



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

Planning & Zoning
Community Development
Conservation Commission
Historic District Commission

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OCT 24 2011

Planning Dept.

APPLICATION FOR A VARIANCE

TO: BOARD OF ADJUSTMENT
CITY OF ROCHESTER

DO NOT WRITE IN THIS SPACE

CASE NO. 2011-30

DATE FILED 10-24-11

ZONING BOARD CLERK C. J. [Signature]

Phone No. 603-560-7470

Name of applicant Brandon P. Whalen

Address 37 Harding St. Rochester, N.H.

Owner of property concerned Timothy and Torrosa Caouette
(If the same as applicant, write "same")

Address 34 Harding St. Rochester, N.H.
(If the same as applicant, write "same")

Location North/East Side of Lot

Map No. 128

Lot No. 157

Zone R1

Description of property 180' x 75' Lot, Frontage on Harding St.
Bordered by Preston St. on Northern end.

Proposed use or existing use affected Tree house / childrens play
area on northern side of property.

The undersigned hereby requests a variance to the terms of Article 42,
Section 17d and asked that said terms be waived to permit Completion of

"Tree House" / Childrens play area.

The undersigned alleges that the following circumstances exist which prevent the proper enjoyment of his land under the strict terms of the Zoning Ordinance and thus constitute grounds for a variance.

Signed

[Signature]

10/24/11

(Applicant)

CRITERIA FOR VARIANCE

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Date: _____ OCT 24 2011

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A Variance is requested by Brendan P. Whalen

from Section 42 Subsection 17.d

of the Zoning Ordinance to permit: Construction of a tree-house
i.e. childrens play area.

at 34 Harding St. Map 0128 Lot 0157 Zone R1

Facts supporting this request:

1) The proposed use would not diminish surrounding property values because:

See Addendum 2

2) Granting the variance is not contrary to the public interest because: _____

See Addendum 2

3.) Denial of the variance would result in unnecessary hardship to the owner because of the following special circumstances of the property: _____

See Addendum 2

4.) Granting the variance would do substantial justice because: _____

See Addendum 2

5.) The use is not contrary to the spirit of the ordinance because: _____

See Addendum 2

Name B.P. Whalen

Date: 10/24/11

Addendum Sheet 1: Narrative Explaining Request For Variance OCT 24 2011

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I, **Brendan P. Whalen**, am requesting the city of Rochester Grant a variance to alleviate the "Residential 1" side set back to allow for construction of a "tree-house"/children's play area on the Northern side of the property located at 34 Harding St. (Map 128, lot 157). The "tree house" is shown in **Figures 1 thru 6** and is comprised of a 12' x 16' foot platform with a 10' x 10' house section mounted on top.

The unit has been partially completed and as of this moment has a minimum side setback of less than 1 foot (approx 6" - 10") from the city-owned parcel between the homeowner's lot and Preston St. This parcel of city owned land is shown in **Figures 1, 3, and 4** and has a width of 14' - 15'. Currently the structure is in violation of the Zoning Ordinance (Ch42, Sect 17.d) for a corner lot which states that the "street-side" setbacks must be those of the applicable zone (10') or 12', whichever is greater.

The homeowners and I are requesting the board grant the variance based on the layout of the lot (i.e. the location of the tree) and the fact that the structure lies entirely on the homeowner's property. Additionally, while the required "street side" setbacks of the zoning code are not met; the structure:

- 1) Meets all other setback requirements (i.e. Front an Rear)
- 2) Does not limit the functionality of any emergency / utility equipment that could park off of Preston St. for service.
- 3) Does not hinder visibility and/or speed of vehicles operating at the Harding / Preston St. intersection.
- 4) Will not obstruct fire fighters from utilizing the hydrant placed on the opposite (North) corner of the intersection (See **Figure 5**).

As such; it is the opinion of the applicant that the impact to the abutting parcel of city -owned land is 0. Based on the rationale listed both above and listed on **Addendum 2: Facts for Supporting Request for Variance**, the homeowner and builder request the city grant a variance to allow the project to be completed as originally designed.

