



TOWN OF DURHAM
15 NEWMARKET RD
DURHAM, NH 03824-2898
PHONE: 603/868-8064
FAX: 603/868-8033
www.ci.durham.nh.us

RECEIVED
Town of Durham
SEP 25 2014
Planning, Assessor
and Zoning

ZONING BOARD OF ADJUSTMENT REQUEST PROCEDURE

MEETINGS: The Zoning Board of Adjustment (ZBA) will meet on the second Tuesday of each month in the Council Meeting Room at the Town Hall.

FILING OF APPLICATION: Applications for ZBA are available at the Town Office. The application must be filed at the Town Office at least 15 days prior to a meeting, along with an application fee. A notice of the meeting will be published in the Foster's Daily Democrat and a similar notice will be sent, by certified mail, to abutters and nearby property owners. The filing fee will be used to meet these expenses. If the expenses exceed the filing fee, the applicant will be billed for the difference.

LIST OF ABUTTERS: You must prepare a list of all abutting property owners, have it verified at the Town Office, and attach it to your application. If you have any difficulty, consult the Assessor's Office, but THE ACCURACY OF THE LIST IS YOUR RESPONSIBILITY. An "abutter" means any person whose property adjoins or is directly across the street or stream from the land under consideration. The list of abutters must also include any holders of conservation, preservation, or agricultural preservation restrictions in accordance with RSA 676:4 (I) (a) of the New Hampshire Planning and Land Use Regulations.

PLOT PLAN: Applications must be accompanied by plot plans in order to be considered by the ZBA. Plans should show the location and shape of the subject structure in relation to lot lines and required setbacks, in addition to location and identification of abutters. Neither the review of any applications or plans by officials of the Town of Durham, nor any subsequent inspection of the premises, should be relied upon as an assurance of conformity to legal requirements. The applicant shall remain fully responsible for complying with all applicable United States, New Hampshire or Durham laws, ordinances, regulations or conditions.

PRESENTATION AT MEETING: The Petitioner should bring all documentation, which will assist the Board in understanding the proposal. Do not assume that anything submitted to a different Town Board will find its way to the ZBA file.

NOTE: Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality affected by any decision of the administrative officer. An appeal of Administrative Decision must be filed with the Board no later than 30 days from the date of the original decision as per the Zoning Board Rules of Procedure Section D(1)(b).

It is necessary that the applicant or his legal representative attend the meeting held for the review and consideration of this petition.

\$242.⁰⁰
Pl. 9/25
Check #
2675

Please send this form with Plot Plan and List of Abutters to the Town of Durham, 15 Newmarket Rd., Durham, NH 03824, Attn: Zoning Board of Adjustment.

Appeal for Applicant

State of New Hampshire

Strafford, SS

To: Zoning Board of Adjustment, Town of Durham NH 03824

Name of Applicant: Concept Company Ltd, Dave Gravelly

Address: Box 935 Durham NH 03864 Phone # 491-2854

Email: DAVE@BARUSYEO.COM

Owner of Property Concerned: Chet Teece JR RED LIVING TRUST

(If same as above, write "Same")

Address: 240 MAST ROAD DURHAM

(If same as above, write "Same")

Location of Property: 240 MAST ROAD DURHAM (13-6-3)
(Street & Number, Subdivision and Lot number)

Description of Property (Give Tax Map number, length of frontage, side and rear lines and other pertinent descriptive information) Approx 60 acres with a house and Farmstand. Approx 1600 FT Frontage and 5102 LINES approx 1700 FT

Fill in Section 1, 2, 3 or 4 below as appropriate. Do not fill in more than one section. This application is not acceptable unless all required statements have been made. Additional information may be supplied on separate sheets if the space provided is inadequate.

SECTION 1: APPEAL FROM AN ADMINISTRATIVE DECISION

Appeal must be filed no later than 30 days from the date of the original decision.

Relating to the interpretation and enforcement of the provision of the Zoning Ordinance.

Decision of the enforcement officer to be reviewed: _____
Number _____ Date _____

Article _____ Section _____ of the Zoning Ordinance in question.

SECTION 2: APPLICATION FOR SPECIAL EXCEPTION

Any Special Exceptions granted shall be valid if exercised within 2 years from the date of final approval, or as further extended by local ordinance or by the zoning board of adjustment for good cause, provided that no such variance shall expire within 6 months after the resolution of a planning application filed in reliance upon the variance.

