

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, May 15, 2025
Meeting Time: 7:00 pm

1. ATTENDANCE

Members Present: Rich Onufry, Nicholas Couturier, Jackson Brown, Hilary Hamer (Alternate)

Members Not Present: Chris Prior (Chair), Anthony Sillitta (Vice Chair)

Staff Present: Paul R. Crouser (Zoning Administrator)

Onufry called the meeting to order at 7PM and explained the hearing process.

He noted only four members of the board are present, which is a quorum, but applicants will be given the opportunity to move forward with their hearing tonight or postpone to another date. Three members will need to vote in favor for a hearing item to pass. In the event of a denial, the applicant cannot use the fact that there wasn't a full board present as reason for rehearing.

2. APPROVAL OF MEETING MINUTES OF APRIL 17, 2025

Motion: Couturier moved to approve the minutes of April 17, 2025 as submitted. Seconded by Hamer. Vote: U/A

3. HEARINGS

A. *ZONE-2024-0045 Applicant: Simon D. J. Macalister, 9 Maple Street, Tax Map 30, Lot 66, located in Urban Density Multi Residential District (RM-U), requests a Special Exception through Section 170-12, Conversion to, or creation of Dwelling, 3-4 Family criteria, to allow for the addition of three (3) new dwelling units to an existing single-family dwelling.

Steve Haight, CivilWorks represented the item and confirmed there are no changes to what is being requested from the last hearing. He addressed the criteria for special exception and noted the three units will be HUD-rate units and deeded as such.

The project will have to go to TRC and Planning Board for feedback and approval.

He highlighted details about parking, boundary lines, and landscaping.

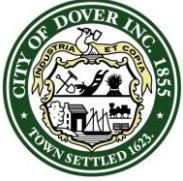
He addressed questions and comments from the board relating to: driveway width and parking (2 per unit proposed).

Public hearing opened:

Sam Hewitt, 5 Maple st noted he has a signed petition with 28 signatures from the neighbors in opposition to the project.

Attorney for Sam Hewitt, Roy Tilsley, Bernstein & Shur explained why he believes this project is not eligible for a special exception because of the non-conforming lot size requirements.

- 10,000 sq ft required, 9,998 existing means it's a preexisting, nonconforming lot and can't be developed
 - Allowed under certain circumstances
 - Structures allowed by right
 - Structures allowed by special exception are excluded



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Jonathan Payne, 2 Maple st explained the practical reality of the parking is that there can only be six spots on the property. Spots one and eight as drawn on the proposal are unusable. This will change the character of the neighborhood to add the three units proposed. There is no other structure similar in that area and the parking will overflow onto the street.

Shaun Page, 3 Maple st noted the plans don't seem to fit the neighborhood- old two-story homes with pitched roof. Nothing on the proposed plans blends it with the neighborhood. He also noted the street was recently changed to one-sided parking in the winter months which may affect the proposal. He also expressed concern about drainage and run-off.

Brian Akerley, abutter at 13 Maple st is concerned about parking. He also noted the recent change to the parking regulations on the street noting November-April there is no parking allowed on the odd side of the street. He also expressed concerns about lack of landscaping area for potential families living there.

Kyle Stanley, 4 Maple st is concerned about the size of the lot for too large of a project and parking (clarified December -April for parking ban).

Onufry clarified the only item for the Zoning Board to address is that there are two parking spaces per unit being provided by the applicant. All details about size and structure will go to TRC and Planning Board for review and approval. He discussed the definition of a neighborhood.

Don Ainsworth, 62 Grove st, abutter is concerned about the density, change to his view, and where the snow will be put.

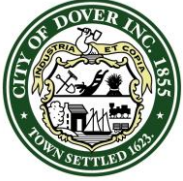
Mr. Haight addressed public comment:

- Size of the lot: calculation shows over 10,000 sq ft
- Parking
 - If they can't get the appropriate parking spaces required when they go for technical review, the number of units will need to go down accordingly
- Snow storage, stormwater and landscaping will all be reviewed during the TRC and Planning Board process

P. Crouser addressed the size of the lot, the zoning ordinance as written, Technical Review Committee personnel and process and amended language for the zoning ordinance draft.

Planning Department input: Staff supports this special exception request with conditions. Per the applicant's narrative, the property owner is willing to restrict the three (3) newly generated units to the applicable HUD Fair Market Rental rates, eliminating the need to comply with criteria A and E, with the project meeting all other criteria as-presented.

