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February 26, 2010

Zoning Board of Adjustment  
Jackson Town Offices  
Main Street  
Jackson, NH 03846

*reid  
3/3/10  
[Signature]*

In re: Siebert Application for Equitable Waiver

Dear Mr. Chairman,

Enclosed please find an Application for Equitable Waiver filed by Lawrence G. Siebert together with requested attachments and filing fee. Also enclosed are mailing labels for the abutters.

If anything further is needed, please advise.

Yours very truly,

*Fay E. Melendy*

Fay E. Melendy

APPLICATION FOR EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS  
BOARD OF ADJUSTMENT  
PO Box 268, Jackson, N.H. 03846

Revised July 19, 2006

Do not write in space below:

Case No. \_\_\_\_\_ Date Filed \_\_\_\_\_

ZBA Signature \_\_\_\_\_ Public Hearing \_\_\_\_\_

Decision \_\_\_\_\_

Applicant Signature Lawrence G. Siebert Date 2/24/10

TAX LOT NUMBER; V09 Lot 30

Name of applicant Lawrence G. Siebert

Address 60 Main Street, Jackson, NH 03846

Owner same  
(If same as applicant, write same)

Location of property 60 Main Street  
(street, number, sub-division)

Acres .08 or Sq. Ft. \_\_\_\_\_

An Equitable Waiver of Dimensional Requirements is requested from section \_\_\_\_\_ of the Zoning Ordinance to permit The maintenance of a display fence higher than 6 feet in height along the property boundary.

1. Does the request involve a dimensional requirement, not a use restriction? YES \_\_\_\_\_ NO \_\_\_\_\_

2. Explain how the violation has existed for 10 years or more with no enforcement action, including written notice, being commenced by the town \_\_\_\_\_

- or

Explain how the nonconformity was discovered after the structure was substantially completed or after a vacant lot in violation had been transferred to a bona fide purchaser and how the violation was not an outcome of ignorance of the law or bad faith but resulted from a legitimate mistake See attached.

(Equitable Wavier page 2)

2. A new fence was constructed similar to a fence, also exceeding six feet in height, previously maintained on the boundary for a period of nine years. No enforcement action had ever been taken by Town on the previous fence so the Applicant constructed the new fence in the good faith belief that it was permitted under Jackson land use regulations. The actual construction occurred with the assistance from the fire department. The Jackson zoning ordinance does not define a fence as a structure.

3. The fence does not constitute a nuisance nor does it unreasonably interfere with the use of the fire department building. The fence has been constructed in a location and with a design which permits access to the wall and foundation area of the fire department building which is located only 6 inches from the boundary line. This fence is located in the business area of the town, is used for product display and does not diminish the value of other property in the area.

4. There is not a public interest which is adversely affected by the maintenance of this fence. The fence does not threaten health, safety or welfare. The property is located in the village district, the area of the Town of Jackson which permits commercial uses. Although constructed to permit product display, the fence has also specifically been constructed to provide access to the wall and foundation of the fire department on the abutting parcel. As no public interest is adversely impacted, removal of the fence would constitute economic waste.

3.Explain how the nonconformity does not constitute a nuisance nor diminish the value or interfere with future uses of other property in the area:  
See attached.

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4.Explain how the cost of correction far outweighs any public benefit to be gained:  
See attached.

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Is any Use of or Structure on the subject property (other than that referenced above) currently Non-Conforming?  
YES  NO

If yes, explain in detail:

Due to size of lot the shop building does not satisfy current set back requirements.

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Does the subject property including all existing or proposed buildings, signs, driveways, and septic systems meet Jackson Zoning Ordinance requirements and applicable state regulations? YES  NO

If no, explain in detail:

Shop building does not meet set back requirements.

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**ADDITIONAL INFORMATION:** Summarize below any information from preliminary discussions with state agency personnel in regard to the case.. In addition, attach copies of any correspondence from state agencies, or Jackson officials and boards pertaining to the property..

