

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, June 20, 2024
Meeting Time: 7:00 pm

1. ATTENDANCE

Members Present: Chris Prior (Chair), Rich Onufry, and Jackson Brown (Alternate)

Members Absent (Excused): George Reagan (Alternate), Anthony Sillitta (Vice Chair)

Members Absent (Unexcused): Otis Perry, Nicholas Couturier

Staff Present: Paul R. Crouser (Zoning Administrator)

The Chair called the meeting to order at 7 PM

2. APPROVAL OF MEETING MINUTES OF MAY 16, 2024

Motion: Onufry moved to approve the minutes of May 16, 2024. Seconded by Brown. Vote: U/A

The Chair explained the hearing process noting that only three members are present tonight. He offered each applicant the chance to proceed with their application tonight or ask for a continuance to the next meeting. All three members will have to vote in favor for an approval to occur.

One applicant noted they would like to defer. Attorney John Lyons represented the applicant 17-19 Summer Street Properties, LLC (Item B) and requested to be rescheduled.

Motion: Onufry moved to reschedule item ZONE-2024-0028 to the July 18th ZBA meeting. Brown seconded. Vote: U/A

3. HEARINGS

- A. *ZONE-2024-0027** Applicant: Periklis & Abigail Karoutas Revocable Trust, 66 Stark Avenue, Tax Map 17, Lot 105, located in Medium Density Residential District (R-12), requests an Equitable Waiver from **Section 170-14(4)a**, to allow for a recent addition's encroachment on the side setback by two (2) inches.

Abigail Karoutas, owner, represented the application and explained the request for equitable waiver to allow for the unintentional encroachment of their addition into the side setback by two inches. She gave historical data and information about the planning process for the addition.

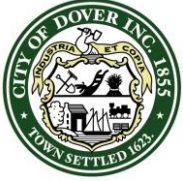
She addressed the four criteria for equitable waiver noting the encroachment was not discovered until well into the project, was due to a good-faith error- not ignorance of the setback, non-conformity does not constitute a public nuisance or diminish the value of other properties (encroachment is into the setback- not over property lines) and cost of correction outweighs any public benefit to be gained.

Public hearing opened

No one spoke

The chair noted a letter was received from the abutters in support of the applicant.

Planning Department input: Staff recommends that the Board open the public hearing, accept testimony, and make findings on each of the four Equitable Waiver criteria. Staff supports this Equitable Waiver request without any conditions. NH RSA 674:33-a(I) details a four-pronged test for evaluating the legitimacy of Equitable Waiver of Dimensional Requirement requests. Staff is of the opinion that the applicant has easily met every prong of the test, and recommends approving this Equitable Waiver request without conditions.



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Public hearing closed

Motion: Onufry moved to GRANT the equitable waiver with no conditions as the criteria have been met. Brown seconded. Vote: U/A

- B. *ZONE-2024-0028** Applicant: 17-19 Summer Street Properties, LLC, Locust Street, Tax Map 12, Lot 35-1, located in the Heritage Residential District (HR), requests a Variance from **Section 170-12, HR District 3-4 Family Dwelling Creation/Conversion CUP criterion D**, where parking lots are required to be at least five (5) feet from a side property line.

Tabled to the next meeting.

- C. *ZONE-2024-0029** Applicant: 6-8 Atkinson Street, LLC, 6-8 Atkinson Street, Tax Map 1, Lot 22, located in Central Business District- General (CBD-G), requests a Variance from **Section 170-20(D).3.h**, which stipulates that new non-residential activities must make up at least 20% of the structure or be located on the ground floor.

Elizabeth Kish, Greenland, owner, represented the application explaining the purchase and renovation of the building and success renting the residential units, but high turnover for the one small commercial unit. Some issues include having to pass through the commercial unit to access the basement and inability to lock the front entrance so clients can get in, which causes safety issues for the residents.

She proposes to convert the commercial unit to residential to solve these issues. It is in line with the neighborhood which is all multi-families and will fit the need for affordable housing in downtown Dover.

She answered questions of the board relating to reconfiguring the proposed bathroom and kitchen, permitted renovation in 2020, reconfiguration of basement stairs, and square footage of residential units.

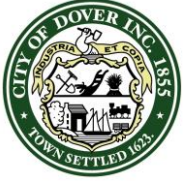
Public hearing opened
No one spoke

Planning Department input: While Staff does not advocate for or against this variance request, it is of particular importance to point out that out of all surrounding zoning districts around the subject parcel, including the HR, RM-U, and CBDMU zoning districts, the General Central Business District has the least restrictive residential density requirements of the four.

Staff recommends that the Board open the public hearing, accept testimony, and make findings on each of the five Variance criteria. Should the Board approve this variance request, Staff would remind the Applicant that they must abide by any applicable fire, life safety, and building code requirements, and encourages the implementation of the following conditions:

1. The newly converted dwelling unit shall be restricted to the applicable HUD Fair Market Rent in perpetuity; and
2. The Applicant shall provide the occupants of 6-8 Atkinson Street with adequate parking, per Site Review Regulations, §153- 14(D)(4)(b), equating to ten (10) parking spaces.

The board and staff discussed the conditions with the applicant, and she confirmed she would accept those conditions.



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The Chair noted the applicant has made some good points about the property and the neighborhood. Staff has confirmed the zoning is carved out around this parcel. Health, safety and welfare of the residents would benefit from the proposed use and changes.

A third condition was discussed for the unit not to exceed one bedroom.

Onufry agreed and noted in that neighborhood it is hard to see commercial units- it is mostly residential. The safety factor is also an issue that will be solved.

Motion: Onufry moved to GRANT the variance with the two staff provided conditions and the additional condition that the unit not exceed one bedroom as the criteria have been met. Brown seconded.

Vote: U/A

4. OTHER BUSINESS

Chair Prior commented to notify board members a week in advance of upcoming board meetings and receive confirmation by email or phone to be sure there is a quorum in attendance.

5. ADJOURN

Motion: Brown moved to adjourn at 7:40pm. Onufry seconded. Vote: U/A