

PLANNING DEPARTMENT
Town of Durham
8 Newmarket Road
Durham, NH 03824-2898
Phone (603) 868-8064
www.ci.durham.nh.us

RECEIVED
Town of Durham
MAR 05 2024
Planning, Zoning
and Assessing

CONDITIONAL USE APPLICATION

Date: 2/20/2024

Property information

Property address/location: 9 Dover Road

Tax map #: 108; lot #'(s): 43; Zoning District: C

Property owner

Name (include name of individual): Tyche Capital Group LLC

Mailing address: 1 Samos Lane Andover, MA 01810

Telephone #: 603-828-3731 Email: fkell23@gmail.com

Engineer, Surveyor, or Other Professional

Name (include name of individual): _____

Mailing address: _____

Telephone #: _____ Email address: _____

Proposed project

Activity within the WCOD ____; Activity within the SPOD ____; Other proposal or activity X

What is the proposed project? To allow for all parking spots at the property to be used

Which provision in the zoning ordinance calls for this conditional use? _____

175.53 Section VI

Justification for granting the conditional use: Vacant parking spaces should be allowed to be filled in an area of town where parking is very scarce.

Have you completed the conditional use checklist? Yes

(over)

Other Information

Please note the following:

- Coordinate with Michael Behrendt, the Durham Town Planner, at 868-8064 or mbehrendt@ci.durham.nh.us about the process and other information that may be needed.
- Coordinate with Tracey Cutler, Planning Department Administrative Assistant, at 868-8064 or tcutler@ci.durham.nh.us about fees and preparing the abutters list. All property owners within 300 feet of the site will be notified about the application and public hearing.
- Please be sure to attend all meetings of the Planning Board and the Conservation Commission, if the latter is making a recommendation.
- The Planning Board may schedule a site walk after the first meeting.
- A public hearing will be held on the application. A sign must be placed on the property by the applicant at least 10 days prior to the hearing.
- The applicant will need to address the eight general conditional use criteria. For conditional uses within the Wetland or Shoreland Overlay Districts four additional specific criteria must be addressed by the applicant.
- For conditional uses within the Wetland or Shoreland Overlay Districts, the application will be presented to the Conservation Commission for a recommendation.
- See Article VII in the Zoning Ordinance for additional information about conditional uses.
- We encourage you to check with the New Hampshire Division of Environmental Services to see if any state permits are needed prior to spending money on any Town applications.

Submission of application

This application must be signed by the property owner(s) *and/or* the agent.

I (we) attest to the best of my(our) knowledge that all of the information on this application form and in the accompanying application materials and documentation is true and accurate. As agent, I attest that I am duly authorized to act in this capacity.

Signature of property owner:



Date:

2/20/24

Signature of agent: _____

Date: _____

Conditional Use Checklist

**To be filled out by the applicant/agent and returned with the application*

Address or location of property: 9 Dover Road

Applicant/agent: Tyche Capital Group LLC

Owner, if different from applicant: _____

Map: 108 Lot: 43 Date: 2/20/24

Proposed project/request: Allow parking spaces to be used

The following items must be included in a conditional use application. Please mark the items below and return this form to the Planning Department.

General items and documentation:

- Conditional use application
- This conditional use checklist
- A letter of intent/narrative describing the project
- A narrative addressing the 8 general conditional use criteria
- A site plan drawing if applicable (See the Site Plan Regulations)
- An electronic/pdf version of the five items above along with one hard copy of each
- Application and notice fees. Please coordinate with Tracey Cutler, Admin. Assistant.
- Abutters list including properties within 300 feet of the subject lot. Please coordinate with Tracey Cutler.
- NA Letter or email from property owner authorizing agent to submit the application or represent them, if applicable
- Photograph(s) of the site showing where the proposed activity will occur
- Agreement that the applicant will install a sign on the property about the public hearing once the hearing date with the Planning Board is set ten days before the hearing
- Confirmation that the applicant has discussed their project with the Town Planner

Tyche Capital Group
43 Nelson St.
Dover, NH 03820

RECEIVED
Town of Durham

FEB 27 2024

Planning, Zoning
and Assessing

February 22, 2024

Michael Behrendt, Town Planner
Tracey Cutler, Administrative Assistant
Town of Durham Planning Department
8 Newmarket Rd
Durham, NH 03824

Regarding: Letter of Intent for Conditional Use of 9 Dover Road

Mr. Behrendt,

Tyche Capital Group is writing to inform the Town of Durham Planning Department that it intends to use 9 Dover Road for multiple primary purposes. The site is currently zoned as a legally non-conforming multi-family residence in the Courthouse District of Durham. We proposed to include an additional primary use (encouraged in the Town of Durham zoning code): surface parking. This would leverage the existing surface parking that is zoned to support parking for the residential tenants, but now also to accommodate parking for non-residents.