There has been no state involvement. Attached hereto are copies of minutes of Selectmen meetings and correspondence from Selectmen. Reference is also made to ZBA decision on variance application dated January 6, 2010.

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Jackson Zoning Ordinance Section 15.2.4 states - Waivers shall be granted only from physical layout, mathematical or dimensional requirements. An equitable waiver shall not be construed as a Non-Conforming Use, and shall not exempt future use, construction, reconstruction, or additions on the property from full compliance with the Zoning Ordinance. This Section shall not be construed to impose upon municipal officials any duty to guarantee the correctness of plans reviewed by them.

**Attach all pertinent documents and correspondence.**

**NOTE:** This application is not acceptable unless all required statements have been made.

Use additional attachments or separate sheet to provide answers to questions not already covered, if the space provided is inadequate.

**IMPORTANT NOTICE:** Board of Adjustment By-Laws state that information from the applicant and/or his representatives must be provided to the Board no less than 7 calendar days prior to the date of the public hearing.

If you have questions about this application, please review the application instructions and checklist and the ZBA information found on [www.jacksonvillage.net](http://www.jacksonvillage.net) under Boards and Commissions. In addition, you may contact the Chairman of the Board of Adjustment, PO Box 268, Jackson, NH 03846

6/18/09 Selectmen's Meeting 52:26

through the Board for permission if someone wants to use the Fire Department building for a training or a meeting. The Board noted we typically let someone use it that is "related" to the Department. Selectman Mason noted that Jackson has no policy regarding the use of town property; typically if this request is not for a commercial use the Board gives its approval. He stated that if it's okay with the Fire Chief it's okay with the Selectmen. Chief Henry should let the Board know of use by notifying Town Administrator Falcey.

- d. Transformer at the corner Chairman Funicella noted there was a meeting held at the Eagle Mountain House regarding the transformer that is on the corner by the covered bridge. We'd like to minimize the look of it but we can't block the sightline for folks pulling out onto Route 16. Information regarding anything that would minimize the look of the transformer needs to go through the Selectmen not the Chamber.
- e. Larry Seilbert Larry has a fence that attaches to the side of the Fire Department building. Larry noted that he used to have his things hung on that wall with all kinds of screws; he offered to pay for any repair that needed to be made to the wall. He currently has eighteen screws in the side of the wall to support the fence. Larry has removed his items off of the wall so that would no longer be an issue. When a trench was dug on Larry's side of the line Larry asked Chief Henry if he could put in a couple of posts. Selectman Mason noted that Larry could put up a fence as long as it doesn't make getting to the Fire Department building's wall more difficult. Larry noted he left a door in the fence to allow access to the electrical box that is on Larry's side of the property. This was the only concern the Board had and as long as Larry has agreed to pay for any work on that side of the building it's okay with the Selectmen.

16. Road Agent, Executive Session pursuant to RSA 91-A3,II(a)

The Board went into Executive Session in accordance with RSA 91-A3, II at 4:52 p.m. to meet with Road Agent Robert Hatch.

The Board returned to Public Session at 5:58 p.m.

The meeting was adjourned at 5:58 p.m.

Respectfully submitted:  
*Martha D. Tobin*  
Recording Secretary

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[www.jacksonvillage.net](http://www.jacksonvillage.net) - Jackson's web site for further useful information  
Jackson's web site offers a wide variety of information, from a meeting calendar, to information on Town offices, boards, commissions, and agents as well as many useful links. E-News is brought to you by the Jackson Communications Committee in an effort to foster better communications within our community. Any Jackson-based not for profit board, committee, organization or group is encouraged to share its news by emailing the information to [enews@middlemtn.com](mailto:enews@middlemtn.com). To add friends not yet receiving E-News or to unsubscribe, contact us at the same address.

No virus found in this incoming message.  
Checked by AVG - [www.avg.com](http://www.avg.com)  
Version: 8.5.339 / Virus Database: 270.13.2/2215 - Release Date: 07/02/09 18:06:00

Mason noted that Planning Chair Betsey Harding is involved with the NCC and keeps Jackson informed.