Description of proposed use showing justification for a Special Exception as specified in the Zoning Ordinance Article _____ Section _____

SECTION 3: APPLICATION FOR EQUITABLE WAIVER

The undersigned hereby requests an Equitable Waiver of Dimensional Requirements as provided in RSA 674:33-A of the New Hampshire Planning and Land Use Regulations.

Please give a brief description of the situation: _____

SECTION 4: APPLICATION FOR A VARIANCE

STANDARD OF REVIEW: Prior to seeking a variance, the property owner must have been DENIED a building permit by the Building Inspector or approval by the Planning Board.

Any Variances granted shall be valid if exercised within 2 years from the date of final approval, or as further extended by local ordinance or by the zoning board of adjustment for good cause, provided that no such variance shall expire within 6 months after the resolution of a planning application filed in reliance upon the variance.

A Variance is requested from Article 175 Section 54 of the Zoning Ordinance to permit _____

Addition of a front porch to an existing structure, within the 50 foot setback.

The New Hampshire Legislature has declared that each of the following conditions must be found in order for a variance to be legally granted. Please answer the following questions in support of the variance request either on this form or on a separate sheet of paper.

1. No decrease in value of surrounding properties would be suffered because:

SEE ATTACHED

2. Granting the variance would not be contrary to the public interest because:

SEE ATTACHED

Current law requires the existence of unnecessary hardship for the granting of any variance, whether that is for a use not allowed in a particular zone or a deviation from a dimensional requirement.

3(A). Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:

a. no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because:

SEE ATTACHED

and

b. the proposed use is a reasonable one because:

SEE ATTACHED

Or

3(B). Owing to special conditions of the property that distinguishes 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.

4. By granting the variance substantial justice would be done because:

See Attached

5. The use will not be contrary to the spirit and intent of the ordinance because:

See Attached

1. No Decrease in value of the surrounding properties would be suffered because :

a. The farm stand is located on the front northwest corner of the lot for this property. It is located 44 feet from the sideline of the property, which is the sideline that abuts the UNH sawmill property. Across the street from the farm stand are the fields known as the Moore Fields, which are all agricultural uses, with both hay and cow corn. Diagonally across the street is the new project known as the Lodges (Peak Development). The balance of the property surrounding the farm stand belongs to the Tecce Farm as well. So, there is not any property abutting that could be negatively affected by a 6 foot addition of a porch on the front of the farm stand.

b. The farm stand is located in the front setback of 50 feet from the road, based upon the fact that the state road is a four rod road (66ft). There are no state highway department maps, there are no surveys of the Moore Fields that are recorded, and there are no surveys of the subject property at this time. Therefore, based on measurements off of the center line of the road, we are saying that the farm stand is located in the front setback of 50 feet. Based on this, the existing building is 42 feet from the edge of ROW. It has an existing 5 foot overhang. With a six (6) foot addition, the porch will be located thirty one (31) feet from the edge of ROW. This still leaves substantial area for turning and parking for the patrons.

Bottom line, there are not any properties nearby to be negatively affected, therefore there is no decrease in any surrounding property values.

2. If the variance is granted, it would not be contrary to the public interest because:

a. The property is unique in its size and design and location. The building is a farm stand, open only seasonally and has been in its location since the 1960's more or less. It would not be contrary for several reasons. 1. anything that can be done to encourage the production and sale of locally grown produce should be done. 2. in this location, there is not any reason to have a full 50 foot setback, particularly when the farm stand has been in its existing location for so long, and there has been no negative effect of it being in its existing location for all of that time. 3. on average there are several hundred local residents that patronize the Tecce Farm on a daily basis for many years and the setback does not affect any part of the way business is conducted. The granting of the variance is in the public interest as it will facilitate a better layout for the sale of the locally grown vegetables that are a staple of the community, and have been for three generations. In the afternoon, the sun is hard on the front of the building as it faces west, and the heat can affect the vegetables and corn as well as some of the elderly customers. The addition will not affect the way people park, there is still adequate room and is still a long distance between where the patrons park and where the end of the new porch roof will be located. This is a very simple operation, and is and always has been a part of the fabric of the community.