Addendum 2: Facts supporting the request for variance.***1) The proposed use would not diminish surrounding property values because:*** Planning Dept.

The variance only requests the setbacks between the city owned property along Preston St. and the home owner's lot be alleviated to allow for a "tree house" to be constructed. As the structure does not violate any additional setbacks; including those with the rearward lot, it is the opinion of the property owner that granting the variance will not have any undue effect on the adjacent property values.

2) Granting the variance is not contrary to the public interest because:

It is the applicant's / home owner's opinion that granting the variance is not contrary to public interest because:

a) The existing parcel of city-owned land between the home-owners lot and Preston St. is of sufficient width (approx 14' - 15') to allow for emergency/utility vehicles to operate while parked off Preston St. without limitations.

b) The length of this particular stretch of Preston St. (< 400') combined with the existing STOP signs limits the speed and quantity of traffic along this particular stretch.

c) The visibility of vehicles operating at the intersection of Harding / Preston will not be affected in any way.

d) The closest fire hydrant is on the opposite (North) corner of Harding and Preston.

3) Denial of the variance would result in unnecessary hardship to the owner because of the following special circumstances of the property:

The applicant/builder (B. Whalen) was authorized by the home owners (T. & T. Caouette) to build a "tree house" in the large tree on the Northern end of the property (see **Figure 1**) as a gift for their five (5) children. The tree-house's soul purpose is to provide a safe "nature oriented" outdoor play area for the family's (Caouette) children and once completed will include swings, a slide, and flower boxes under each window. Denial of this variance would require the unit to be dismantled and removed from the vicinity of the tree, thusly defeating the intended purpose.

4) Granting the variance would do substantial justice because:

Granting the variance will allow the "tree-house" to be completed to the original design intent while at the same time posing no encumbrance to city traffic or vehicles. It is the opinion of the homeowners that the amount of good the completed unit will do for their children will far outweigh the violation of the setback requirement.

5) The use is not contrary to the spirit of the ordinance because:

As stated above; no encumbrances will be placed on city vehicles or traffic as the unit lies entirely on the homeowners' property, and the adjacent city-owned parcel is more than adequate for any emergency / utility vehicles. Based on the above rationale, the applicant's and home owner's opinion is that the spirit of the ordinance will be served.

Request of waiver of requirement to have a Certified Plot Plan for Case # 2011-_____

I request a waiver of the requirement to have a certified plot plan for the following reasons:

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- There are no objections from any abutter, and:
- Based on the information provided, the distance into the setback will not create any problems to the abutting property because: The structure will not hinder utility/emergency vehicles parked "off" of Preston St or vehicle traffic IN ANY WAY, SHAPE, OR FORM.
- The property is described in its deed as being bounded, on the side for which relief is requested, by a natural feature like a: (stone wall/ row of large trees/roadway, etc.)
Bounded by Preston St. to the North-East via the deed.
Pipe/Rod Markers on property line.
- The request for relief from the setback required is modest enough that the probability of a surveying error large enough to make a material difference is remote. Yes ☒ No ☐
- Information provided is based upon other surveyed parcels in the immediate vicinity and is consistent with the tax map information, so the probability of a surveying error large enough to make a material difference is remote. Yes ☒ No ☐
- The request for relief from the setback required is in a direction where any impact on the abutter is small or nonexistent and, should a large surveying error be found in the future, there is adequate land area to correct the problem through a lot-line adjustment. Yes ☒ No ☐
- Any other applicable information: The abutting land is city owned and the "Tree-House" is located on the homeowner's side of the large tree on the North end of the property. The tree lies entirely on the home owner's property.

