

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, January 15, 2025**
Meeting Time: **7:00 pm**

1. ATTENDANCE

Members Present: Anthony Sillitta (Chair), Nicholas Couturier (Vice Chair), Jackson Brown, Rich Onufry, Hilary Hamer (Alternate), Nicole Morin (Alternate)

Members Not Present: Chris Prior

Staff Present: Paul R. Crouser (Zoning Administrator)

Chair Sillitta called the meeting to order at 7PM.

2. APPROVAL OF MEETING MINUTES OF DECEMBER 18, 2025

Motion: Couturier moved to approve the minutes of December 18, 2025 as submitted. Seconded by Brown. Vote: U/A

3. HEARINGS

A. ZONE-2025-0040 Request for Rehearing of ZONE-2025-0038, Applicant: Scott Hogan, Esq., requests a rehearing of the variance granted on November 20, 2025 in which the owner of 18 Pearson Drive, Tax Map L, Lot 46-M, located in the Lot Density Residential District (R-20), was granted a Variance through **Section 170-12(B)**, to allow for the construction of an addition to an existing single-family home to create a two-family dwelling where the minimum lot area for such a project requires 30,000 s.f. of lot area, whereas the existing lot has only 17,224 s.f.

Hamer declared an attorney/client relationship with the counsel who presented the matter so recused herself from the item.

Sillitta noted Morin will be a voting member for the item.

Sillitta explained the rehearing request procedures and timelines if granted.

Background:

On November 20, 2025, Fergus Cullen, the owner of 18 Pearson Drive, was granted a variance from sections 170-11(B) and 170-12(B) of the Zoning Ordinance, to allow for the construction of an addition to an existing single-family home, to create a two-family dwelling where the minimum lot area for such a project requires 30,000 s.f. of lot area, whereas the existing lot has only 17,224 s.f. Mr. Cullen asserted that the proposed construction of a second unit constituted a conversion of an existing single-family structure, which, given the lot's and units' size, would be permitted by right. Staff viewed the expansion, which effectively doubled the existing square footage, to be a creation, and thus made an administrative decision to the same effect which necessitated the variance relief. Substantial evidence in support of the variance, and more so, the lack of public benefit in denying the variance, were discussed on the record of the 11/20/2025 meeting, which include the ambiguity of "conversions" vs. "creations" within the ordinance, existing dimensional nonconformities present on the lot, and the numerous alternatives available to the property owner which would yield the same, and in some cases more, units (and therefore impacts) than the project's proposal – all of which would be permissible by right and would not be subject to ZBA review.



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, January 15, 2025**
Meeting Time: **7:00 pm**

Board members discussed the request for rehearing:

Onufry: Does not find a valid point for a rehearing within the materials presented by the applicant. Stated that many of the points brought up in the rehearing request failed to prove that the Board deliberated or voted in a way in which they were not legally permitted. The rehearing request failed to identify a good reason for which the rehearing should be granted.

Brown: Stated that he concurred with all of Onufry points which were just stated. He then sought clarity as to whether the Chair was within the rules by making the request to grant the variance himself. P. Crouser confirmed as a voting member he was within his rights to make a motion.

Motion: Couturier moved to deny the rehearing request as the board does not find a reason for a rehearing was established. Seconded by Onufry. Vote: U/A

B. ZONE-2025-0039 Applicant: 6 Brick Road, LLC, 1-24 Jefferson Drive, Tax Map 28, Lot 9-C, located in the Office District (O) and Gateway District (G), requests a Variance from Section 170-12(B), Office District Table of Uses, footnote 4, to permit residential dwelling units in the first floor of a newly constructed structure.

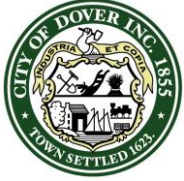
The Vice Chair noted Morin will be a voting member for this item.

The subject parcel for this variance request is located on Jefferson Drive, a private development located off of Brick Road. The development consists of 24 townhouse units with parking and related infrastructure, the original plan for which (P11-42) was approved by the Planning Board on October 26, 2011, with preceding variances to permit the same relief sought currently being granted on June 16, 2011.

On September 16, 2023, the Planning Board approved a lot line adjustment plan which merged a vacant 8,000 s.f. parcel within the Gateway District to the subject parcel (1-24 Jefferson Dr.), which falls within the Office District, thus creating a singular split-zoned parcel.

Given that the property now has additional developable area, the owner is seeking to construct six (6) additional townhouse units, three (3) which fall within the Office District and three (3) within the Gateway District. While the units within the Gateway District are permitted by right, those within the Office District, as they were back in 2011, are approved only if located in the second story or higher of a newly constructed structure, thus necessitating the variance.

Bob Stowell, TriTech Engineering presented the item and explained the history of the project and the request for variance for the additional units proposed now that additional land has been acquired.



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

Public Hearing opened.
No one spoke
Public Hearing closed.

Staff recommendation: Staff supports the granting of this variance request for two core reasons. First and foremost, the same variance relief was granted at this project's inception. Existing precedent of the same variance relief on the same property and same zone in and of itself is justification for approval in Staff's Opinion.

Secondly, to force a non-residential use in the first floor of three (3) new buildings in a 24-unit, all residential development is not in keeping with the spirit of the ordinance. Staff would question the viability of any sort of commercial use on the first floor of the proposed structures due to the seclusion of the residential neighborhood, the opposition to increased traffic by the neighborhood's residents, and the lack of commercial visibility for potential tenants being setback from Central and tucked into a residential development.

Based on the evidence presented, Staff recommends that this Board approve this variance request with a single condition:

1. Any existing site lighting spillover onto abutting properties shall be remedied to the satisfaction of the Planning Board during the Site Review process.

Board discussion:

Hamer: supports the variance request as commercial units in that area would not work. That part of the parcel is not even visible from the road.

Motion: Couturier moved to grant the request based on legal precedent and the criteria having been met through the packet presented with the condition provided by staff. Brown seconded. Vote: U/A

4. OTHER BUSINESS

Organizational meeting:

Motion: Sillitta moved to nominate Chris Prior for Chair. Couturier seconded. Vote: 6 in favor

Motion: Couturier moved to nominate Sillitta for Vice Chair. Vote: 6 in favor

The board discussed administrative preferences for attendance.

5. ADJOURN

Motion: Hamer moved to adjourn at 7:20pm. Couturier seconded. Vote: U/A