



CITY OF DOVER

## DOVER ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting  
Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820  
Meeting Date: **Thursday, November 15, 2007**  
Meeting Time: **7:00 pm**

### 1. ATTENDANCE

- Members Present: Richard Callaghan, Sam Reid, Bill Colbath, Otis Perry, Jim Kelley, Masi Denison
- Members Absent: Frank Landford
- Staff Present: Tom Clark; Building Official, Jean Glidden; Recording Secretary

### 2. APPROVAL OF PRIOR MINUTES OF OCTOBER 18, 2007

**Motion:** Perry made the motion to accept. Reid seconded. Vote: U/A

### 3. OLD BUSINESS

- A. Continuation of deliberations regarding case #Z05-35 Neal A. Hubbard, Earl St., a/k/a Tax Map 40, Lot 12, zoned Office & R-12, requests a Variance from the terms of Article V, Section 170-16, to subdivide a parcel into 2 lots, one with frontage of seventy-five (75) feet along a public right of way, where a minimum of one-hundred (100) feet is required.

*Note: This item was initially discussed at the meeting of October 18, 2007*

Callaghan stated that a special meeting took place on November 8, 2007, at which point the Board did a straw vote and two members of the ZBA were appointed to put together the findings of fact in draft form. He stated that he regrets at this point that the information has not been completed in time for this meeting. This will have to be postponed to another special meeting or to the next regular meeting.

Perry stated that the motion was to table this, so it sits there until we make a motion to remove it. He prefers to wait for the regular meeting. All members agreed.

Callaghan announced that they would continue deliberations to the December meeting.

He proceeded to explain to the general public how the case is presented to the ZBA. In order to receive an approval by this Board you would need three out of the five votes of each of the five criteria in your favor.

Reid announced that he noticed that Mr. Stowell, with Trittech Engineering is present and stated that he has a business relationship with him. He believes that he can be objective in hearing the case, as Mr. Stowell is not the applicant, but would step down if anybody objects to him voting on the case. Nobody voiced a concern.

Callaghan also announced that his daughter is a Legal Assistant for Attorney Bruton at the Law Firm representing the applicant. If anybody has an objection with him voting, he would step down. Nobody voiced a concern.

*Callaghan, Colbath, Denison, Reid, and Perry will be voting.*



CITY OF DOVER

## DOVER ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting  
Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820  
Meeting Date: **Thursday, November 15, 2007**  
Meeting Time: **7:00 pm**

### 4. NEW BUSINESS

- A. \* Z 07-17 Aranosian Oil Co., Inc., 52 Central Ave., a/k/a Tax Map 15, Lot 71, zoned B-3, requests a Variance from the terms of Article V, Section 170-16, to construct a canopy within thirty (30) feet from a front property line as it abuts a street and within twenty-five (25) feet from a side property line as it abuts a street, both where a minimum of fifty (50) feet is required.

Attorney Malcolm McNeill represented the applicant. The site consists of .63 acres and has been used as a gasoline station since the 1960's. He described the existing conditions and the abutting properties as shown on the plan. The present canopy that obtained a variance in 1999 is located 17 ft. from Central Avenue and the proposed canopy would be 30 ft. back from Central Avenue. There are two access ways presently on Central Avenue. There is access off from Locust Street and does not appear to be the major access area but has been a longstanding point of access. The proposed use would move the canopy to an area that lines up with one entryway on to Central Avenue and the other entryway being eliminated. In terms of the impact on Central Avenue, it will be diminished. In terms of Locust Street, the canopy is located with 25 ft. at its closest location. The canopy is moved further away from the house that is closest to the facility. The applicant proposes to completely redo the existing gas station and turn it into a 21<sup>st</sup> Century gasoline filling station that in essence is a convenience store with self-service gasoline. There will be four fueling stations under the canopy. A canopy is a necessary component of a self-service gasoline station. There will also be continuing access on Locust Street. In terms of the impact of the component of the commercial use, all of it is being move towards a use that is compatible and moving away from the most impacted residential use on the site. The only relief request relates to the canopy. In terms of impacts as it relates to property value, this is an upgrading of the facility, the Planning Board will require landscaping, and they will require reasonable buffering to the property. The underground tanks will be removed and taken up to current standards. It represents an improvement of the site. The Planning Department has presented a memo in support of the variance request (copy in file). Photos of the existing conditions of the gas station were submitted for the file. Paul Kinney from Aranosian Oil and Bob Stowell with Tritech Engineering is present to answer any questions. The proposal is to eliminate the existing outdated gasoline station and repair facility, and replace the facility with a new and modern architecturally appropriate gas station and convenience store. The canopy would clearly be more attractive in terms of its design and less impacting to surrounding properties. In 1999, the Board found that 17 ft. of setback for this particular site and canopy worked and we think we are improving upon that. It will upgrade the facility. We will also provide for reasonable access into the site and diminish the number of access points and impacts onto adjoining properties. No abutters are present which shows that they are not concerned with the impact of their property. This particular use moves the offending structure away from incompatible structures in a constructive way and also reduces curb cuts and increases the functionality of the site. There is no downside to anything that will be done here. This site will be subject to review from sighting, buffering, lighting, traffic flow, and all of the things at the Planning Board level.