Addendum 3: Figures

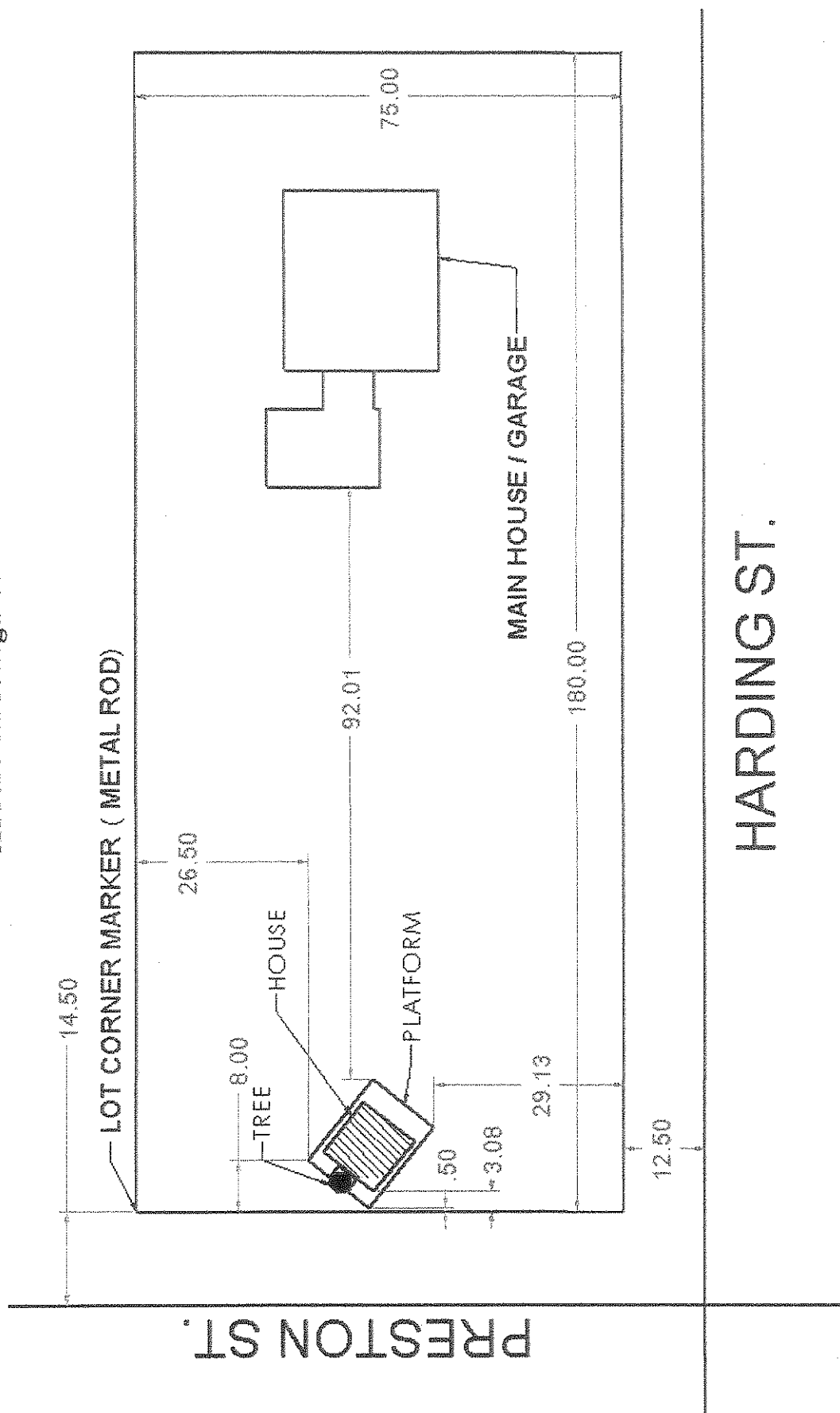
