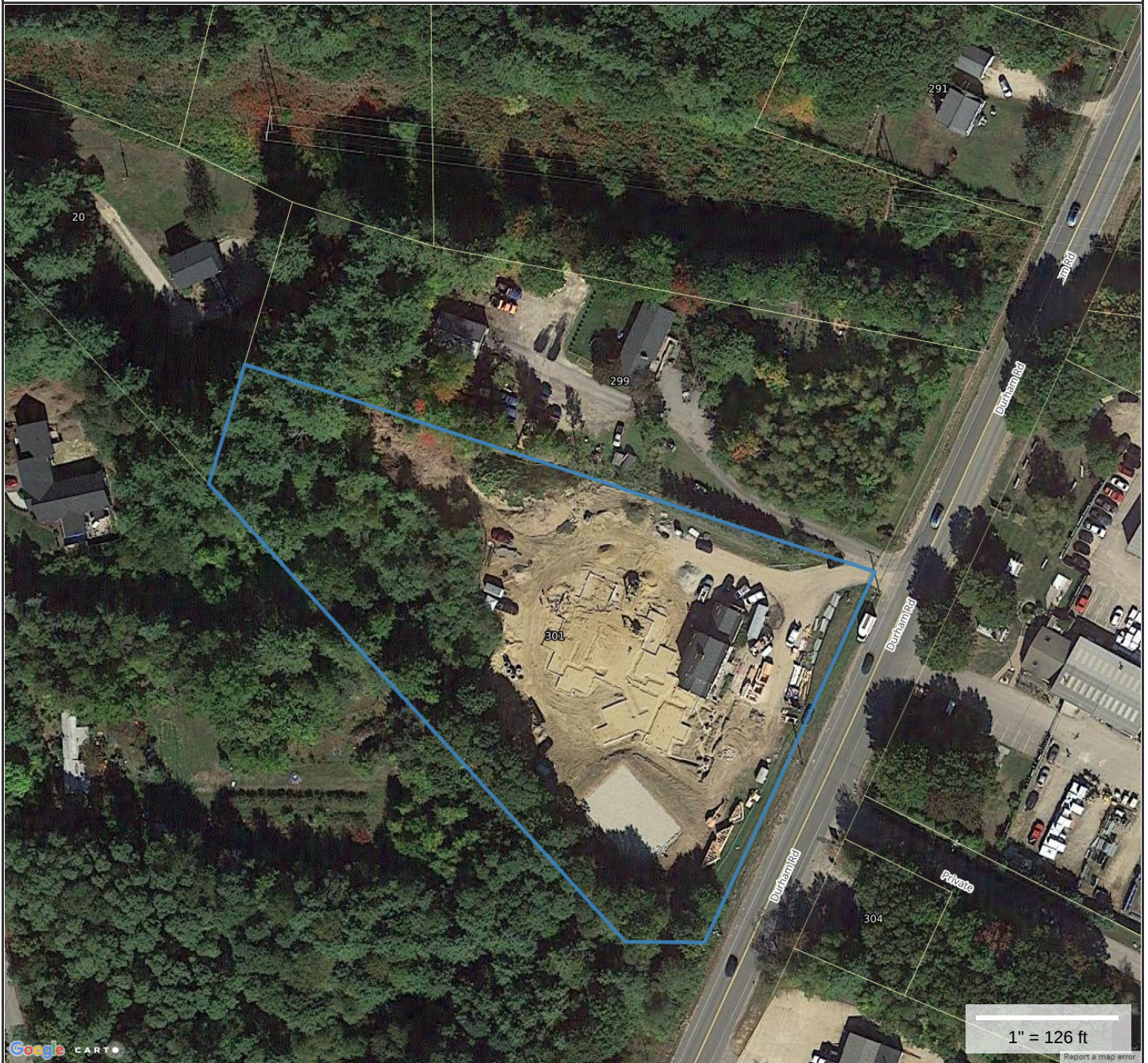
The Zoning Board has twice previously considered and granted variances for a similar use on this property. Staff is of the opinion that the use is not incompatible with others nearby, as the Zoning District permits retail and hospitality uses as well as other commercial uses. Where changes will be limited to a small increase in the number of parking spaces as well as potential adjustments to landscaping, lighting, and stormwater management, the proposal is unlikely to have an effect on property values or be more inconsistent with the ordinance than the existing approval. The proper disposal of sewage from the increased occupancy will be addressed during site plan review and a condition of approval is proposed to that effect.

STAFF RECOMMENDATION

Staff recommends the Board hold a public hearing, evaluate and make findings on the five variance criteria, and grant the variance request with the following condition:

1. The facility shall be served either by public sewer or by a septic system approved by the NH Subsurface Systems Bureau and the Town of Madbury, if necessary.

301 Durham Road

**Property Information**

Property ID H0001-000000
Location 301 DURHAM RD
Owner REAL MCKOY PROPERTIES LLC

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Parcels updated 03/29/2018
Properties updated 06/14/2018



City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Revised April 7, 2017]

Office Use Only Case #:

Z18-12

Date Received:

RECEIVED
Planning Office

Amount Paid: \$

Time Received:

MAY 31 2018

Dover, New Hampshire

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: Aramus Black/Real Phone # 603-591-1256

Address of Applicant: McKoy Properties, LLC
301 Durham Rd.

E-Mail Address: amblack99@gmail.com

PROPERTY OWNER (if different from applicant): _____

Address: _____ Phone # _____

E-Mail Address: _____

PROPERTY/PARCEL INFORMATION

Address: 301 Durham Road

Brief Directions: South on Route 108 just before
the Madbury line & across from E/KS.

Zoning District: B-4 Assessor's Map # H Lot(s) # 1

TYPE OF APPEAL: (Please check one)

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

from Section 170-12A 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:

See attached document/exhibits

See Attached

VARIANCE REQUIREMENTS

THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY

A. Variance Requested

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

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

Please demonstrate compliance with the following:

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

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

3. Granting the variance would do substantial justice because:

See Attached

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

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:

Zoning Board of Adjustment Application

Application Type: Variance

Applicant: Aramis Black/Real McKoy Properties, LLC, Cocheco Village, Inc. Owner(s):

Owner: Real McKoy Properties, LLC

Location: 301 Durham Road (Tax Map H, Lot 1)

ACRES: 2.95 acres

ZONING DISTRICT: Hotel/Retail (B-4)

HOTEL/Retail District (B-4) definition. The purpose of this business district is to provide an environment that encourages efficient and attractive commercial development on a larger scale along major highways outside of the downtown. The minimum LOT size of five acres encourages larger commercial development. The district provides economic development opportunities for a mix of land uses, including retail sales, personal services, restaurants, HOTELS, OFFICES, banks, and theaters.

EXISTING LAND USE: Single Family Residential with "half built", new structure for Elderly Care Living 12 bed capacity facility with 2 accessory staff apartments.

PROPOSED LAND USE: Assisted Living Facility with 2 accessory apartments for staff.

ASSISTED LIVING FACILITY- definition - a facility, licensed under RSA 151-E, that provides housing and supportive services and care for **more** than twelve (12) elderly residents who require assistance with daily living activities but do not require the skilled nursing and medical care provided in a NURSING HOME. Such supportive services include the provision of meals, housekeeping, laundry, transportation, daily personal care, dispensing of medications and twenty-four (24) hours per day staffing. An ASSISTED LIVING FACILITY includes a community dining ROOM in which meals are provided to all residents, and each individual assisted living unit may also have a kitchenette. Other than any accommodations provided for use by the facility's staff, only assisted living units are permitted as part of an ASSISTED LIVING FACILITY.

SURROUNDING LAND USE: Single family residential, fence company, Automotive shop, Child care education building, Race car engine shop, trailer park, Elks Club, and city border with Madbury.

SERVICES: Private well and septic

TRC COMPLETED 8.6.2015

PREVIOUS ZBA ACTION:

- Variance granted on June 15, 2006 to permit a beauty salon use (Case Z06-13)
- Variance granted on October 17, 2013 to permit an elderly assisted care home for 8-10 residents with 2 accessory staff apartments (Case Z13-18)
- Approved case Z13-18 on 10/17/2013 and case Z13-18A on 7/16/2015

INTENT: The Applicant received a variance to construct an elderly assisted care home for 12 residents with 2 accessory staff apartments. They seek an amendment to allow (increase) to 24 residents. A variance is required to permit the increase in resident capacity.

UNITS PROPOSED: 24 Assisted Living units, plus 2 accessory staff apartments

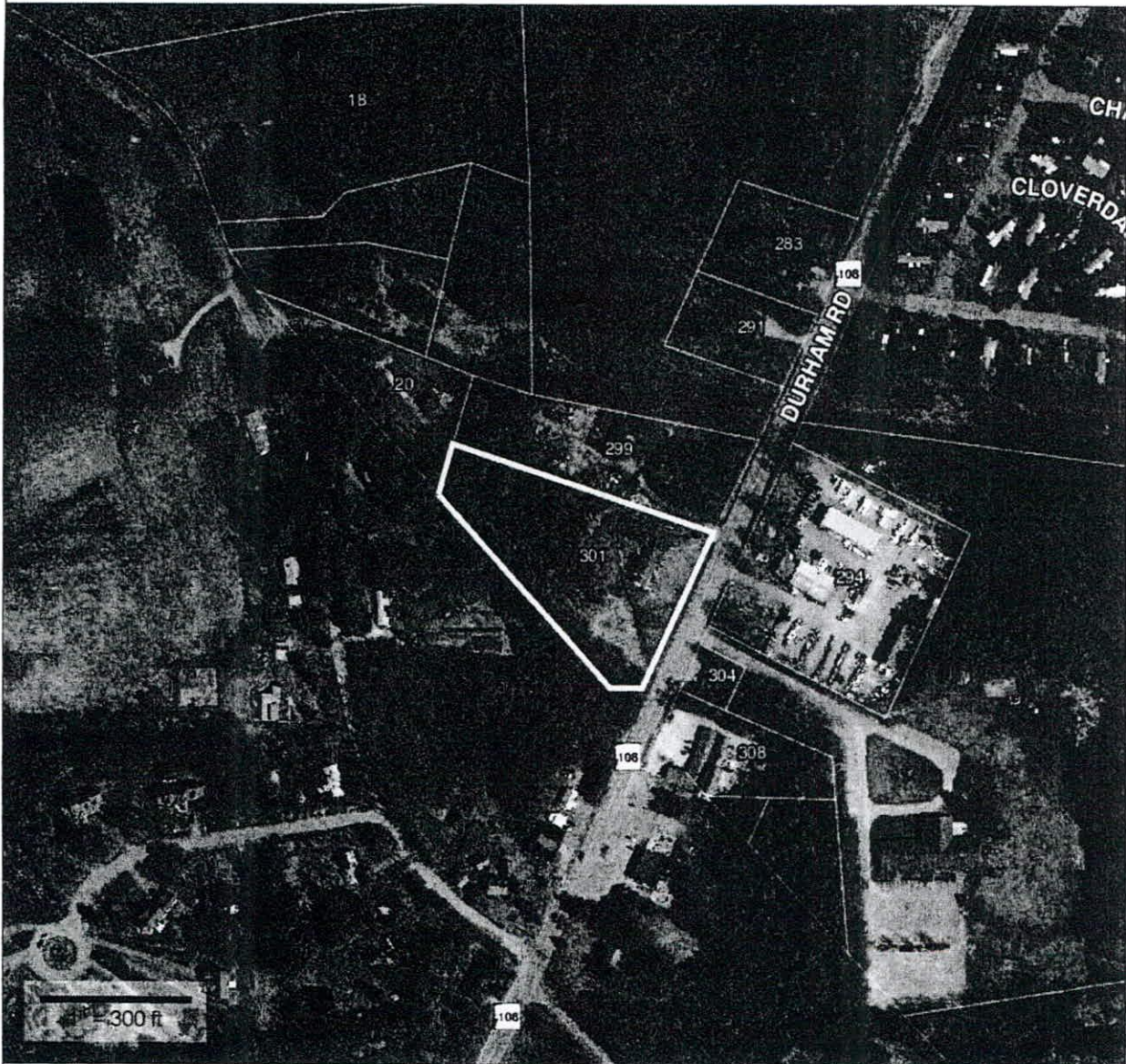
Summary of Request and Background

The property is 2.95 acres in size and is located on NH Route 108, Durham Road. It is improved with a structure that is previously occupied by a salon, permitted by variance granted in 2006. The Applicant received a variance to construct a second building on the property, to be located toward the rear of the lot, to be used as an elderly assisted care home for 8-10 residents, together with 2 accessory staff apartments. A variance was granted on July 22, 2015 from Section 170-12.A of the Zoning Ordinance and the B-4 District Table of Use and Dimensional Requirements to permit the proposed elderly assisted care home to 12 residents with 2 accessory apartments be allowed in the existing home which is not a permitted use in the B-4 District.

PREVIOUS TRC RECOMMENDATION:

Staff believes that the proposed elderly care assisted home is a comfortable fit in this area and in fact is a permitted use by special exception in the surrounding R-40 District. The home will sit back significantly from the street and will help to provide a base of customers within walking distance to the nearby commercial uses. In that way, the use complements and supports the commercial focus of the district but does not detract from it. We understand that it is always incumbent upon the applicant to demonstrate compliance with the 5 criteria, and from a planning perspective, it is staff's view that the proposal request is a reasonable and beneficial one.

301 Durham Road



Property Information

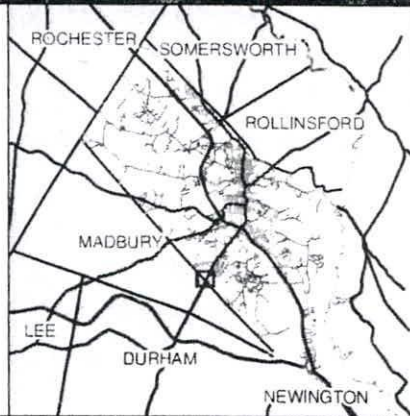
Property ID H0001-000000
Location 301 DURHAM RD
Owner REAL MCKOY PROPERTIES LLC



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Parcels updated January 1, 2015



PLANS FOR THE PROPERTY

To develop the property and complete the facility that provides Supported Residential Health Care including resident housing, supportive memory care services and care for 24 elderly residents.

A. Variance Requested

From existing categorized "Elderly Assisted Care" with 12 beds to "Assisted Living Facility" (ALF) in a **previously approved** B-4 Zone, non-conforming lot with a bed count of 24.

Johnson Creek Village is a state of the art home established to promote Supportive Residential Health Care (SRHCF) providing an interactive, holistic approach for Dementia and Memory care elders. We offer outstanding support and are focused on a loving environment providing dignity, respect, and compassion enabling our residents to achieve their highest potential of living.

Holistic Senior Living is based on best practices in geriatric care known to slow the progress of Alzheimer's and other dementias when utilized with a prescribed medical regimen. Holistic Senior Living integrates the biological, psychological, social and spiritual needs of our Residents. This approach incorporates adjunctive therapies such as diet, music, and exercise along with other nonpharmacological methods that include structured activities, pet therapy, massage therapy and aromatherapy.

A concentrated effort has been placed on the property enhancements, the service offering, the amenities, the design and wellness space along with the "farm to table" cuisine offered at this new state of the art facility for Holistic Senior Living.

We believe the Johnson Creek Village offerings will enhance Dover's reputation, as well as open possibilities for other types of business services, beautifying the neighborhood, increasing tax revenue, provide new jobs and intern opportunities, bring families into the city to use business services and most importantly provide a loving, holistic, homelike environment for our elderly family members.

B. Five Variance Criteria

1. Waiving the terms of the ordinance will not be contrary to the public interest.

There are similarities between the use already permitted by variance and the new proposed request. We are requesting to increase our tenant capacity which would only affect the bedroom layout within the facility, keeping constant with the public interest. The public interest is maintained as the variance request coincides with the spirit and intent of the original property variance approval. Our intent is not to expand our scope of service or footprint of building, but to maximize the fulfillment of the current need of alternative elder health care within our community.

