



PLANNING AND DEVELOPMENT DEPARTMENT  
City Hall - Second Floor  
31 Wakefield Street  
Rochester, New Hampshire 03867-1917  
(603) 335-1338 • Fax (603) 335-7585  
www.rochesternh.net

Planning & Zoning  
Community Development  
Conservation Commission  
Historic District Commission

APPLICATION FOR EQUITABLE WAIVER

TO: BOARD OF ADJUSTMENT  
CITY OF ROCHESTER

DO NOT WRITE IN THIS SPACE

CASE NO. 2011-23

DATE FILED 8/19/11

ZONING BOARD CLERK C. Lewis

Phone No 603-866-9651

Name of applicant Michael, Deborah Cooper

Address 63 Jay Way, Roch, NH 03868

Owner of property concerned Same  
(If the same as applicant, write "same")

Address Same  
(If the same as applicant, write "same")

Location of property East Rochester

Map No. 104 Lot No. 86 Zone R1

Description of property front - 60' <sup>west</sup> side - 132.41, rear - 138.48, eastside 116.74  
(give length of frontage, side & rear)

Proposed use or existing use affected North west corner - 16 inches  
Rear of existing garage 7'4"

The undersigned hereby requests an equitable waiver to the terms of Article \_\_\_\_\_  
Section \_\_\_\_\_ and asked that said terms be waived to permit 16" over setback line/ry.  
seven feet over setback line in rear yard

The undersigned alleges that the violation occurred by virtue of a good-faith error in calculation or measurement and thus constitute grounds for a variance.

Signed Michael B. Cooper  
(Applicant)

Consideration Governing Granting of a Dimensional Equitable Waiver (RSA 674:33a):

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

*None of the realtor agents or title search people mentioned anything to us about a structure over the set back line when we purchased the house*

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

*Trying to follow what needed to be done I measured from my survey pin lines to my nearest building. Apparently I was measuring from an existing structure already over the set back.*

3. That the physical or dimensional violation does not constitute a public or private nuisance, nor diminish the value of other properties in the area, nor adversely affect any present or permissible future uses of any such property.

*Both overages are on a common land bordering tree acreage in the back. No neighbor can physically see where the structure is. There seems to be no benefit in*

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

*Correcting would require digging out the frost wall and slab as well as tearing down half the structure to bring it back over the line.*

5. If all 4 of the above are not proven by the property owner, an equitable waiver may still be granted if the property owner can prove to the satisfaction of the Board that the violation has existed for 10 years or more, and that no enforcement action, including written notice of violation, has commenced against the violation during that time by the municipality or any person directly affected.

*House <sup>built</sup> purchased by ~~us~~ in 2003  
Addition over set back built in 2008  
We purchased in 2009.*



# FOUNDATION LOCATION PLAN

NOT FOR MORTGAGE LOAN PURPOSES

LOCATION: 63 JAY WAY, ROCHESTER, N.H.