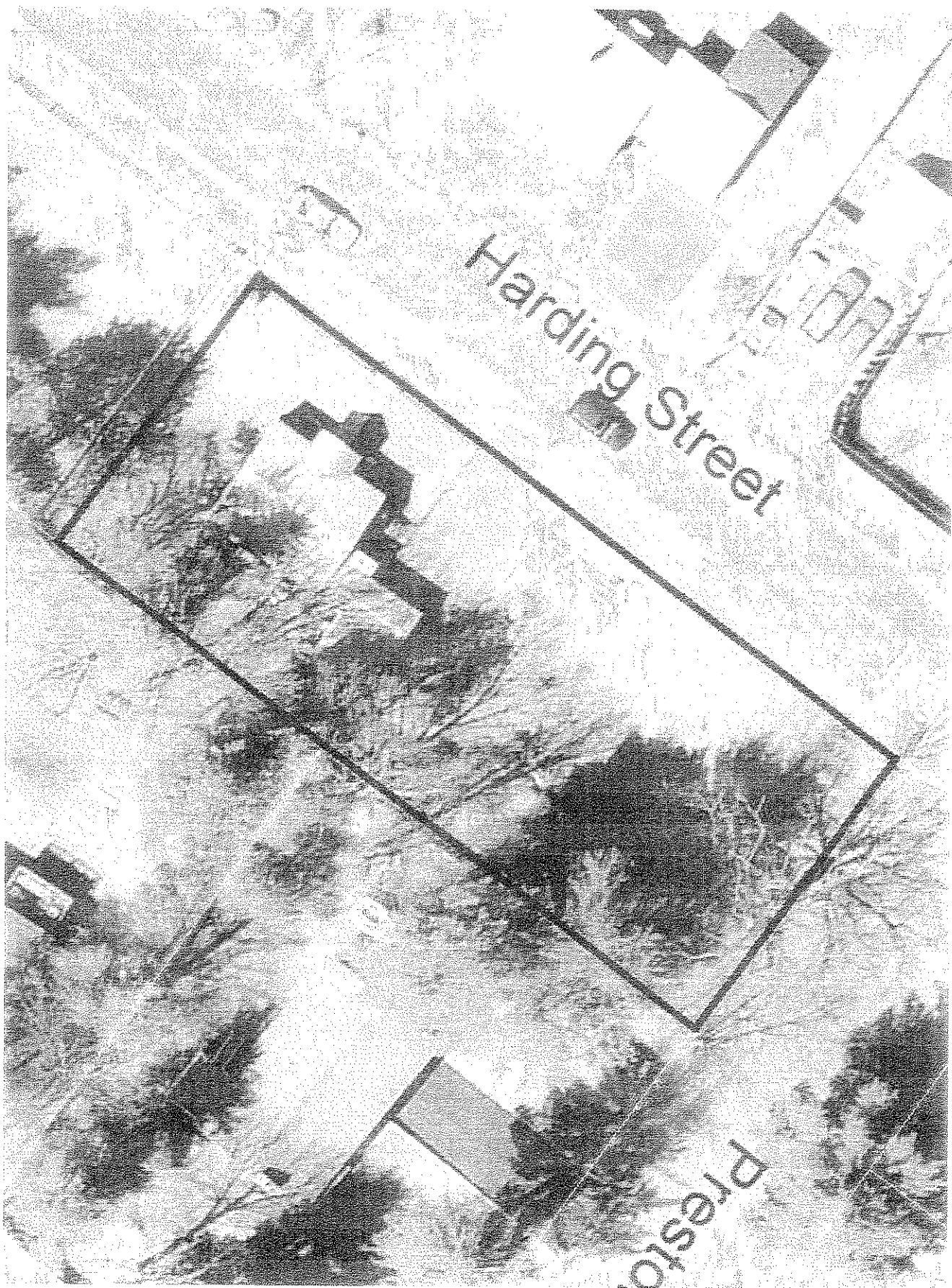