In addition, this initiative has extensive growth potential keeping in spirit and intent of ordinance specific to the community location and property enhancements.

Currently, there are several businesses and residential properties located in the surrounding neighborhood. All of which have previously accepted the new development of the Johnson Creek project. They are excited that we have begun to restart the project keeping in alignment with our initial property enhancement.

Our completion of the project will improve the property and the surroundings and beautify the neighborhood with an attractive upgrade to the location with safety measures, accessibility and with aesthetically designed professional landscaping.

The requested use is essential and desirable to the public convenience and welfare.

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

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.

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

Permitted use considers a Personal Service Establishment, Hotel/Retail, Commercial Recreation, etc. Currently, Johnson Creek Village is classified as an Elderly Care Facility. After extensive review and discussion of the service offerings, the property and business

service will be appropriately licensed under 805, RSA 151-E – Assisted Living Facility resulting in the correct classification and definition for this type of zoned property. The use complements and supports the commercial use of the district but does not detract from it.

3. Granting the variance would do substantial justice because:

We are creating a functional, safe, and beautiful community. Our request is consistent with Dover's economic and aesthetic quality of life commitment, encouraging the most appropriate use of land. We are aligning with Dover's Master Plan- one which guides the long term physical development for a community.

Included in our Comprehensive, Marketing Plan and after an extensive Market analysis, targeted audience segmentation and feasibility study conducted, this type of operating business will provide for more capacity for a growing need in the city of Dover. It will not only attract new residents to our community, but families and visitors will patronize the city's business offering enhancing economic development. This will yield an increase in revenues and increase reach and demographics of customers and potential "new" tenancy yielding tax revenue to the city of Dover.

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

There will be no change to the property or building structure because of the additional 12 bed increase request- therefore not diminishing the surrounding properties. Please see new ADA compliant bedroom layout exhibit showing no impact on infrastructure.

Refer to exhibits reflecting bed arrangements (A) and infrastructure impacts(B) resulting from the increase in beds. There will be no change in the building square footage. The current dimensions of the living quarters meet the state and ADA criteria to have the semi-private (2 residents in a room) occupancy offering.

The Dwelling layouts are designed so that parking is screened from external roadways by garages, BUILDING locations, grading or screening. Major topographical changes or removal of existing trees shall be avoided wherever possible, and water, wetlands, and other scenic views from the external STREETS shall be preserved as much as possible. Residential layout shall reflect surrounding NEIGHBORHOOD design and should embrace traditional NEIGHBORHOOD features and philosophies. These include, but are not limited to tree lined STREETS, architectural details that encourage the feeling that the development is an extension of existing NEIGHBORHOODs and not built separately. In addition to tree lined STREETS, developments will incorporate natural materials in the BUILDING construction such as brick, wood and a composite material.

The Development of the property is intended to be a pedestrian friendly setting, with emphasis on the natural characteristics of the site. The site design creates a sense of character and cohesiveness through landscaping, façade treatment, and SIGNAGE. Care has been taken to allow for transitional uses between the existing neighboring uses and ours proposed.

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:

Currently, the property enhancement is underway with underground services in place per the previous building permit and variance granted and above ground structure build had begun.

This is a unique offering benefiting the city of Dover. The response from our target audience have proven to be beneficial with a positive reception and interest for elders to attain a better lifestyle moving into Johnson Creek Village. There is no other facility in the area or Dover treating early onset Alzheimer's, Memory Care with a Holistic approach. Other properties in the area have completed their building and property enhancements

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:

There is no conflict between the uses allowed in the B-4 district and the use we are seeking approval from the ZBA

The limitation to 12 beds is not adequate to sustain the facility and property value and therefore the property will remain as -is -unfinished- until investor buys or bank seizes.

This is an elderly assisted living care facility and there is no other designation in the ordinance. Client is being held to a higher standard due to the provisions required by this definition.

iii) The proposed use is a reasonable one because:

The proposed use for an elderly care facility, regardless of the type of care is still an institutional use. The proposed use has been deemed "a reasonable one" in 2013 with Staff Recommendation. See exhibit C.

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.

Aaronie Black
Signature of Applicant*

Aaronie Black
Signature of Owner*

*Both Signatures Required

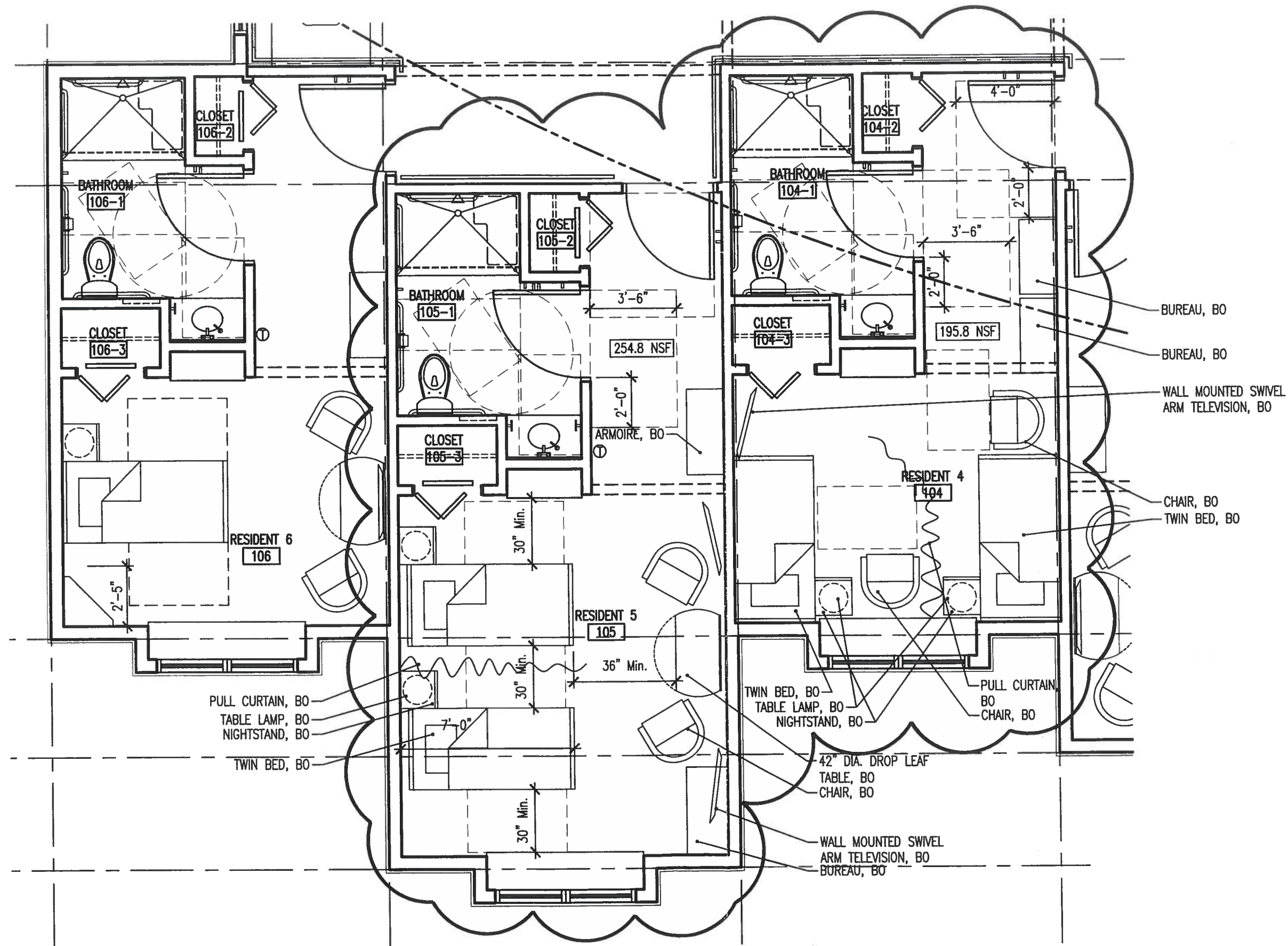
AUTHORIZATION TO ENTER SUBJECT PROPERTY

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: *Aaronie Black*

Date: 5-31-18

A.



AG Architects, PC 634 Central Avenue, Dover, NH 03820 E-Mail: ag@agarchitects.com Phone: 603-743-3700 Fax: 603-743-3177		
Reference:	A2.1	ASI-
Project:	Johnson Creek Village	CSK-73
Title:	Double Beds in Rooms	
Date:	24 April 2018	
Scale:	1/4" = 1'-0"	
Project No.:	14-666	

RECEIVED
Planning Office
MAY 31 2018
Dover, New Hampshire

B

JOHNSON CREEK VILLAGE
Construction Phase Two

RECEIVED
 Planning Office
 6/1/2018

MAY 31 2018

Dover, New Hampshire

CATEGORY	ITEM	DESCRIPTION
Objective	Beds	Increase beds from 12 to 24
	Classification	From Elderly Assisted Care to Assisted Living
Impacts	Footprint	No change
	Beds	Bed layout change
	Parking	Add five spaces to existing parking, with pervious pavement
	Well	Capacity is adequate Change classification to Community Well
	Wastewater/Septic	Increase Capacity with a new leach field on adjacent land or tie in to the Elks system
	Grease Interceptor	Potential Increase with another tank
	Sprinkler	No Changes
	Plumbing	No Changes
	Gas	Capacity is adequate
	Hot Water	Add /modify as needed
	HVAC	Add /modify as needed
	Power	Capacity is adequate
	Lighting	Add 1 light pole Modify/Add outlets in rooms



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z13-18A)

Application Type: Variance
Applicant: Aramis Black/Real McKoy Properties, LLC
Owner: Real McKoy Properties, LLC
Location: 301 Durham Road (Tax Map H, Lot 1)

INTENT: The Applicant received a variance to construct an elderly assisted care home for 8-10 residents with 2 accessory staff apartments. They seek an amendment to allow 12 residents. A variance is required to permit the home which is not a permitted use in the B-4 District.

UNITS PROPOSED: 12 elderly care units, plus 2 accessory staff apartments

AGENDA ITEM #: 3-A

ZONING DISTRICT: B-4 District

EXISTING LAND USE: Commercial

PROPOSED LAND USE: Elderly Care Assisted Home

SURROUNDING LAND USE: Commercial

PREVIOUS ZBA ACTION:

- Variance granted on June 15, 2006 to permit a beauty salon use (Case Z06-13)
- Variance granted on October 17, 2013 to permit an elderly assisted care home for 8-10 residents with 2 accessory staff apartments (Case Z13-18)

PLANNING BOARD APPROVAL REQUIRED: Yes

ATTACHMENTS: Application, subdivision plan, subdivision plan with proposed house location, septic plan

APPLICATION IS COMPLETE: Yes

NOTICES AS REQUIRED: Yes

STAFF RECOMMENDATION:
The Planning Department supports the amendment request.

Summary of Request and Background

The property is 2.95 acres in size and is located on NH Route 108, Durham Road. It is improved with a structure that is previous occupied by a salon, permitted by variance granted in 2006. The Applicant received a variance to construct a second building on the property, to be located toward the rear of the lot, to be used as an elderly assisted care home for 8-10 residents, together with 2 accessory staff apartments. A variance was required from Section 170-12.A of the Zoning Ordinance and the B-4 District Table of Use and Dimensional Requirements to permit the proposed assisted care home which is not a permitted use in the B-4 District.

The applicant wishes to add two additional units to the variance request.

Reason for Staff Recommendation

Staff believes that the proposed elderly care assisted home is a comfortable fit in this area and in fact is a permitted use by special exception in the surrounding R-40 District. The home will sit back significantly from the street and will help to provide a base of customers within walking distance to the nearby commercial uses. In that way, the use complements and supports the commercial focus of the district, but does not detract from it. It is always incumbent upon the applicant to demonstrate compliance with the 5 criteria, but from a planning perspective, it is staff's view that the proposal is a reasonable and beneficial one.

Recommendation

The Planning Department recommends the Board hold the public hearing and approve the amendment to the variance as requested.

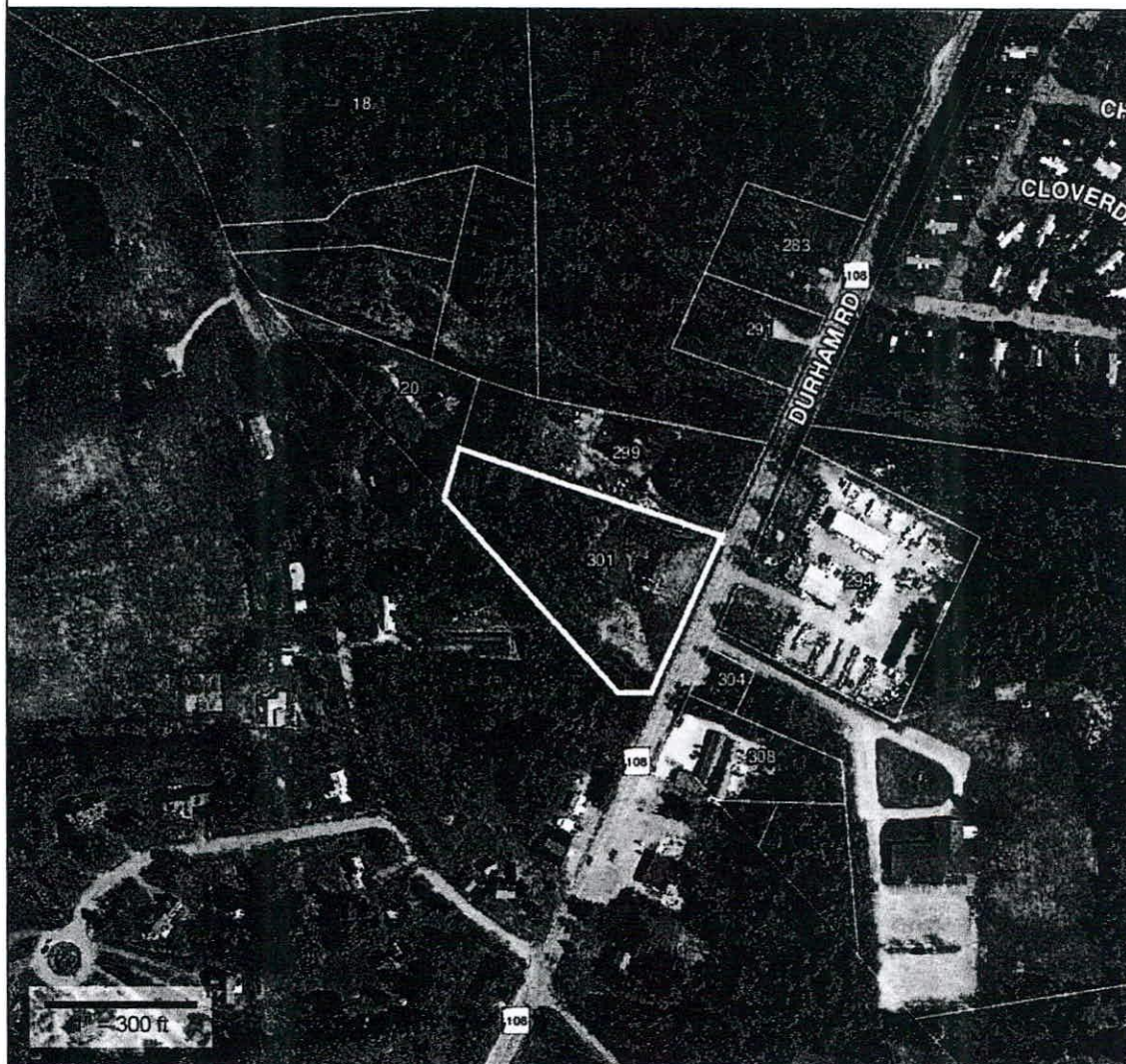


CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z13-18A)