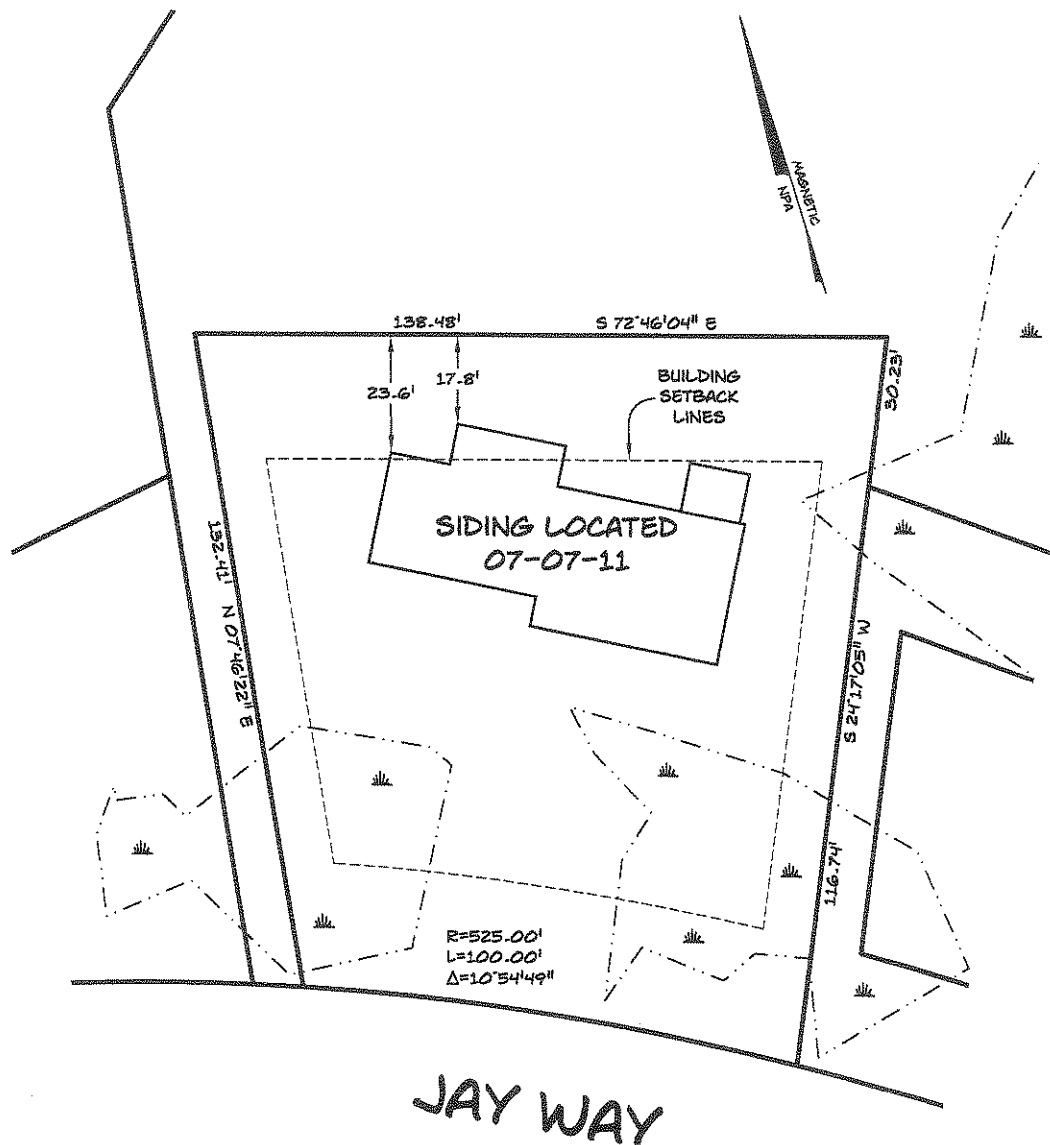
TAX MAP 104, LOT 86

OWNER OF RECORD: MICHAEL & COOPER REV. TRUST

ZONE: R1

S.C.R.D. BOOK 3914, PAGE 525

SETBACKS: FY= 25', SY= 10', RY= 25'

