



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - AGENDA

Meeting Type: Regular Meeting
Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820
Meeting Date: **Thursday, August 19, 2010**
Meeting Time: **7:00 pm**

1. ATTENDANCE

2. ELECTION OF OFFICERS

3. APPROVAL OF PRIOR MINUTES OF MAY 20, 2010 AND JUNE 17, 2010.

4. OLD BUSINESS

5. NEW BUSINESS

- A. * Z 10-09 Rob & Ann Marie Wilkins, 2 Browning Dr., Tax Map 21, Lot 79, zoned R-12, requests a Variance from the terms of Article IV, Section 170-12.B, to construct an addition within 12.5 feet from a front property line where a minimum of twenty-five (25) feet is required.
- B. * Z 10-10 Tom & Deborah Child, 9-11 Hamilton St., Tax Map 12, Lot 92, zoned RM-U, requests a Variance from the terms of Article IV, Section 170.41.C, to move an existing non-conforming structure and not have its final location meet the current required ten (10) foot rear dimensional setback.
- C. * Z 10-11 Chad Weathers & Olga Mollin, 24 Westwood Cr., Tax Map F, Lot 17-N, zoned R-40, requests a Variance from the terms of Article IV, Section 170-12.B, to construct an addition (garage) within 11 feet from a side property line where a minimum of twenty-five (25) feet is required.

6. OTHER BOARD BUSINESS

7. ADJOURN

*If the application is accepted for discussion, the public hearing will be held that evening.

Persons with questions or wishing to see the plans are invited to visit the Planning Office, weekdays from 8:00 am to 4:00 pm. You may also view materials at www.dover.nh.gov, a map showing project locations can be found at www.dover.nh.gov/planhome.html. Follow us on Twitter @DoverNHPlanning and find us on Facebook at www.facebook.com/CityofDoverNHPlanning.



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting
Meeting Location: 2nd Floor Conference Room
288 Central Avenue, Dover, NH 03820
Meeting Date: **Thursday, May 20, 2010**
Meeting Time: **7:00 pm**

1. ATTENDANCE

Members Present: Masi Denison (Chair), William Colbath (Vice Chair), Jim Kelley, Sam Reid, Frank Landford, Chris Prior (Alternate) and Otis Perry (Alternate)

Staff Present: Bruce Woodruff (City Planner) and Jean Glidden (Recording Secretary)

The Chair called the meeting to order.

2. APPROVAL OF PRIOR MINUTES OF MARCH 18, 2010

Motion: S.Reid made the motion to approve the March 18, 2010 minutes. J.Kelley seconded but noted a couple of minor errors in the minutes, he withdrew his motion. M.Denison noted that she would like to propose to postpone approval as she feels too many inconsistencies are in the minutes. She noted that it appears that she has been misquoted and would like to take time to review the audio recording. **Motion:** S.Reid made the motion to table approval of the minutes. B.Colbath seconded. Vote: Unanimous Approval

M.Denison, B.Colbath, J.Kelley, S.Reid, and C.Prior will be voting.

3. OLD BUSINESS

A. Request for motion for rehearing regarding case Z 10-02 Summit Land Development; property owned by 2830 Holdings LLC, located at Dover Point Road/Thornwood Lane; Tax Map K, Lot 19C, zoned R-12/B-3/ETP. The applicant requests a Special Exception from the terms of Article IV, Section 170-12/B-3 Table, to allow a 3,055 sf. convenience store and six (6) bay gas station with associated parking, utilities, stormwater management and landscaping.

Attorney John Ryan represented the applicant. He noted that they have submitted new information that was not available at the last meeting which includes a site plan that shows fencing, lighting, and landscaping along with a traffic report. We also included documentation regarding the issue with fumes, property appraisals and scientific evidence. We have now what is a complete record and ask that you grant the request in order to schedule a full hearing at the meeting.

S.Reid noted that he voted in favor for this project at the last meeting. New evidence has been submitted therefore we should vote to grant the rehearing. J.Kelley noted that his problem is with the diminution of value. He said he would be willing to hear the expert explain how it wouldn't diminish the value of surrounding properties. B.Colbath and M.Denison noted that more information has been submitted therefore should grant the rehearing.

Motion: S.Reid made the motion to grant the rehearing. C.Prior seconded. Vote: Unanimous Approval.

M.Denison, B.Colbath, J.Kelley, S.Reid, and F.Landford will be voting.

