

CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers, City Hall – 288 Central Ave., Dover, NH 03820
Meeting Date: Thursday, January 18, 2024
Meeting Time: 7:00 pm

1. ATTENDANCE

Members Present: Chris Prior (Chair), Rich Onufry, Jackson Brown (Alternate), Sarah Tatarczuk (Alternate), and Anthony Sillittta

Members Absent (Excused): George Reagan (Alternate) and Otis Perry (Vice Chair), Nicholas Couturier

Members Absent (Unexcused):

Staff Present: Paul R. Crouser (Zoning Administrator), Donna Benton, Director of Planning and Community Development

The Chair called the meeting to order at 7 PM.

2. APPROVAL OF MEETING MINUTES OF DECEMBER 21, 2023

Motion: Onufry moved to approve the minutes of December 21, 2023 as submitted. Seconded by Brown.
Vote: 4 in favor with Tatarczuk abstaining

Motion: Sillittta moved to elect officers after the hearings. Seconded by Onufry. Vote: U/A

The Chair explained the hearing process.

4. HEARINGS

A. ZONE-2023-0050 Applicant: Cleveland, Waters, and Bass (Owner: Paul J. Seaver), 105 Durham Road, Tax Map H, Lot 6-4 located in the Low Density Residential District (R-20), requests a Variance from Section 170-12.A of the Zoning Ordinance, to allow for multi-family use for a group home for adults. The subject zoning district, R-20, prohibits more than four (4) dwelling units per lot. The applicant is seeking to construct an addition to the existing building, expanding its total dwelling unit count from one (1) to nine (9).

Tom Chesnard, Cleveland, Waters and Bass represented the item and explained the mission of the applicant and that they have searched a long time to find a property that meets their criteria. He noted Laurie McIntosh and Ron Walton from Our Place Inc and fellow attorney Abby Karoutas and Cory Belden from Altus Engineering were present.

He gave background information relating to purchasing the property at 105 Durham Rd and its attributes. He noted the criteria this organization was seeking in a property search was:

- Large enough to house approximately 12 people in apartment housing
- No existing tenants
- Sufficient space for parking
- Sufficient outdoor space for gardens and recreational activities
- On a bus route
- Close to potential employment sites

The proposal is to reconfigure the interior of the existing structure and build an addition. The final result will be nine living units. Eight will house adults with IDD and the ninth will house staff. The existing building will have five units and the addition will have four.

He addressed the variance criteria by summarizing the information provided in the application. He addressed public interest by noting the essential character of the area will not be altered and noted the existing surrounding uses. Public health, safety and welfare will not be at risk and traffic will decrease from the prior use.



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The spirit of the ordinance is upheld by granting the variance. The property owners intend to garden a portion of the lot and the shape of the lot is conducive to the addition, parking and gardening. He expounded on ways the proposed use of the property enhances the spirit of the ordinance.

Substantial justice is met as the property will remain in conformity even after the proposed addition. Traffic will be less than previously. There is no gain to the public by denying the variance.

The values of surrounding properties will not be diminished as the use will change from non-residential to residential use.

Hardship criteria was discussed noting the applicant's proposed use of the property is a reasonable use considering its unique shape and setting which benefits the proposal.

The Chair read the Planning Department suggested conditions to the applicant and they were discussed.

- 1) This approval does not grant additional density, the applicants will need to seek it through the TDR process before the Technical Review Committee and Planning Board.
- 2) That all proposed units be rented using the HUD Fair Market 80% Rent Limit, or HUD-restricted Fair Market Rate rents in perpetuity.
- 3) That the property receives and maintains active and applicable licensure with the New Hampshire Department of Health and Human Services' Health Facilities Administration in perpetuity.

The applicant noted the ninth unit is for staff use and is not meant to be rented at all. He proposed a change to the language of criteria 2. The language was discussed among the board members and staff.

Cory Belden, Altus confirmed they have submitted their application to TDR and Planning Board and the HUD rates will be addressed at those levels as well.

