

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, April 18, 2024
Meeting Time: 7:00 pm

1. ATTENDANCE

Members Present: Chris Prior (Chair), Otis Perry, Rich Onufry, Jackson Brown

Members Absent (Excused): Anthony Sillittta (Vice Chair), Nicholas Couturier, George Reagan (Alternate)

Members Absent (Unexcused):

Staff Present: Paul R. Crouser (Zoning Administrator)

The Chair called the meeting to order at 7 PM.

2. APPROVAL OF MEETING MINUTES OF FEBRUARY 15, 2024

Motion: Perry moved to approve the minutes of February 15, 2024 as submitted. Seconded by Onufry.

Vote: U/A

The Chair explained the full board includes five members and only four are present tonight. A vote will require three in favor to be passed. He explained the hearing process.

3. HEARINGS

A. ZONE-2024-0010 Applicant: Daniel Begin, 108 Mount Vernon Street, Tax Map 29, lot 95, located in the Medium Density (R-12), requests a Variance from Section 170-41-D, to allow for the expansion of a sunroom 6' in a parallel direction to the lot line, where the 10' setback is allowed.

Applicant Daniel Begin presented the application and explained his request for a variance to expand a sunroom. The lot is non-conforming at 40'x200'. The house sits about 8' from one lot line. No official boundary survey has been done, but the house likely falls right at that 10' setback.

The applicant addressed the five criteria noting the characteristics of the neighborhood; the status of the current sunroom (built incorrectly) with plans to correct the foundation, enlarge the sunroom and add second floor square footage above; no adverse impact to surrounding property values; the narrowness of the property is unique and the plans to enlarge the home run parallel to the property lines eliminating further encroachment to the setbacks; the applicant is not creating any harm to anyone else for the benefit of himself.

Public Hearing opened

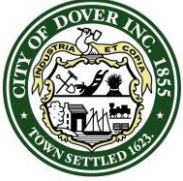
Public Comment:

None

Planning Department recommendation: P. Crouser noted Staff supports this Variance request noting the language allows for enlargement of a home as long as it does not get closer to the lot line and in fact this proposal moves the structure away from the property line. The language also states the addition cannot be closer than 10' from the setback. Staff opinion is the proposal is in keeping with the ordinance.

Public hearing was closed.

Motion: Perry moved to GRANT the variance based on the discussion of the five criteria and input from staff. Onufry seconded. Vote: U/A



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, April 18, 2024**
Meeting Time: **7:00 pm**

B. ZONE-2024-0011 Applicant: Bruton and Berube, PLLC (Owners: Lydia N. & Edward John Williams III), 167 Spur Road, Tax Map L, Lot 44, located in Low Density Residential (R-2012), requests a Variance from Section 170-12.B, to allow for a foundation and single-family residence to be built within a front yard setback of 1', where a setback build-to-line of 20-35' building line is required, and a side yard setback of 8', where a setback of 20' is required, and a rear yard setback of 11', where a setback of 30' building to line is required

P. Crouser clarified the detached garage is what is encroaching on the front property line, not the single-family home.

FX Bruton, Bruton and Berube represented the applicant and presented the application.

He explained the property location and other surrounding properties in the neighborhood. He noted the proposal is to put in a structure similar to other properties nearby. He described the size of the existing structure and what is proposed aligning that with the TDR square footage of 1400sf recognized by the City.

He read a letter of support from the only affected neighbor into the record.

He addressed the five criteria: proposal is consistent with the neighborhood; consistent with the spirit of the ordinance, environmental improvements, vegetation added and undisturbed, abutter support; no detriment to the general public and denying the variance gains no benefit to the public, the property is unique in slope, size and depth; no diminution of property values. The dilapidated shed will be replaced with a new structure; uniqueness of the property includes location to the Bellamy River, property size, lower square footage home proposed and environmental improvements planned. The use is reasonable and does not conflict with the ordinance in relation to safety etc. Setbacks were addressed.