4. NEW BUSINESS



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- A. *Z 10-04 New Meadows Inc., Lilac Lane, Tax Map H, Lot 35-D, zoned RM-SU/B-4. The applicant requests a use Variance from the terms of Article IV, Section 170-11.D and 170-12.A, to construct three buildings to house 93 cold storage units.

Attorney Mark Moeller represented the applicant. He expressed concern with B.Colbath voting on the case as he believes there is a conflict and would like to ensure that his applicant has a neutral hearing. B.Colbath said he said he does not feel he has a conflict in any way with the applicant. M.Denison stated that in cases of conflict it is the member's decision to vote. B.Colbath informed the Attorney that he will be voting.

Attorney Moeller stated that the owner Bill Pierce of New Meadows is present along with Corey Caldwell with MSC Civil Engineers and Land Surveyor Incorporated. He noted that the applicant is the owner of an existing multi-family condominium development consisting of 280 units on 77.20 acres. The particular lot in question is a 1.46 acre parcel. Additional condominiums have been approved that have not been built for a number of reasons. The applicant is proposing that on an existing commercial pad he would like to construct three buildings for a total of 93 self storage units. They would be a tremendous benefit to the tenants who have little or no storage space available. Most of the units would be used for the tenants. The proposed use as a retail building is not economical viable and this lot would remain in an undeveloped state for a foreseeable future. This would create additional revenue for the City of Dover. The storage facility would sit back off from Knox Marsh Road. He explained his application as submitted for the file. He asked that the Board approve the request.

C.Caldwell submitted drawings to review. The units will be constructed on an approved pad site. We are proposing pavement between the three buildings. He explained that the plan shows how the proposal fits in relation to the trail easement. Most of the construction for this has been completed. If we are successful tonight we would have detailed plans for the next step which is the Planning Board which will include drainage and more technical details which will be submitted at that time.

J.Kelley confirmed with C.Caldwell stated that there will be some site work, but no further site disturbance. The pad itself will be excavated. No further impervious material on this location, the pad would have to be excavated and replace it with concrete, but no need to occupy any more asphalt area than what is there.

The Chair opened the public hearing.
In favor of the request - nobody spoke.
In opposition of the request - nobody spoke.

J.Kelley asked if the condominium owners are notified. There will be construction based on the drawings submitted and is concerned that they were not notified. C.Caldwell noted that the condominium association was notified. It is up to the association to notify each tenant.



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S.Reid stated that he would rather see the storage units located in the rear as shown, than located towards the street.

The Chair closed the public hearing.

B.Woodruff read the memo as submitted by the Planning Department (copy in file) which states that they do support the variance request with proposed conditions that the applicant go through TRC and Site Review process before the Planning Board, meeting all site review regulations pertinent.

Findings of Fact:

1. Did the Applicant prove proof that demonstrates the variance will not be contrary to the public interest? Yes. Other storage in the area, site is set back from road and ready market with 280 residential units.
2. Did the Applicant provide proof that demonstrates how a variance observes the spirit of the ordinance? Yes. Mostly in B-4 (allowed use) for RM-SU – it is an accessory use. Arbitrary zoning line in the middle of the lot.
3. Did the Applicant provide proof that demonstrates how a variance will result in substantial justice? Yes. Additional storage for existing units.
4. Did the Applicant provide proof that demonstrates the variance will not diminish the values of surrounding properties? Yes. Other storage units in the area.
- 5A. The Applicant was to provide proof that literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. **(i)** Did the Applicant demonstrate that special conditions of the property exist that distinguish it from other properties in the area? Yes. Two utility easements, conservation easement and wetlands. **(ii)** Did the Applicant demonstrate that no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property? Yes. Location of zoning boundary. **(iii)** Did the applicant demonstrate that the proposed use is a reasonable one? Yes. Accessory use possibilities and similar neighboring use.

Therefore based upon the foregoing, it is ordered that the application for the variance be granted with the following conditions:

1. Applicant shall go through TRC & Site Review process before the Planning Board meeting all site review regulations pertinent and will include screening to protect neighboring condominium views.

Motion: J.Kelley made the motion to approve with conditions. F.Landford seconded. Vote: Unanimous Approval.

M.Denison, B.Colbath, J.Kelley, S.Reid and F.Landford will be voting.