7. Building Permits

- a. Sweeney, Martin (Map V1, Lot 28) - 12'x 21' shed Martin provided the Board with a plot plan which shows where the shed was; the shed collapsed and he has rebuilt it. He put in an application and was told by BTS that he couldn't put the shed so close to the lot line and they suggested another location. Mr. Sweeney thought this was approval to put the rebuilt structure in that location; there was no permit issued. A permit was required as it's about three feet bigger than required for an exemption. He was replacing an existing structure and if it was non-conforming he could do that without an application. Now he's built a new building but it's conforming. There is no plumbing or electrical work in the structure. **Selectman Mason, seconded by Selectman Davis, made a motion to approve the permit. The motion passed unanimously.**
- b. Rattay, Peter (Map V9, Lot 25) - 40' x 60' Timber Frame Barn Extension of Permit requested This was signed as recommended.
- c. Siebert, Laurence & Marjorie (Map V9- Lot 30) - Display Fence  
Selectman Mason noted that due to the height of the fence it requires a permit; it also has to comply with the International Building Code (IBC) as it's a commercial building. The IBC requires a foundation under the fence; it's required to be self-supporting, however, it's not easy to read the IBC and understand that a foundation is required for a fence. He spoke with Rob Upton (Town Counsel) and our choices are:
  1. Don't grant the permit.
  2. Require a foundation (tear down the fence and rebuild it to code).
  3. Give permissive use without granting the permit.

Selectman Mason believes giving permissive use is the best option and would make a motion to that end (there was no second). Selectman Mason pointed out that this would prevent the use from accruing vested interest over time.

Larry Seibert stated he is not interested in speaking tonight. He and his wife had asked to be on the agenda and then were never notified that they would be on the agenda. The Board noted this could be tabled. Larry prefers to continue on with this discussion.



DRAFT

Selectman Mason thinks the Board should send Larry a letter asking if he would accept permissive use.

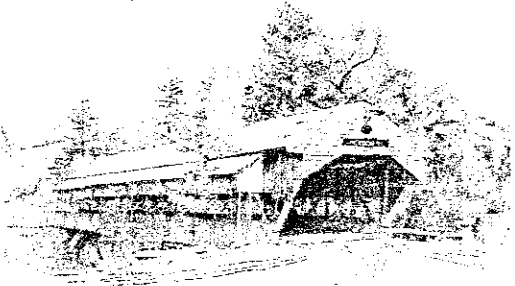
Chairman Funicella noted in the past the Board has given approval with a joint letter that states the purpose. This approval that Selectman Mason is proposing sounds too temporary. The next group of Selectmen could say Larry has to move it. We're talking about a fence that is attached to the Fire Station and the Board had heard from Fire Chief Henry's that he doesn't have any problem with the attachment. Chairman Funicella would like to have an agreement between Jackson and Mr. Seibert to allow this fence to remain until such time as the Fire Station has an issue.

Larry pointed out that the fence is supporting itself; he could remove the attachment to the Fire Station wall. He feels the law is too vague. Selectman Mason noted the law isn't supposed to grant any permanent use, it's meant to be vague. He feels Larry would have known, in looking at the requirements, that Larry would have known a permit was required and then he would have known the fence needed a foundation. Larry pointed out that the IBC is a fifty to sixty thousand page book that he hasn't read; additionally he wouldn't have even known to look at the IBC!

Chairman Funicella would like to see an agreement between the town and Larry. Selectman Davis would like to see this item tabled and then the Seiberts will know they are on the agenda for the next meeting. This will give Debby Seibert an opportunity to attend and speak.