The language of condition three was discussed and amended as provided by the applicant.

Public Comment:

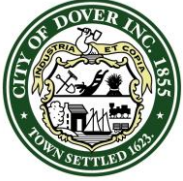
Laurie McIntosh, Our Place Board Chair noted this is a growing population as many live with aging parents. The only other option is foster care which tends to time out around three years which leads to moving often.

Douglas Dodd, Trask Dr is in favor of the proposal. He won't always be able to care for his daughter and encourages more opportunities like this along with other Dover development.

Kim Taylor, Carmens Way is a special educator and case manager and noted the people who will live in this housing are good people with jobs and friends. They deserve to have what we all want, and their aging family cannot keep up with their needs. She is in support of this project and hopes Dover will be in favor of this project and others in the future.

Janet Esmond, noted her son's successful qualities and his needs which can be met by housing like this.

Jessica LaMontane, Trask Dr likes this proposal because of the community it will provide for the residents. She noted many types of housing that will be needed in NH and this model may work for other types of needed housing.



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Planning Department recommendation: Zoning Administrator noted the revised language for the 2nd condition should state that any rented units shall be rented at the HUD rate.

Staff does not support or oppose the Variance request, though it bears mentioning that staff has received at least fifteen (15) letters of support for this project, to include at least one of the three direct residential abutters.

The Chair closed the public hearing and the board members discussed the language of the conditions.

Motion: Sillitta moved to GRANT the variance with the following conditions:

1. This approval does not grant additional density, the applicants will need to seek it through the TDR process before the Technical Review Committee and Planning Board.
2. HUD-restricted Fair Market Rate rent limit applies for any units providing rental income.
3. That the Applicant receives and maintains active licensure or certification as required by the laws and regulations of the State of New Hampshire and the City of Dover, as applicable.

Onufry seconded.

Vote: U/A

B. ZONE-2024-0001 Request for Rehearing for ZONE-2023-0042 Applicant/Owner: Miles Cook, Deepwater Frontiers LLC, Back Road (Tax Map M, Lot 104), located in the Rural Residential (R-40) Zoning District, requests an appeal of a July 13, 2023 administrative decision regarding the placement of a storage container under Section 170-12(B) of the Zoning Ordinance. The Zoning Administrator determined that the storage container needs to comply with setback requirements, or be moved to a location that complies with setbacks.

The Chair noted there was an error in the posting of this item. It should read request for rehearing of ZONE-2023-0049.

Also, the attorneys in the matter sent in a request for a rehearing for the denial of the variance from November of 2023. There is no public hearing for this item. The applicant has submitted documentation for board review, consideration and deliberation whether an error was made and if they want to allow the applicant an opportunity for a rehearing.

The Chair noted he has read the documentation and notes there is a difference in opinion between the applicant and the board. The board heard the item objectively and followed the law and stated their findings of fact. He is not in support of granting a rehearing.

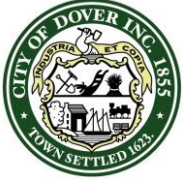
Onufry noted the applicant's premise of why there should be a rehearing is based on hardship and he didn't recall the denial of the variance being solely based on his ability or inability to sell his unit. There were many factors in the criteria which resulted in the denial.

Sillitta noted the structure never met the setbacks and wasn't going to without being moved.

Motion: Chair Prior moved to DENY the request for a rehearing for 2023-0049. Sillitta seconded.

Vote: U/A

3. ELECTION OF OFFICERS



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Motion: Sillitta moved to nominate Prior for Chair.

Motion: Onufry moved to nominate Sillitta for Vice Chair.

Board members wrote their votes on paper which were tallied. Prior will be Chair and Sillitta Vice Chair.

5. OTHER BUSINESS

The executive session did not occur tonight, so it will occur at 6:30pm on February 15th before the next ZBA regular meeting.

4. ADJOURN

Motion: Sillitta moved to adjourn at 8:18 pm. Brown seconded. Vote: U/A