Figure 1: Current Layout of the "Tree-House" Located at 34 Harding St. (Lot 0157, Map 0128) in relation to existing dwelling and lot boundary lines.

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2011-30



Figure 2: The "Tree-house" viewed from the "Front" face.

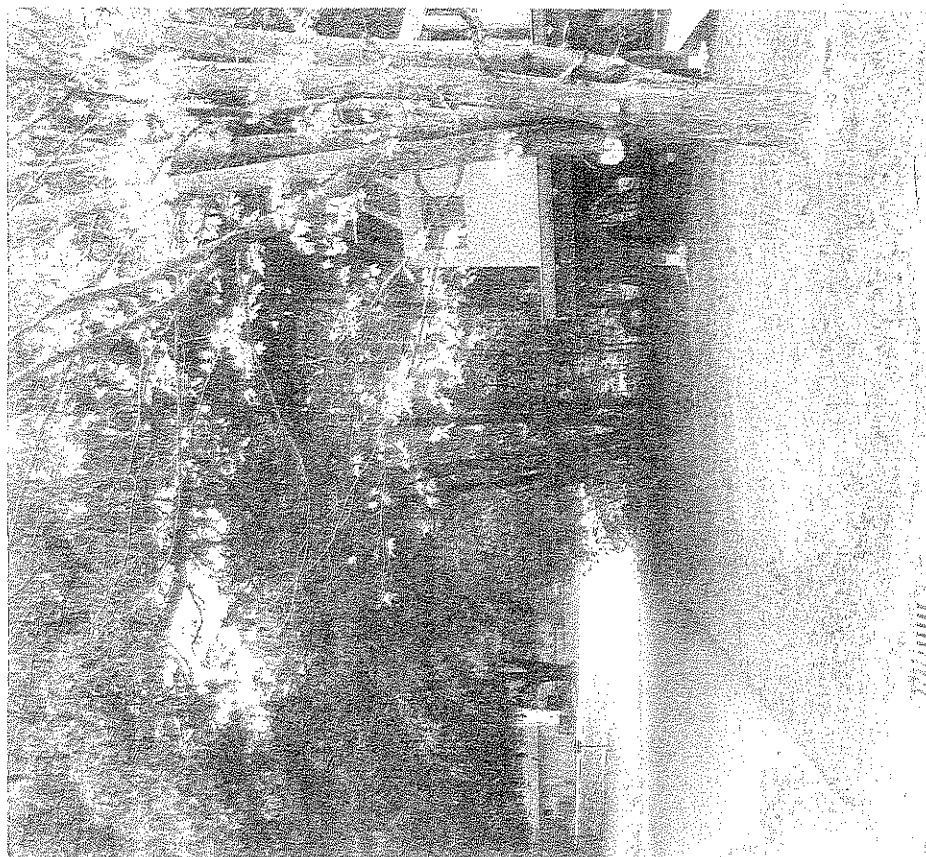


Figure 3: North West Corner of Preston /Harding looking East.