- d. Myers, Patricia (Map V1, Lot 4) Extension request to provide requested information by Town of Jackson Selectman Mason doesn't know what Ms Myers is asking for, she has all the time she wants to take to get the stuff put together. The Board knows she had architectural drawings that were acceptable but the architect refused to sign them. If the Board chooses to go to court we'd be asking for an injunction to prevent any further building without a permit. The lack of permitting was because Ms Myers said it was under the \$10,000 requirement. She was asked for specific material and that material wasn't provided. When she submitted her application for a permit the Board denied it because she needed inspections and she needed to provide information. He states the Board doesn't have to do anything on this. **Selectman Mason, seconded by Selectman Davis, made a motion to take no action on this item as there seems no appropriate action to take. The motion passed unanimously.**

8. Other Business – Public Input (added) Sarah Clemons asked to have the text of the letter written by Mike to be inserted into the minutes. The Board noted Sarah's request and explained it has been included in the minutes. The minutes of May 26<sup>th</sup> included the letter only as an attachment and she wants to make sure it's



# TOWN OF JACKSON

## OFFICE OF THE SELECTMEN

July 20, 2009

Laurence G. Siebert  
PO Box 90  
Jackson, NH 03846

Re: 60 Main Street  
Property Index Number: Map V09 Lot 30

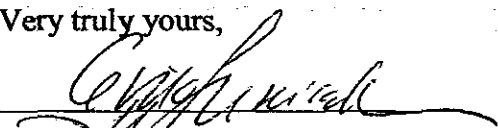

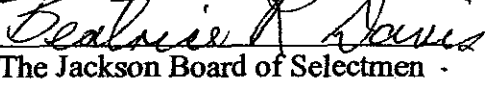
Dear Mr. Siebert

While passing by your property at 60 Main Street, on July 8, 2009 the following violations of the Building Code, of the State of New Hampshire and the Town of Jackson Zoning Ordinance, were noticed:

A fence/ structure has been erected on the southerly side (abutting the Fire Station) of this property. No permits have been obtained for this work. This is in violation of Sections 105.1 and 113.1 of the 2006 IBC as amended and adopted by the State of New Hampshire, known as the Building Code of the State of New Hampshire. You are hereby ordered to discontinue this illegal action and abate the violation by obtaining the necessary permits to continue the work (if the application for the permit is approved), or to obtain the permits to demolish the work and return the property to its original condition.

A correction of these problems must be made by the close of business on August 3, 2009 or a complaint may be filed against you in a court of local jurisdiction.