The surface parking surrounding the building at 9 Dover Road has 12 spots that can accommodate at least 1 car for each of the 8 possible residential tenants. The lot already has white striped lines that outline 12 spots. For many years prior to 2024 and before Tyche Capital acquired the property, the additional 4 spots have been permitted to non-residential tenants. Tyche Capital recently learned of the Tyche Capital recently learned of the correct zoning for the site (Tyche had understood it was a multi-use building that would permit surface parking as an accessory use), and would like to formalize the practice as used today. Please note that there would not need to be any make ready improvement as the use already exists today as a parking lot for the primary tenants.

In summary, we are applying to be allowed to use the additional surface parking spots (4) for non-residential use.

Please let us know if you have any questions or concerns. Thank you for your consideration.

Best,
Tyche Capital Group

Durham Zoning Ordinance – 8 Conditional Use General Criteria

Key = Tyche Capital Responses

175-23. Approval Criteria.

...C. **Criteria Required for Consideration of a Conditional Use Permit.** A conditional use permit shall be granted only if the Planning Board determines that the proposal conforms to all of the following conditional use permit criteria (except for specific criteria that are deemed by the Planning Board to be not pertinent to the application):

1. Site suitability: The site is suitable for the proposed use. This includes:

a. Adequate vehicular and pedestrian access for the intended use.

Yes

b. The availability of adequate public services to serve the intended use including emergency services, pedestrian facilities, schools, and other municipal services.

Yes

c. The absence of environmental constraints (floodplain, steep slope, etc.) or development of a plan to substantially mitigate the impacts of those constraints.

Yes

d. The availability of appropriate utilities to serve the intended use including water, sewage disposal, stormwater disposal, electricity, and similar utilities.

Yes

2. External impacts: The external impacts of the proposed use on abutting properties and the neighborhood shall be no greater than the impacts of adjacent existing uses or other uses permitted in the zone. This shall include, but not be limited to, traffic, noise, odors, vibrations, dust, fumes, hours of operation, and exterior lighting and glare. In addition, the location, nature, design, and height of the structure and its appurtenances, its scale with reference to its surroundings, and the nature and intensity of the use, shall not have an adverse effect on the surrounding environment nor discourage the appropriate and orderly development and use of land and buildings in the neighborhood.

The parking lot at 9 Dover Road has been in use for over 30 years and practice of renting parking spots unused by residential tenants is one that existed before Tyche Capital acquired the property. Therefore, this use is the same as exists today and therefore there shall be no greater impact on the property.

3. Character of the site development: The proposed layout and design of the site shall not be incompatible with the established character of the neighborhood and shall mitigate any external impacts of the use on the neighborhood. This shall include, but not be limited to,

the relationship of the building to the street, the amount, location, and screening of off-street parking, the treatment of yards and setbacks, the buffering of adjacent properties, and provisions for vehicular and pedestrian access to and within the site.

As the parking lot already exists today, the proposed additional primary use of the site is compatible with the established character of the primary use of the site, the neighborhood and has mitigated external impacts of the use on the neighborhood. This proposed use will formalize the use of renting unused parking spaces to non-residential tenants.

4. Character of the buildings and structures: The design of any new buildings or structures and the modification of existing buildings or structures on the site shall not be incompatible with the established character of the neighborhood. This shall include, but not be limited to, the scale, height, and massing of the building or structure, the roof line, the architectural treatment of the front or street elevation, the location of the principal entrance, and the material and colors proposed to be used.

The parking lot as it exists today is compatible with the character of the neighborhood. There will be no change that affects the building or structure.

5. Preservation of natural, cultural, historic, and scenic resources: The proposed use of the site, including all related development activities, shall preserve identified natural, cultural, historic, and scenic resources on the site and shall not degrade such identified resources on abutting properties. This shall include, but not be limited to, identified wetlands, floodplains, significant wildlife habitat, stonewalls, mature tree lines, cemeteries, graveyards, designated historic buildings or sites, scenic views, and viewsheds.

The existing use does not impede the natural, cultural, historic, and scenic resources on the site and does not degrade such identified resources on abutting properties.

6. Impact on property values: The proposed use will not cause or contribute to a significant decline in property values of adjacent properties.

The formalization of the proposed use will increase the property values of adjacent properties.