Application Type: Variance
Applicant: Aramis Black/Real McKoy Properties, LLC
Owner: Real McKoy Properties, LLC
Location: 301 Durham Road (Tax Map H, Lot 1)

301 Durham Road



Property Information

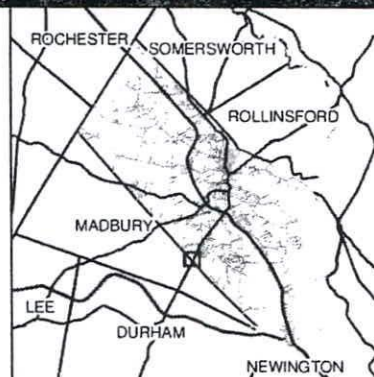
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Location 301 DURHAM RD
Owner REAL MCKOY PROPERTIES LLC



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Parcels updated January 1, 2015



Z13-18B

301 Durham Road

Property ID	Location	Owner 1	Owner 2	Owner Address 1	City	State	Zip
H0001-A00000	20 FRESHET RD	PAHLEVI RIZA &	GANTINI ATIK	20 FRESHET ROAD	DOVER	NH	03820
H0001-B00000	299 DURHAM RD	GEANOULIS DAVID S		299 DURHAM RD	DOVER	NH	03820
H0002-000000	275 DURHAM RD	CITY OF DOVER		288 CENTRAL AVENUE	DOVER	NH	03820
H0002-A00002	34 VICTORY WY	LOPEZ DAVID &	FALLON JESSICA	18 B FRESHET RD	DOVER	NH	03820
H0002-A00OPN	34 VICTORY WY	HOME OWNERS OF 36 & 34 VICTORY WY		34 & 36 VICTORY WY	DOVER	NH	03820
I0022-D00000	294 DURHAM RD	CLARK GORDON D		294 DURHAM RD	DOVER	NH	03820
I0122-000000	282 DURHAM RD	ELKS ORDER OF		282 DURHAM RD	DOVER	NH	03820
I0123-000000	304 DURHAM RD	CLARK GORDON D	C/O GC/AAA FENCES INC	294 DURHAM RD	DOVER	NH	03820
I0129-000000	308 DURHAM RD	CROISETIERE LEO		308 DURHAM RD	DOVER	NH	03820
		AG ARCHITECS, PC		634 CENTRAL AVENUE	DOVER	NH	03820
		REAL MCKOY PROPERTIES, LLC		301 DURHAM ROAD	DOVER	NH	03820
		COCHECO VILLAGE, INC		301 DURHAM ROAD	DOVER	NH	03820
		ARAMIS BLACK		634 CENTRAL AVENUE	DOVER	NH	03820



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO

Meeting Type:	Regular Meeting
Meeting Location:	Council Chambers, City Hall – 288 Central Ave. Dover, NH 03820
Meeting Date:	Thursday, June 21, 2018
Meeting Time:	7:00 pm

INTENT: The Applicant requests a variance to permit a new telecommunications tower, where telecommunications facilities are not permitted on this lot.

UNITS PROPOSED: N/A

AGENDA ITEM #: 4-C

ZONING DISTRICT: Rural Residential (R-40)

FILE: Z18-07

APPLICANT: Industrial Tower and Wireless, LLC

OWNER: Peter & Susan Rousseau

LOCATION: 200 Henry Law Avenue (Tax Map K, Lot 1)

ACREAGE: 55.18 acres

EXISTING LAND USE: Single-family dwelling/farm

PROPOSED LAND USE: Single-family dwelling/farm, with telecommunications tower

SURROUNDING LAND USE: Single-family dwellings, Cochecho River Wildlife Management Area, conserved open space, WTSN radio

PREVIOUS ZBA ACTION:
None

PLANNING BOARD APPROVAL REQUIRED: Yes

ATTACHMENTS: Application, site plans

STAFF RECOMMENDATION: See Staff Recommendations

TABLE OF CONTENTS

To aid the Board, a list of all materials submitted to date follows (new submissions since 5/17/2018 in **bold**):

1. From Applicant:
 - a. 3/23/2018 – Initial bound Application for Variance
 - b. 4/13/2018 – Letter from Atty. Grill of 4/11/2018
 - c. 4/17/2018 – FAA Determination of No Hazard to Air Navigation Letter of 11/13/2017
 - d. 4/17/2018 – NH Natural Heritage Bureau Review issued 4/6/2018
 - e. 4/17/2018 – US District Court for Rhode Island *Industrial Tower and Wireless, LLC v. Town of Foster Zoning Board of Review*
 - f. 5/2/2018 – Letter from Atty. Grill of 4/26/2018 including answers to questions and computer model coverage maps (and cover letter of 5/1/2018)
 - g. 5/9/2018 – Letter from Atty. Grill of 5/8/2018 and Real Estate Consultants of New England, Inc. Market Study dated 5/4/2018
 - h. 6/1/2018 – Letter to Atty. Hilson in response to Board's request for more information**
 - i. 6/8/2018 – Letter and two maps: Existing L2100 Coverage, LTE Best Server Coverage with Primary Candidate**
 - j. 6/8/2018 – Email to Atty. Hilson regarding peer review, regional notice, and regional impact finding**
 - k. 6/13/2018 – Email response to Andrew Nanaa's email of 6/13/2018**
 - l. 6/14/2018 – Email response to Andrew Nanaa's email of 6/14/2018**
 - m. 6/15/2018 – Email and PDF of photo simulations; included in online meeting materials (<http://www.dover.nh.gov/government/boards-and-commissions/zoning-board/index.html>), hard copies to be distributed**
2. From the Public:
 - a. 4/16/2018 – Email from Daniel Spuches, 40 Samuel Hanson Avenue
 - b. 4/19/2018 – Email and petition from Thomas Hackett, 43 Samuel Hanson Avenue
 - c. 4/19/2018 – Letter from Andrew Nanaa, 5 Industrial Park Drive, on behalf of Burson/Chalifour, 3 Mulligan Drive
 - d. 4/23/2018 – Letter from Colleen and Matt Walker, 45 Samuel Hanson Drive



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO

Meeting Type:	Regular Meeting
Meeting Location:	Council Chambers, City Hall – 288 Central Ave. Dover, NH 03820
Meeting Date:	Thursday, June 21, 2018
Meeting Time:	7:00 pm

- e. 4/30/2018 – Photographs of materials submitted to Dover Heritage Commission Chairman and Dover Planning Department, submitted by Andrew Nanaa
- f. **5/18/2018 – Email from Thomas Hackett with questions and updated petition**
- g. **6/13/2018 – Email and photos of DAS installation from Andrew Nanaa**
- h. **6/14/2018 – Letter and photos of DAS installation from Andrew Nanaa**

The proposed tower height of 180', on land at an elevation of approximately 145', creates a total elevation of 325'. For comparison, the highest point in Dover, Garrison Hill, is at elevation 291'.

In addition to Section 170-22 of the Zoning Ordinance, the City of Dover, in its permitting processes, must also adhere to the requirements of the federal Telecommunications Act of 1996 (TCA), as well as NH RSA 12-K, Deployment of Personal Wireless Facilities, if the Applicant/Co-Applicant is a wireless service provider. Staff has been advised by the NH Municipal Association that sections of the TCA do not apply to developers of tower structures unless a licensed wireless carrier is a co-applicant. If the variance to permit this use is granted, Planning Board review and approval will also be required per Section 170-22.

BACKGROUND INFORMATION AND SUMMARY OF REQUEST

New information in this memo is underlined.

The property subject to this variance request is an approximately 55-acre cattle farm located on the east side of Henry Law Avenue, north side of Back Road, and on both sides of McKone Lane. Although McKone Lane divides the property, it is one lot. Assessing records indicate the home dates to 1790. The property is located in the Rural Residential (R-40) Zoning District.

The Telecommunication Facilities section of the Zoning Ordinance, **Section 170-22**, permits the construction of new telecommunications towers on 15 specific lots around the City. This section also permits co-location, or the placement of facilities on existing towers or alternative tower structures, much more broadly, throughout the City. "Towers" include not only dedicated telecommunications towers, but also alternative structures such as steeples and smokestacks. The Applicant requests a variance to permit construction of a new, 180-foot tall tower on a lot where the use is not permitted. The Applicant is a tower developer who has identified a specific tenant, T-Mobile, but who has also expressed an intent to lease space on the tower for other wireless service providers' facilities.

At the April 19, 2018 meeting of the Zoning Board of Adjustment, the Applicant provided a brief overview of the variance request and responded to questions from the Board. The Board held a public hearing, which it then recessed to May 17, 2018. The Board indicated its desire to schedule a site walk and balloon test, and to obtain a third-party review of the submitted radiofrequency analysis, and directed Assistant City Planner Elena Piekut to arrange all three. The Board continued the application to the May 17 meeting.

At the May 17, 2018 meeting of the Zoning Board of Adjustment, the Applicant and their radiofrequency engineer provided additional information. The Board reopened the public hearing, received additional testimony, and recessed it to the June 21, 2018 meeting. The Board scheduled a site walk/balloon test for 8:00 am to 12:00 pm on Saturday, June 9, 2018 (with a rain date of June 16). The Board provided a list of additional requested information. Assistant City Planner Piekut provided an update on obtaining a peer review. The item was continued to the June 21 meeting.

Staff provided the Applicant with a list of locations for photo simulations based on the balloon test. The balloon test/site walk was held June 9 and members of the Board and staff also viewed the balloon from several locations around Dover and at the Rollinsford line.

Additional information received from the Applicant and the public since May 17 is included with this packet.



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – STAFF MEMO

Meeting Type:	Regular Meeting
Meeting Location:	Council Chambers, City Hall – 288 Central Ave. Dover, NH 03820
Meeting Date:	Thursday, June 21, 2018
Meeting Time:	7:00 pm

REASON FOR STAFF RECOMMENDATION

Staff has selected a peer review expert from three bidders, has received a check for these services from the Applicant and is finalizing an agreement for a report to be completed by July 11 and a presentation to be given to the Board at the July 19, 2018 regular meeting.

Community Development Planner Dave Carpenter has assisted the Heritage Commission in scheduling a meeting for June 18, 2018 to respond to the Board's request for comment and the Applicant's separate request for comment at the direction of the NH Division of Historical Resources.

Staff and the Board have received a response to the request for additional information made May 17, including additional maps and photo simulations. Staff and the Board have also received requests from the Applicant to:

1. Notify Somersworth, Rollinsford, Madbury, and Newington of the proposal per NH RSA 12-K:7 as such notification was requested by the Applicant; and
2. Make a finding that the project is not a development having regional impact within the meaning of NH RSA 36:55.

Staff has included the above statutes for the Board's review.

STAFF RECOMMENDATION

Staff recommends the Board:

- 1) Remove case Z18-07 from the table.
- 2) Provide the Applicant an opportunity to present additional information and review how the request meets each of the variance criteria.
- 3) Reopen the public hearing.
- 4) Recess the public hearing to July 19, 2018.
- 5) Make a motion regarding regional notification per NH RSA 12-K:7. Staff suggests notifying all abutting NH municipalities.

- 6) Make a motion regarding a development of regional impact as defined by NH RSA 36:55. Staff opinion is that this definition is not met by the proposal.
- 7) Continue the case to the July 19, 2018 meeting.

Staff recommends that the Board reserve deliberation on the five criteria required for a variance until the peer review and any testimony from other municipalities is received.

Usbelger, Nancy

MAY 18 2018

From: Thomas Hackett <Thomas.Hackett@flexenergy.com>
Sent: Friday, May 18, 2018 10:35 AM
To: Piekut, Elena
Cc: Usbelger, Nancy; Ann Marie Hackett
Subject: ZBA meeting May 17_2018
Attachments: NHB18-1011_follow-up.pdf; People opposed to Cell Tower_05172018.pdf

Dover, New Hampshire

Good morning Ms. Piekut,

I wanted to copy you with a summary of my questions from last night's ZBA meeting:

- Do we have written correspondence from the Electric Utility stating it is "ok" for the tower "drop zone" to overlap the power line easement?
- Is this property Conservation Land? Are there any "current use" stipulations on the land?
- In regards to nesting rare birds of prey. Are there any provisions for avoiding conflict with species of concern? Please reference letter from NH Natural Heritage Bureau (attached).
- Has the antenna on the Washington St. smoke stack been added since the 2016 Drive Test? If so, we should have Drive Test data from after the antenna was added.

Also please find attached the petition with the additional names I referenced.

I ask that you please include this email and it's attachments in the Case file.

Thank you.

Tom Hackett

From: Piekut, Elena [mailto:E.Piekut@doover.nh.gov]
Sent: Thursday, April 19, 2018 1:01 PM
To: Thomas Hackett <Thomas.Hackett@flexenergy.com>
Cc: Usbelger, Nancy <N.Usbelger@doover.nh.gov>; Ann Marie Hackett <ammhackett@gmail.com>
Subject: Re: People opposed to the zoning variance to allow a cell phone tower at 200 Henry Law Ave.

Thank you Mr. Hackett. This and your email will be printed and presented to the Board this evening.
Elena

Sent from my Verizon, Samsung Galaxy Tablet

----- Original message -----

From: Thomas Hackett <Thomas.Hackett@flexenergy.com>

Date: 4/19/18 9:44 AM (GMT-05:00)

To: "Piekut, Elena" <E.Piekut@dover.nh.gov>

Cc: "Usbelger, Nancy" <N.Usbelger@dover.nh.gov>, Ann Marie Hackett <ammhackett@gmail.com>

Subject: People opposed to the zoning variance to allow a cell phone tower at 200 Henry Law Ave.

----- Original message -----

From: Thomas Hackett <Thomas.Hackett@flexenergy.com>

Date: 4/19/18 9:44 AM (GMT-05:00)

To: "Piekut, Elena" <E.Piekut@dover.nh.gov>

Cc: "Usbelger, Nancy" <N.Usbelger@dover.nh.gov>, Ann Marie Hackett <ammhackett@gmail.com>

Subject: People opposed to the zoning variance to allow a cell phone tower at 200 Henry Law Ave.

Dear Ms. Piekut,

Attached please find two pages of names of people who are opposed to the zoning variance to allow a cell phone tower at 200 Henry Law Ave.

I would like to point out that the overwhelming majority of people that we have spoken to are opposed to the tower at this location.

Out of approximately forty people, only two or three people didn't want to sign because of their association with Mr. Rousseau. No one said they are for it.

There are likely several more people that will sign, but we are unable to personally approach everyone in the area before the meeting.

I ask that you submit this letter and the list of names for the hearing record. Thank you.

Sincerely,

Tom Hackett

Ps please reply confirming that you received this message. Thanks again.

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

This electronic message and any attachments may contain information that is confidential and/or legally privileged in accordance with NH RSA 91-A and other applicable laws or regulations. It is intended only for the use of the person and/or entity identified as recipient(s) in the message. If you are not an intended recipient of this message, please notify the sender immediately and delete the material. Do not print, deliver, distribute or copy this message, and do not disclose its contents or take any action in reliance on the information it contains unless authorized to do so. Thank you.



NEW HAMPSHIRE NATURAL HERITAGE BUREAU

DIVISION OF FORESTS & LANDS - DNCR
172 PEMBROKE ROAD, CONCORD, NH 03301
(603) 271-2214 WWW.NHDFL.ORG

To: Thomas Hackett
From: Amy Lamb, NH Natural Heritage Bureau
Date: April 30, 2018
Subject: NHB18-1011

This is a follow-up to NHB18-1011, for the proposal to construct a 180' communications tower within an 80'x80' compound on Map K, Lot 1-0-0 in Dover, NH. It was determined that, although there was a NHB record (e.g., rare wildlife, plant, and/or natural community) present in the vicinity, we do not expect that it will be impacted by the proposed project. As requested, I am including the list of the species documented in the vicinity of the project:

<u>Rare plant species and natural communities within 1/2 mile</u>	<u>State Status/Rank</u>	<u>Federal Status</u>
Engelmann's quillwort (<i>Isoetes engelmannii</i>)*	E	--
eastern grasswort (<i>Lilaeopsis chinensis</i>)	E	--
seaside brookweed (<i>Samolus valerandi</i> ssp. <i>parviflorus</i>)	E	--
low brackish riverbank marsh	S1 (critically imperiled)	--

<u>Rare wildlife species within 1 mile</u>	<u>State Status/Rank</u>	<u>Federal Status</u>
Cliff swallow	T	--
Bald Eagle	SC	--
Shortnose Sturgeon	E	E
Atlantic Sturgeon	T	--

*Denotes a historical record (plant species observation >20 years old).