Very truly yours,

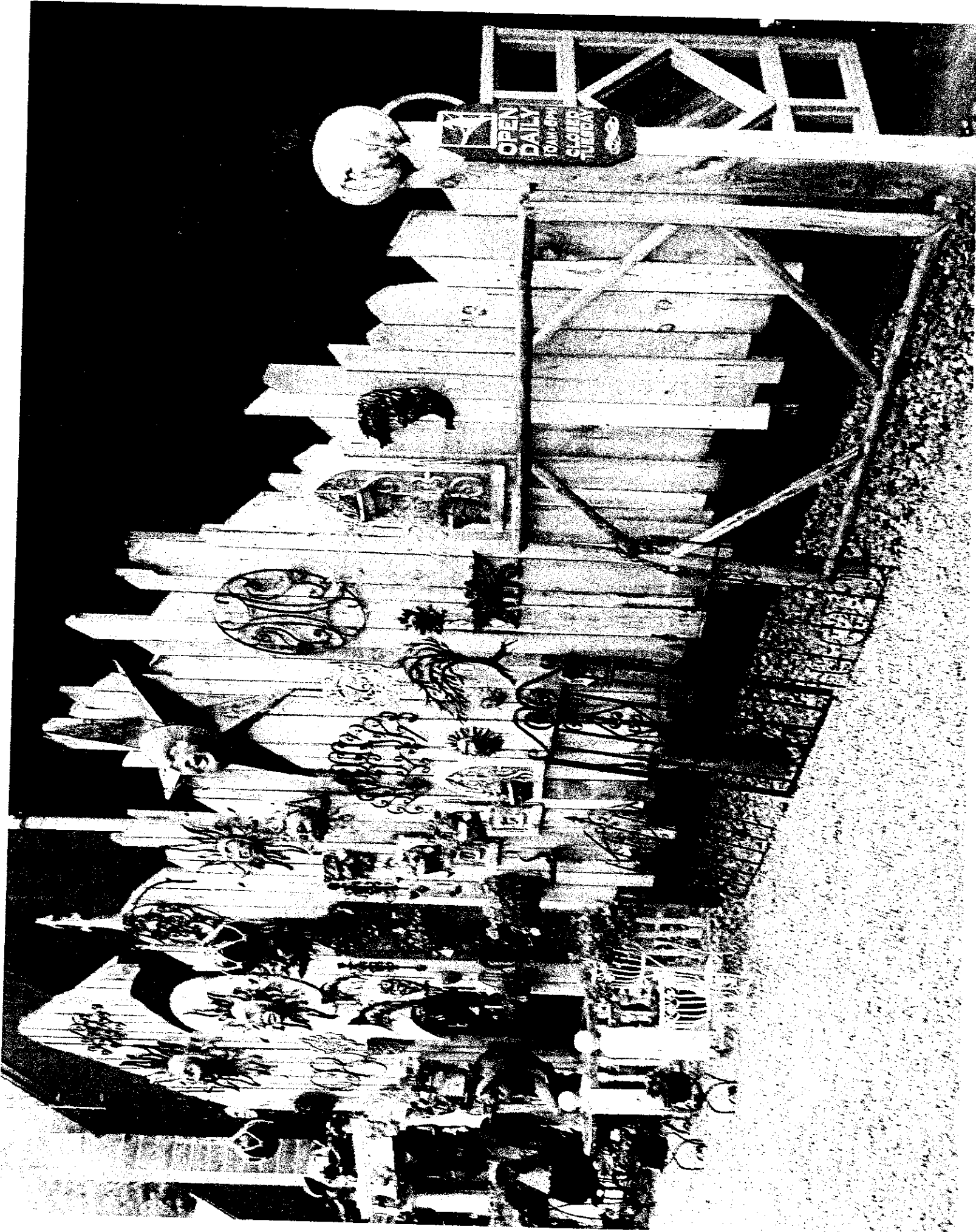
  
  
  
The Jackson Board of Selectmen





SIEBERT ZBA APPLICATION LIST OF ABUTTERS

1. Burdett Day  
P.O. Box 331  
Jackson, NH 03846  
Tax Lot: V01 4344
2. John and Sally Partoon  
Village House  
P.O. Box 359  
Jackson, NH 03846  
Tax Lot: V01 Lot 45
3. James and Iby Cooper  
Inn at Thorne Hill  
P.O. Box A  
Jackson, NH 03846  
Tax Lot: V09 Lot 27
4. Donald and Joyce Bilger  
Inn at Jackson  
P.O. Box 822  
Jackson, NH 03846  
Tax Lot: V09 Lot 28
5. Town of Jackson  
P.O. Box 268  
Jackson, NH 03846  
Tax Lot: V09 Lot 31



on Jan. 25<sup>th</sup>

# TOWN OF JACKSON

## OFFICE OF THE SELECTMEN



January 21, 2010


Mr. and Mrs. Laurence Siebert  
PO Box 90  
Jackson, NH 03846

Dear Marjorie and Larry,

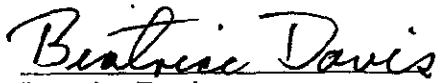
On January 6, 2010 the Zoning Board of Adjustment denied your request for an area variance (Case No. 2009-05). A copy of their ruling is enclosed with this letter. Therefore, within forty-five (45) days after receipt of this notification, would you please be sure that the display wall/structure is removed or brought into compliance with the Board of Adjustment's ruling and the New Hampshire building code.

May we also remind you of the penalty for failure to comply with ordinances or codes is \$275.00 per day.