3. (A)

Owing to special conditions of the property that distinguish it from the other properties in the area, denial of the variance would result in unnecessary hardship because:

a. there is no fair and substantial relationship between the general purpose of the ordinance provision and it's specific application to this property and because :

the purpose of the ordinance is to protect the health and welfare of the town and its residents, and by granting the variance to the this specific section of the ordinance there is no impingement of that health and safety. Indeed, there is a case to be made that the improvement to the farm stand will indeed protect their health and welfare by allowing them to shop for their vegetables under cover out of the sun, and out of the rain when it rains. There is no negative impact by the granting of the variance because it does not impact the parking, nor does it affect the in and out flow of the traffic from the state road, therefore it does not affect the health and safety of the public.

Based on what has been observed, the farm stand, and potentially one corner of the house that is 160 feet away, and the house on the next lot all may be within the front setback, as well as the farmhouses down the street on the other side of the road. All pre-date the ordinance requirement and it would not be financially feasible to move the stand or any of the other houses to meet the ordinance. Therefore, it is reasonable that a variance be granted so that the farm stand can better serve its customers and all of the local residents that anxiously await the opening of the stand each year for their fresh vegetables and corn.

b. the proposed use is a reasonable one because:

The granting of the variance is specifically designed for cases such as this. A conforming use with a non-conforming building location, pre-dating the ordinance which requires a little help to make it so that the building is just a little more usable for the purpose for which it was already intended, and indeed has served for a very long time.

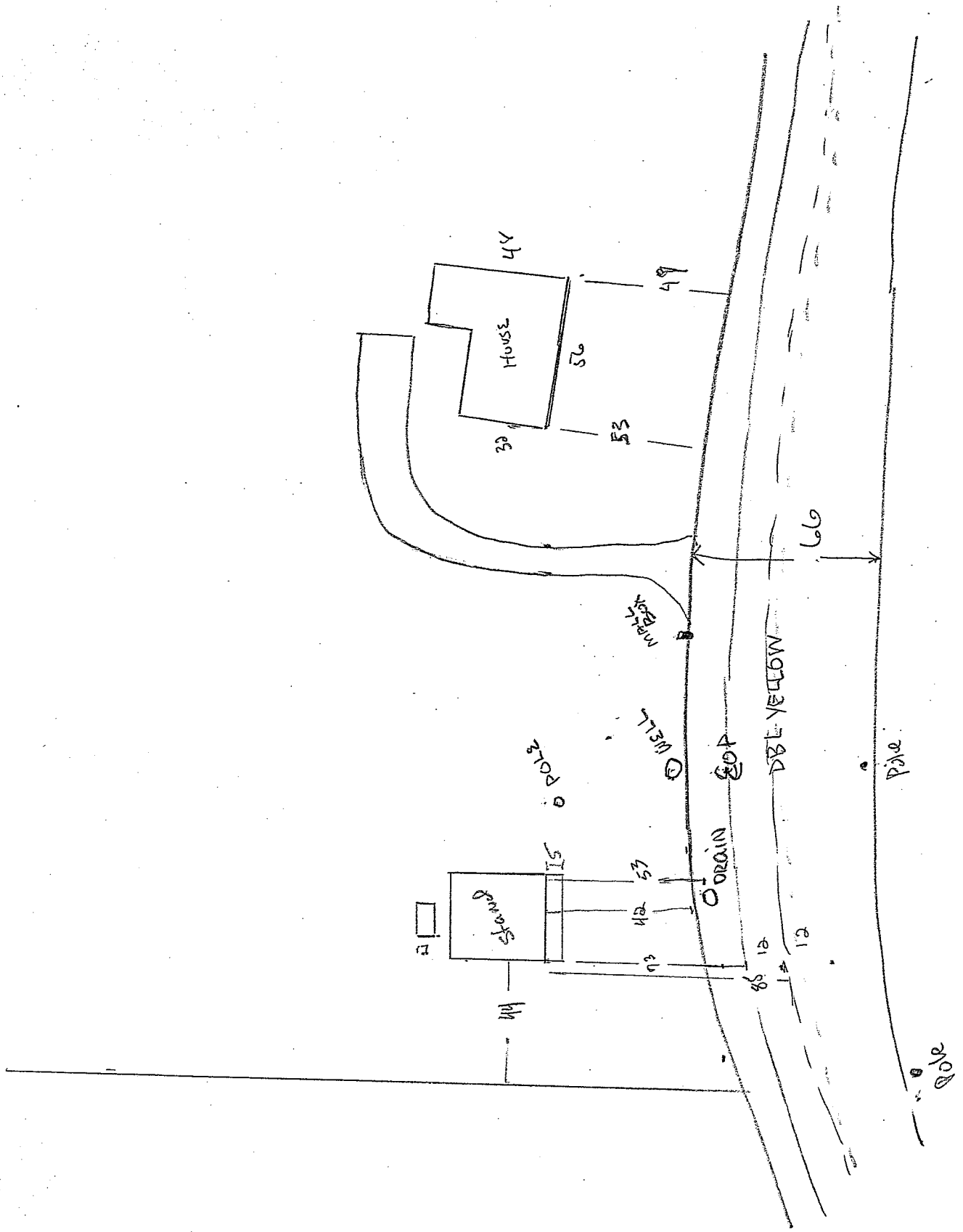
4. If the variance is granted, substantial justice will be done because:

a. approval of the variance provides needed relief from the strict enforcement of the ordinance, which would otherwise stop the renovation and construction of the porch which is meant to increase the convenience of the patrons, and increase the ability of the farm stand to stay in business and be profitable and therefore keep the farm as an operating and thriving farm providing fresh vegetables and fruits to the community as it has for three generations. Let us not let the good intent go to waste by taking action to approve this variance.

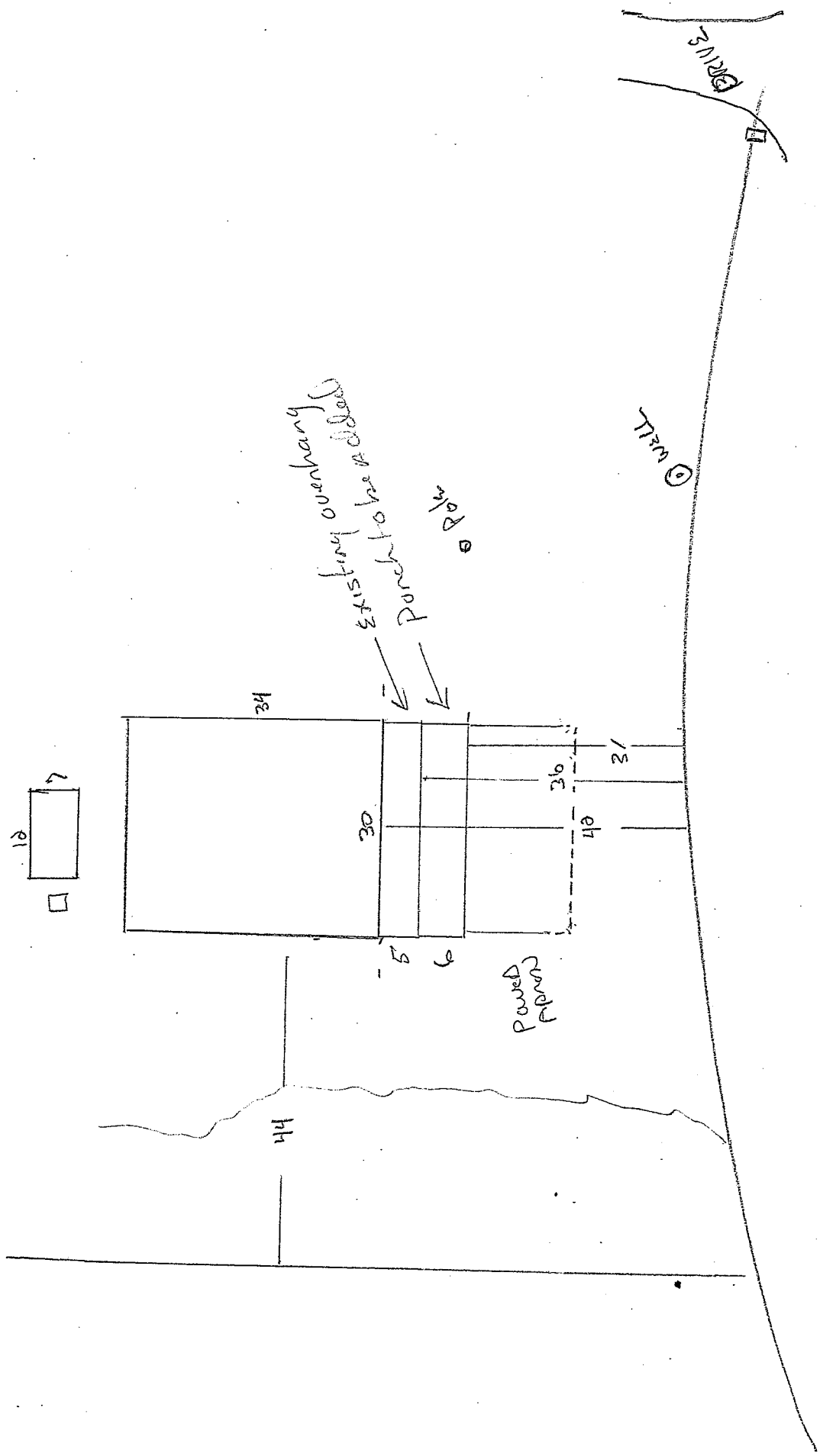
5. The use will not be contrary to the spirit and intent of the ordinance because:

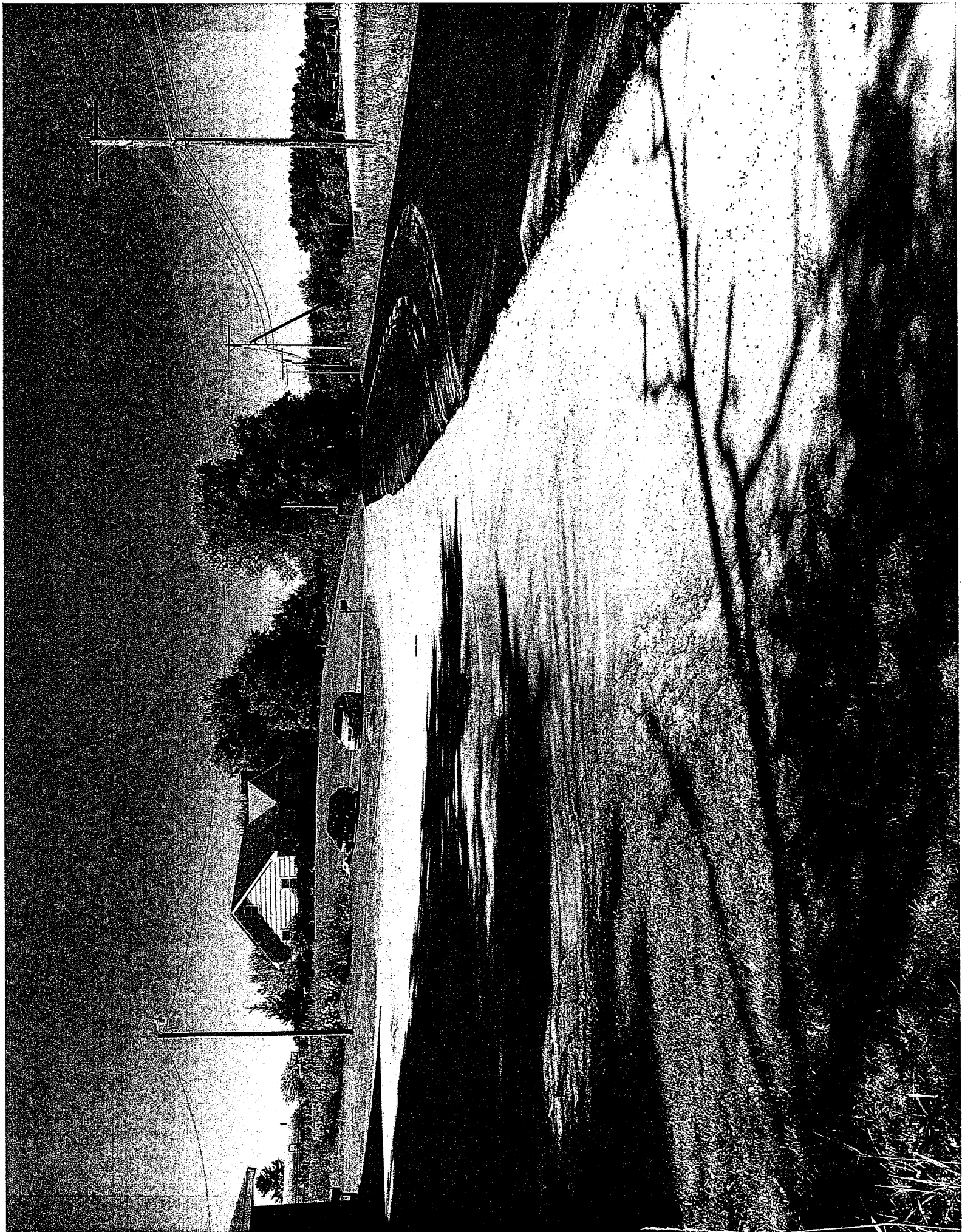
a. The ordinance again, is there to promote the health and safety of the public within the community. By putting the porch on the front of the farm stand within the front setback from the property line, it is accomplishing what the ordinance intended. In addition, it is not contrary to the ordinance either. No one is affected in health and safety, as the parking does not change, there is an asphalt apron that most all the patrons park at the end of anyway, which is a sort of natural place to stop. The addition of a 6 foot porch to make it more appropriate to the newly re-sided building, will make it more functional and attractive to the public.