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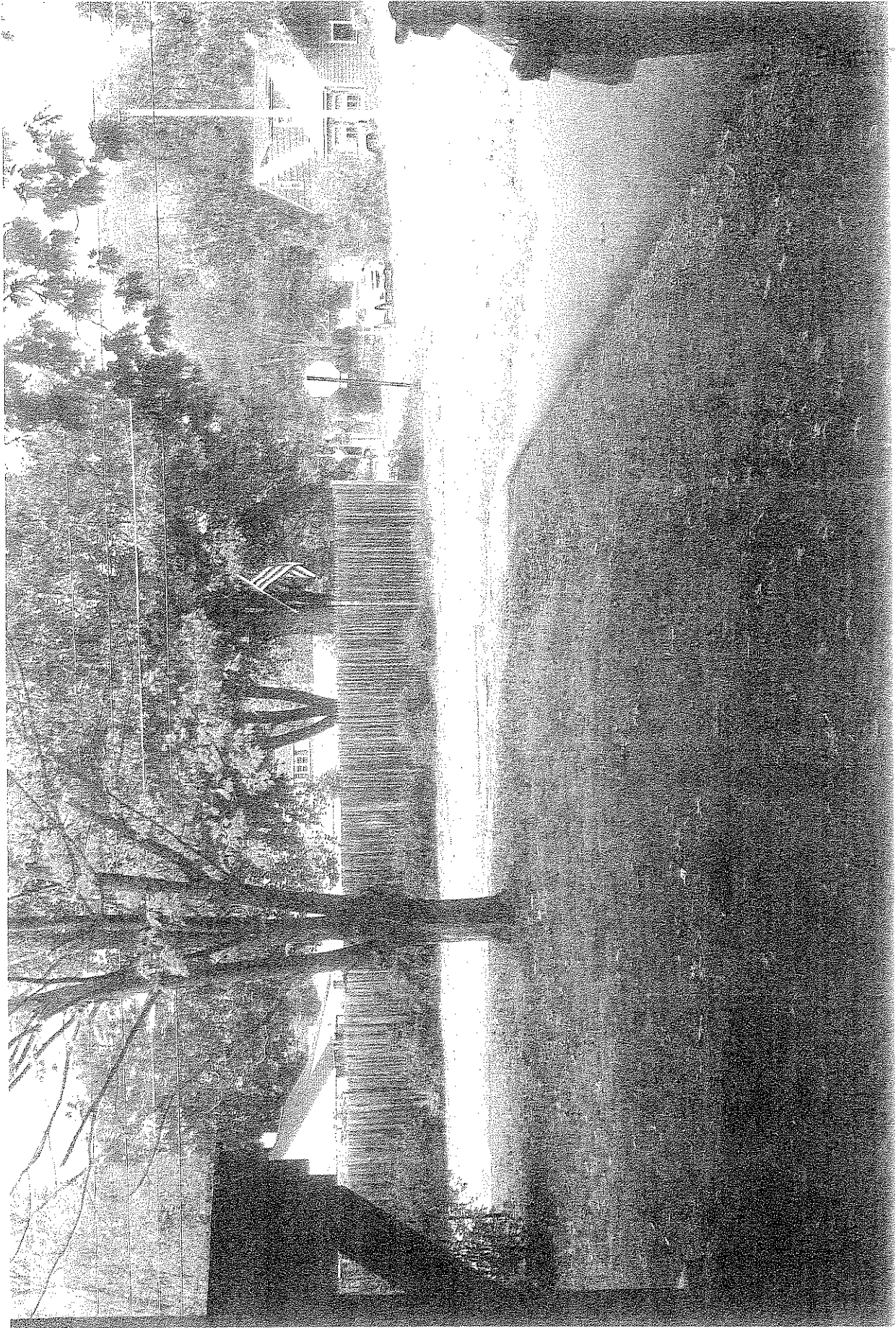


Figure 4: Rear of the Tree-house looking North-West along Preston St.

