



**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: **November 19, 2009**  
Meeting Time: **7:00 pm**

### 1. ATTENDANCE

- Regular Members Present: Chair Masi Denison, Vice Chair Bill Colbath, Jim Kelley, Sam Reid
- Regular Members Absent: Frank Landford
- Alternate Members Present: Otis Perry
- Alternate Members Absent: Chris Prior
- Staff Present: Christopher Parker; Planning Director and Jean Glidden; Recording Secretary

Meeting called to order at 7:00 pm.

### 2. APPROVAL OF PRIOR MINUTES OF OCTOBER 15, 2009

New final page with member's terms was presented for substitution.

**Motion:** Reid made the motion to approve the minutes with the submitted page. Perry seconded. Vote: U/A.

### 3. OLD BUSINESS – NONE

### 4. NEW BUSINESS

- A. Z 09-15 Montgomery R. Childs, Trustee, (Applicant: Steve Wood c/o Chris Boldt, Esq.), 20 Kings Highway, a/k/a Tax Map N, Lot 8A, zoned R-40, requests relief from Article IV, Section 170-12, which requires a minimum of 150' road frontage to subdivide an 11 acre, non-buildable, conservation parcel from the main 42 acre parcel. The proposed 11 acre lot lies along the Cochecho River and will have no road frontage.

Attorney Chris Boldt, Donahue, Tucker and Ciandella, represented the applicant and asked for a continuance as one of the abutters was notified late. Boldt explained the discrepancy in the address supplied and explained how the discrepancy was discovered and asked for continuance until December 3<sup>rd</sup>. Boldt explained that the applicant would like to go to the Planning Board as well and we have two closing's prior to January 8<sup>th</sup>.

Discussion amongst the Board regarding scheduling a meeting prior to the regular meeting on December 17<sup>th</sup>, 2009. Parker clarified for Perry that everybody that was notified of this meeting will be notified again and there is enough time to do that.

**Motion:** Perry made the motion to continue the case to a time to be decided. Kelley seconded. Vote: U/A

**Motion:** Reid made the motion for the Planning Department to contact members for the next available date. Perry seconded. Vote: U/A

- B. Discussion on recommendations for land use regulation change annual report.

Denison asked the members if they had any thoughts for land use changes. She clarified that the intent is to look at all zoning items and not just the amendments before the City Council.



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Denison mentioned that she would like to see a review of areas associated with home health care/ in-law issues.

Kelly suggested reviewing the abutter notice process, and requiring only use of the tax office, or maybe having staff determine abutters and not applicants.

Dennison suggested reviewing options for revising the process for issuing a variance for a medical hardship to allow for in-law units. Parker stated that the State RSA requires the ZBA issue a variance, but suggested that the Board might be able to hold a non-public session to learn the hardship, thus it wouldn't be in the public record what the hardship is, preserving privacy, and then in public session the ZBA could confirm evidence of a hardship. Colbath said you are talking about using existing statutes.

Parker asked Colbath to clarify if he was suggesting that the Planning Board add a use to every zone to have this use permitted by right. Perry suggested that the ZBA just suggest that the Planning Board look at this issue. Denison agreed that the ZBA can not write the ordinance, ideas etc. Her concern is the code needs to clarify in-law units and feels that there is sufficient gray area in the current allowance to convert a single family into a duplex and this should be cleaned up.

Dennison suggested that the Planning Board review the idea of a build to line, as she believes it creates a moving target and is a bad idea. Also, the Board should review the fast track provision of the Form Based Code regulations.

Perry suggested reviewing the different elderly and nursing home care definitions. Reid agreed that many definitions need to be reviewed.

Perry would like to see a special exception be created that would give points for workforce housing to allow in each residential district.

Denison suggested reviewing the regulations to encourage more local agriculture, such as keeping a couple of chickens. Discussion ensued in regards to the provisions that livestock and poultry be 100 ft from every boundary.

Colbath reiterated the averaging of the setback; it is a can of worms. He explained concerns regarding a setback as opposed to a build to line. Feels an average is not equitable. Discussion ensued regarding right of way widths, edge of pavement widths and build to lines.

Parker clarified that the ZBA is asking the Planning Board to review amendments that may pass the City Council in December and look at undoing them. Perry said he would prefer a joint meeting with the Planning Board to go over the ZBA list. Colbath said it should have been done prior to this.

Perry suggested reviewing the definitions of a "personal service establishment."

Denison added that "Customary Home Occupation" should be better defined.

Colbath added that the districts where a Drive-in theatre is allowed should be reviewed.



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Denison said she will write something up and send it out in an e-mail. If there are changes, they can be formalized at the next meeting.

Denison mentioned the letter from Attorney Krans, in regards to recusal. She doesn't believe that an attorney and the applicant should decide who can sit on their case. Perry said he has had a couple of conversation with Krans, and doesn't agree with his advice. He doesn't think the board should vote whether or not a member should step down. If a Board member feels they compromise the case, they should recuse themselves. It is not up to the Board. It is an individual decision. Denison said she agrees with Perry.

Perry felt that Krans should be here. Parker said if the Board would like to have an executive session, the chair should contact him. Denison said she would set it up.

### 5. OTHER BOARD BUSINESS

### 6. ADJOURN

**Motion:** Reid made the motion to adjourn @ 8:13pm. Kelley 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

01-24-2010  
 10-23-2009  
 04-12-2011  
 11-12-2009  
 05-23-2010  
 06-24-2012  
 02-01-2011