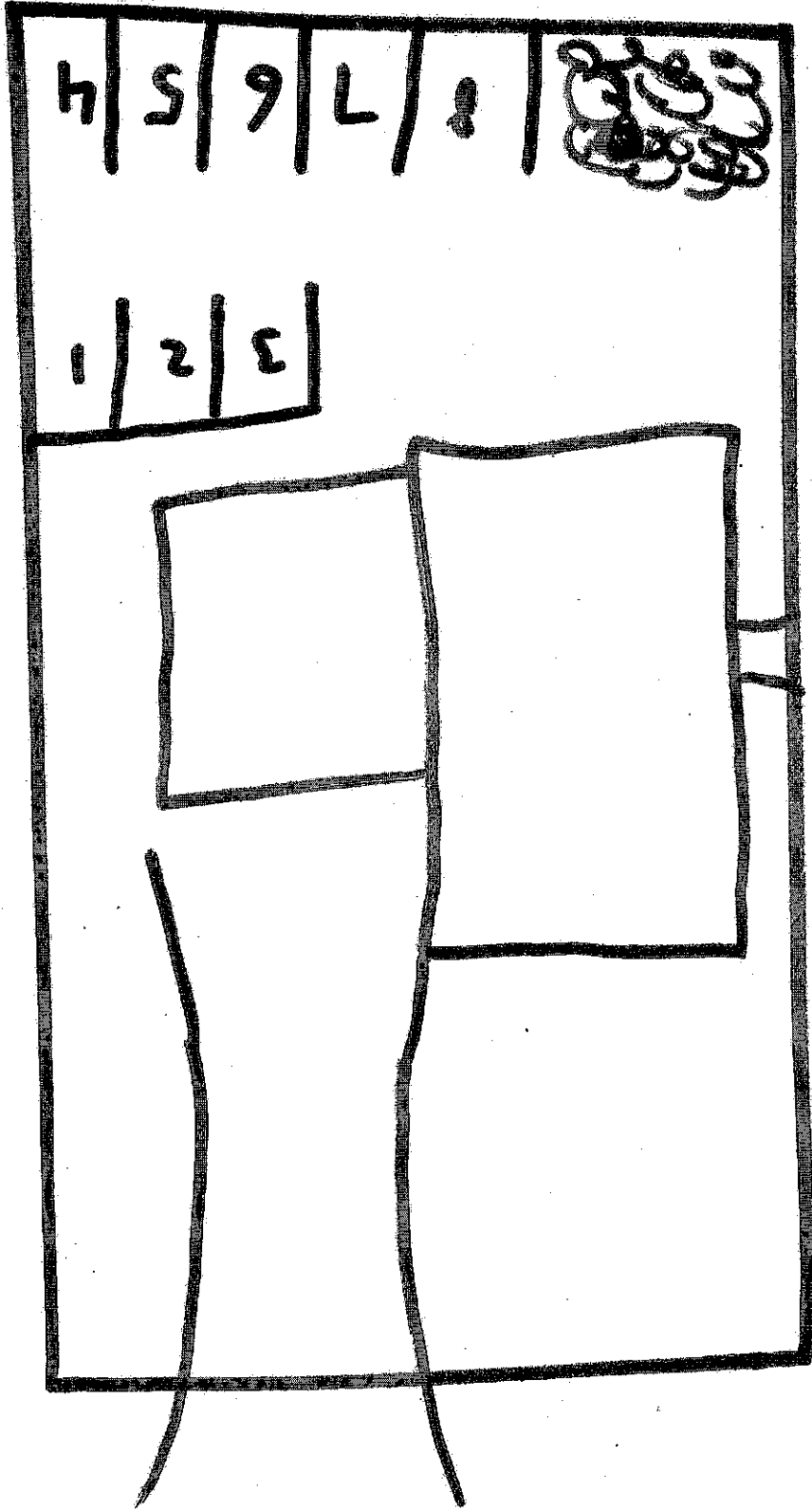
7. Availability of Public Services & Facilities: Adequate and lawful facilities or arrangements for sewage disposal, solid waste disposal, water supply, utilities, drainage, and other necessary public or private services, are approved or assured, to the end that the use will be capable of proper operation. In addition, it must be determined that these services will not cause excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police protection, fire protection, and schools.

Use of Public Services & Facilities are not applicable. But, as stated above, this use case exists today and therefore we do not believe formalizing this will have any impact.

