

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 17, 2025
Meeting Time: 7:00 pm

1. ATTENDANCE

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

Members Not Present: Anthony Sillitta (Vice Chair)

Staff Present: Paul R. Crouser (Zoning Administrator)

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

2. APPROVAL OF MEETING MINUTES OF FEBRUARY 20, 2025

Motion: Couturier moved to approve the minutes of February 20, 2025 as submitted. Seconded by Brown.

Roll Call Vote: Hamer-yes, Brown-yes, Couturier-yes, Onufry-yes, Prior-yes

3. HEARINGS

A. *ZONE-2025-0002 Applicant: Kurt Eddins c/o: Eddins Investments, LLC, located at 6 Milk Street, Tax Map 30, Lot 108, located in the Urban Density Multi-Residential District (RM-U), requests a Variance/Amendment from the Notice of Decision for ZONE-2024-0002, Conditionals of Approval, to remove “prohibiting alcohol” and to clarify applicability of conditions.

Kurt Eddins, owner presented the item and explained the request.

He highlighted the reasons for his request by touching on the zoning criteria explaining there is no Zoning mechanism to enforce this condition- the NH Liquor Commission is the governing body for the item. He is asking for the property to be on a level playing field with other downtown businesses which don't have this condition in place.

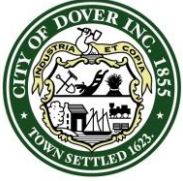
The board asked some follow up questions which the applicant addressed.

- Business opening date
- Reason for the request for change if business is going well
- How would BYOB be monitored
- No renters under 21
- Layout of the building spaces
- Request is for BYOB, not to have a liquor license
- Parking for proposed events

Public hearing opened:

Mr. and Mrs. Martinez, 10 Mount Vernon St noted there have been no parking issues, the applicant is a great neighbor, the events are focused on the music.

Ben Goldbrich, 100 First St Apt 307 utilizes the space as a tenant and everything is run very well. He is comfortable with his equipment there. There is plenty of security and all positive experiences.



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 17, 2025
Meeting Time:	7:00 pm

Planning Department input: Staff neither supports nor opposes the relief sought in this request. Staff does find that the relief sought is more than reasonable given the following:

1. Alcohol use is not expressly prohibited in the RM-U district, which in fact grants the use of Assembly Hall by right, a use commonly associated with alcohol; and
2. Presuming alcohol consumption takes place indoors, enforcement of the condition is difficult

Should this Board move to deny the Variance request before it today, staff recommends making a formal clarification on the record, to be issued in writing via a Notice of Decision from staff, that the conditions of the variance shall only apply to areas of the existing structure subject to the variance relief granted in the underlying 02/15/2024 variance.

The board discussed an option of allowing the request conditionally that it be indoors only.
Public hearing closed.

Motion: N.Couturier moved to grant the amendment to the Conditions of Approval of ZONE 2024-0002 to remove “prohibiting alcohol” from the variance conditions with the added condition that alcohol consumption may only take place indoors. Onfry seconded.

Roll Call Vote: Hamer- yes, Brown-yes, Couturier-yes, Onufry-yes, Prior-yes

Item B was withdrawn.

C. *ZONE-2024-0045R Request for Rehearing of ZONE-2024-0045, Applicant: Sam Hewitt, through counsel, requests a rehearing of the variance granted on December 19, 2024 in which the owner of 9 Maple Street, Tax Map 30, Lot 66, located in Urban Density Multi Residential District (RM-U), was granted 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.

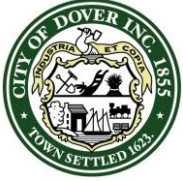
The Chair noted the packet of information was provided in advance. In order to grant a rehearing, the board needs to determine: 1) is there new information available that wasn’t available at the time of decision or, 2) was a mistake made in the interpretation leading to a decision made in error.

Staff explained the history of the item having been approved with the condition that the application go to Technical Review Committee.

Staff addressed some of the points laid out by the attorney in the letter:

- Language in 170-14 zoning ordinance: structures allowed by right, but not allowed by special exception may be erected on any non-conforming lot of record
- Applicability and enforceability of the City’s Technical Review Committee (“TRC”),

The Applicant would argue that §170-14 precludes any use permitted by special exception from any non-conforming lot within the City. Staff disagrees. When examining §170-14 in its totality, it is clear that it is



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 17, 2025
Meeting Time:	7:00 pm

permissive in nature, not prohibitive, serving to provide relief of underlying dimensional regulations for nonconforming lots. Staff asserts that the language the Applicant cites simply precludes uses permitted only via special exception from utilizing the relief afforded under §170-14.