Please contact me with any questions at Amy.Lamb@dnr.nh.gov or (603) 271-2834.

E = Endangered
T = Threatened
SC = Species of Concern

Opposed to the Zoning Variance to allow a 180' Telecommunications tower at 200 Henry Law Ave.

Name	<u>Carl Winn</u>	Street Address	<u>39 Samuel Hanson Ave</u>
Name	<u>Peter Blanchard</u>	Street Address	<u>49 Samuel Hanson Ave</u>
Name	<u>Mary Schwoerer</u>	Street Address	<u>49 Samuel Hanson Ave.</u>
Name	<u>Susan Clough</u>	Street Address	<u>41 Samuel Hanson Ave</u>
Name	<u>Tracy Wielgoszinski</u>	Street Address	<u>26 Samuel Hanson Ave.</u>
Name	<u>Christine Winn</u>	Street Address	<u>39 Samuel Hanson Ave.</u>
Name	<u>Louise Canella</u>	Street Address	<u>20 Back Road</u>
Name	<u>Dave Canella</u>	Street Address	<u>20 Back Road</u>
Name	<u>Ryan Hackett</u>	Street Address	<u>43 Samuel Hanson Ave.</u>
Name	<u>Mike Capern</u>	Street Address	<u>1 Mulligan Dr.</u>
Name	<u>DONALD PASON</u>	Street Address	<u>2 PENNY LANE</u>
Name	<u>NORM FRACASSA</u>	Street Address	<u>1 Penny Lane</u>
Name	<u>AMY FRACASSA</u>	Street Address	<u>1 PENNY LANE</u>
Name	<u>Ron Benson</u>	Street Address	<u>3 Mulligan Dr</u>
Name	<u>TOM HARRIS</u>	Street Address	<u>4 MULLIGAN DR</u>
Name	<u>Barbara Starkey</u>	Street Address	<u>4 Mulligan Drive</u>
Name	<u>Anna Capern</u>	Street Address	<u>1 Mulligan Drive</u>
Name	<u>Evan W. Williams</u>	Street Address	<u>5 Mulligan</u>
Name	<u>Shacina Hursey</u>	Street Address	<u>18 Falcon Ln</u>
Name	<u>Chase Flanders</u>	Street Address	<u>26 Falcon Ln</u>
Name	<u>Janine Flanders</u>	Street Address	<u>26 Falcon Lane</u>
Name	<u>AnneMarie Winkler</u>	Street Address	<u>152 Back Rd</u>
Name	<u>Edward Winkler</u>	Street Address	<u>152 Back Rd</u>
Name	<u>NATHAN HOBAN</u>	Street Address	<u>22 Samuel Hanson Ave.</u>
Name	<u>KATHLEEN HOBAN</u>	Street Address	<u>22 Samuel Hanson Ave.</u>
Name	_____	Street Address	_____
Name	_____	Street Address	_____
Name	_____	Street Address	_____

Opposed to the Zoning Variance to allow a 180' Telecommunications tower at 200 Henry Law Ave.

Name	<u>Tom Hackett</u>	Street Address	<u>43 Samuel Hanson Ave.</u>
Name	<u>Karen Amesbury</u>	Street Address	<u>3 Samuel Hanson Ave.</u>
Name	<u>Tammy Williams</u>	Street Address	<u>34 Samuel Hanson Ave.</u>
Name	<u>Mark Breen</u>	Street Address	<u>51 Samuel Hanson Ave.</u>
Name	<u>M. CAVIRIS</u>	Street Address	<u>42 Samuel Hanson Ave.</u>
Name	<u>Cleveland Peterson</u>	Street Address	<u>42 Samuel Hanson Ave.</u>
Name	<u>Nan Maury</u>	Street Address	<u>46 Samuel Hanson Ave.</u>
Name	<u>John H. Saylor</u>	Street Address	<u>46 Samuel Hanson Ave.</u>
Name	<u>Sally Boucher</u>	Street Address	<u>47 Samuel Hanson Ave.</u>
Name	<u>Tom Boucher</u>	Street Address	<u>47 Samuel Hanson Ave.</u>
Name	<u>Amy Marie Hackett</u>	Street Address	<u>43 Samuel Hanson Ave.</u>
Name	<u>Jim Cam</u>	Street Address	<u>36 Samuel Hanson Ave.</u>
Name	<u>OC</u>	Street Address	<u>36 Samuel Hanson Ave.</u>
Name	<u>Wes Cam</u>	Street Address	<u>36 Samuel Hanson Ave.</u>
Name	<u>Anshy Cam</u>	Street Address	<u>36 Samuel Hanson Ave.</u>
Name	<u>Daniel Spuches</u>	Street Address	<u>40 Samuel Hanson Ave.</u>
Name	<u>Melissa Clough</u>	Street Address	<u>41 Samuel Hanson Ave.</u>
Name	<u>Dana Clough</u>	Street Address	<u>197 Henry Law Ave.</u>
Name	<u>Jennifer Harpell</u>	Street Address	<u>43 Samuel Hanson Ave.</u>
Name	<u>Joyce H. Harpell</u>	Street Address	<u>48 Samuel Hanson Ave.</u>
Name	<u>May W. Harpell</u>	Street Address	<u>26 Samuel Hanson Ave.</u>
Name	<u>Amy Marie Olsen-Harpell</u>	Street Address	<u>2 Mulligan Dr. Dover, NH</u>
Name	<u>Bob Fredette</u>	Street Address	<u>109 Back Rd.</u>
Name	<u>Jen Katz-Born</u>	Street Address	<u>117 Back Rd.</u>
Name	<u>Russell R. Williams</u>	Street Address	<u>34 Samuel Hanson Ave.</u>
Name	<u>Colleen Walker</u>	Street Address	<u>45 Samuel Hanson Ave.</u>
Name	<u>Matt Wilson</u>	Street Address	<u>45 Samuel Hanson Ave.</u>
Name	<u>Laurie Cysley</u>	Street Address	<u>29 Samuel Hanson Ave.</u>
	<u>Kristine Williams</u>		<u>34 Samuel Hanson Ave.</u>

LAW OFFICE OF STEVEN E. GRILL
PO Box 10186
Bedford, NH 03110
603.488.2371
sgrill@stevegrill.com

June 1, 2018

BY EMAIL ONLY

Christopher T. Hilson, Esq.
Donahue Tucker & Ciandella, PLLC
16 Windsor Lane
Exeter, NH 03833

Re: Case No. Z18-07
Application of Industrial Tower and Wireless, LLC, for a Variance for a Wireless
Telecommunications Facility proposed to be installed at 200 Henry Law Avenue, Dover, NH

Dear Chris:

This letter responds to the seven items contained in the email I received from Assistant Planner Piekut on May 22, 2018 and addresses a few other items that were raised at the May 17, 2018 public hearing in the above matter.

Items Contained in May 22 Email, With Applicant's Responses in Bold Typeface

1. Request to provide "Cost of permitting and construction of the proposed telecommunication facility (relevant under Section 170-22(D)(2)(d)(v))." **As we read the cited provision of the Dover Ordinance, applicants seeking to construct a new wireless antenna tower may be required to demonstrate to the Dover Planning board that colocation on an existing structure would be more expensive than constructing a new tower. Here, however, T-Mobile has a substantial gap in its wireless network which cannot be filled by using any existing structure or by building a new structure at any of the locations where such structures are permitted subject only to Planning Board approval. To the extent there is still any doubt about the fact that no such alternatives exist, the Applicant believes that this will be confirmed once the independent review which the Town has authorized is conducted. See also response to Item 2, below. On these facts, the need to show that alternatives would be significantly more expensive makes no sense, since there are no other viable alternatives. Nevertheless, the Applicant hereby represents that its cost of constructing a new wireless facility typically ranges from \$200,000 to \$300,000. This does not include land acquisition costs or the costs of each carrier's antennas and electronic equipment. It also does not include the cost of permitting, which varies greatly from site to site depending on local regulations, the number of hearings, the extent to which consultants are utilized, whether or not litigation is involved, and other factors.**

2. Request to provide "Communications concerning the negotiation(s) referenced in the Application for placing a T-Mobile antenna on the existing towers owned, operated, or used by WTSN and WOKQ (relevant under Section 170-22(D)(2)(d)(v) and 170-22(B)(4))." **This is an unusual request. The typical protocol in New Hampshire is for local land use boards to accept and rely upon factual representations made by an applicant, which in turn effectively become conditions of the relief granted.**

Here, the Applicant has been informed that T-Mobile negotiated for more than one year with the owner of 101 Back Road, a parcel in the vicinity of the proposed site where four AM existing antenna towers are located. After a determination was made that it was not feasible to install antennas on the existing towers due to structural concerns, the owner proposed construction of a new tower, but was not willing to provide a lease for antennas for the thirty (30) year term which is customary in the wireless industry. Instead, he insisted on a lease terminable by the owner with only one year's notice. This is not commercially reasonable; one year's notice would require T-Mobile (or any other provider) to find an alternative site, negotiate a lease, obtain all required land use approvals and construct a new site, all within one year. This is simply not possible. In addition, since a new tower would have been required, and since 101 Back Road is not one of the fifteen parcels upon which new towers are allowed, this site would require a variance and would present essentially all of the same issues presented by the use of the proposed site.

Although I do not represent T-Mobile, it is my understanding that T-Mobile considers additional details as well as the underlying documentation regarding the negotiations with the owner of 101 Back Road to be proprietary. We thus ask the ZBA to rely on the above representations, which I believe have already been made on the record. Mr. Squires will be present at the June 21 hearing. He is the T-Mobile representative who negotiated with the owner of 101 Back Road and can re-confirm these facts on the record if required.

T-Mobile already has antennas installed at 205' above ground elevation at 286 Middle Road (which I believe is the WOKQ site) but, as the coverage maps already submitted demonstrate, this site is too far from the targeted coverage area to provide a feasible alternative.

3. Request for "Radio frequency analysis expressing expected frequency propagation and strength from the towers currently servicing WTSN and WOKQ." **Information regarding 101 Back Road is not relevant, since the site is not available. See response to Item 2, above. Coverage plots have already been submitted for 286 Middle Road, demonstrating that it is too far away to close the existing gap. The Applicant respectfully submits that this will be confirmed by the independent radio frequency review which the City has authorized (although apparently no independent consultant has been retained as of this date.)**
4. Request for "Propagation analysis of existing Sprint 4G coverage within the subject area." **This information is not available to us. The request apparently was triggered by recent reports in the media concerning pending merger discussions between T-Mobile and Sprint. While it is possible such a merger may eventually be approved and consummated, at present the companies remain competitors. Moreover, a merger may be conditioned on divestiture of license in certain markets, and there simply is no way to know at this point whether the Sprint and T-Mobile networks in the Dover area will ever be combined into one network and, if so, when that would occur.**

5. Request for “An explanation, including radio frequency propagation studies where appropriate, of why existing facilities may not be used if expanded pursuant to RSA 12-K, *et seq* and/or the Federal Middle Class Tax Relief and Job Creation Act of 2012, Section 6409.” **At the risk of over-simplifying, these statutes in effect create a streamlined permitting process for an increase height of existing facilities by 20’ in order to allow for colocation. The Applicant has already submitted data explaining that is has deployed antennas on all existing structures in the vicinity of the proposed facility, and it is not possible to close the significant gap from any of those locations. We respectfully propose that models showing the additional coverage, if any, that might be achieved by deploying antennas on those structures at greater heights be developed and discussed as part of the independent review process.**
6. Request for a “Balloon test, with reasonable notice to the public, sufficient to support photo simulation survey.” **We understand that a balloon test is scheduled for June 9, 2018 from 8:00a.m. to Noon, and that notice of this was provided at the May 17 hearing. Accordingly, nothing further is required with respect to this item. If this is not correct, please explain.**
7. Request to “Engage a competent photosimulation expert (Caron & Associates Designs) to furnish reasonable photosimulations of proposed tower at nearby locations:
 - a. Which experience reasonable pedestrian and vehicular traffic,
 - b. With residential housing developments,
 - c. Considered in connection with the Historical Architectural Survey and Effects Assessment, and
 - d. The nearest New Hampshire municipal border, from an unobstructed vantage point.”

The Applicant has conducted numerous balloon tests and created numerous photosimulations throughout New England over its many years in business, and believes its methods are reliable and in accordance with generally-accepted standards in the industry. Although hiring an outside consultant is therefore not necessary, the Applicant has contacted Virtual Site Simulations, LLC (www.virtualsitesimulations.com) to obtain pricing and availability for next Saturday’s test. We request that the City provide a reasonable number of the specific locations at which it wants photosimulations created as soon as possible. If the City chooses not to provide these, the Applicant will select them in accordance with its standard practices.

Other Outstanding Issues

- 1) In accordance with well-settled law, the Applicant is requesting a variance because its business partner, T-Mobile, has “a significant gap” in its network and because it is not feasible to close that gap either by using existing structures or by constructing a new facility on one of the 15 parcels in Dover where such facilities are allowed. Based on the questions posed at the May 17 hearing by some members of the ZBA, the ZBA appears to want specific proof of actual unmet customer needs (such as customers complaints, proof of dropped calls, etc.) as well as information concerning the process by which T-Mobile determines how to prioritize its site acquisition activities. This information is not required by existing law and may improperly place the local land use board in a position of creating barriers to entry in violation of federal law by allowing it to make decisions regarding what constitutes adequate service, a matter which is regulated by the FCC. Moreover, although I represent only the Applicant and I do not represent

T-Mobile, it is my understanding that T-Mobile considers such information to be proprietary. Thus, even if the information exists, it is not available to us. Nevertheless, if additional information concerning customer needs can be obtained, we will provide it.

- 2) We understand the ZBA is concerned about potential impacts to historic properties and may request input from the City's Heritage Commission in this regard. We note that, as a federally-permitted facility, this site is subject to Section 106 review, and in March 2018 the Applicant submitted a report by a qualified expert concluding that there would be no adverse impact within the APE. We believe that we have fully addressed historic issues as required by federal law and the Programmatic Agreement, and we note that the New Hampshire Division of Historic Resources appears to agree. Accordingly, we respectfully submit that further review of this specific issue by the ZBA is neither necessary nor appropriate.
- 3) In addition to the radiofrequency issues identified earlier in this letter, we note that Andrew Nanaa made remarks at the May 17 hearing, which were in addition to his remarks at the April 19 hearing and his written submissions to the ZBA. Somewhat ironically, Mr. Nanaa again attacked the basis of the submissions of T-Mobile and the Applicant without offering any evidence that he is qualified to address radiofrequency issues or that he had performed any studies or tests in accordance with generally accepted industry standards. His most recent remarks offered his unsubstantiated and incorrect opinion that a distributed antenna system (DAS) could be used to close T-Mobile's significant gap in coverage. We suggest that this issue (and all radiofrequency issues) be explored as part of the independent review which we have been told the City is going to arrange and which we have agreed to participate in.
- 4) Following the May 17 meeting, we were provided with a submission containing more details regarding protected species in the vicinity of the proposed facility. We note that the state regulatory body with jurisdiction in this regard is not concerned that the facility will impact any of these species, and we thus consider this issue to be resolved. Unsubstantiated opinions such as "eagles love towers" do not amount to substantial evidence and are not a basis upon which this Application might be denied.
- 5) Prior to the May 17 hearing, we submitted a study of the impact of towers on the value of neighboring residential real estate. Unsubstantiated claims that third parties have contrary opinions do not amount to substantial evidence.
- 6) To the extent concerns continue to be expressed by City residents regarding the effects of the energy which would be emitted by the proposed facility, we again stress that the facility will operate within the limits established by the FCC, and the Applicant certainly would agree to a condition of approval in this regard. Beyond this, there is no local jurisdiction. In other words, concerns regarding health effects are expressly preempted by federal law.