During the petition for rehearing and the public meeting that followed (in which this Board granted the rehearing) it was universally decided that the applicant/property owner in this project would be



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responsible for proving to the Technical Review Committee (“TRC”) that the project satisfied all applicable provisions within Site Review Regulations, Chapter 153, §§ 153-14 and 153-17

Staff recommends that this Board approve this Special Exception request, though Staff encourages it do so with the following conditions:

1. A Landscape Plan proving compliance with parking area screening requirements shall be submitted and approved by the Planning Department;
2. Proof of deed-restricted HUD Fair Market Rent rates for the three (3) created units shall be recorded at SCRD and submitted to the Planning Department prior to the issuance of any Certificate of Occupancy, and;
3. (Though redundant as the applicant is bound to adhere to Site Review Regulations Chapter 153, §§ 153-14 and 153-17 regardless) Applicant shall comply with all applicable sections of sections 14 and 17 within the City of Dover’s Site Review Regulations, as determined by the TRC, and shall implement any amendments or changes the TRC recommends pursuant to those two sections.

The applicant doesn’t have any issues with the proposed conditions.

Hamer addressed section B- no backing into the street- and after reviewing the plans cannot see how the criteria will be met.

P. Crouser noted TRC has engineers and fire safety staff in place to confirm if the criteria can be met.

Hamer noted that if the plan changes through the TRC process, the ZBA will not have an opportunity to review the changes and re-vote on the updated plans.

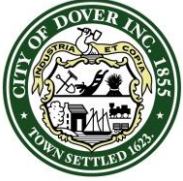
Brown inquired and P. Crouser clarified that the public is welcome to attend the TRC review, but there is no public forum to speak at the meeting. Written documents can be submitted in advance and applicants often speak to public members after the meeting.

Onufry noted with the information presented it does look possible to back out to the street, but easier to back up and pull forward onto the street.

P. Crouser listed several properties in the immediate area and how many units are on each site. The proposed plan will have to meet much stricter requirements than those properties did to have the additional units.

Motion: Hamer moved to deny the special exception based on requirement B not being met. Couturier seconded. Vote: 2 in favor with (2) Onufry and Brown opposed

Per ZBA operating procedures, if the motion does not meet majority (3 required) it will not prevail and a new motion must be made to set forth a decision.



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Motion: Brown moved to approve the special exception with the conditions specified by staff. No second was heard.

Motion: Couturier moved to table the item to the next meeting. Brown seconded. Vote: U/A
P. Crouser clarified the item will be re-noticed to be re-heard at the next meeting.

Item B was requested to be continued to the June meeting.

C. *ZONE -2025-0013: Applicant: 16 Industrial Park, LLC, 34 Industrial Park Road, Tax Map G, Lot 4-1, located in the Commercial Manufacturing District (CM), requests a Variance from Section 170-20F(3)(e) footnote (9) Solar/Green Roof Standard, to provide relief from the green roof requirement.

Steve Haight, CivilWorks presented the item and explained the proposal of a robust storm water management plan and mitigation for pollutants as a trade off rather than do a green roof. The acre of roadway that will be treated is a better option for the community than the 8000 sq ft of green roof that would be possible.

He addressed the variance criteria.

This plan has already gone to TRC for review and been approved at the Planning Board.

Mr. Haight responded to questions from board members relating to the amount of roadway to be treated, the new regulation for the green roof that other buildings on the street are not burdened by, and solar panel vs green roof option.

Public Hearing opened:

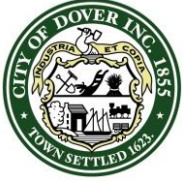
P. Crouser noted an email received to the office from the office of business development in support of the alternative presented. He highlighted significant points from the letter.

Mr. Haight also noted a letter of support from the City Engineer.

Planning Department input: The intent of the green roof / solar panel standard is to promote resiliency in the City and to promote progressive environmental best practices policies. In this case, the applicant has clearly shown that this project's above-and-beyond stormwater management plan provides, objectively, a greater benefit to the public than if it were to be compliant with the City's green roof standard. In conjunction with the fact that staff is in the process of developing a more comprehensive and equitable green roof / solar standard for large commercial properties, staff feels as though the applicant has met the intent of the ordinance while demonstrating hardship.

Staff recommends that this Board approve this variance request without conditions.