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- B. *Z 09-14 Ronald Pfeiffer and Elizabeth Pettiford,(Owner: Leon Chapman)10 Summer St., Tax Map 12, Lot 22, zoned RM-U, requests a dimensional Variance from the terms of Article IV, Section 170-12.B, to construct an addition. The variance is required to exceed the 40% lot coverage.

Ron Pfeiffer stated that in 2003 they were before the Zoning Board and was granted a variance and a special exception for a request to construct an addition, but it was never constructed. They now intend to complete the addition. The home has just been repurchased. He explained that his wife is in geriatrics nursing. We have an extensive amount of experience and interest in working with the elderly. The addition would be on the front of the home, we have started some upgrades within the home with painting and new carpet. It would be an asset to the community. Half of the residents are from Dover. We request to re-allow us what we were granted to do before. He asked if they could keep the shed in the back as it was a condition to remove it back in 2003. We would like to keep it to store lawn equipment.

J.Kelley confirmed that the prior owner hoped to do an addition, but the time had lapsed.

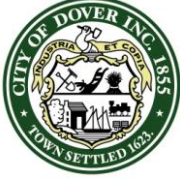
The Chair opened the public hearing.
In favor of the request – nobody spoke.
In opposition of the request - nobody spoke.

B.Woodruff read the memo as submitted by the Planning Department (copy in file) which states that they do support the variance request and suggests that the shed remain on the property.

Findings of Fact:

1. Did the Applicant provide proof that demonstrates the variance will not be contrary to the public interest? Yes. Allows care facility to better serve the elderly population.
2. Did the Applicant provide proof that demonstrates how a variance observes the spirit of the ordinance? Yes. 2% minimal intrusion doesn't significantly impact congestion.
3. Did the Applicant provide proof that demonstrates how a variance will result in substantial justice? Yes. Allows for better facility with additional capacity.
4. Did the Applicant provide proof that demonstrates the variance will not diminish the values of surrounding properties? Yes. Minimal intrusion and neighboring properties are similarly congested.
- 5A. The Applicant was to provide proof that literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. (i) Did the Applicant demonstrate that special conditions of the property exist that distinguish it from other properties in the area? Yes. The use – need more interior space and very small lot. (ii) Did the Applicant demonstrate that no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property? Yes. Similar congestion and minimal intrusion (iii) Did the applicant demonstrate that the proposed use is a reasonable one? Yes. Existing use.

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



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Motion: B.Colbath made the motion to approve the variance request. S.Reid seconded. Vote: Unanimous Approval.

Sam Reid stated that he is stepping down.

M.Denison, B.Colbath, J.Kelley, C.Prior and F.Landford will be voting.

- C. *Z 10-05 Fastdogs Realty LLC, 432 Sixth Street, at the southeast corner of Sixth St/County Farm Rd., Tax Map E, Lot 32, zoned ETP, requests a use Variance from the terms of Article IV, Section 170-11.D and 170-12.A, to establish a dog kennel.

Attorney Chris Wyskiel represented the applicant. They need to relocate their business as it is being purchased by the State of NH. He pointed out a couple of errors in exhibit four regarding parking spaces at the current site. We will not have any objection with staff at TRC with regard to parking spaces and in the process of the site plan we will seek an appropriate amount of spaces for this use. This will be a doggie day care and will board dogs and will include a small retail space. The screening will be four separate play areas and screened with chain link fencing and a stockade fence on the exterior of the chain link fencing. The dogs are tended by an employee all of the time and kept calm and they intend to have overnight boarding and this would require staff to stay overnight. They are taking the existing house that has been abandoned and the living quarters will be upgraded to accommodate staff. The 9,000 sq. ft. addition will be at the rear of the barn as it slopes down. He proceeded to discuss the zones and the uses in the ETP zone. General clean up of the site will help the area. The applicant has to move and would like to keep this viable business in Dover.

J.Kelley questioned the design of the addition. Attorney Wyskiel stated that Anne Nichols is working with an architect and has expertise for dog related uses. He stated that the intent is to blend the structures. Anne Nichols added that the intention is to keep it the same style of the barn.

B.Colbath asked who would reside in the building and wants to clarify that this will not be turned into a duplex. Attorney Wyskiel stated that this will not be a duplex and will be used for employees only. Our intention is to make this one residence and steal some of the space to weave into the other space. B.Colbath asked how the dogs will be controlled for night time so they don't impact surrounding residents. Attorney Wyskiel said they will be located inside, in their crates or internal rooms, the only outside use will be for the day care. B.Colbath noted that sound control is a key issue. Attorney Wyskiel said this will be addressed by double fencing and by staff being present.