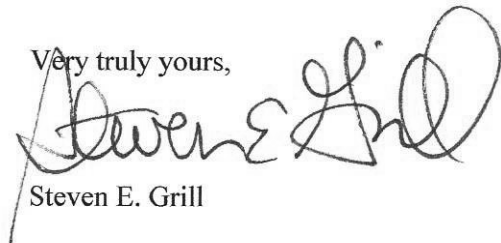
I hope I have addressed all outstanding issues but, of course, please feel free to call me if you have any additional concerns or questions.

We trust that the process will continue to move along and look forward to the balloon test on June 9, the prompt engagement of an independent RF consultant, the prompt completion of the Heritage Commission

Page 5
Christopher T. Hilson, Esq.
June 1, 2018

process, and the opportunity to provide further information and/or additional testimony, as may be appropriate.

Very truly yours,

A handwritten signature in black ink, appearing to read "Steven E. Grill". The signature is fluid and cursive, with a large loop at the end of the last name.

Steven E. Grill

Enclosures
SEG

LAW OFFICE OF STEVEN E. GRILL
PO Box 10186
Bedford, NH 03110
603.488.2371
sgrill@stevegrill.com

June 7, 2018

BY EMAIL AND OVERNIGHT MAIL

Ms. Elena Piekut
Assistant City Planner
Zoning Administrator
City of Dover, NH
288 Central Avenue
Dover, NH 03820-4169

Re: Case No. Z18-07
Application of Industrial Tower and Wireless, LLC, for a Variance for a Wireless
Telecommunications Facility proposed to be installed at 200 Henry Law Avenue, Dover, NH

Dear Ms. Piekut:

Enclosed with the hard copy of this letter please find ten (10) copies of two documents, the first of which is a "close up" version coverage plot, showing the area that the proposed facility would serve, and the second of which is a document incorporating population data based on U.S. Census information.

Taken together, these documents demonstrate that 1,568 people who reside in the vicinity of the proposed site presently do not have adequate (*i.e.*, in-building) coverage available through T-Mobile. Even if we were to assume that only one third of these individuals are actual or potential T-Mobile customers, that would still be a very significant number of people, and of course this would not include the additional individuals who work in or travel through this part of Dover. (To put this in perspective, we note that approximately 55 people representing approximately 35 different properties, signed the petition objecting to this project. This represents only 3.5% of the population in question.)

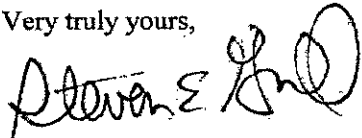
If there are questions about this information, the Applicant will request that T-Mobile make its engineer, Mr. Monte de Ramos, available for additional testimony.

This information is not intended as a complete explanation of the process by which T-Mobile determined that the proposed site is needed to fill a significant gap in coverage. As previously explained, T-Mobile considers such information to be proprietary. Nevertheless, the information constitutes additional evidence of the existence of a significant gap in coverage which satisfies the "hardship" criteria with respect to this application for permission to construct a wireless antenna facility.

Page 2
Zoning Board of Adjustment
City of Dover, NH
June 7, 2018

Please do not hesitate to contact me or the Applicant's other representatives if you require any additional information or have any questions.

Very truly yours,

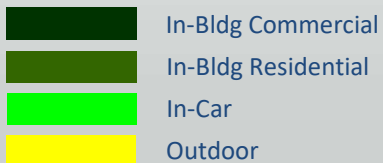
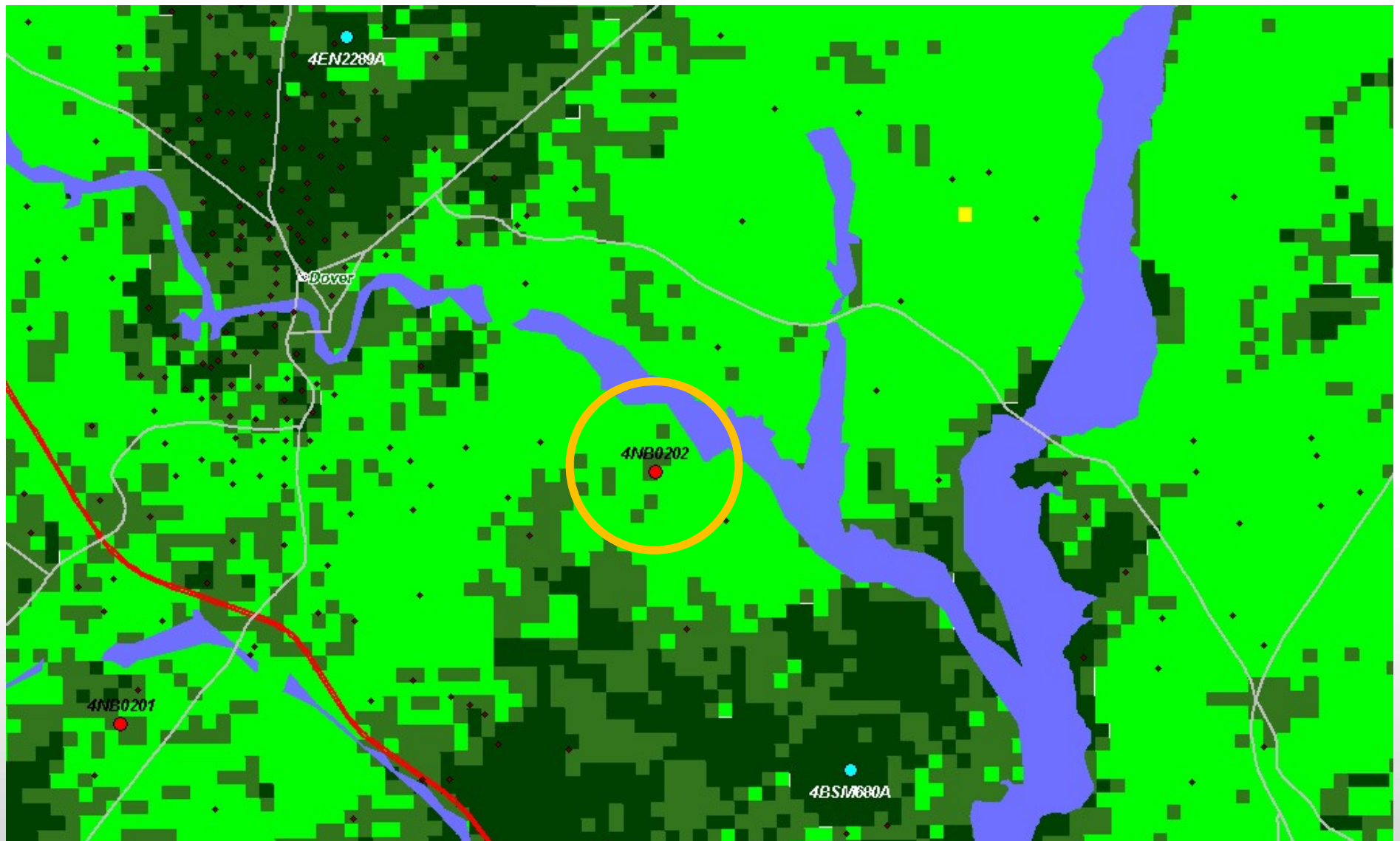
A handwritten signature in black ink, appearing to read "Steven E. Grill", with a large, stylized circular flourish at the end.

Steven E. Grill

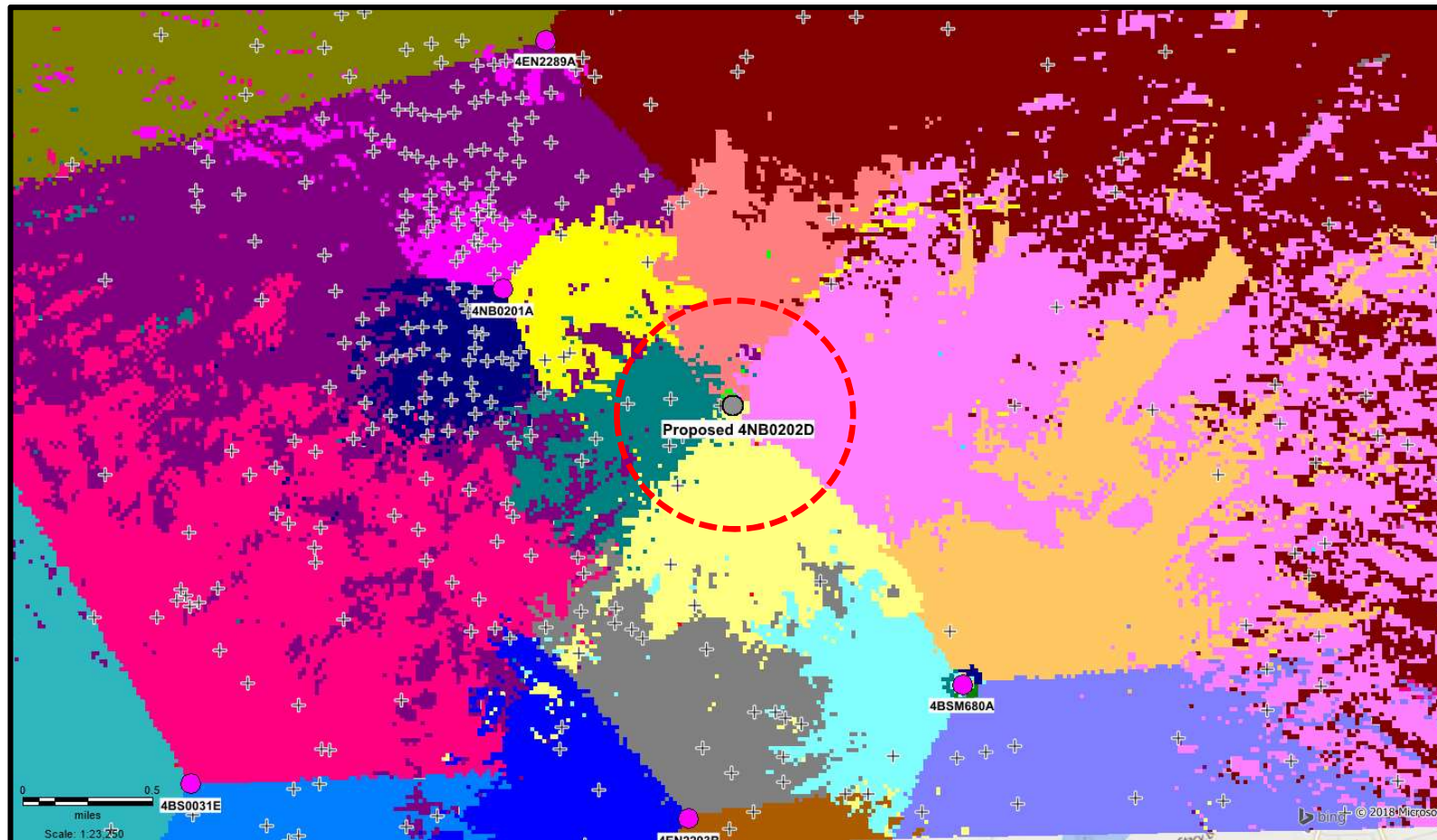
cc: Mr. Christopher G. Parker (email only, w/ encl.)
Christopher T. Hilson, Esq. (email only, w/encl.)

Enclosures
SEG

4NB0202 - Existing L2100 Coverage (Dover, NH 03820)



LTE Best Server Coverage with Primary Candidate at 200 Henry Law Ave, Dover, NH
Total Number of Potential Customers Served : 1,568 Pops



- Existing T-Mobile On-Air Site
- Propose T-Mobile Site

- ☒ Other_Road
- ☒ Line
- Line 1
- ☒ Primary_Road
- ☒ Line
- Line 1
- ☒ Secondary_Road
- ☒ Line
- Line 1
- ☒ Neighborhood_Road
- ☒ Line
- Line 1

From: [Piekut, Elena](#)
To: [Usbelger, Nancy](#); [Glidden, Jean](#)
Subject: FW: Dover/Industrial Tower
Date: Friday, June 08, 2018 1:09:21 PM

Please add this email to the packet.

Elena Piekut

Assistant City Planner

Zoning Administrator

City of Dover, NH

288 Central Avenue

Dover, NH 03820-4169

e: e.piekut@doover.nh.gov

p: 603.516.6008 f: 603.516.6049

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From: Christopher T. Hilson [mailto:chilson@dtclawyers.com]

Sent: Friday, June 8, 2018 11:24 AM

To: Piekut, Elena <E.Piekut@doover.nh.gov>

Subject: FW: Dover/Industrial Tower

3 of 3

Christopher T. Hilson, Esq.
Donahue, Tucker & Ciandella, PLLC
16 Windsor Lane
Exeter, NH 03833-4924
PH: (603) 778-0686
FX: (603) 772-4454



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From: sgrill [<mailto:sgrill@stevegrill.com>]
Sent: Thursday, June 07, 2018 11:24 AM
To: Christopher T. Hilson
Cc: Nancy Simone
Subject: RE: Dover/Industrial Tower

Chris, further to our discussion this morning, the Applicant does not believe that the proposed "new tower...will be visible from any other New Hampshire municipality within a 20-mile radius" within the meaning of RSA 12-K:7, but we cannot be certain of this unless and until the facility is actually constructed and a visual analysis is performed. That being said, it would be prudent to notify Somersworth, Rollingsford, Madbury and Newington, to avoid any argument that required notifications were not given.

We also suggest that a finding be made on the record that this project is not a development having regional impact within the meaning of RSA 36:55, in that the impact, if any, beyond Dover is visual only, and that is expressly addressed by 12-K:7. The types of impacts contemplated by 36:55 are not present in this situation.

Please let me know if you have any questions,
Steve

From: sgrill
Sent: Thursday, June 7, 2018 9:46 AM
To: Christopher T. Hilson <chilson@dtclawyers.com>
Cc: Nancy Simone <nsimone@dtclawyers.com>
Subject: RE: Dover/Industrial Tower

Chris, thanks for your time on the phone this morning. As we discussed, the Applicant does not object to paying the fee for IDK and will remit the amount requested. This is without prejudice to object to expanding the scope of work to include Sprint coverage issues, for the reasons stated in my recent letter.

As we also discussed, the question of attorney fees is a little more problematic. I need to discuss this with my client and will get back to you as soon as I can on that issue.

Steve

From: Christopher T. Hilson <chilson@dtclawyers.com>
Sent: Wednesday, June 6, 2018 3:16 PM
To: sgrill <sgrill@stevegrill.com>
Cc: Nancy Simone <nsimone@dtclawyers.com>
Subject: Dover/Industrial Tower

Steve, attached is a letter regarding the assessment of consultant costs to the applicant. Please review and let me know if you have any questions; of course, I'm happy to speak with you about it.

I also received your letter of June 1, 2018, which I have forwarded to the Board for review and consideration. Thanks

Christopher T. Hilson, Esq.
Donahue, Tucker & Ciandella, PLLC
16 Windsor Lane
Exeter, NH 03833-4924
PH: (603) 778-0686
FX: (603) 772-4454



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From: Konica-1stfloor@dtclawyers.com [<mailto:Konica-1stfloor@dtclawyers.com>]
Sent: Wednesday, June 06, 2018 11:35 AM
To: Courtney L. Mulcahey; Christopher T. Hilson
Subject: Message from KM_C458

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Usbelger, Nancy

From: Piekut, Elena
Sent: Wednesday, June 13, 2018 9:15 AM
To: Usbelger, Nancy; Glidden, Jean
Subject: FW: DAS Locations
Attachments: CT DAS Site 2.jpg; CT DAS Site 1 1.jpg

Please add this email and the attached photos to the file and board packets for Z18-07.