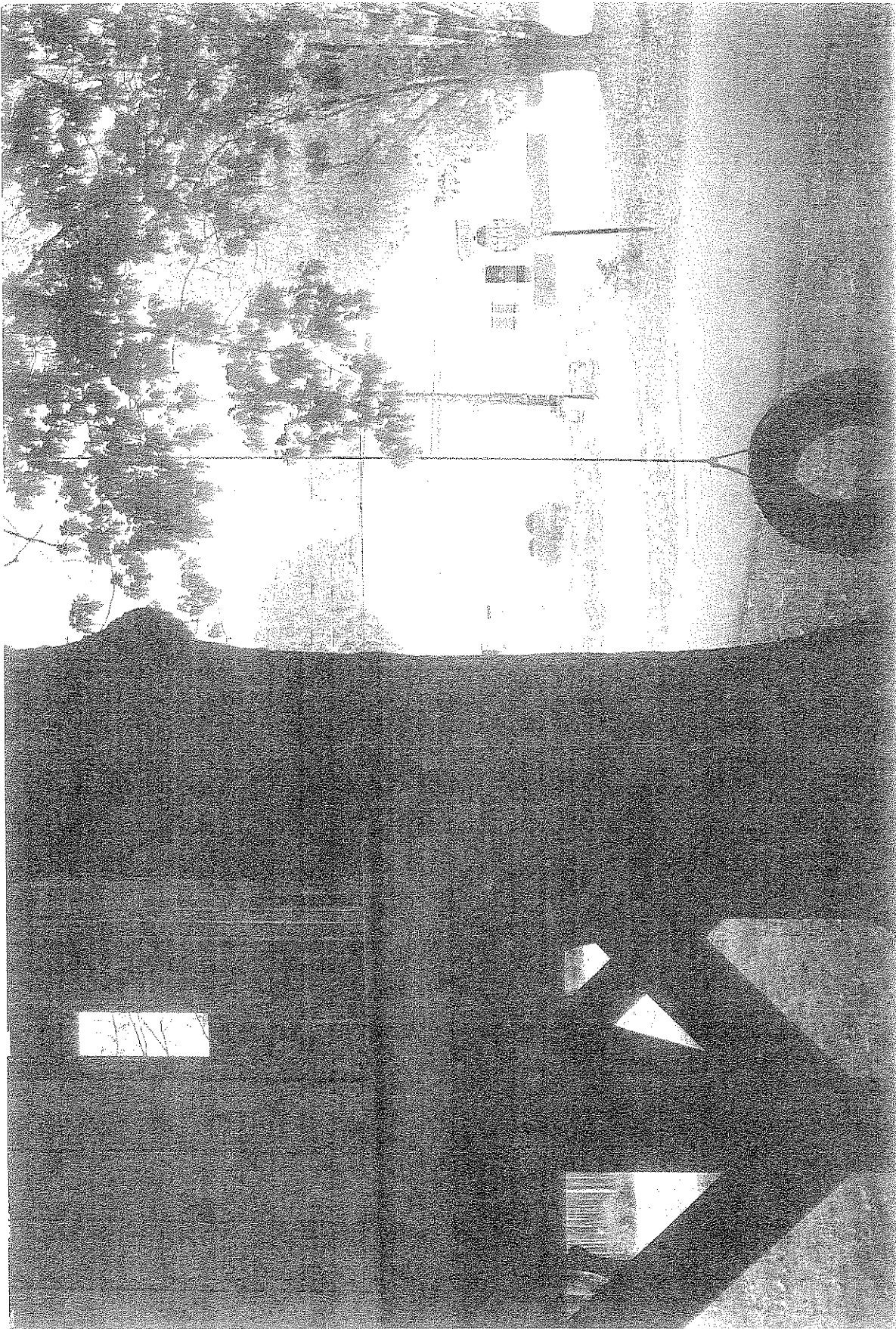


Figure 5: Location of hydrant on North Corner of Harding / Preston.



Figure 6: Close – up view of the corner closest to the city – owned parcel along Preston St.

Unofficial Property Record Card - Rochester, NH

General Property Data

Parcel ID	0128-0167-0000	Account Number	31636
Prior Parcel ID	-		
Property Owner	WAITE TERESAL & CAQUETTE TIMOTHY M	Property Location	34 HARDING ST
Mailing Address	34 HARDING ST	Property Use	SINGLE FAM
		Most Recent Sale Date	12/30/2005
City	ROCHESTER	Legal Reference	3316-1
		Grantor	BARKER AMANDA
Mailing State	NH	Zip	03867
Parcel/Zoning	R1	Sale Price	199,000
		Land Area	0.310 acres

Current Property Assessment

Card 1 Value	Building Value 83,100	Yard Items Value 200	Land Value 53,800	Total Value 137,100
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Building Description