J.Kelley also expressed concern with noise control and asked how many dogs would be located here. A.Nichols said it is an indoor boarding facility. Not a typical indoor outdoor run. The architect is soundproofing, with ceiling tiles, etc. We will be doing everything we can to keep the noise down. She stated that they plan to start with 40 dogs, but 50 will be the maximum for overnight boarding.



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C.Prior asked about the plan shown and confirmed with A.Nichols that the day care part of the business will be located in the lower part of the barn building and will help with sound control.

Attorney Wyskiel proceeded to explain the application as submitted in the file.

The Chair opened the public hearing.
In favor of the request.

Dave Choate noted that he is with the commercial Real Estate Firm of Grubb & Ellis, Coldstream Real Estate advisors in Portsmouth. They have been the listing agent for this property for a year and a half. He stated that he has lobbied long and hard for DBIDA to get behind this zoning change for the property as he feels it is inappropriate for this particular property. Anybody who buys this property will have to come before this Board for a variance. The lower level where the dogs will be located most of the time has a very thick stone foundation which will help with sound control. This is keeping a local business in Dover. We have looked in other communities but the applicant would like to stay in Dover and this is the only location that would work well for this type of business.

In opposition of the request.

Nancy Hagar, 8 Foxtail Ridge stated that she does not a problem with the business being located here, however is concerned with vehicles approaching this intersection. She stated that she travels this area numerous times and it is a very busy intersection as it is and feels that you take your life in your hands and this would add to it. I really think the traffic issue in this area is a major factor for a business of this magnitude.

Otis Perry, 91 Court Street stated that he is concerned with the noise problems. If this variance is granted I request that you implement a condition with strong language included regarding noise regulation. He added that this is a very busy intersection and this would add to the traffic; however his main concern is the noise control.

The Chair closed the public hearing.

B.Woodruff read the staff memo as submitted by the Planning Department (copy in file) which states that they do support the variance request; however suggest a condition that they go to TRC to review parking and access issues and Planning Board for site review.

J.Kelley asked B.Woodruff what would trigger the City for traffic control in this area.

B.Woodruff said if this variance is approved it will go to TRC and will be reviewed by planning staff. We take an ITE handbook which talks about traffic and certain uses. We can figure out by square footage and or number of dogs what the traffic will be and we will then ascertain if a traffic memorandum report is needed or not.



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The Chair closed the public hearing.

B.Colbath said he does not see a problem with the use but is concerned with the intersection. C.Prior said he is concerned with the noise, but the way the lot is situated at this intersection, it is an allowable use in the surrounding properties. If we can get TRC and Planning to implement some sort of noise control to be at an acceptable decibel level and add that language to this request he stated he would be comfortable with allowing the use. M.Denison added that due to the lot size and allowable uses, it creates a hardship for this property. This is a very busy intersection; however a larger impact for a retail use could go in there as well.

Findings of Fact:

1. Did the Applicant provide proof that demonstrates the variance will not be contrary to the public interest? Yes. Existing business staying in Dover.
2. Did the Applicant provide proof that demonstrates how a variance observes the spirit of the ordinance? Yes. Two acre lot does not allow for standard ETP uses. This lot is zoned incorrectly, the variance mitigates.
3. Did the Applicant provide proof that demonstrates how a variance will result in substantial justice? Yes. Viable business use and improvement to an abandoned property. Easy access for clients.
4. Did the Applicant provide proof that demonstrates the variance will not diminish the values of surrounding properties? Yes. Use will upgrade dilapidated building.
- 5A. The Applicant was to provide proof that literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. (i) Did the Applicant demonstrate that special conditions of the property exist that distinguish it from other properties in the area? Yes. Small lot for zone. Existing historic buildings. On border of other zones that allow use. (ii) Did the Applicant demonstrate that no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property? Yes. ETP is designed for larger lots. (iii) Did the applicant demonstrate that the proposed use is a reasonable one? Yes. For a lot of this size, typical ETP uses are not possible. This use is a contained use that is allowed in the neighboring zones.

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

1. The applicant shall appear before the TRC & Planning Board to review parking, traffic flow, location of driveway cuts and utilize techniques to keep noise to a minimum so as not to offend neighbors.
2. Dogs staying overnight shall be kept indoors during night time hours.