Elena Piekut

Assistant City Planner
Zoning Administrator
City of Dover, NH
288 Central Avenue
Dover, NH 03820-4169
e: e.piekut@doover.nh.gov
p: 603.516.6008 f: 603.516.6049

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Twitter: [@DoverNHPlanning](https://twitter.com/DoverNHPlanning)

From: Fiberoptic [<mailto:Fiberoptic@att.net>]
Sent: Wednesday, June 13, 2018 8:32 AM
To: Piekut, Elena <E.Piekut@doover.nh.gov>
Subject: DAS Locations

Dear Ms. Piekut:

Please find attached several photos of DAS installation that I came across recently in Connecticut.

I have contacted American Tower and Crown Castle Tower to see if they have DAS locations close to Dover but I have not received a reply as yet. If you are planning on being on or near Martha's Vineyard, I can show you the American Tower installation that covers two towns there.

Andrew Nanaa
Fiberoptic@att.net
518-424-1075

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June 14, 2018

To: Zoning Board of Adjustment
City of Dover, NH
City Hall
288 Central Avenue
Dover, NH 03820

From: Andrew Nanaa
5 Industrial Park Drive
Dover, NH 03820
On behalf of Abutter:
Burson/Chalifour
3 Mulligan Drive
Dover, NH 03820

RE: Case No. Z18-07
Application of Industrial Tower and Wireless, LLC, for a Variance for a Wireless
Telecommunications Facility proposed to be installed at 200 Henry Law Avenue, Dover, NH

Dear Sirs:

Please find attached a series of photos of Distributed Antenna System (DAS) node locations throughout the city of Warwick, Rhode Island.

Most of the DAS nodes are owned by American Tower (ATC) with the one located at the ball field (last in the series) being owned by T-Mobile. Please note that the installation is new and in the process of being deployed so there are several poles with nothing on them but are presented to show how the installation will look in the settings.

Of additional interest is the fact that these DAS nodes are not directly interconnected but use Cox Cable company fiber optics to carry the signal back to a central office. This type of deployment is specifically designed to provide gap or hole coverage as has been presented by the Applicant as what is needed by T-Mobile which is what brings the Applicant before the ZBA.

A list of addresses of the DAS nodes is as follows:

5 Brendard Ave
19 Wesleyan Ave
30 Garden Street

83 Buttonwoods Ave
134 Narragansett Bay Ave
234 Long St
300 Squantum Dr
980 Post Road
2950 West Shore Rd
Main Ave
T-Mobile Damon Ave

I provide this material in the interest of encouraging the Zoning Board of Adjustment (ZBA) to reject the application before it from Industrial Tower and Wireless, LLC (Applicant) for a Variance for a Wireless

Telecommunications Facility proposed to be installed at 200 Henry Law Avenue and I am requesting that the ZBA encourage a DAS system be installed if additional coverage is needed/required by T-Mobile or any other wireless carrier.

I respectfully request that this document, in its entirety including attachments, be made a part of the permanent record of Case Z18-07.

Sincerely,

Andrew Nanaa
5 Industrial Park Drive
Dover, NH 03820
518-424-1075
Fiberoptic@att.net
On behalf of Abutter:
Burson/Chalifour
3 Mulligan Drive
Dover, NH 03820

