

July 2, 2006

Zoning Board of Adjustment
City of Dover Dept of Planning and Community Development
288 Central Ave
Dover NH 03820

RE: ZONE-2026-0014 – 53-55 Cataract Avenue (Map 14, Lot 6)

Dear Chairman Prior:

Consistent with my timely notice to staff on June 11, 2026, please accept this Motion for Rehearing of the ZBA's May 21 decision to deny application ZONE-2026-0014.

I want to start by apologizing to the Board. When I filed my initial application on April 30, I did so believing I would have my existing conditions survey in time for the May 21 hearing. When it became apparent the survey analysis was taking longer than expected and would not be complete in time for the hearing, I should have asked for a continuance. In hindsight, I rushed the process and asked the Board to make a decision without all the information you needed to make that decision an informed one. I apologize.

Dover Code Chapter 172-52 (D)(1) states the ZBA may grant a rehearing "if, in its opinion, good reason therefor is said in such motion." That is, your review and consideration of this motion is not limited to matters of process. You may consider other factors, including the availability of new information.

In making the motion to deny the application, ZBA member Rich Onufry stated, "I don't have enough information." In seconding that motion, ZBA member Nick Courturier also cited "not enough information." Inadequate information about the exact placement of the proposed lot line, and its impact on setbacks between proposed lots and structures, underlay concern expressed by ZBA Chairman Chris Prior during the hearing. Chairman Prior also asked whether an engineer's assessment of the existing structure known as 55 Cataract was available to support the applicant's statement that the structure is beyond saving and needed to be demolished. Chairman Prior ultimately voted for the motion to deny, which passed on a 3-2 vote.

I can now furnish that information.

1. Attached to this letter is the completed Existing Conditions survey of the lot. The Board can now see the exact square footage (19,264 sq ft), frontage (193 ft), setbacks, and a proposed lot line that were only estimates before.
2. Also attached is a copy of the inspection report, with photos, documenting the condition of the structurally unsound foundation that requires 55 Cataract to be demolished – resulting in a hardship for the property owner and the loss of a housing unit for the

community. Note the survey shows this existing structure intrudes on the setback to the property to the left; demolishing it will bring the property into compliance with that setback.

Thirdly, staff and Board members expressed concern about the total number of variances requested (4) and the potential for future additional variances related to setbacks between potential lots and structures.

This application presents an unusual situation in which there are different ways potentially to subdivide this lot. Option 1, which was proposed in the original application, is to create lots of equal size, which would require four variances (two lots of less than 12,000 square feet and with less than 100 feet of frontage). Option 2, which I propose as an option for the Board to consider, is to create unequal lots, which would require fewer variances. Option 2-A could create one lot fully compliant with zoning – that is, having 12,000 square feet and 100 feet of frontage – and one lot that is not, requiring only two variances. Option 2-B could create one lot with 100 feet of frontage but less than 12,000 square feet, which would require a total of three variances.

As the Existing Conditions survey shows, these options allow for a second single family home on a new lot that meets setback requirements between lots and structures without the need for future variances, which addresses a concern raised by Board members.

Your applicant is basically indifferent about where a potential lot line is drawn – and would welcome direction from the Board as to where to draw the line, if the Board has a preference it could support. While this came up at the May 21 hearing, it was impossible for the Board to explore this question in absence of the existing conditions survey.

For these reasons, I seek a rehearing of this application. Alternatively, if the Board wishes to invite a new application proposing unequal lots, your applicant would be happy to follow that path instead.

Respectfully,

A handwritten signature in black ink, appearing to read 'Fergus Cullen', with a stylized flourish at the end.

Fergus Cullen, Bondcliff Holdings LLC
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