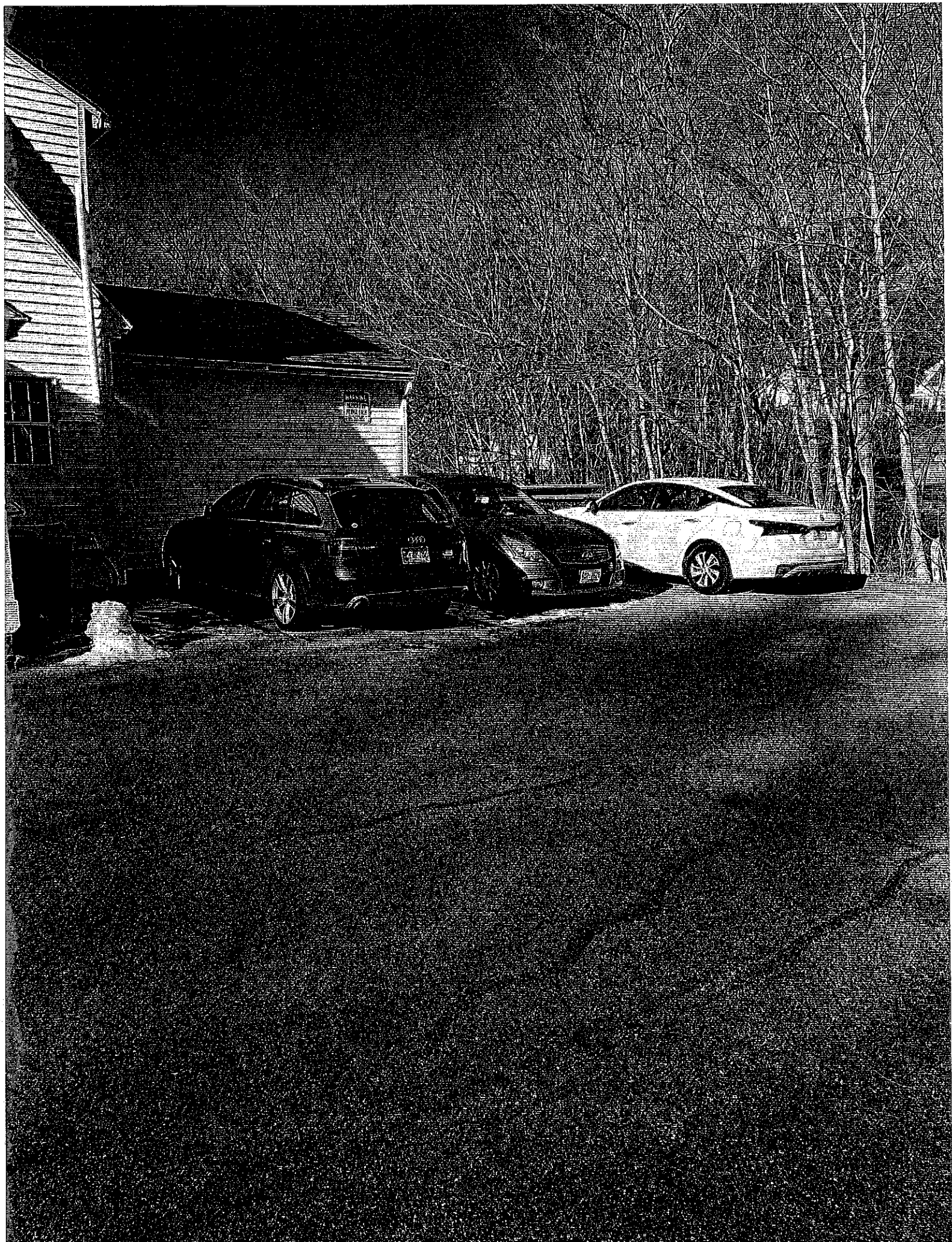
8. Fiscal impacts: The proposed use will not have a negative fiscal impact on the Town unless the Planning Board determines that there are other positive community impacts that off-set the negative fiscal aspects of the proposed use. The Planning Board's decision shall be based upon an analysis of the fiscal impact of the project on the town. The Planning Board may commission, at the applicant's expense, an independent analysis of the fiscal impact of the project on the town.