Attachments:
DAS Photos



NT

LARRY'S LIQUORS

3rd Floor

LARRY'S LIQUORS

Coastway Community Bank

73°F

2009



















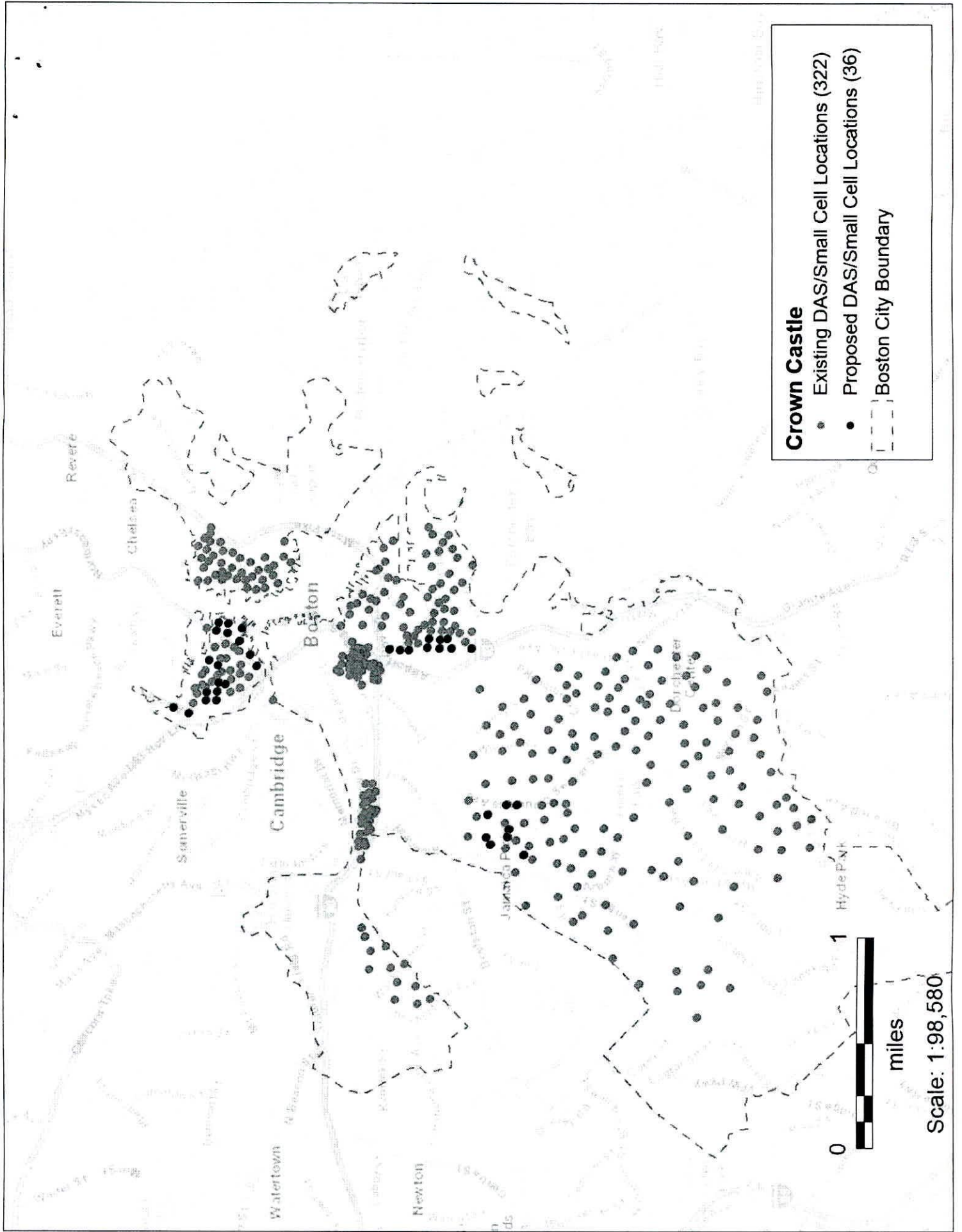


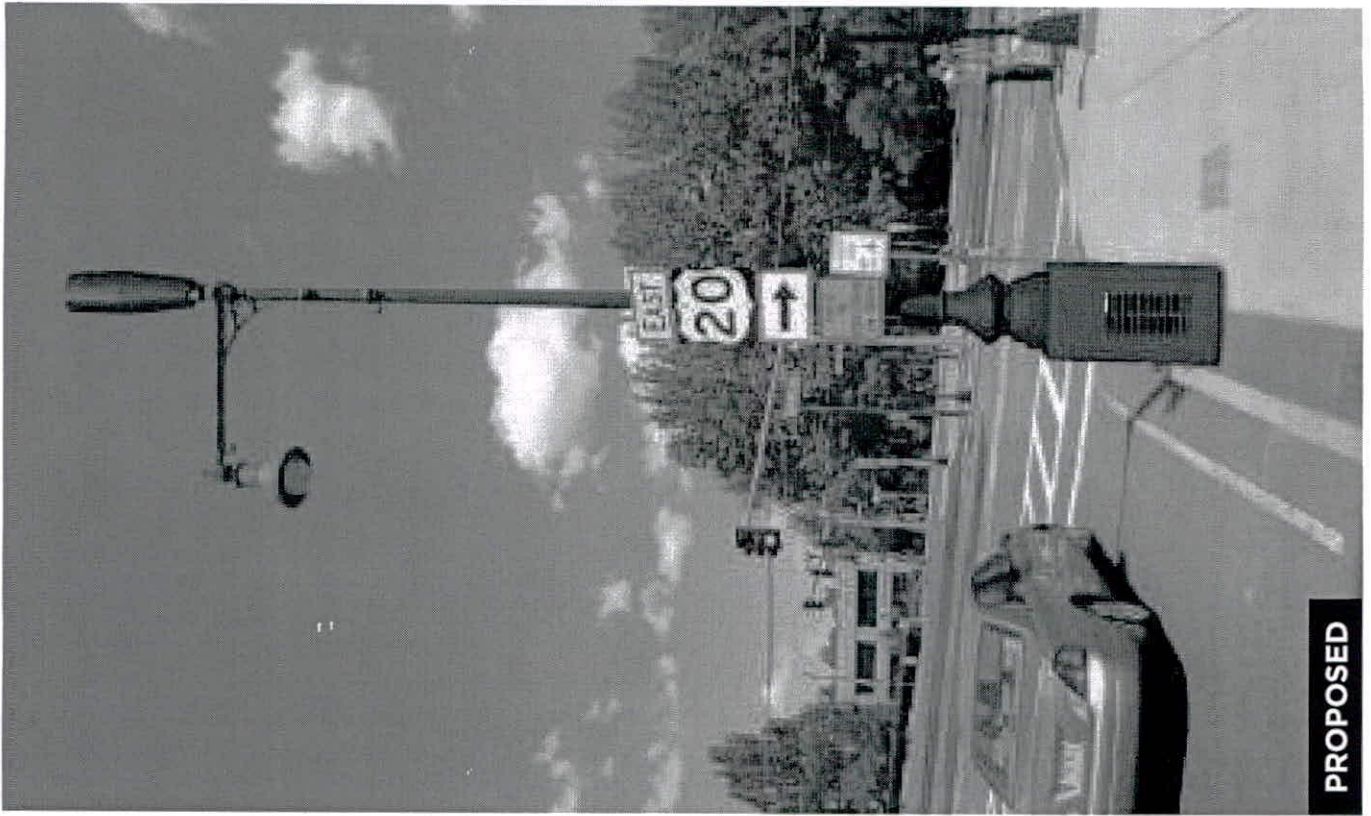




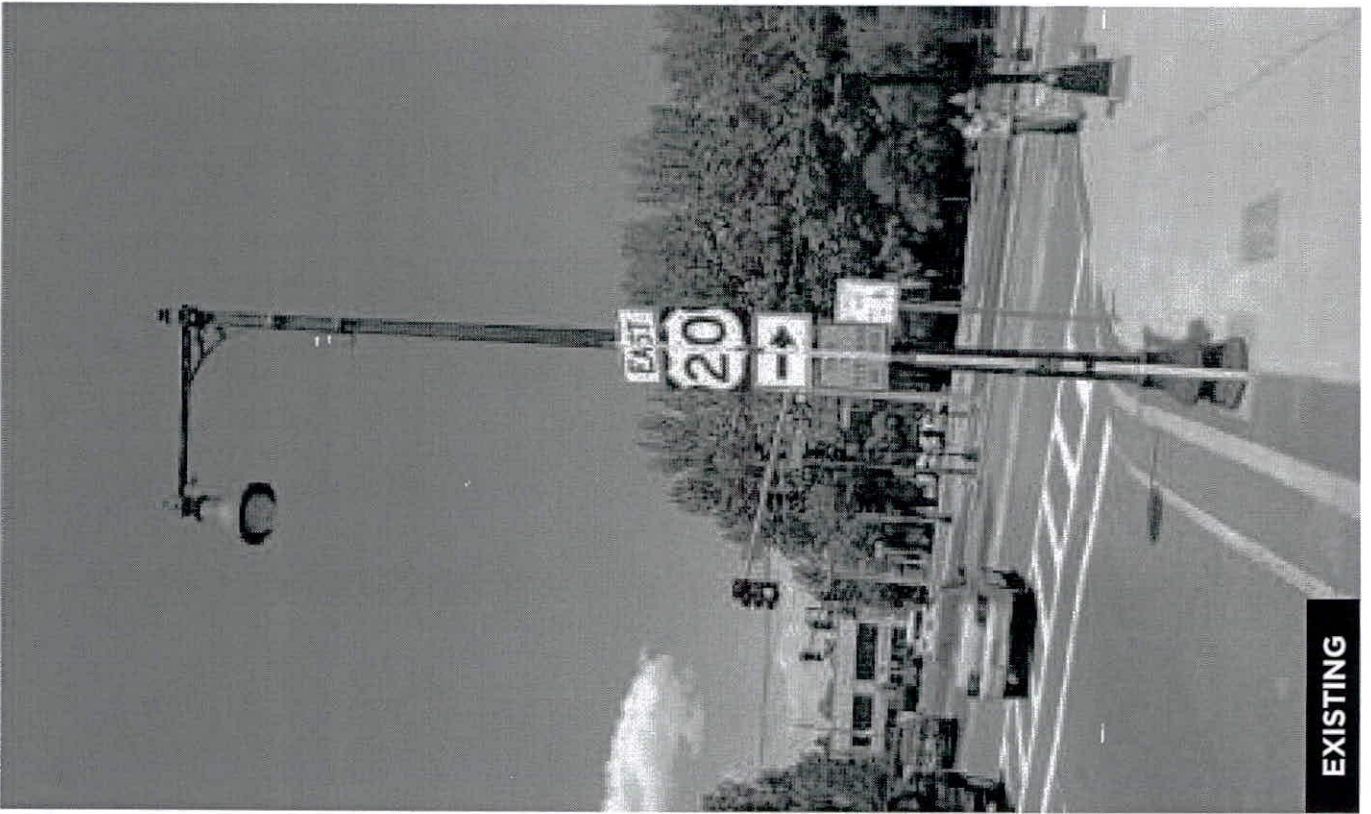








PROPOSED



EXISTING

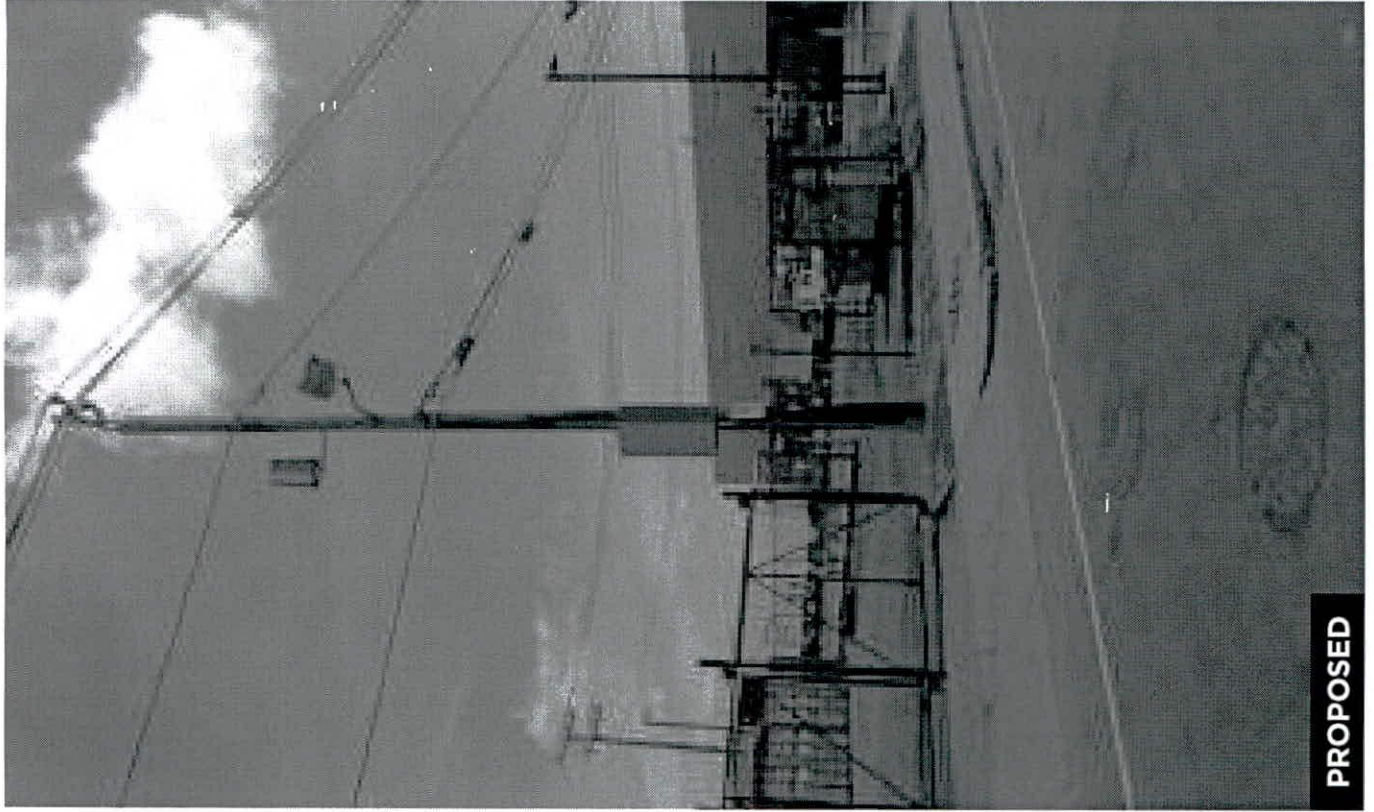


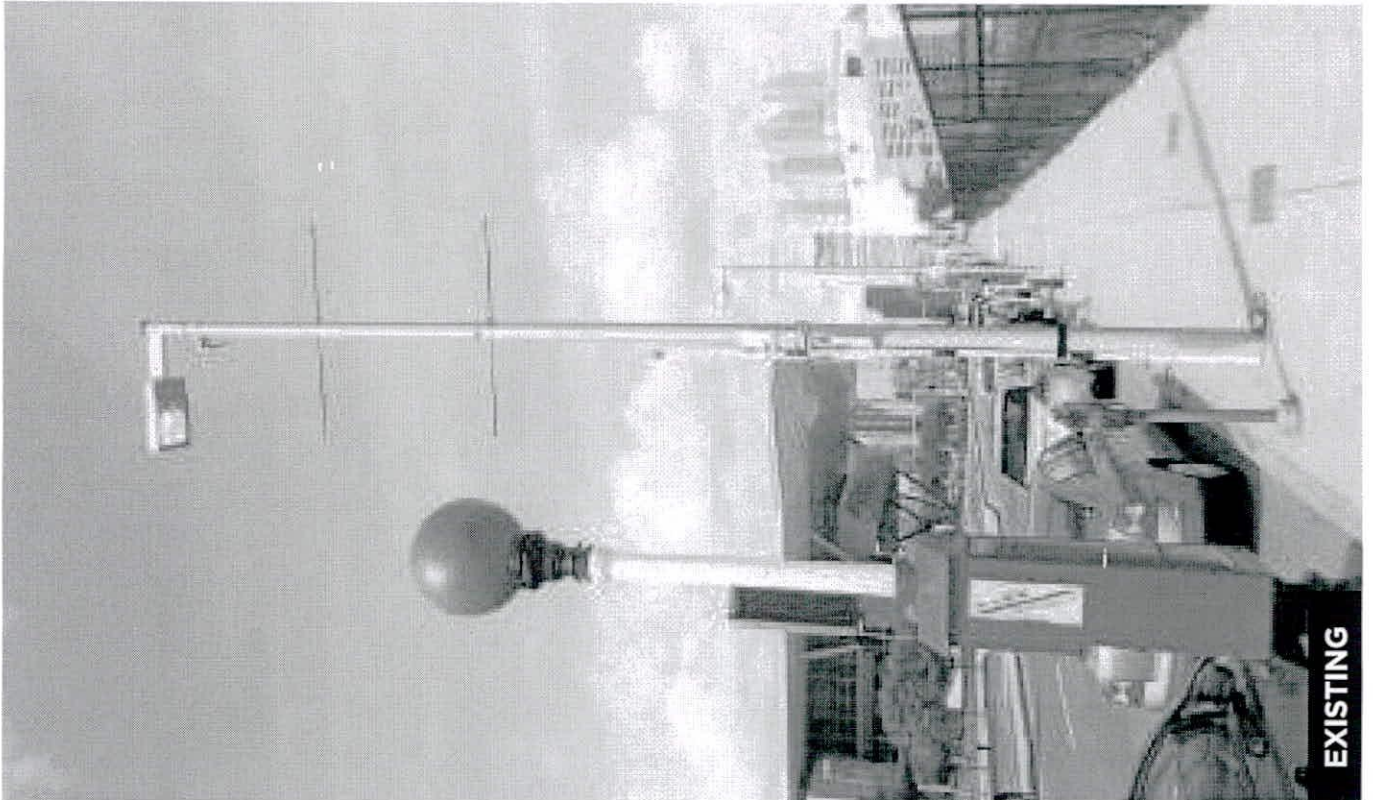
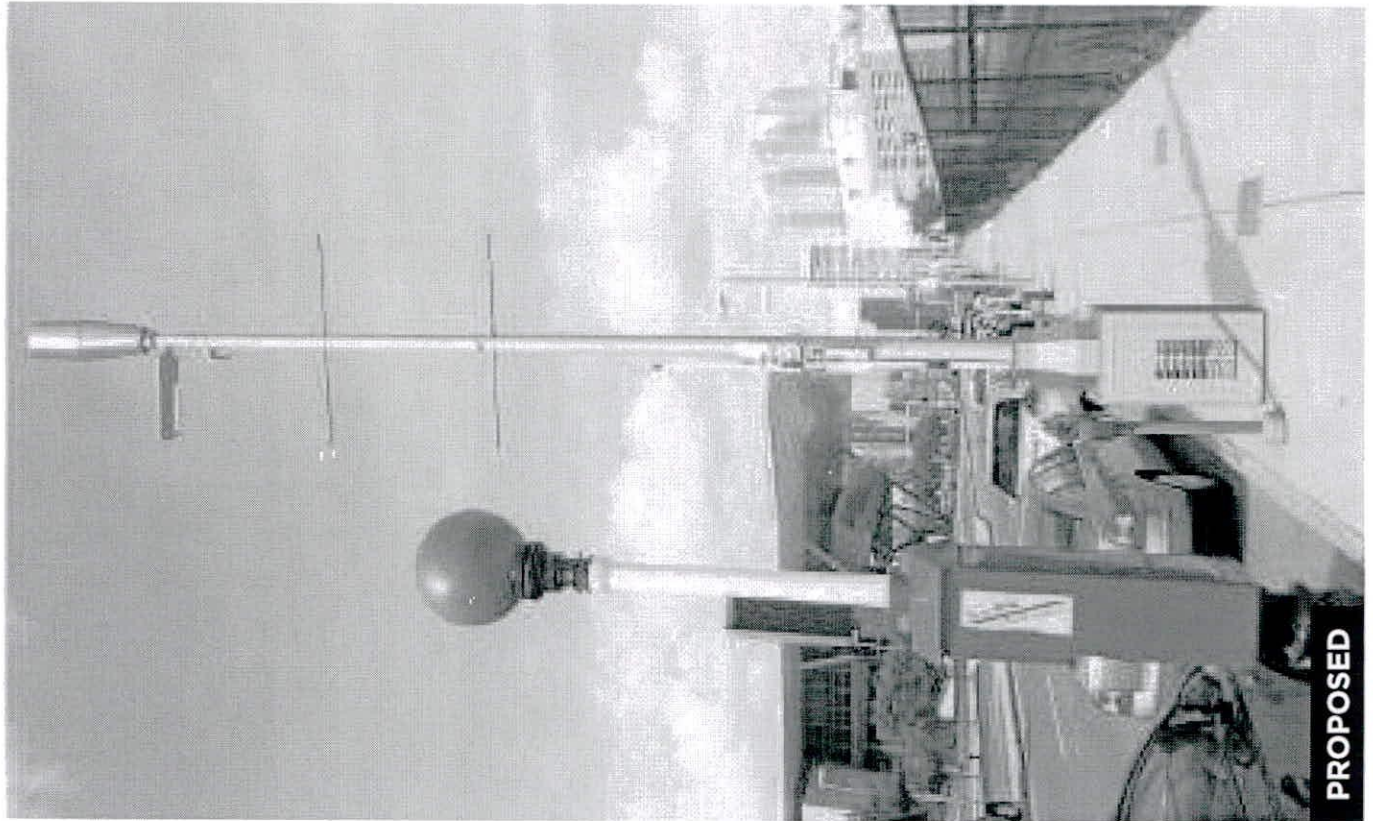


PROPOSED



EXISTING





From: Piekut, Elena
To: Usbelger, Nancy; Glidden, Jean
Subject: FW: Emailing: Z18-07 more documents from Andrew Nanaa, Z18-07 documents from Andrew Nanaa reduced
Date: Thursday, June 14, 2018 4:34:03 PM

Please make this one part of the file/packet too.

Elena Piekut

Assistant City Planner

Zoning Administrator

City of Dover, NH

288 Central Avenue

Dover, NH 03820-4169

e: e.piekut@doover.nh.gov

p: 603.516.6008 f: 603.516.6049

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Twitter: [@DoverNHPlanning](https://twitter.com/DoverNHPlanning)

From: sgrill [<mailto:sgrill@stevegrill.com>]

Sent: Thursday, June 14, 2018 4:19 PM

To: Piekut, Elena <E.Piekut@doover.nh.gov>

Cc: chilson@dtclawyers.com; Blenkinsop, Anthony <A.Blenkinsop@doover.nh.gov>; Parker, Christopher G. <C.Parker@doover.nh.gov>

Subject: Re: Emailing: Z18-07 more documents from Andrew Nanaa, Z18-07 documents from Andrew Nanaa reduced

Thanks.

We once again object to Mr. Nanaa's unsubstantiated opinions and note that his submissions continue to be incomplete and lacking in analysis to the point of being misleading.

We have no objection to discussing alternative technologies with Mr. Pagacik, the independent consultant.

Yours,

Steve Grill

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From: Piekut, Elena <E.Piekut@doover.nh.gov>

Sent: Thursday, June 14, 2018 4:04:46 PM

To: sgrill

Cc: chilson@dtclawyers.com; Blenkinsop, Anthony; Parker, Christopher G.

Subject: Emailing: Z18-07 more documents from Andrew Nanaa, Z18-07 documents from Andrew Nanaa reduced

Atty. Grill,

These also were delivered today.

Elena

Your message is ready to be sent with the following file or link attachments:

Z18-07 more documents from Andrew Nanaa
Z18-07 documents from Andrew Nanaa reduced

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

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LAW OFFICE OF STEVEN E. GRILL
PO Box 10186
Bedford, NH 03110
603.488.2371
sgrill@stevegrill.com

June 7, 2018

BY EMAIL AND OVERNIGHT MAIL

Ms. Elena Piekut
Assistant City Planner
Zoning Administrator
City of Dover, NH
288 Central Avenue
Dover, NH 03820-4169

Re: Case No. Z18-07
Application of Industrial Tower and Wireless, LLC, for a Variance for a Wireless
Telecommunications Facility proposed to be installed at 200 Henry Law Avenue, Dover, NH

Dear Ms. Piekut:

Enclosed with the hard copy of this letter please find ten (10) copies of two documents, the first of which is a "close up" version coverage plot, showing the area that the proposed facility would serve, and the second of which is a document incorporating population data based on U.S. Census information.

Taken together, these documents demonstrate that 1,568 people who reside in the vicinity of the proposed site presently do not have adequate (*i.e.*, in-building) coverage available through T-Mobile. Even if we were to assume that only one third of these individuals are actual or potential T-Mobile customers, that would still be a very significant number of people, and of course this would not include the additional individuals who work in or travel through this part of Dover. (To put this in perspective, we note that approximately 55 people representing approximately 35 different properties, signed the petition objecting to this project. This represents only 3.5% of the population in question.)

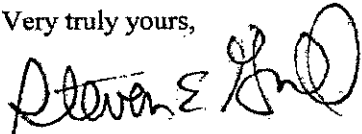
If there are questions about this information, the Applicant will request that T-Mobile make its engineer, Mr. Monte de Ramos, available for additional testimony.

This information is not intended as a complete explanation of the process by which T-Mobile determined that the proposed site is needed to fill a significant gap in coverage. As previously explained, T-Mobile considers such information to be proprietary. Nevertheless, the information constitutes additional evidence of the existence of a significant gap in coverage which satisfies the "hardship" criteria with respect to this application for permission to construct a wireless antenna facility.

Page 2
Zoning Board of Adjustment
City of Dover, NH
June 7, 2018

Please do not hesitate to contact me or the Applicant's other representatives if you require any additional information or have any questions.

Very truly yours,



Steven E. Grill

cc: Mr. Christopher G. Parker (email only, w/ encl.)
Christopher T. Hilson, Esq. (email only, w/encl.)

Enclosures
SEG

12-K:6 Personal Wireless Services Facilities Map. – The director of the office of strategic initiatives shall develop a personal wireless service facilities map for the state. This map shall include all externally visible tower and monopole PWSF locations in the state, both active and inactive, for all carriers. This map shall also include for each of the above locations a site description. Upon request of the director, any wireless carrier or its appointed agent doing business in this state shall provide a map of all of its existing externally visible tower and monopole PWSF locations in the state and a site description of each.

Source. 2000, 240:1. 2003, 319:9. 2004, 257:44, eff. July 1, 2004. 2013, 267:6, eff. Sept. 22, 2013. 2017, 156:64, eff. July 1, 2017.

Section 12-K:7

12-K:7 Regional Notification. –

I. (a) Any municipality or other authority which receives an application to construct a new tower or to complete a substantial modification to an existing tower or mount which will be visible from any other New Hampshire municipality within a 20-mile radius shall provide written notification of such application and pending action to such other municipality within the 20-mile radius.

(b) This notification shall include sending a letter to the governing body of the municipality within the 20-mile radius detailing the pending action on the application and shall also include publishing a notice in a newspaper customarily used for legal notices by such municipality within the 20-mile radius, presenting a synopsis of the application, providing relevant information concerning the applicable permits required and the date of the next public hearing on the application. Where a public hearing is scheduled by the local governing body, such notice shall be published not less than 7 days nor more than 21 days prior to the public hearing date.

II. (a) Any person, prior to constructing a new tower in any location where no approval is required but which will be visible from any other New Hampshire municipality within a 20-mile radius, shall provide written notification of such planned construction to such other municipality within the 20-mile radius.

(b) This notification shall include sending a letter to the governing body of the municipality within the 20-mile radius detailing the planned construction and shall also include publishing a notice in a newspaper customarily used for legal notices by such municipality within a 20-mile radius, presenting a synopsis of the planned construction.

III. Municipalities within the 20 mile radius described in paragraphs I or II and their residents shall be allowed to comment at any public hearing related to the application. Regional notification and comments from other municipalities or their residents shall not be construed to imply legal standing to challenge any decision.