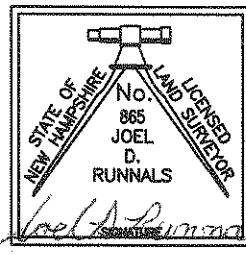


## NORWAY PLAINS ASSOCIATES, INC.

SURVEYORS - ENGINEERS - TRANSPORTATION PLANNERS

P.O. Box 249, Rochester, N.H. 03867

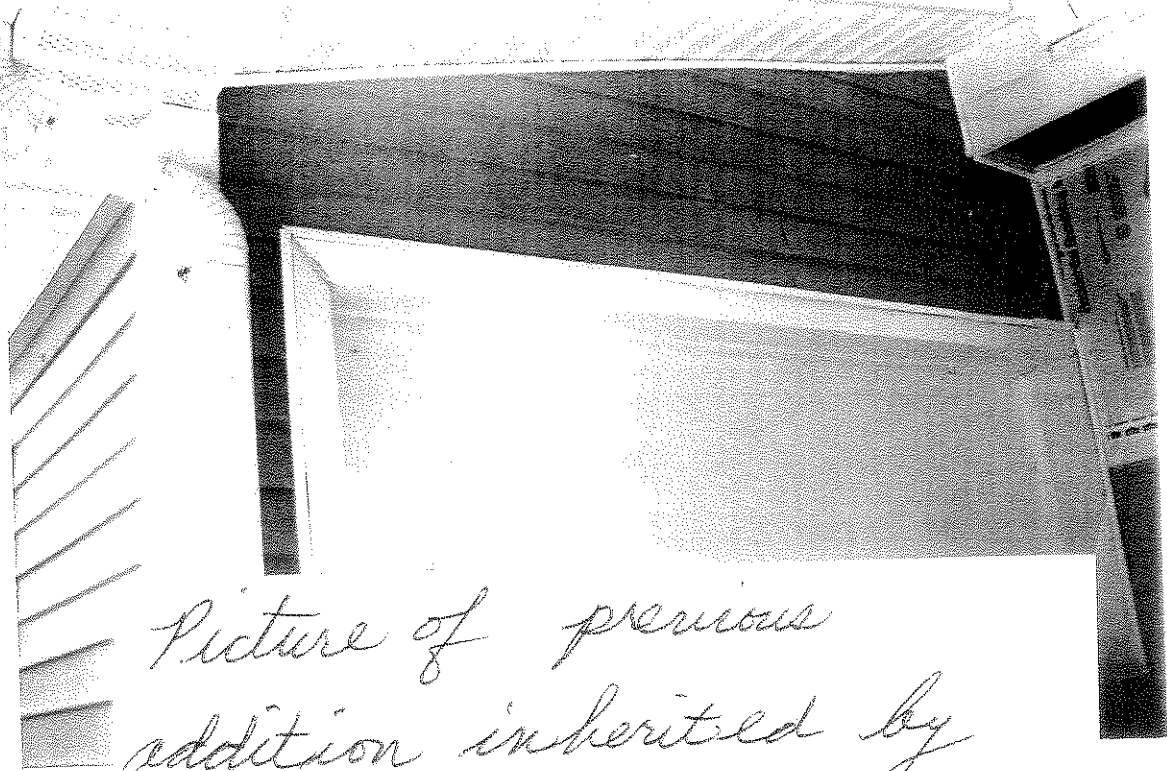
TELEPHONE (603) 335-3848



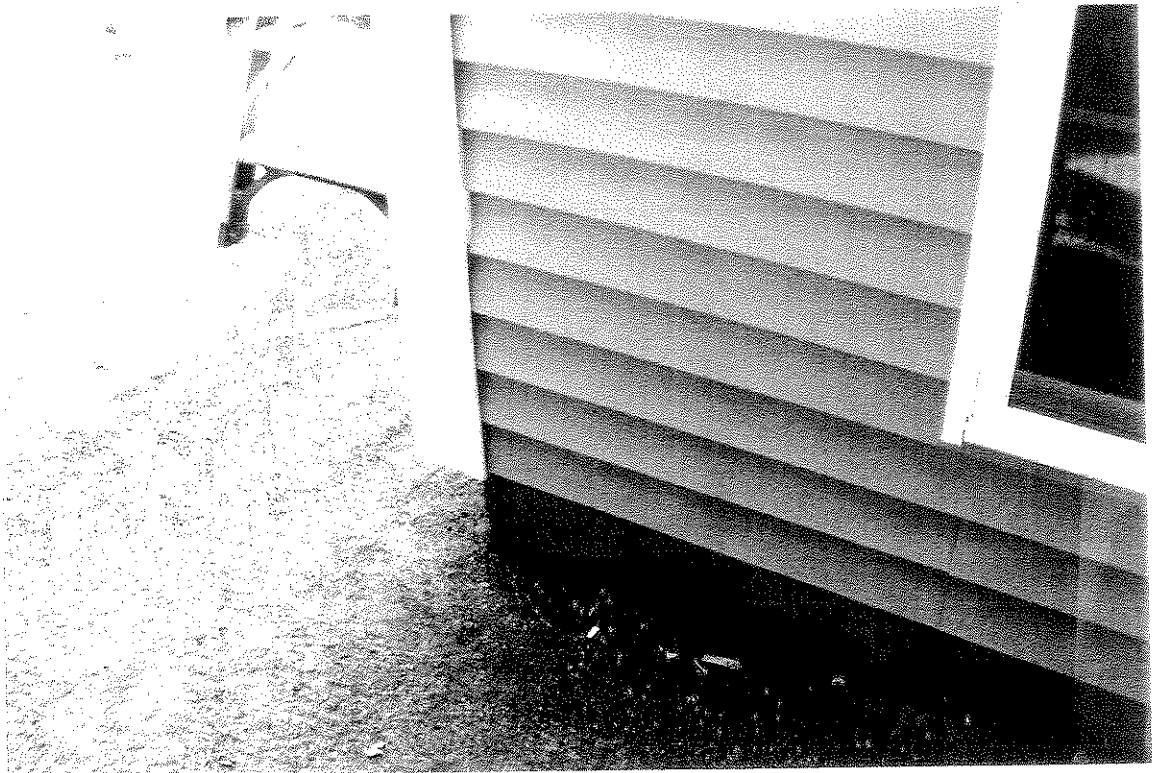
REFERENCE PLAN:  
"LOT LINE ADJUSTMENT PLAN, ROCHESTER, NH  
FOR D.J.P. REALTY, LLC"  
DATED APRIL 2003 REVISED MAY 22, 2003  
BY NORWAY PLAINS ASSOCIATES, INC.  
S.C.R.D. PLAN 71-35