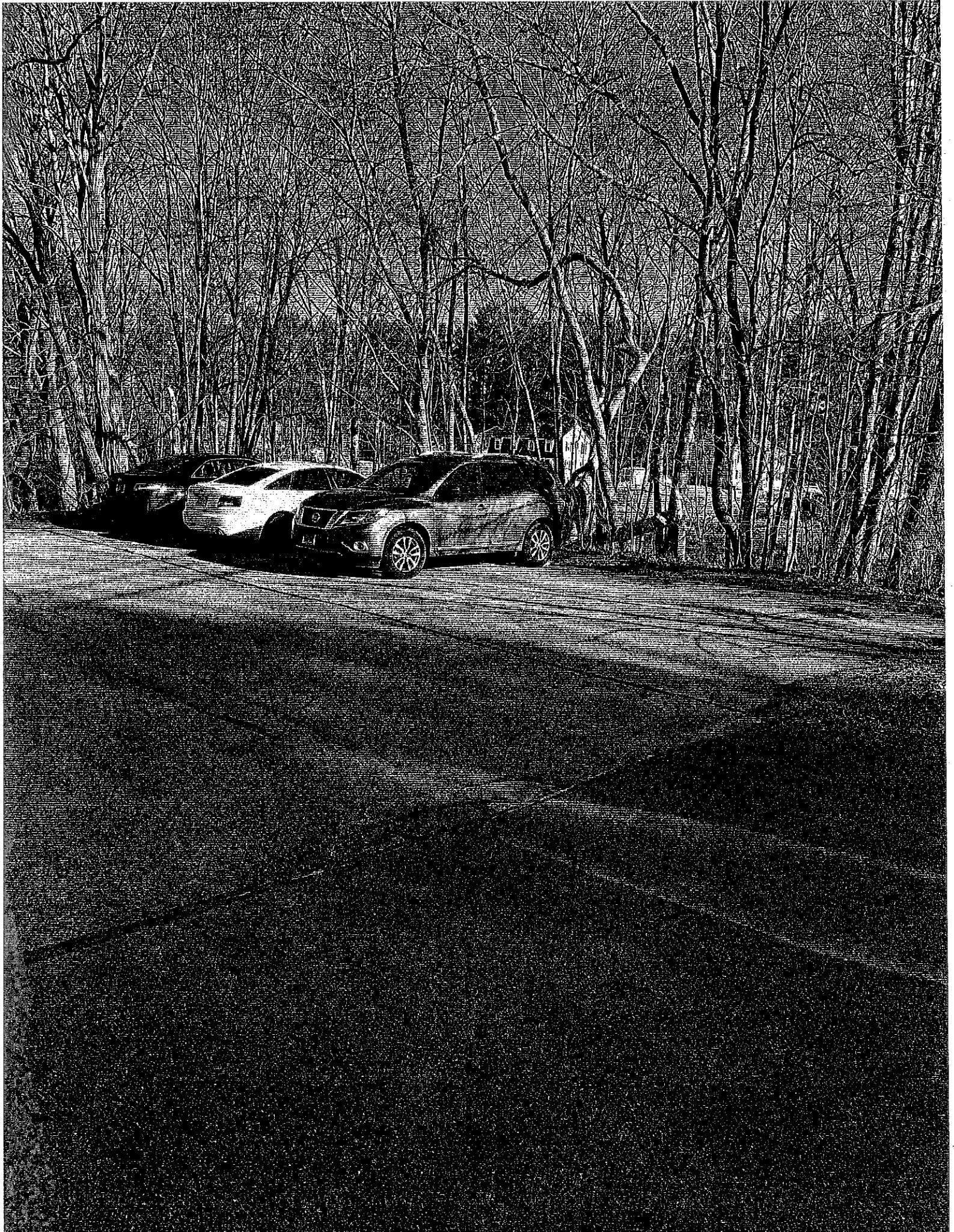
We do not believe the proposed project will have any fiscal impact on the Town.