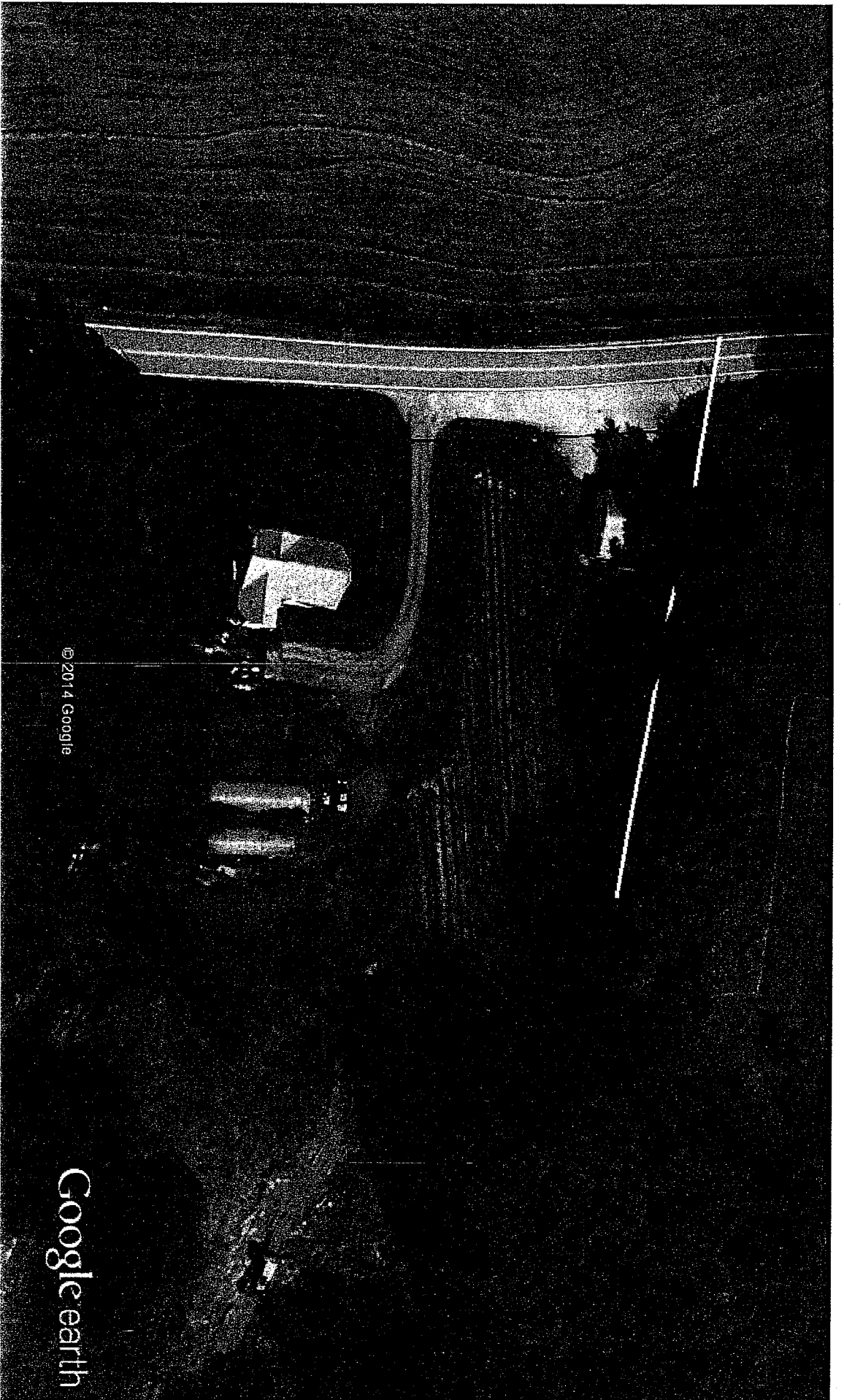
11/1/05



11/28







© 2014 Google

Google earth

Google earth

feet
meters