FN: 156  
JN: 11086  
DWG: 0123815-1

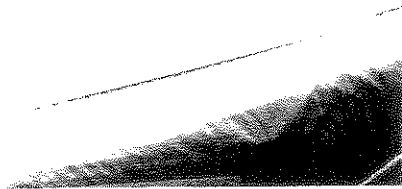
DATE: 07-19-11  
SCALE: 1"= 30'



Picture of previous  
addition inherited by  
us.



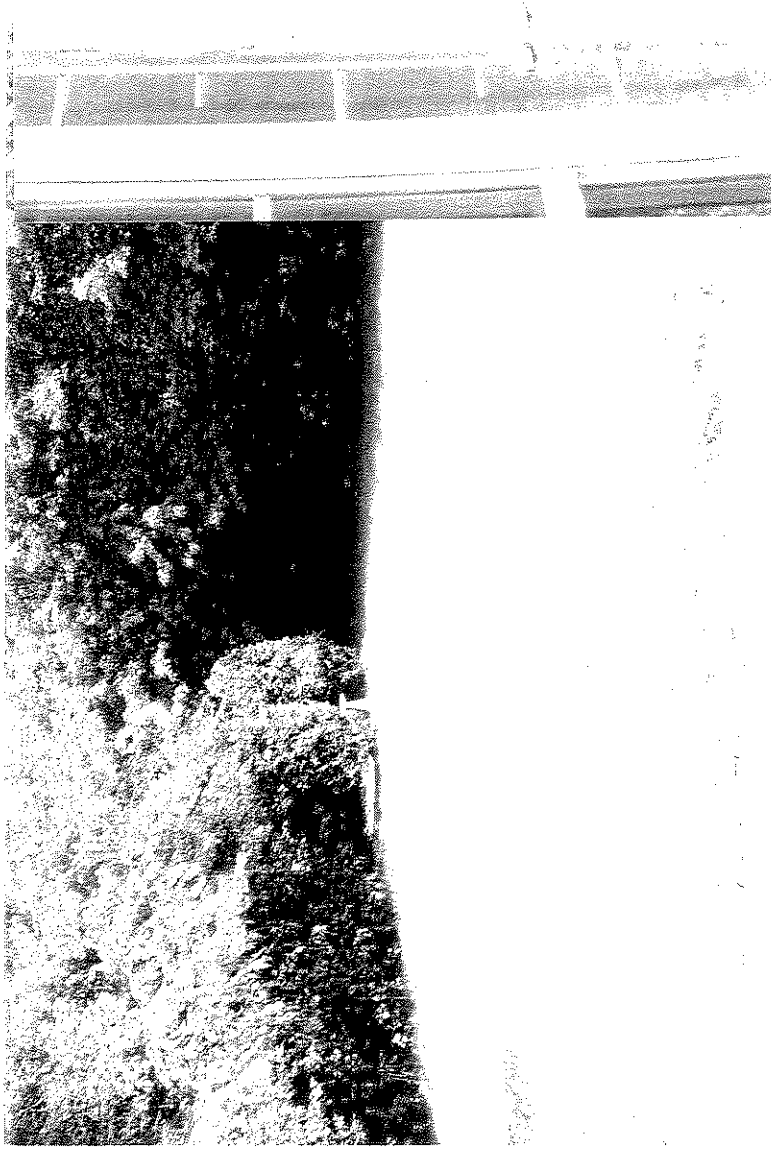
Picture looking at  
where I went over the  
setback by 16 inches.



