

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 20, 2008**
Meeting Time: **7:00 pm**

1. ATTENDANCE

- Regular Members Present: Chair Masi Denison, Vice Chair Bill Colbath, Jim Kelley, Sam Reid, Frank Landford
- Regular Members Absent:
- Alternate Members Present: Chris Prior, Otis Perry
- Staff Present: Rick Jones, Zoning Administrator and Jennifer Bretz, Recording Secretary

Meeting called to order at 7:01 pm.

Perry sat in for Landford.

Landford was present at 7:15 pm.

2. APPROVAL OF PRIOR MINUTES OF OCTOBER 16, 2008

On pg. 3, Kelley wanted “some amount of property” changed to “some number of property owners”.

Motion: Colbath made the motion to approve the minutes with changes, Perry seconded. Vote: U/A. Reid abstained.

3. OLD BUSINESS - NONE

4. NEW BUSINESS

- A. * **Z 08-25 171 Watson Road of Dover Holding Corp.**, Sixth St., & Education Way, a/k/a Tax Map E, Lot 27-D, zoned ETP, requests a Variance from the terms of Article IX, Section 170-32.D(1), to locate a freestanding sign off site.

Wendy DeCroteau, Facilities Project Coordinator for Measured Progress, stated Measured Progress and 171 Watson Holding Co. own two lots of property, E-27B and E-27D. The main entrance of Education Way is located on Lot E-27D. They are requesting to put their main entrance sign on Lot E-27D. It is a single sided, externally lit, main entrance sign that would run parallel to Sixth Street.

Discussion ensued regarding the location of Lots E-27B and E-27D.

Reid asked if Measured Progress was the owner of the area where the sign would be located.

DeCroteau stated it was an easement that was purchased from CJM Inc. for the utilities and signage. A copy of the easement agreement was with the application.

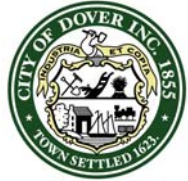
Colbath asked who owns the land where the sign would be located.

DeCroteau stated it is part of the Measured Progress lot, Lot E-27D.

Colbath stated you're asking to put a sign on the property that you own.

DeCroteau stated she was told they have to apply for a variance because their two main buildings are located on Lot E-27B. Measured Progress's Master Plan has them building another building on Lot E-27D.

Motion: Kelley made the motion to accept the application, Perry seconded. Vote: U/A.



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Denison asked why the Zoning Board is discussing easements if the land is owned by Measured Progress.

DeCroteau stated they needed to apply for a variance because their main buildings are on Lot E-27B.

Denison asked why Measured Progress wouldn't do a Lot Line Adjustment. A variance is usually the last step to take. You try to come up with alternate solutions before applying for a variance. In order to get a variance you have to say you've tried other alternatives and they are not feasible.

DeCroteau stated she was told by Measured Progress management that they would not want to attempt a Lot Line Adjustment due to the fact that Measured Progress had done it a couple of years back. The management felt that the variance was the easier route to go instead of a Lot Line Adjustment.

Denison stated a sign could be placed before the intersection.

DeCroteau stated it would capture all of the traffic from one side but not the other.

Public Hearing Open

Jones stated the Planning Department does not support the request due to the fact that they have not tried any other options. Another option was to put the sign further back on Education Way.

Denison asked why they wouldn't place the sign further back from Education Way.

DeCroteau stated they would like to make that their main entrance sign. They have a lot of visitors that would be coming from Sixth Street. They do have a sign where the Planning Department is proposing but you can not see the sign from the lights located on Sixth Street.

Reid stated the ETP zone does not have provisions for a sign. There are alternatives. If their Master Plan is to have a large campus, why do they need two separate lots? He stated that he likes the area of the sign but he's concerned about the fact that there are simple acts that would remedy the issue.

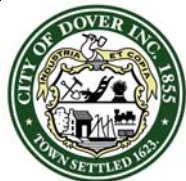
Public Hearing Closed

Kelley stated there are other alternatives. A variance would be altering the zoning.

