Summary of 74 Cox Street LLC v. City of Nashua (September 21, 2007)
Ben Frost Plan-link posting 9/22/07

To expand upon David Lefevre's post yesterday about the NH Supreme Court's decision in 74 Cox Street LLC v. Nashua (also available at http://www.courts.state.nh.us/supreme/opinions/2007/coxst137.pdf), here are some details and some thoughts about its implications.

The Nashua ZBA granted variances, and intervenors filed a request for rehearing. The ZBA "denied" the rehearing motion (no second was made to a motion to grant the rehearing, "and, consequently, the ZBA denied the intervenors' request.") The intervenors subsequently wrote to the ZBA, contending that information they had submitted with their request had not been properly transmitted to the board, and they asked the ZBA to reconsider its denial of the motion for rehearing. The ZBA agreed to reconsider its rehearing motion denial, and ultimately did agree to rehear the matter. Meantime, the petitioners (the party who had been granted the variances) brought an action in superior court contending that the ZBA did not have the power to reconsider a decision to deny a motion for rehearing (they had gotten their variances, after all, and didn't want to see them slip away). The Superior Court dismissed the action, and an appeal was made to the Superior Court, again by the petitioners who had gotten the variances.