



## PLANNING & DEVELOPMENT DEPARTMENT

City Hall - Second Floor  
31 Wakefield Street,  
Rochester, New Hampshire 03867-1917  
(603) 335-1338 - Fax (603) 335-7585  
Web Site: [www.rochesternh.net](http://www.rochesternh.net)

Planning & Zoning  
Community Development  
Conservation Commission  
Historic District Commission

### NOTICE OF PUBLIC HEARING

Dear Abutter:

You are hereby notified of a **Public Hearing** to be held at **7:00 p.m.** on **Wednesday, June 9, 2010** in the City Hall Council Chambers concerning the following:

**2010-12** - Application by Mohsen & Theresa Ahadi, for an equitable wavier pursuant to RSA 674:33-3 to clarify this is a buildable lot for a single family dwelling.

**Location:** 23 Fortier Drive  
Tax Map 115, Lot 106, Residential 1

You are welcome to attend the public hearing and comment on the proposal. You can also submit comments by letter, fax, or email ([caroline.lewis@rochesternh.net](mailto:caroline.lewis@rochesternh.net)). The project application is available for review by the public in the Planning Department, or you can view the entire application on the City's website – [www.rochesternh.net](http://www.rochesternh.net). Click on *Boards & Commissions*, then *Zoning Board of Adjustment*, then *Zoning Board Projects*. Look under the map and lot number shown above.

Please feel free to contact this department with any questions or if you have any disability requiring special provisions for your participation.

**Office Hours are between 8:00 a.m. to 5:00 p.m. Monday through Friday.**

Caroline Lewis, Zoning Secretary

cc: file



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MAY 24 2010

Planning Dept.

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*#25*  
*✓ 6014*

Planning & Zoning  
 Community Development  
 Conservation Commission  
 Historic District Commission

APPLICATION FOR EQUITABLE WAIVER

TO: BOARD OF ADJUSTMENT  
 CITY OF ROCHESTER

CEU 603-205-4242  
 Phone No 603-332-9282

DO NOT WRITE IN THIS SPACE  
 CASE NO. 2010-12  
 DATE FILED 5/24/10  
 ZONING BOARD CLERK *C. Kim*

Name of applicant MOHSEN+THERESA AHADI

Address 24 PATTON ST.

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

Address THE SAME  
 (If the same as applicant, write "same")

Location of property 23 FORTIER DRIVE

Map No. 115 Lot No. 106 Zone R1

Description of property 80' x 100'  
 (give length of frontage, side & rear)

Proposed use or existing use affected \_\_\_\_\_

The undersigned hereby requests an equitable waiver to the terms of Article \_\_\_\_\_,  
 Section \_\_\_\_\_ and asked that said terms be waived to permit \_\_\_\_\_

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 *[Signature]*  
 (Applicant)

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

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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 other division of land in violation had been subdivided by conveyance to a bona fide purchaser for value.

THIS WAS NOT DISCOVERED UNTIL APPLYING FOR PERMIT  
ON MAY 21ST 2010 AT THE OFFICE OF CODE ENFORCEMENT

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.

THE CITY OF ROCHESTER DID NOT INFORM THE PREVIOUS OWNER  
OF THE LOT BACK IN 1987 THAT THE LOT HAD BEEN COMBINED AND  
CITY ASSESSING DEPT. WAS NOT INFORMED. AS A RESULT THIS  
PROPERTY HAS BEEN AS A BUILDABLE LOT AND THE PREVIOUS OWNER →

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.