Looking at back yard  
from addition put on  
by previous owner.

Over set back - within  
boundary.

Looking at common land  
on Northeast side



Common land backyard  
 Neighbors another 150 feet  
 beyond tree boundary.

Looking Northeast



Picture of ~~house~~ garage  
 corner looking west to  
 neighbor. 30 feet of trees  
 between.



Unofficial Property Record Card - Rochester, NH

General Property Data

Parcel ID	0104-0086-0000	Account Number	28247
Prior Parcel ID	-		
Property Owner	COOPER MICHAEL & DEBORAH REV TRUST %MICHAEL & DEBORAH	Property Location	63 JAY WAY
Mailing Address	63 JAY WAY	Property Use	SINGLE FAM
		Most Recent Sale Date	3/8/2011
City	ROCHESTER	Legal Reference	3614-625
		Grantor	COOPER DEBORAH PATTERSON &
Mailing State	NH	Zip	03866
ParcelZoning	R1	Sale Price	2,667
		Land Area	0.370 acres

Current Property Assessment

Card 1 Value	Building Value	171,700	Yard Items Value	4,500	Land Value	58,900	Total Value	235,100
--------------	----------------	---------	------------------	-------	------------	--------	-------------	---------

Building Description

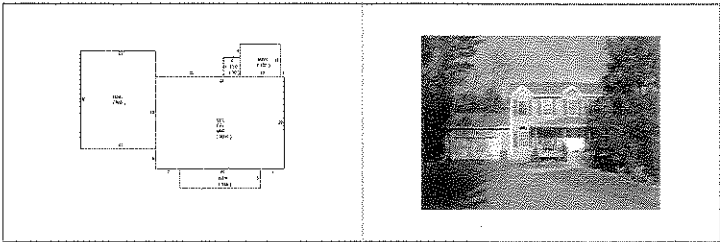
Building Style	COLONIAL	Foundation Type	CONCRETE	Flooring Type	AVERAGE
# of Living Units	1	Frame Type	WOOD	Basement Floor	CONCRETE
Year Built	2003	Roof Structure	GABLE	Heating Type	FORCED H/W
Building Grade	AVERAGE	Roof Cover	ASPHALT SH	Heating Fuel	OIL
Building Condition	Average	Siding	VINYL	Air Conditioning	0%
Finished Area (SF)	2128	Interior Walls	DRYWALL	# of Basement Garages	0
Number Rooms	8	# of Bedrooms	4	# of Full Baths	2
# of 3/4 Baths	0	# of 1/2 Baths	1	# of Other Fixtures	0

Legal Description

Narrative Description of Property

This property contains 0.370 acres of land mainly classified as SINGLE FAM with a(n) COLONIAL style building, built about 2003 , having VINYL exterior and ASPHALT SH roof cover, with 1 unit(s), 8 room(s), 4 bedroom(s), 2 bath(s), 1 half bath(s).

Property Images



Disclaimer: This information is believed to be correct but is subject to change and is not warranted.