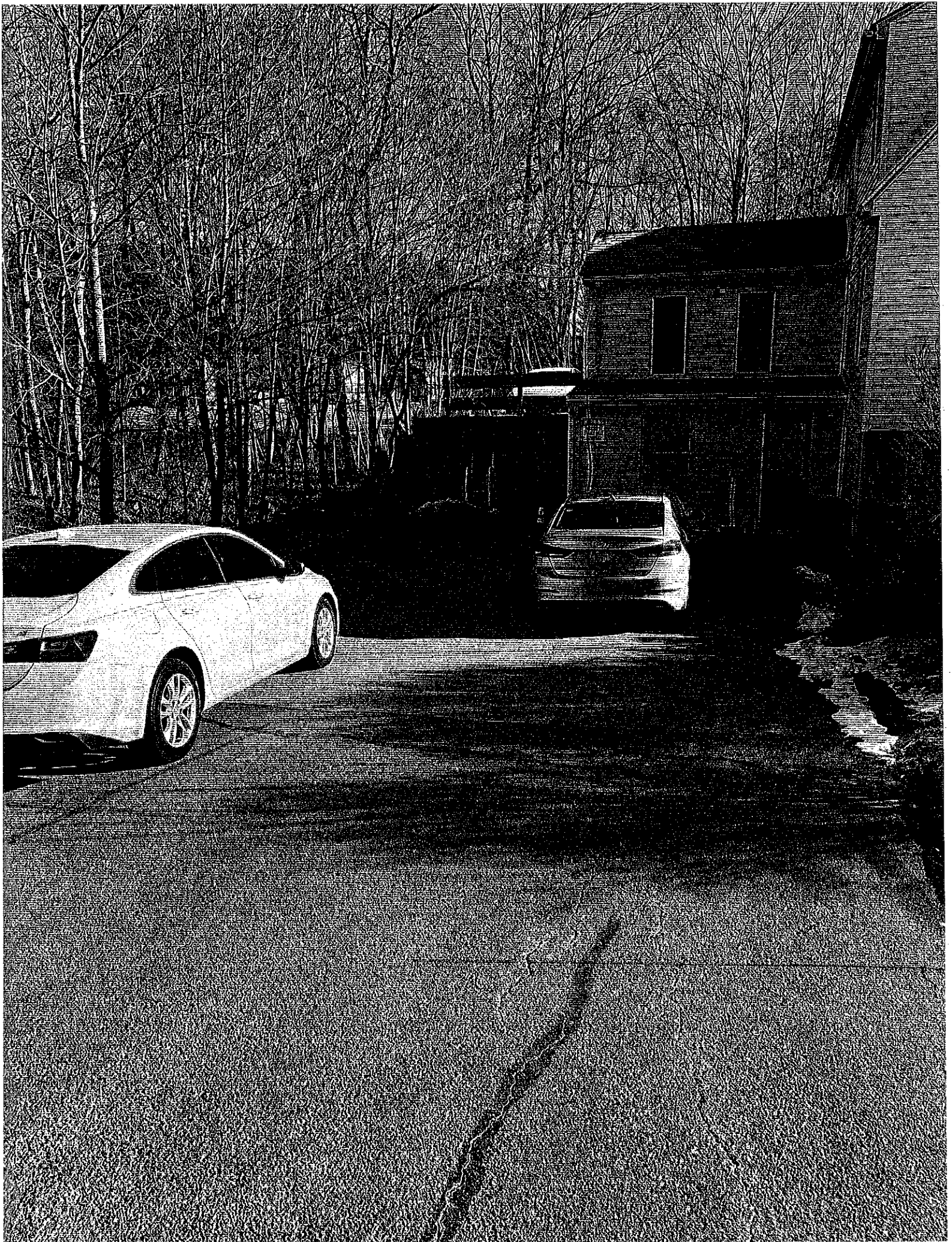
Site Plan

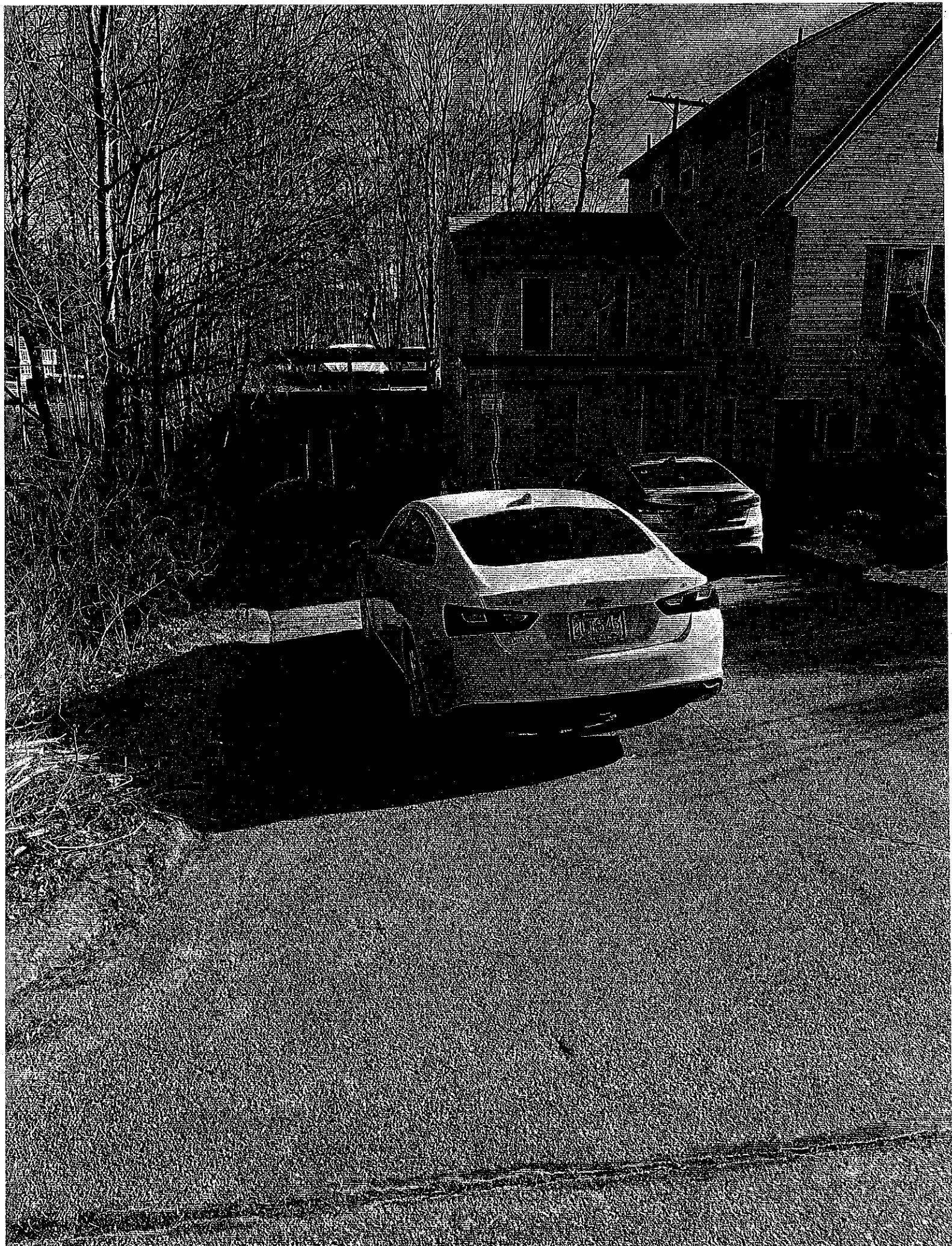


MAD_MAIL_NAME1	MAD_MAIL_NAME2	MAIL_NAME2	MAIL_CO_LINE	MAIL_ADDR1	MAIL_ADDR2	MAIL_CITY	MAIL_STATE	MAIL_ZIP
BURROWS REV LIVING TRUST, BEVERLY R				P.O. BOX 2815		SEABROOK, NH	03874	
MATSON JR TRUST, WILLIAM N				27 SCHOOLHOUSE LANE		DURHAM, NH	03824	
JESP ENTERPRISES LLC				14 SCHOOLHOUSE LANE		DURHAM, NH	03824	
GIBBS OIL COMPANY LTD				25 GARDEN LANE		DURHAM, NH	03824	
SAYERS, KAREN				6 KIMBALL LANE		LYNFIELD, MA	01940	
YOUNG DRIVE LLC				6 BAYVIEW ROAD		DURHAM, NH	03824	
YORK, GEORGE K				P.O. BOX 2815		SEABROOK, NH	03874	
SMITH REV TRUST, WESLEY R				8 DOVER ROAD		DURHAM, NH	03824	
CARLSON, JEFFREY		CARLSON, KRISTIN R		26 WOODRIDGE ROAD		DURHAM, NH	03824	
SHETLAND HOLDINGS LLC				7 BAYVIEW ROAD		DURHAM, NH	03824	
TEN DOVER ROAD PARTNERS				57 GALE ROAD		HAMPTON, NH	03842	
SCHOOLHOUSE TECHNOLOGIES LLC				P.O. BOX 463		NEW CASTLE, NH	03854	
