

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, August 15, 2024**
Meeting Time: **7:00 pm**

1. ATTENDANCE

Members Present: Chris Prior (Chair), Anthony Sillitta (Vice Chair), Rich Onufry, Nicholas Couturier, Otis Perry and Jackson Brown (Alternate)

Members Absent (Excused): George Reagan (Alternate)

Members Absent (Unexcused):

Staff Present: Paul R. Crouser (Zoning Administrator)

The Chair called the meeting to order at 7PM

2. APPROVAL OF MEETING MINUTES OF JULY 18, 2024

Motion: Perry moved to approve the minutes of July 18, 2024 as amended. Seconded by Onufry.

Vote: 5 in favor with Perry abstaining

The Chair explained the hearing process.

3. HEARINGS

- A. * ZONE-2024-0034** Applicant: Boudreau Land Surveying (Owner: Richmond Street Properties, LLC), 17 19 Richmond Street, Tax Map 10, Lot 144, located in the Heritage Residential District (HR), requests a Variance from Section 170-12 HR District 3-4 Family Dwelling Creation, where 4 living units are allowed, to continue having 5 living units.

Scott Boudreau, Boudreau Land Surveying represented and presented the application explaining the current status of the parcel and the proposed plans requested. He could not address questions about the number of existing parking spaces or how many tenants or vehicles currently reside on the property. The owner/ landlord was not present.

Taylor Buxton, builder addressed the reason for the request to expand the structure and details of the proposal.

Discussion about the parking condition ensued. Staff agreed there is adequate space for the requested parking on site.

Public hearing opened

Lisa Meconi, 14 Richmond expressed concerns about developers not being held accountable for Heritage District restrictions. The street cannot support the added density, and the applicant does not need to request any variance to continue utilizing the property with 5 units.

Lori Holt, 9-13 West Concord St noted she does have adequate parking for her tenants. She expressed concerns about site lines and parking. She suggested the City paint parking lines on the street so there is adequate buffer at the driveways.



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Mike Lavoie, 3 Richmond street agreed with his neighbors that it's already dense and it's not best to expand the restrictions. What's the point of the restrictions, if we don't follow them.

Chair Prior asked about the current dwelling that will be razed- what are the issues.

The applicant representatives addressed the question noting the basement is collapsing and needs structural work before anything else can be done. The existing foundation on the attached structure is also failing and there is little/ no insulation. He further noted they are not proposing any additional units.

Perry asked if the Heritage Commission has heard the project yet. P. Crouser does not believe they have.

Tom Dolbec, 10 (12) Richmond St agrees with the neighbors about the parking issues. Backing in/out is not allowable in the Heritage District, but has to be done at this location. He asked when the fifth dwelling was approved/granted for occupancy. It used to be a garage. When did the other portion change to four units? There are Heritage District restrictions for architecture. Who oversees that those restrictions are met? He also asked if height is allowable to change in the district, as he does not think adding the second proposed floor is allowed. Further discussion occurred with staff addressing setback questions.

Continued discussion with staff and Mike Lavoie, 3 Richmond if the building is razed, does the applicant need to conform to the 4-unit restrictions which include building height, setbacks and parking setbacks. P. Crouser clarified that the portion being razed is attached to an existing 2-story structure, so it is not a change in height to that structure. The Chair further explained the request.

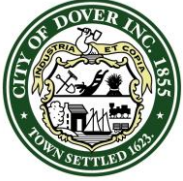
Perry noted he agrees with the resident that this request needs additional scrutiny as they are proposing removal and change to another nonconforming use. He also recommended the Heritage Commission review this proposal and make recommendations to the ZBA prior to the board making any decision.

Onufry noted there is a request to expand the size of the structure which challenges the legal status of the nonconforming piece.

P. Crouser explained his understanding of the Heritage Commission's role is to weigh in on historically valuable structures within the City.

Discussion among the board and staff as to when the 4th and 5th units were added and was it done legally. It will have to be looked up when it became 4 or 5 units, but they have been taxed as having 5 units for a number of years (likely 10+) and if there has been no enforcement by the City to reduce living units in that time, even if it wasn't done legally, it is a moot point.