Denison stated it makes it hard to get past the hardship criteria. By definition it needs to be something where alternatives have been exhausted. Given that they have the alternatives of lot line adjustments or combining the lots, it makes it tough to say that the criteria have been met.

Kelley stated he assumes that it is a cost reason. To make an application and get a variance done, to redefine lot lines is a legal process that is more expensive.

Colbath asked Jones why DeCroteau was told to get a variance.



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Jones stated the only avenue for Measured Progress to put the sign on the property where they want to locate the sign is to come before the Zoning Board for a variance because it is not on the same lot that Measured Progress is on.

Colbath confirmed with Jones that if they were to put something on the other lot related to Measured Progress, than they wouldn't be here. Colbath asked if lot E-27D was a conforming lot to the ETP zone.

Jones stated it is. He doesn't know why they are keeping the two lots separate. Their Master Plan is to build another complex out there but that isn't why they are here. They're here because they are trying to do off site advertising.

Reid asked Jones if someone were to abandon their lot line, is it as simple as filing a document stating that you would be merging lots A and B.

Jones stated that is the case. It would then get recorded with the Registry.

Perry stated if there was a subdivision that created the lots, they would have to go back to the Planning Board to un-create the lots.

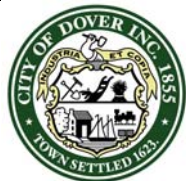
FINDINGS OF FACT: USE VARIANCE

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) USE: i.** Did the Applicant demonstrate that the ordinance interferes with the reasonable use of the property, considering their unique setting of the property in it's environment? No, Vote: U/A. This conclusion is based on the following findings of fact: The property owner has alternative options available.
- ii.** Did the Applicant demonstrate that no fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific restriction of the property? No, Vote: U/A. This conclusion is based on the following findings of fact: The property owner has alternative options available.
- iii.** Did the Applicant demonstrate that the variance would not injure the public or private rights of others? No, Vote: U/A. This conclusion is based on the following findings of fact: It could impact other pending sale of lot.
- 2.** Did the Applicant provide proof that demonstrates how granting the variance will result in substantial justice? No, Vote: U/A. This conclusion is based on the following findings of fact: They have the ability to locate signage elsewhere, adjust lot lines or combine lots.
- 3.** Did the Applicant provide proof that demonstrates how a variance would be consistent with the spirit and intent of the ordinance? No, Vote: U/A. This conclusion is based on the following findings of fact: A variance would violate the intent of the ordinance given that multiple alternatives exist.
- 4.** Did the Applicant provide proof that demonstrates the variance will not result in a diminution in value of surrounding properties? No, Vote: U/A. This conclusion is based on the following findings of fact: No evidence was presented.
- 5.** Did the Applicant provide proof that demonstrates the variance would not be contrary to the public interest? No, Vote: U/A. This conclusion is based on the following findings of fact: No evidence was presented and alternative options exist.

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

5. OTHER BOARD BUSINESS



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A. Review of Acceptable Use Policy.

City Attorney Allan Krans passed out the Acceptable Use policy and a letter from the City Manager Michael Joyal which stated he encourages the Board to use their City e-mail for City business. Private e-mail is for private business, City e-mail is for City business. Dover is an open and transparent government. Atty. Krans went over the policy.

Zoning Board members asked Atty. Krans questions regarding the Acceptable Use policy.

B. Possible vote on the proposed changes to the Rules of Procedure for ZBA.

Denison went over the proposed changes made by Denison and Perry.

Discussion ensued regarding the proposed changes.

Motion: Perry made the motion to adopt the Rules of Procedure with the changes, Reid seconded. Vote: U/A.

6. ADJOURN

Motion: Denison made the motion to adjourn at 8:42pm, Colbath seconded. Vote: U/A

List of Members

Masi Denison-regular member
 William Colbath-regular member
 Frank Landford-regular member
 Sam Reid-regular member
 Jim Kelley-regular member
 Otis Perry-alternate member
 Chris Prior-alternate member

Term Expires

01-24-10
 10-23-09
 04-12-11
 11-12-09
 05-23-10
 02-08-09
 02-01-11