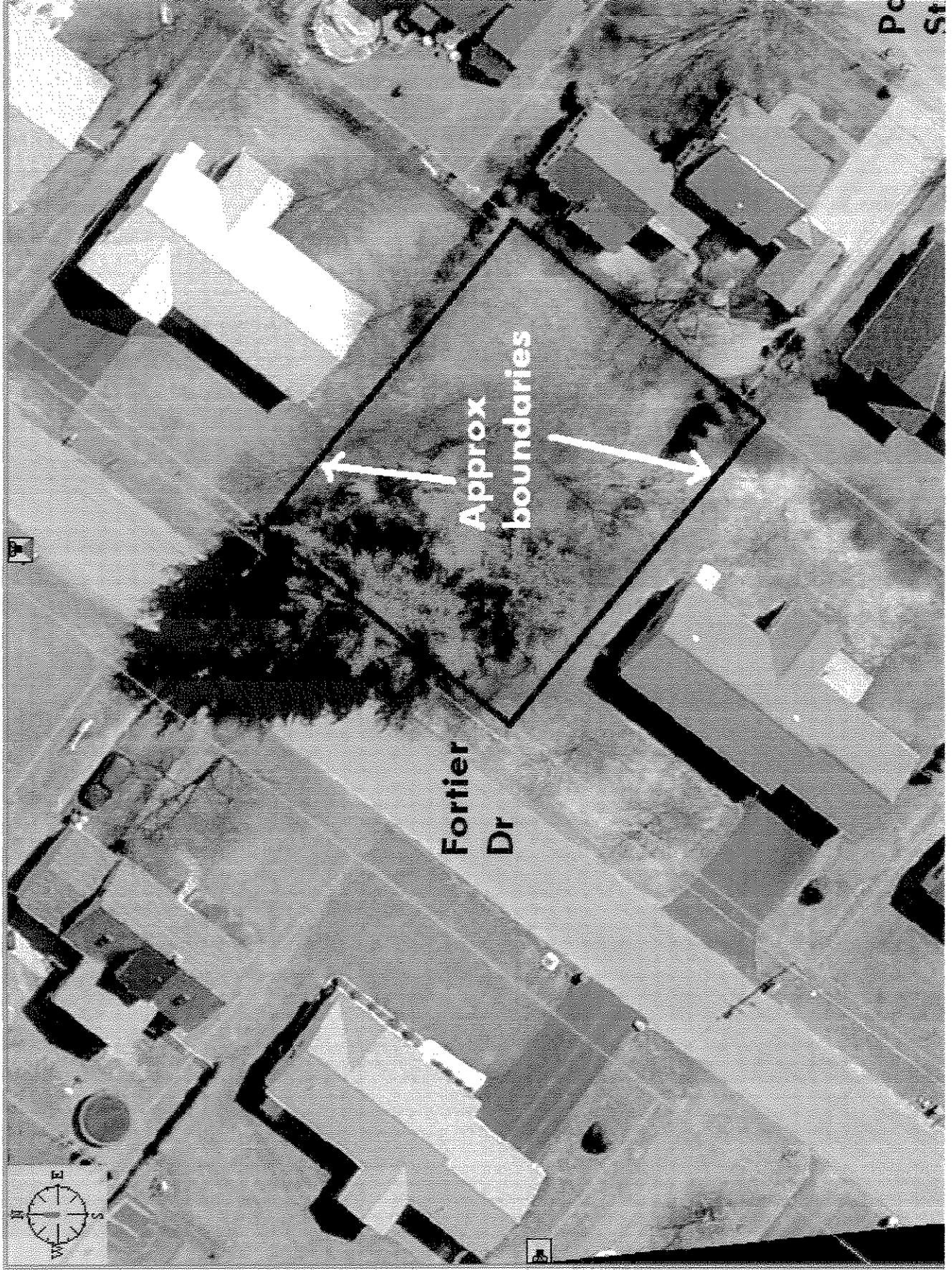
THERE ARE SEVERAL LOTS OF THE SAME  
SIZE WITH BUILDING ON THEM.

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.

THE PROPERTY WAS ~~BE~~ SOLD AS A BUILDABLE  
LOT IN THE PAST

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.

THIS WAS A CITY ~~BE~~ MISTAKE AND THERE WAS  
NEVER ANY ENFORCEMENT ACTION.



2010-12



**ABUTTER LIST**

City of Rochester, NH  
Please Print or Type

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MAY 24 2010

Planning Dept.

Applicant: MOHSEN + THERESA AHADI Phone 603-332-9282

Project Address: 23 FORTIER DR.

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
115	106	R1		

**ABUTTING LOT OWNERS**

Map	Lot	Owner Name	Mailing Address
115	107	CLAIR-PHILIP BELLIVEAU	19 FORTIER DR.
115	101	DEVEAU FRANCES E TRUST	20 FORTIER DR.
115	102	EDWARD YORK-VINCENT KAREN	26 FORTIER DR.
116	8	JASON LAFERTE	22 PATTON ST.
* 116	9	owner	
116	7	ROBIN PENTO	27 FORTIER DR.

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, Patriot

Database on this date: 5-24-2010, This is page 1 of 1 pages.

Applicant or Agent: [Signature]