P. Crouser noted no CUP criteria is under review tonight such as density or setbacks. The only reason the request is before the board is because of the rotting foundation. The applicant could leave it and expand it.



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Planning Department input: Staff neither supports nor opposes this Variance request, however, staff does question the legitimacy of the claim that a literal enforcement of the provisions in the Zoning Ordinance would result in an unnecessary hardship.

While the Applicant is not proposing any increase in density, they are proposing an increase to the addition's footprint by approximately 150 sf. Additionally, the existing structure in question could be completely renovated and remain a legal pre-existing nonconforming use. The Applicant, however, proposes a complete demolition of the existing structure and seeks to rebuild a larger addition in its existing footprint, which triggers current zoning regulations, necessitating the relief sought in this Variance Request.

Staff also wishes to highlight that the existing development on the subject property fails four (4) of the six (6) criteria subject to the approval of newly constructed or converted 3-4 family structures, namely, setback values for the structures and parking areas, screening of parking areas, and a single-family home aesthetic.

Should the Board move to grant the Variance request, staff recommends it do so with the following condition:

1. Vehicle parking for tenants shall exist entirely on-site, as opposed to on-street, at a value of two (2) spaces per dwelling unit, and shall be adequately screened from abutters, the plans for which shall be approved by the Planning Department

It was clarified that there is no specific requirement for parking for residential projects of this scale.
Public hearing closed

Motion: Perry moved to defer the application to the Heritage Commission for their advice whether the application meets their restrictions. Couturier seconded.

The Chair and Sillitta appreciate the motion, but are not sure the Commission's input would affect the request as it's just a change to the foundation.

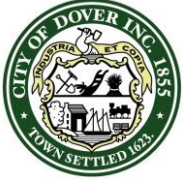
P. Crouser corrected himself that expansion is not allowed.

Vote: 2 in favor with Sillitta, Prior and Onufry opposed.

Motion: Onufry moved to deny the variance request as it does not meet the criteria in full. Hardship is not clear- the project can be completed without the expansion. Value of surrounding properties was not addressed and the ordinance itself is not being observed. Perry seconded.

Staff clarified the applicant can move forward with replacing what exists if the building inspector certifies there is a hazard present.

Vote: U/A



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- B. *ZONE-2024-0035** Applicant: Civilworks New England (Owner: 17-19 Summer Street Properties, LLC), Locust Street, Tax Map 12, Lot 35-1, located in the Heritage Residential District (HR), requests clarification of a previously approved 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.

Steve Haight, CivilWorks represented the applicant and presented the item. This Board previously approved an identical Variance request on July 18, 2024. However, within the Applicant's application and during the Applicant's presentation to this Board, they erroneously referred to the existing structure on 17-19 Summer Street as having three (3) existing dwelling units instead of four (4), the latter of which is the correct figure. The Applicant's intention in this subsequent Variance request is simply to correct the official record.

The Chair confirmed he reviewed the request from the previous meeting and the paperwork and there is this scrivener's error to be corrected and has no substantive weight.
Staff confirmed the only way to correct the record is to either re-open the original case, or file a new one.

Public hearing opened

Sara Treacy, 148 Locust st noted residents will lose yard space and will have to share a driveway if this is approved. She gave background on the City creating the Heritage District and its purpose. The structure is too large for the space and can't accommodate the parking needed for the units. Approving this parking CUP request will destroy the feeling and intent of the Heritage District. She requests the variance be denied and a smaller building with enough space for parking without need of a CUP is then proposed.

Mr. Haight addressed public comment noting the CUP will go before the Planning Board, it's not before this board. He gave details of the existing and proposed parking and setback request.

Planning Department input: Staff supports this Variance request without conditions as this Board previously approved an identical Variance Request on July 18, 2024, and no changes to said request have been made aside from correcting the scrivener's error. The applicant meets the parking requirement for number of spaces.

Public hearing closed

Motion: Perry moved to GRANT the variance as proposed. Sillitta seconded. Vote: U/A

4. OTHER BUSINESS

Perry turned in his resignation from the board at this time. He has really enjoyed his time on the ZBA. The board members stated their appreciation for his wisdom and training.

5. ADJOURN

Motion: Perry moved to adjourn at 8:16pm. Sillitta seconded. Vote: U/A