Motion: Couturier moved to grant the variance as presented as it meets the criteria. Brown seconded.
Vote: U/A



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D. * ZONE-2025-0014: Applicant: 5 Sherman Street, LLC, 46 Rutland Street, Tax Map 12, Lot 138, located in the Heritage District (HR), requests a Variance from Section 170-6, to allow for shorter frontage on the second street than is required in the Heritage Zoning District.

Hamer recused herself from the item due to a legal circumstance with the applicant.

Christopher Berry, Berry Survey and Engineering represented the applicant and presented the item. He requested that if the board has questions tonight that the applicant can't answer, they reserve the right to come back with answers. He described the location and existing attributes of the site. The proposal is to subdivide the lot into three. The proposal meets requirements for frontage and land size for all three lots. There is an interpretation that a corner lot needs to meet frontage requirements on both roads so the applicant is before the board to request a variance for a shorter frontage on the secondary road. Applicant does not believe the second road frontage is a necessary requirement. He provided details on the proposed frontages for the proposed lots.

Mr. Berry addressed the five variance criteria.

He gave additional detail to the board members regarding hardship and creative ways to create the subdivided lots verses the more appropriate way that is best for all parties.

Public Hearing Opened

Sheila Elia Rosevear, 39 Rutland St is concerned about keeping the integrity of the neighborhood. She has an arborist come every five years to maintain her trees, gets professional landscaping and created a retaining wall to prevent erosion. She has concerns about the kind of houses that will be put up and the wetlands. She is in opposition to the project.

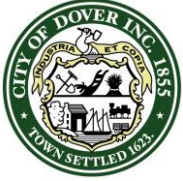
Liz Goldman, 44 Rutland St doesn't have an issue with the variance. The third parcel is oddly shaped and a good portion of it is wetland buffer. She wondered if the lot lines could be drawn in a way that impinged less on the wetlands.

Emerson Davis, 40 Rutland st read his concerns into the record regarding a negative impact to the neighborhood if approved. Applicant does not meet the criteria for hardship, spirit of the ordinance, does not need to subdivide to develop the lot, concerns about precedence and integrity of the HR district.

Lloyd Rosevear, 39 Rutland St is concerned about losing the maple tree he can see from his window and is opposed to the proposal.

Rebecca Gray, 52 Rutland st noted the subdivision is in conflict with the Heritage District and the wildlife promotion of the community trail. She would support two lots, but not three.

Laurie Smith, 36 Fisher st agrees with all previous speakers. The neighborhood has many unique lots and this proposal is not beneficial for the neighborhood. She itemized several recent or ongoing development



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projects in and around the district. She is opposed to the proposal and prefers the lot only be divided in half keeping one lot and adding one for development.

Justin Gray, 52 Rutland St would not like three lots there. He expressed concerns about the school, traffic, safety, other developments and impact to water and sewer lines.

Mr. Berry addressed public comment:

- Variance request is not for three lots- the denial of the variance will not reduce the subdivision plan. The lot meets criteria for three lots.
 - The purpose of the request is to provide a square lot on the corner which is preferred historically.
 - The lot can be created as a triangle, it just wouldn't be best for the neighborhood or future homeowners
- Wetlands – attempting to not bifurcate the wetlands at all and keep them on 46 Rutland
 - Wetlands regulations for subdivisions

Planning Department input: P. Crouser addressed and explained state and city wetlands regulations. He further gave feedback on the request for the requested seven foot reduction to frontage and the overall benefit for homeowners when their lots are clearly defined rather than ambiguously shaped. He addressed the hardship criteria and its relationship to benefit to neighborhood vs benefit to applicant.

Staff finds this request reasonable as three (3) of four (4) frontages will meet the minimum 80' and the fourth is only short seven (7) feet and the other frontage on that proposed lot has the minimum required. Staff feels criteria of the Variances have been met. Based on the evidence presented, Staff recommends that this Board approve this variance request without conditions.

Onufry commented that this property would be able to be subdivided into three lots without the variance.

P. Crouser explained the difference between an Historical Commission and Dover's Heritage Commission.
Public Hearing Closed

Motion: Couturier moved to grant the variance to allow the reduced frontage. Brown seconded. Vote: U/A

4. OTHER BUSINESS

Planning Board has posted a list of proposed zoning amendments. P. Crouser can send them to anyone who wants to review them.

5. ADJOURN

Motion: Couturier moved to adjourn at 8:48pm. Brown seconded. Vote: U/A