Board questions:

Chair Prior noted the proposal is several variance requests rolled into one:

- Detached garage one foot off the front setback
- Single family structure side setback 8' where 20' is required
- Rear setback 11' where 30' is required

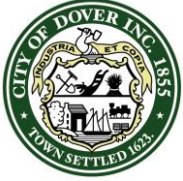
Mr. Bruton noted the 8' and 11' is the worst portion of the setback encroachment. Along the structures they move away from those points.

It was clarified that:

- The detached garage is a single-story, single-car garage and there is a single-car garage within the house as well.
- The topography goes down about 8' from the road so the garage roofline will be close to ground level at the street.
- There is an existing curb cut. Further site details were given, noting the proposal is within the already disturbed areas.
- Site lines and the right of way were discussed in relation to maintaining the vegetation.

Public Hearing opened

Public Comment:



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, April 18, 2024**
Meeting Time: **7:00 pm**

John Maclatchy, 147 Spur Rd is concerned about water. They want to tear down a structure with no foundation and put in a cement foundation which he believes will end up under water and is opposed to the proposal. Chair Prior noted the Planning Board has proposed conditions which relate to having DES approvals for the proposal.

Deena Mottola, 171 Spur Rd noted she likes the design of the house, and it will be an improvement to the neighborhood. Her concern is also the flooding on that parcel. She expounded noting the water line is going up over the years and her sump pump is going nonstop.

She asked if the proposal will:

- 1) contribute to the already rising water table and flooding in the neighborhood and
- 2) have there been any grading plans to prevent future erosion along the river?

Margot Schmolka, 175 Spur rd is also concerned about the water. The proposal adds much impervious surfaces to the parcel which is downhill from the road and the water is going to pool and run which affects the neighboring properties. She wondered if these issues will be addressed by the applicant.

Mr. Bruton noted those items will be addressed at subsequent meetings with other boards and staff. They know they will need a CUP to work in the conservation district and to work in the wetland buffer impact. They will not be increasing the impervious surfaces from what is there now. They fully expect the proposal to go through DES, Conservation and Planning Board processes.

Chair Prior read the staff recommendation is conditional upon the application and approval of a Conditional Use Permit for Conservation District impact, application and approval of a Conditional Use Permit for ~~Wetland and~~ Wetland Buffer impact, and application and approval of a NH Department of Environmental Services Shoreline Permit.

Further details were given and discussed about impervious surfaces and runoff.

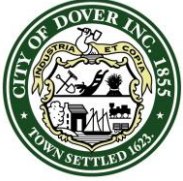
Ed Williams, applicant, noted he is aware of the water issues and that's why they are working with the team in place. They will not have a basement, are removing a shed completely in the wetlands and removing the septic and the gray water will be pumped up into the City sewer system so they aren't contributing to additional flooding.

John Maclatchy asked staff if it is allowable to build in the flood zone. P. Crouser answered that it is and explained some of the in-depth process an applicant would have to go through to do so.

Planning Department recommendation: P. Crouser noted staff neither supports nor opposes this variance request. However, should the board choose to approve this request, staff recommends the following condition:

- 1) The variance approval shall be conditional upon the application and approval of a Conditional Use Permit for Conservation District impact, application and approval of a Conditional Use Permit for Wetland and Wetland Buffer impact, and application and approval of a NH Department of Environmental Services Shoreline Permit.

He commented the proposal calls for a diminished total floor area on the westerly side of the lot nearest the shoreline, though it is not substantial. The ZBA does not have jurisdiction over pervious/impervious surfaces, but the applicant is correct that the southern portion of the proposal is occupying space that is already impacted. However, that does not seem to be the case for the northern portion of the parcel.



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, April 18, 2024**
Meeting Time: **7:00 pm**

Public hearing was closed.

Chair Prior, after hearing the proposal and the public comments, noted the concerns have merit, but this board does not have the authority to put conditions outside their jurisdiction.

Motion: Perry moved to GRANT the variance subject to the conditions set forth by staff and with the understanding that the applicant has successfully shown he meets the variance criteria and all of the issues raised were not subject to determination of this board. Brown seconded. Vote: U/A

4. OTHER BUSINESS

None

5. ADJOURN

Motion: Perry moved to adjourn at 8:09pm. Onufry seconded. Vote: U/A