**City of Rochester, NH**  
Please Print or Type

Applicant: Michael Cooper Phone 603-866-9649

Project Address: 63 Jay Way, Rochester, NH 03868

List the names and addresses of all parties below. For abutting lot owners, list each owner whose lot adjoins or is directly across the street or a body of water from the subject property. This form may not be completed more than five (5) days prior to the application deadline.

**LEGAL OWNER OF SUBJECT LOT**

Map	Lot	Zone	Owner Name	Mailing Address
104	86	R1	Michael G. Deborah L. Cooper	63 Jay Way Rochester NH

**ABUTTING LOT OWNERS**

Map	Lot	Owner Name	Owner Mailing Address (NOT property location)
104	87	John Harding Michele Olson	59 Jay Way, Rochester, NH 03868
104	105	Stephen Giullian	54 Jay Way, Roch. NH 03868
104	107	John + Rebecca Lee	64 Jay Way Roch. NH 03868
104	96	Commonland 7-28 Checking for abutters	Brookside Grove Homeowners <sup>41 Jay Way</sup> Roch
104	83	Jonathan Pyrich	35 Davis Blvd Roch 03868
104	84	William + Amy Bernier	67 Jay Way Roch. 03868
104	93	Robert + Julie Gonzales	55 Jay Way Roch 03868
104	94	Coreen + Mark Toussaint	51 Jay Way Roch 03868
104	95	Edward Coull	47 Jay Way Roch 03868
104	108	Keith + Lynda Miles	108 Jay Way Roch 03868

**PROFESSIONALS AND EASEMENT HOLDERS.** Engineers, Surveyors, Soil Scientists, and Architects whose seal appears or will appear on the plans (other than any agent submitting this application); holders of conservation, preservation, or agricultural easements; and upstream dam owners/NHDES.

Name of Professional or Easement Holder	Mailing Address

I, the undersigned, acknowledge that it is the responsibility of the applicant or his/her agent to fill out this form and mail certified notices to abutters and other parties in a complete, accurate, and timely manner, in accordance with applicable law. I understand that any error or omission could affect the validity of any approval. The names and address listed on this form were obtained from the City of Rochester Assessing Office computer - Assess Pro (located in the Revenue Bldg at 19 Wakefield Street)

on this date: Aug 18, 2011, This is page 1 of 2 pages.

Applicant or Agent: Michael G. Cooper Staff Verification: \_\_\_\_\_

**ABUTTER LIST**

City of Rochester, NH

Please Print or Type

Applicant: Michael Cooper Phone 603-866-9649Project Address: 63 Jay Way, Roch. NH 03868

List the names and addresses of all parties below. For abutting lot owners, list each owner whose lot adjoins or is directly across the street or a body of water from the subject property. This form may not be completed more than five (5) days prior to the application deadline.

**LEGAL OWNER OF SUBJECT LOT**

Map	Lot	Zone	Owner Name	Mailing Address
104	86	R1	Michael G, Deborah P. Cooper	63 Jay Way Roch. 03868

**ABUTTING LOT OWNERS**

Map	Lot	Owner Name	Owner Mailing Address (NOT property location)
104	109	Seth + Taryn Welch	29 Davis Blvd Roch 03868
104	97	Douglas + Bonnie McPike	37 Jay Way Roch. NH 03868

**PROFESSIONALS AND EASEMENT HOLDERS.** Engineers, Surveyors, Soil Scientists, and Architects whose seal appears or will appear on the plans (other than any agent submitting this application); holders of conservation, preservation, or agricultural easements; and upstream dam owners/NHDES.

Name of Professional or Easement Holder	Mailing Address

I, the undersigned, acknowledge that it is the responsibility of the applicant or his/her agent to fill out this form and mail certified notices to abutters and other parties in a complete, accurate, and timely manner, in accordance with applicable law. I understand that any error or omission could affect the validity of any approval. The names and address listed on this form were obtained from the City of Rochester Assessing Office computer – Assess Pro (located in the Revenue Bldg at 19 Wakefield Street)

on this date: Aug 18, 2011, This is page 2 of 2 pages.Applicant or Agent: Michael S. Cooper Planning Staff Verification: \_\_\_\_\_