CONRAD REV TRUST, THOMAS M		CONRAD REV TRUST, LISA H		5 GARRETT DRIVE		NORTH HAMPTON, NH	03862	
LENZI, MARK		LENZI, KRISTINA		4 PILGRIM DRIVE		ORLEANS, MA	02653	
HOWARD REV TRUST, GLENDOWLYN F				4 BAYVIEW ROAD		DURHAM, NH	03824	
NEW COURTHOUSE VENTURES 1 LLC				5 BAYVIEW ROAD		DURHAM, NH	03824	
ROSES POINT LLC				ATTN: SCOTT MITCHELL	285 DOCKHAM SHORE ROAD	GILFORD, NH	03249	
YOUNG DRIVE LLC				159 MAIN STREET SUITE 100		NASHUA, NH	03060	
NOVAK, MARK A				P.O. BOX 2815		SEABROOK, NH	03874	
YOUNG DRIVE LLC				7 OLD LANDING ROAD		DURHAM, NH	03824	
TYCHE CAPITAL GROUP LLC				P.O. BOX 2815		SEABROOK, NH	03874	
SCHOOLHOUSE LANE LLC				43 NELSON STREET		DOVER, NH	03820	
YOUNG DRIVE LLC				254A DOVER POINT ROAD		DOVER, NH	03820	
CONNOR, JAY				P.O. BOX 2815		SEABROOK, NH	03874	
HUBBELL, AARON G		PRIBBLE, JENNIFER L		3 BAYVIEW RD		DURHAM, NH	03824	
TEN DOVER ROAD PARTNERS				8 BAYVIEW ROAD		DURHAM, NH	03824	
				P.O. BOX 463		NEW CASTLE, NH	03854	