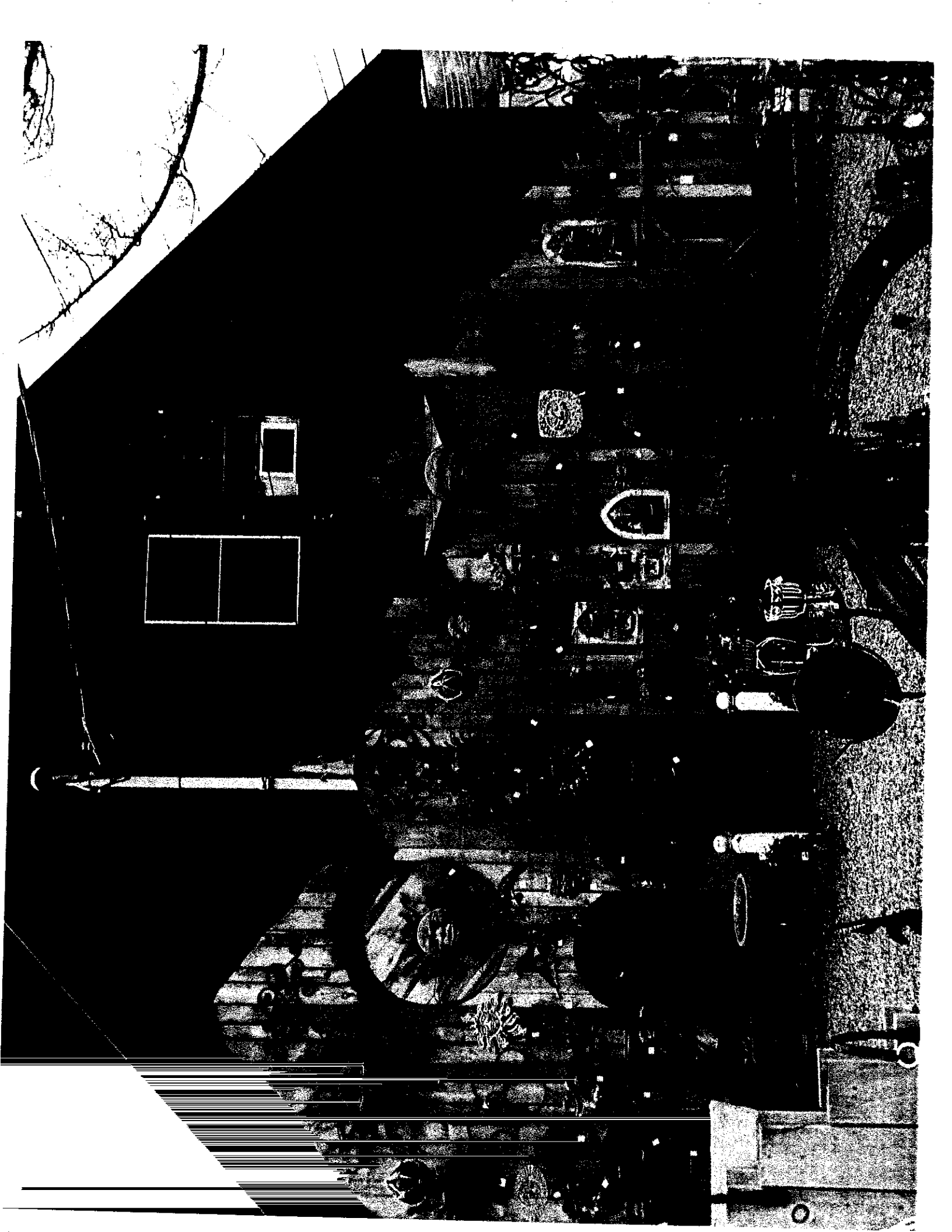
Thank you.

  
Gino Funicella, Chairman

  
David Mason

  
Beatrice Davis





Burdett Day  
P. O. Box 331  
Jackson, NH 03846

John and Sally Partoon  
Village House  
P. O. Box 2359  
Jackson, NH 03846

James and Ibbey Cooper  
Inn at Thorne Hill  
P. O. Box A  
Jackson, NH 03846

Donald and Joyce Bilger  
Inn at Jackson  
P. O. Box 822  
Jackson, NH 03846

Town of Jackson  
P. O. Box 268  
Jackson, NH 03846

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