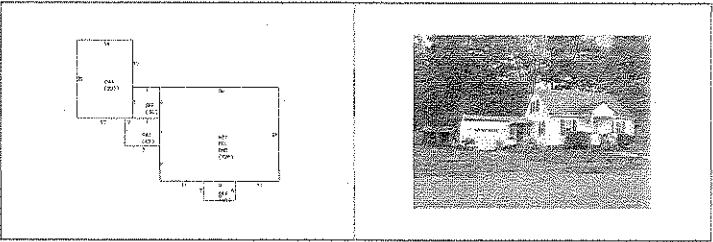
Building Style	CAPE	Foundation Type	CONCRETE	Flooring Type	AVERAGE
# of Living Units	1	Frame Type	WOOD	Basement Floor	CONCRETE
Year Built	1947	Roof Structure	GABLE	Heating Type	FORCED H/A
Building Grade	AVERAGE	Roof Cover	ASPHALT SH	Heating Fuel	OIL
Building Condition	Average	Siding	VINYL	Air Conditioning	0%
Finished Area (SF)	1086	Interior Walls	AVERAGE	# of Bsmt Garages	0
Number Rooms	6	# of Bedrooms	4	# of Full Baths	1
# of 3/4 Baths	0	# of 1/2 Baths	0	# of Other Fixtures	0

Legal Description

Narrative Description of Property

This property contains 0.310 acres of land mainly classified as SINGLE FAM with a(n) CAPE style building, built about 1947 , having VINYL exterior and ASPHALT SH roof cover, with 1 unit(s), 6 room(s), 4 bedroom(s), 1 bath(s), 0 half bath(s).

Property Images



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

ZONING BOARD CASE COMMENT SHEET

Case # _____

Department of Planning & Development
Director Comments

None.

Signed

[Signature]

Date

10/31/11

City Manager Comments

Signed

[Signature]

Date

OCT 31 2011



City of Rochester, New Hampshire

DEPARTMENT OF CODE ENFORCEMENT
31 Wakefield Street • Rochester, NH 03867
(603) 332-3508 • Fax (603) 332-8601

Code Office Denial of a Building Permit or Use

Name of Applicant Terresa + Tim Caouette

Location 34 Harding St

Map 128 Lot 157 Block — Zone R-1

Date Denied 10/21/2011

Your application for a building permit / use has been denied due to a violation of

Article 42 Section 17 Subsection (d) of the Rochester

Zoning Ordinance adopted March 3, 1986, and / or a violation of Article _____

Section _____ Subsection _____ of the ICC Building Code, 2000
edition.

The exact reason for this denial is: This is a corner lot
located at the intersection of Harding and Preston.
The front is on Harding. The minimum side (street
side) setback is 12ft according to 42.17(d).

Notice: You may make application to the Zoning Board of Adjustment for an
Appeal of an Administrative Decision, a Variance, or a Special Exception.

DeCoteau
Building Inspector

10/21/2011
Date

Zoning Board Case # _____

Applicant: Brendan P. Whalen

Phone (603) 560-7470 Planning Dept.

Project Address:

37 Harding St. Rochester, N.H. 03867

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
128	157	R1	WAITE TERESA L. CAQUETTE TIMOTHY M.	37 Harding St. Rochester, N.H. 03867

ABUTTING LOT OWNERS

Map	Lot	Owner Name	Owner Mailing Address (NOT property location)
128	158	Gauthier, Jason	38 Harding St. Rochester, N.H. 03867-3723
128	155	Brown, Sylvia W.	41 Dodge St. Rochester, N.H. 03867-3718
128	156	Ambrose, James P.	9 Preston St. Rochester, N.H. 03867-3729
128	136	Cox, ALVAH, Lola S.	10 Preston St. Rochester, N.H. 03867-3730
128	135	Bertrand, Joffery, Terri J.	32 Harding St. Rochester, N.H. 03867-3721
128	122	Phelan, Thomas P.	39 Harding St. Rochester, N.H. 03867-3724
128	123	Whalen, Brandon P.	37 Harding St. Rochester, N.H. 03867
128	124	Madore, David and AMIE	5 Preston St. Rochester, N.H. 03867-3513
128	125	SMITH James R SR, AUDREYE. James R JR.	14 Crockett St. Rochester, N.H. 03867-3714

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: 10/21/2011, This is page ____ of ____ pages.

Applicant or Agent: B. Paul

Staff Verification: _____