The Applicant argues that per criterion B of the special exception criteria, which states “Off-street parking, in accordance with Chapter 153, Site Review, shall be provided as to avoid vehicles backing into the street. Two (2) parking spaces per unit shall be required.”, mandates comprehensive compliance with Chapter 153, Dover’s Site Review Regulations. The Applicant also notes that while this Board did require TRC review, it was unclear as to the enforceability of any potential TRC comments which could render the construction of the 4-family structure impossible without decreasing size, unit count, etc. In this regard, Staff does agree.

Per §170-56 of the Zoning Ordinance, “The following conditions shall apply to all parking and loading spaces provided in conformance with this chapter: A. Conformity with the Site Review Regulations, Chapter 153, §§ 153- 14 and 153-17, site development criteria.”

Staff interprets this section of the Zoning Ordinance to mean that in any instance in which this Board’s review for any agenda item expressly contemplates either parking or loading spaces, that §§ 14 and 17 of Chapter 153 must be met in all instances where applicable. Staff disagrees, however, with the Applicant’s assertion that it was the property owner’s burden to show compliance with the aforementioned sections in order for this Board to render a decision as to grant or deny the special exception request. The responsibility for such review is expressly under the preview of the TRC or Planning Board as this Board does not have field-specific, technical knowledge to make such determinations.

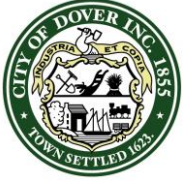
Staff recommends that this Board grant the request for rehearing, though solely on the grounds of clarification as to the conditions of approval re: compliance with Chapter 153, §§14 and 17 is needed.

Chair Prior addressed the rehearing request. Upon reviewing Chapter 153:14 design and the design plan, the parking spaces provided are in compliance, but the right of way is 18’ where 22’ is required which makes the plan not compliant with 153:14. He believes he made an error in granting the special exception. In addition, the board’s lack of clarity in what the TRC comments would result in is rationale to grant the rehearing request.

He further noted that he supports staff comments and the rehearing would be for the sole purpose of clarification of the conditions of approval with Chapter 153: 14 and 17, not a rehashing of the dimensional aspects, though P. Crouser noted that the Board could not restrict any testimony or argument therein at the rehearing, and must consider all in their ruling.

P. Crouser further explained the language of the zoning ordinance for the board upon request. It was clarified that if the board grants the rehearing, the approval previously granted is revoked, the rehearing is granted, and the item will have to go before TRC.

Motion: N. Couturier moved to grant the rehearing. Brown seconded.



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 17, 2025
Meeting Time: 7:00 pm

Roll Call Vote: Hamer- yes, Brown-yes, Couturier-yes, Onufry-yes, Prior-yes

Item D was not heard.

E. * ZONE-2025-0007 Applicant: Spruce Building and Development (Owners: The Davis Family Trust), located at 110 Spruce Lane Extension, Tax Map J, Lot 4-2, located in the Rural Residential District (R-40), requests a Variance from Section 170-24, to allow for an accessory dwelling unit that exceeds the size requirements of 700 sf to 960 sf

An owner representative represented the item and reviewed the criteria for variance.

- Design will be harmonious with the neighborhood
- ADU is for aging parents- could not get the design to work within the regulations as part of the existing home

Board members asked clarifying questions about the size and layout and subdivision/ conservation area/ property line clarification which were addressed by the representative and the owner.

Public Hearing Opened

No one spoke

Planning Department input: Staff wishes to highlight the fact that it has already recommended to Planning Board that the maximum size of an ADU should be increased from 800 s.f. to 950 s.f., and while this proposal exceeds that value by ten (10) feet, staff feels such an increase is negligible.

As Staff has recommended that the maximum size of ADUs should be increased, staff supports this variance request with one condition, which is as follows:

1. Relief granted in this variance approval shall only apply to the ADU presented in the plan set provided with this variance application.

Public Hearing Closed

Motion: Onufry moved to grant the variance to allow the ADU to 960 sf with the condition provided by staff. Brown seconded.

Roll Call Vote: Hamer- yes, Brown-yes, Couturier-yes, Onufry-yes, Prior-yes

4. OTHER BUSINESS

New alternate member Hilary Hamer introduced herself.

5. ADJOURN

Motion: Chair Prior moved to adjourn at 8:08pm. Couturier seconded. Vote: U/A