Source. 2000, 240:1, eff. Aug. 7, 2000. 2013, 267:7, eff. Sept. 22, 2013.

commission may also render assistance on local planning problems. A regional planning commission may make recommendations on the basis of its plans and studies to any planning board, to the legislative body of any city and to the selectmen of any town within its region, to the county commissioners of the county or counties in which said region is located and to any state or federal authorities. Upon completion of a comprehensive master plan for the region or any portion of said comprehensive master plan, a regional planning commission may file certified copies of said comprehensive master plan or portion thereof with the planning board of any member municipality. Such planning boards may adopt all or any part of such comprehensive master plan which pertains to the areas within its jurisdiction as its own master plan, subject to the requirements of RSA 674:1-4.

Source. 1969, 324:1, eff. Aug. 29, 1969. 2000, 200:5, eff. July 29, 2000.

Section 36:51, 36:52

36:51, 36:52 Repealed. – [Repealed 2000, 200:8, eff. July 29, 2000.]

Section 36:53

36:53 Additional Powers and Duties of Regional Planning Commissions. – In order to implement any of the provisions of a regional plan, which has been adopted or is in preparation, a regional planning commission may, in addition to its powers and duties under RSA 36:47 undertake studies and make specific recommendations on economic, industrial and commercial development within the region and carry out, with the cooperation of municipalities and/or counties within the region, economic development programs for the full development, improvement, protection and preservation of the region's physical and human resources.

Source. 1969, 324:1, eff. Aug. 29, 1969.

Review of Developments of Regional Impact

Section 36:54

36:54 Purpose. –

The purpose of this subdivision is to:

I. Provide timely notice to potentially affected municipalities concerning proposed developments which are likely to have impacts beyond the boundaries of a single municipality.

II. Provide opportunities for the regional planning commission and the potentially affected

municipalities to furnish timely input to the municipality having jurisdiction.

III. Encourage the municipality having jurisdiction to consider the interests of other potentially affected municipalities.

Source. 1991, 300:1, eff. Jan. 1, 1992.

Section 36:55

36:55 Definition. –

In this subdivision "development of regional impact" means any proposal before a local land use board which in the determination of such local land use board could reasonably be expected to impact on a neighboring municipality, because of factors such as, but not limited to, the following:

- I. Relative size or number of dwelling units as compared with existing stock.
- II. Proximity to the borders of a neighboring community.
- III. Transportation networks.
- IV. Anticipated emissions such as light, noise, smoke, odors, or particles.
- V. Proximity to aquifers or surface waters which transcend municipal boundaries.
- VI. Shared facilities such as schools and solid waste disposal facilities.

Source. 1991, 300:1, eff. Jan. 1, 1992.

Section 36:56

36:56 Review Required. –

- I. A local land use board, as defined in RSA 672:7, upon receipt of an application for development, shall review it promptly and determine whether or not the development, if approved, reasonably could be construed as having the potential for regional impact. Doubt concerning regional impact shall be resolved in a determination that the development has a potential regional impact.
- II. Each regional planning commission may, with public participation following the public posting of notice of the intent to develop guidelines, including notice published in a newspaper of general circulation in the planning region, develop guidelines to assist the local land use boards in its planning region in their determinations whether or not a development has a potential regional impact. The regional planning commission may update the guidelines as needed and provide them, as voted by the regional planning commissioners, to all municipalities in the planning region.

Source. 1991, 300:1, eff. Jan. 1, 1992. 2009, 194:1, eff. Sept. 11, 2009.

Section 36:57

36:57 Procedure. –

I. Upon determination that a proposed development has a potential regional impact, the local land use board having jurisdiction shall afford the regional planning commission and the affected municipalities the status of abutters as defined in RSA 672:3 for the limited purpose of providing notice and giving testimony.

II. Not more than 5 business days after reaching a decision regarding a development of regional impact, the local land use board having jurisdiction shall, by certified mail, furnish the regional planning commission and the affected municipalities with copies of the minutes of the meeting at which the decision was made. The local land use board shall, at the same time, submit an initial set of plans to the regional planning commission, the cost of which shall be borne by the applicant.

III. At least 14 days prior to public hearing, the local land use board shall notify, by certified mail, all affected municipalities and the regional planning commission of the date, time, and place of the hearing and their right to testify concerning the development.

IV. Notwithstanding the foregoing, when the building inspector determines that a use or structure proposed in a building permit application will have the potential for regional impact and no such determination has previously been made by another local land use board, he or she shall notify the local governing body. The building inspector shall also notify by certified mail the regional planning commission and the affected municipalities, who shall be provided 30 days to submit comment to the local governing body and the building inspector prior to the issuance of the building permit.

Source. 1991, 300:1, eff. Jan. 1, 1992. 2003, 220:1, eff. Aug. 30, 2003. 2005, 39:1, eff. July 16, 2005. 2008, 357:5, eff. July 11, 2008. 2009, 49:1, eff. Jan. 1, 2010.

Section 36:58

36:58 Applicability. – The provisions of this subdivision shall supersede any contrary or inconsistent provisions of local land use regulations enacted under RSA 155-E and RSA 674.

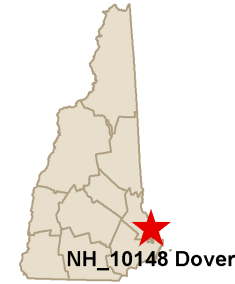
Source. 1991, 300:1, eff. Jan. 1, 1992.

Photographic Simulation Package

Proposed Wireless Telecommunications Facility:

NH_10148 Dover
200 Henry Law Ave
Dover, NH 03820

- Balloon Test Conducted 6/9/18
- Proposed New 180ft Lattice Tower



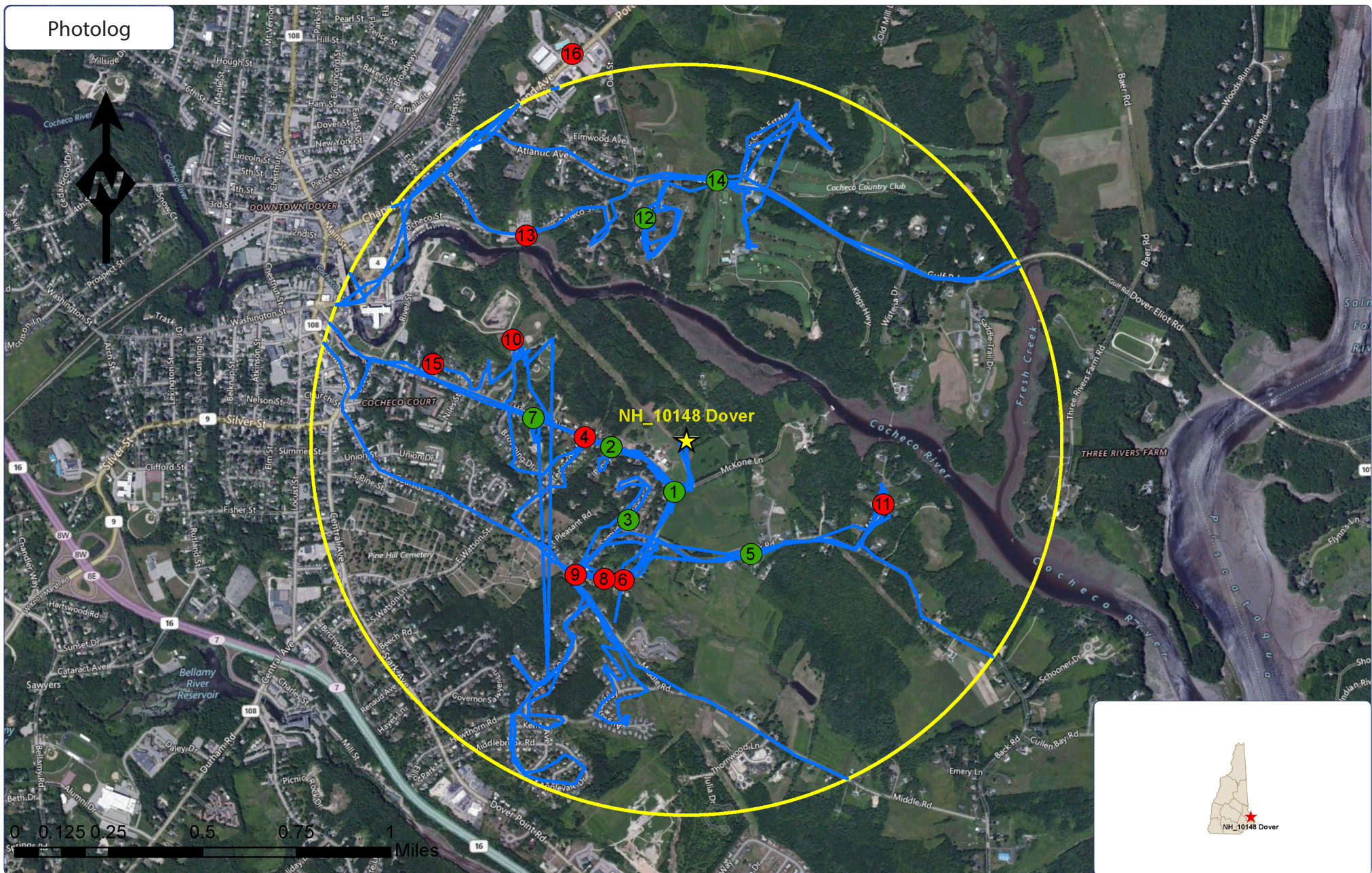
Package prepared by:

Virtual Site Simulations, LLC
28 Caswell Street
Suite 100
Narragansett, Rhode Island 02882

www.VirtualSiteSimulations.com
www.ThinkVSSFirst.com

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Wireless Telecommunications Facility:

NH_10148 Dover
200 Henry Law Ave
Dover, NH 03820

Legend:

- ★ Facility Location
- 1 Mile Radius
- Reconnaissance Track Log
- ⊗ Photo location - Balloon visible
- ⊗ Photo location - Year Round Visibility
- ⊗ Photo location - Balloon visible
- ⊗ Photo location - Obscured Visibility
- ⊗ Photo location - Balloon NOT visible

Photo Simulations are for demonstration purposes only. It should not be used in any other fashion or with any other intent. The accuracy of the resulting data is not guaranteed and is not for redistribution



Existing



Photo #	Location	Gps Coordinates		Distance to site	Orientation	Bearing to site	Visibility
1	199-201 Henry Law Ave	43.1876	-70.85595	0.14 Miles	South	14	Year Round

Site: NH-10148 Dover

Photo Simulations are for demonstration purposes only. It should not be used in any other fashion or with any other intent. The accuracy of the resulting data is not guaranteed and is not for redistribution





Photo #	Location	Gps Coordinates		Distance to site	Orientation	Bearing to site	Visibility
1	199-201 Henry Law Ave	43.1876	-70.85595	0.14 Miles	South	14	Year Round

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Your Visual Data Partner



Existing



Photo #	Location	Gps Coordinates		Distance to site	Orientation	Bearing to site	Visibility
2	183-187 Henry Law Ave	43.18938	-70.85921	0.2 Miles	West	86	Year Round

Site: NH-10148 Dover

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Photo #	Location	Gps Coordinates		Distance to site	Orientation	Bearing to site	Visibility
2	183-187 Henry Law Ave	43.18938	-70.85921	0.2 Miles	West	86	Year Round

Site: NH-10148 Dover

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Existing



Photo #	Location	Gps Coordinates		Distance to site	Orientation	Bearing to site	Visibility
3	13-29 Samuel Hanson Ave	43.18655	-70.85841	0.26 Miles	South-West	37	Year Round

Site: NH-10148 Dover

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Photo #	Location	Gps Coordinates		Distance to site	Orientation	Bearing to site	Visibility
3	13-29 Samuel Hanson Ave	43.18655	-70.85841	0.26 Miles	South-West	37	Year Round

Site: NH-10148 Dover

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Existing

Balloon not visible from this location



Photo #	Location	Gps Coordinates		Distance to site	Orientation	Bearing to site	Visibility
4	176 Henry Law Ave	43.18979	-70.86061	0.27 Miles	West	93	Not Visible

Site: NH-10148 Dover

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Your Visual Data Partner



Existing



Photo #	Location	Gps Coordinates		Distance to site	Orientation	Bearing to site	Visibility
5	101 Back Rd	43.18513	-70.85198	0.35 Miles	South-East	332	Year Round

Site: NH-10148 Dover

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Photo #	Location	Gps Coordinates		Distance to site	Orientation	Bearing to site	Visibility
5	101 Back Rd	43.18513	-70.85198	0.35 Miles	South-East	332	Year Round

Site: NH-10148 Dover

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Existing

Balloon not visible from this location



Photo #	Location	Gps Coordinates		Distance to site	Orientation	Bearing to site	Visibility
6	13-33 Back Rd	43.18424	-70.85875	0.41 Miles	South-West	26	Not Visible

Site: NH-10148 Dover

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Existing



Photo #	Location	Gps Coordinates		Distance to site	Orientation	Bearing to site	Visibility
7	163 Henry Law Ave	43.19057	-70.8633	0.41 Miles	West	100	Year Round

Site: NH-10148 Dover

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Your Visual Data Partner





Photo #	Location	Gps Coordinates		Distance to site	Orientation	Bearing to site	Visibility
7	163 Henry Law Ave	43.19057	-70.8633	0.41 Miles	West	100	Year Round

Site: NH-10148 Dover

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Your Visual Data Partner



Existing

Balloon not visible from this location



Photo #	Location	Gps Coordinates		Distance to site	Orientation	Bearing to site	Visibility
8	13-33 Back Rd	43.1843	-70.85975	0.43 Miles	South-West	32	Not Visible

Site: NH-10148 Dover

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Existing

Balloon not visible from this location



Photo #	Location	Gps Coordinates		Distance to site	Orientation	Bearing to site	Visibility
9	3 Back Rd	43.18449	-70.86125	0.46 Miles	South-West	41	Not Visible

Site: NH-10148 Dover

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Existing

Balloon not visible from this location



Photo #	Location	Gps Coordinates		Distance to site	Orientation	Bearing to site	Visibility
10	Towne Dr	43.19362	-70.86431	0.53 Miles	North-West	121	Not Visible

Site: NH-10148 Dover

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Existing

Balloon not visible from this location



Photo #	Location	Gps Coordinates		Distance to site	Orientation	Bearing to site	Visibility
11	34 Mallard Ln	43.18694	-70.84495	0.55 Miles	East	289	Not Visible

Site: NH-10148 Dover

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Existing



Photo #	Location	Gps Coordinates		Distance to site	Orientation	Bearing to site	Visibility
12	3 Fairway Dr	43.19818	-70.8572	0.6 Miles	North	171	Year Round

Site: NH-10148 Dover

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Photo #	Location	Gps Coordinates		Distance to site	Orientation	Bearing to site	Visibility
12	3 Fairway Dr	43.19818	-70.8572	0.6 Miles	North	171	Year Round

Site: NH-10148 Dover

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Existing

Balloon not visible from this location



Photo #	Location	Gps Coordinates		Distance to site	Orientation	Bearing to site	Visibility
13	68-88 Cochecho St	43.19761	-70.86345	0.69 Miles	North-West	143	Not Visible

Site: NH-10148 Dover

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Your Visual Data Partner



Existing



Photo #	Location	Gps Coordinates		Distance to site	Orientation	Bearing to site	Visibility
14	24-30 Gulf Rd	43.19957	-70.85335	0.7 Miles	North	188	Year Round

Site: NH-10148 Dover

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Simulation



Photo #	Location	Gps Coordinates		Distance to site	Orientation	Bearing to site	Visibility
14	24-30 Gulf Rd	43.19957	-70.85335	0.7 Miles	North	188	Year Round

Site: NH-10148 Dover

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Existing

Balloon not visible from this location



Photo #	Location	Gps Coordinates		Distance to site	Orientation	Bearing to site	Visibility
15	4 Paul St	43.19274	-70.86852	0.7 Miles	West	108	Not Visible

Site: NH-10148 Dover

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Existing

Balloon not visible from this location



Photo #	Location	Gps Coordinates		Distance to site	Orientation	Bearing to site	Visibility
16	168-178 Portland Ave	43.20458	-70.86082	1.07 Miles	North	165	Not Visible

Site: NH-10148 Dover

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