Tracey Cutler

From: Fred Kell <fkell23@gmail.com>
Sent: Thursday, March 21, 2024 6:15 AM
To: Michael Behrendt
Cc: Tracey Cutler
Subject: Re: 9 Dover Road - Fees for Application

Michael

Is there a possibility that the public hearing will be the same night?

Also, in your write up to the board you brought up a couple items that I wanted to talk to you about. Audrey Cline confirmed to us that the property is three residential units. It has a one bedroom, a two bedroom and a three bedroom unit. 8 total tenants can occupy that building. Currently there are 7. Those issues are not in flux so it would be great if you could correct those statements to the board. Feel free to talk to Audrey if you need to confirm those things and give me a call if you need to.

Tracey- I'm assuming I should wait until the new fees have been adopted to send a check for the application fee but let me know.

Thanks
Fred

Sent from my iPhone

On Mar 20, 2024, at 5:18 PM, Michael Behrendt <mbehrendt@ci.durham.nh.us> wrote:

Hi Fred,

So we will postpone this item to the April 10 Planning Board meeting with the public hearing probably set for April 24.. Please plan on attending both meetings. I expect/hope that the Town Council will adopt the new fees on April 1.

The application fee for a multifamily conditional use is \$200. The notice fees will be \$5/abutter within 300 feet assuming the amendment is approved.

Thanks.

Michael Behrendt
Durham Town Planner

8 Newmarket Road
Durham, NH 03824
(603) 868-8064

From: Tracey Cutler <tcutler@ci.durham.nh.us>
Sent: Wednesday, March 20, 2024 4:11 PM
To: Fred Kell <fkell23@gmail.com>
Cc: Michael Behrendt <mbehrendt@ci.durham.nh.us>
Subject: RE: FW: 9 Dover Road - Fees for Application

OK, thanks for getting back so quickly.

Have a good evening

From: Fred Kell <fkell23@gmail.com>
Sent: Wednesday, March 20, 2024 4:09 PM
To: Tracey Cutler <tcutler@ci.durham.nh.us>
Subject: Re: FW: 9 Dover Road - Fees for Application

I'm fine to push it back and save the \$250 Tracey.

Thanks

Fred Kell
(603) 828-3731
fkell23@gmail.com

On Wed, Mar 20, 2024 at 3:22 PM Tracey Cutler <tcutler@ci.durham.nh.us> wrote:

Hi Fred

The new fee schedule hasn't been ratified yet, but we are expecting the Council to do so in early April. Our question is, would you like to wait until April 10 to present the proposal, and have the public hearing on April 24th and save at least \$250, or go ahead with being on the agenda for March 27th with a public hearing of April 10th?

Thanks,

Tracey

From: Tracey Cutler
Sent: Wednesday, February 21, 2024 9:37 AM
To: Fred Kell <fkell23@gmail.com>
Subject: RE: 9 Dover Road

Hi Fred

One of the zoning amendments being put forward is to do away with the newspaper notice fee which is currently \$225, but the earliest we will know will be early April so Michael has agreed you can wait to pay the fees, but in the meantime we do need you to get everything together for the application.

Abutters are found by using the Digital GIS maps function on our website at this link:

[Town of Durham \(arcgis.com\)](https://www.arcgis.com)

Put in the address and press enter

Go to the envelope icon at bottom of screen

Put the address in again and click on select followed by "apply search distance."

Choose 300'

You will see a blue circle encompassing all the abutters within the 300' radius

Click on Download and then open the document to see the abutters.

Any more questions, you know where to find me!

Tracey

From: Fred Kell <fkell23@gmail.com>
Sent: Tuesday, February 20, 2024 9:06 PM

To: Tracey Cutler <tcutler@ci.durham.nh.us>

Subject: 9 Dover Road

You don't often get email from fkell23@gmail.com. [Learn why this is important](#)

Tracey

I'm reaching out about the abutters list for 9 Dover Road. I also don't know how much the application and notice fees are. If you could let me know about those things that would be great.

Fred Kell

(603) 828-3731

fkell23@gmail.com