**Motion:** Perry made the motion to accept. Reid seconded. Vote: U/A



CITY OF DOVER

## DOVER ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting  
Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820  
Meeting Date: **Thursday, November 15, 2007**  
Meeting Time: **7:00 pm**

Public Hearing Open

In favor or against – no comment

Planning Departments recommendation

Clark read the memo that was submitted for the file from the Planning Department, which states that they support the variance request (copy in file).

Public Hearing Closed

### FINDINGS OF FACT: AREA VARIANCE

**1. The applicant was to provide proof that special conditions exist and that literal enforcement of the ordinance would result in an unnecessary hardship.**

**a) AREA: i.** Did the Applicant demonstrate that an area variance is needed to enable the proposed use of the property given the special conditions of the property? Yes, Vote U/A. This conclusion is based on the following findings of fact: Size, location and shape of the lot creates a unique hardship.

**ii.** Did the Applicant demonstrate that the benefit sought cannot be achieved by some other method reasonably feasible to pursue, without the area variance? Yes, Vote U/A. This conclusion is based on the following findings of fact: Installation of canopy cannot be done without a variance.

**2.** Did the Applicant provide proof that demonstrates how granting the variance will result in substantial justice? Yes, Vote: U/A. This conclusion is based on the following findings of fact: Allows reasonable and continued use of the property as it exists.

**3.** Did the Applicant provide proof that demonstrates how a variance would be consistent with the spirit and intent of the ordinance? Yes, Vote U/A. This conclusion is based on the following findings of fact: Proposed location of new canopy will have less of an impact on the abutters than the current canopy.

**4.** Did the Applicant provide proof that demonstrates the variance will not result in a diminution in value of surrounding properties? Yes, Vote: U/A. This conclusion is based on the following findings of fact: Other businesses are the primary abutters plus a change from service garage to a convenience store has less of an environmental impact.

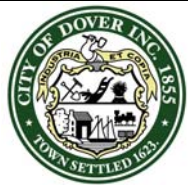
**5.** Did the Applicant provide proof that demonstrates the variance would not be contrary to the public interest? Yes, Vote: U/A. This conclusion is based on the following findings of fact: Public interest is served by lessening the nonconformance of the canopy, reducing the number of entrances on Central Avenue, and improving the aesthetic of a gateway into the city.

Perry suggested attaching the condition that the one access on Central Avenue will be removed.

Attorney McNeill said that he would agree with a condition to remove one of the entrances on Central Avenue.

After a brief discussion regarding the condition, Callaghan read what the following condition would be if approved and if agreed upon by all members of the Board.

1. The number of entrances to Central Avenue shall be as presented.



CITY OF DOVER

## DOVER ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting  
 Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820  
 Meeting Date: **Thursday, November 15, 2007**  
 Meeting Time: **7:00 pm**

**Motion:** Perry made the motion to grant with the condition. Reid seconded. Vote: U/A

Therefore, based upon the foregoing, it is ordered that the application for the variance be granted.

### 5. OTHER BOARD BUSINESS

#### A. Administrative Workshop

No discussion took place.

### 6. ADJOURN

**Motion:** Perry made the motion to adjourn at 7:40 p.m. Reid seconded. Vote: U/A

#### List of Members

#### Term Expires

Richard Callaghan-regular member	04-13-09
William Colbath-regular member	10-23-09
Frank Landford-regular member	04-10-08
Masi Denison-regular member	01-24-10
Sam Reid-regular member	11-12-09
Otis Perry-alternate member	02-08-09
Jim Kelley-alternate member	05-23-10