Motion: B.Colbath made the motion to approve the variance request with the conditions. S.Reid seconded. Vote: Unanimous Approval.

The Chair called a ten minute recess @ 8:55 pm. Meeting resumed @ 9:05 pm.

M.Denison, B.Colbath, S.Reid, J.Kelley and F.Landford will be voting.



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Attorney Schulte stated that both cases will be presented together but would like them to be voted on separately.

- D. *Z 10-06 A - Paolini Brothers Dev., LLC, 54 Dover Point Rd., Map K-1, Lot 20, zoned B-3, requests a dimensional Variance from the terms of Article IV, Section 170-12.B, to subdivide a parcel creating a lot with approximately 100' frontage, where 125' frontage is required.
- E. *Z 10-06 B - Paolini Brothers Dev., LLC, 54 Dover Point Rd., Map K-1, Lot 20, zoned B-3, requests a use and dimensional Variance from the terms of Article IV, Section 170-12.A, to allow the 12 previously approved residential units to be located on the second lot, which will contain approximately 46,000 sq. ft. area, less than the required area.

Attorney Schulte represented the applicant. He asked Mr. Colbath to recuse himself. B.Colbath stated that any issues that he has with him, does not have a reflection on the applicant; therefore will vote on this case. Attorney Schulte proceeded with the applications. He stated that the two variance applications were done two to three years ago. Three years ago this Board approved a special exception to allow 12 residential units in a B-3 zone. The project presented at that time was for a 68,000 sq. ft. parcel with 10 townhouse condominium units and a three story building. The first two stories would have been office use and the third story residential units. The following year in July of 2008 we received site review approval by the Planning Board. He showed the plan. The applicant wishes to subdivide the property into two lots in order to separate the commercial use from the residential use. The residential lot will have 100 ft. frontage. Two residences will be relocated from the commercial lot to the residential lot. The applicant is proposing to reduce the height of the commercial building from three stories to two stories. He added that due to recent changes in national residential financing requirements it is extremely difficult for residential unit owners to obtain mortgage financing if the lot on which the residence is located also contains a commercial building. He added that this will be built in phases. He continued to describe the application as submitted for the file.

J.Kelley confirmed where the zone line was located. B.Woodruff said that the line should follow along roads or along property lines or natural features, but in some cases it does not. F.Landford asked about the condominium association and confirmed with Attorney Schulte that they could have separate residential and commercial condominium associations if needed.

The Chair opened the public hearing.
In favor of the request – nobody spoke.
In opposition of the request – nobody spoke.
The Chair closed the public hearing

B.Woodruff read the staff memos for Z10-06A and Z10-06B as submitted by the Planning Department (copy in file) which states that they do support the variance request with a condition that the applicant return to TRC and Planning Board with both the subdivision and the revised site plan.



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M.Denison said she feels like it is a transfer of development rights. Discussion took place regarding the height of the building. Attorney Schulte said the applicant would take the condition of no more than two stories in height for the commercial building. B.Colbath confirmed that there will be shared parking. M.Denison said she is normally not a fan of approving lots with not enough frontage, but this development is not changing and would like to add a condition stating that no change from the previous approved development.

Findings of Fact: Z 10-06A & Z 10-06B

1. Did the Applicant provide proof that demonstrates the variance will not be contrary to the public interest? Z10-06A-Yes. The development layout is substantially the same as the previously approved plan. Z10-06B-Yes. The number of units (12) remains the same as approved plan.
2. Did the Applicant provide proof that demonstrates how a variance observes the spirit of the ordinance? Z10-06A & Z10-06B Yes. Existing approved plan.
3. Did the Applicant provide proof that demonstrates how a variance will result in substantial justice? Z10-06A-Yes. Allows for variance Z 10-06B which allows ease of financing and sale of units. Z10-06B-Yes. Ease of financing and sale of units.
4. Did the Applicant provide proof that demonstrates the variance will not diminish the values of surrounding properties? Z10-06A & Z10-06B-Yes. Development is substantially the same as previously approved plan.
- 5A. The Applicant was to provide proof that literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. (i) Did the Applicant demonstrate that special conditions of the property exist that distinguish it from other properties in the area? Z10-06A & Z10-06B-Yes. Approved development (mixed use) conflicts with changed financial situation. (ii) Did the Applicant demonstrate that no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property? Z10-06A & Z10-06B-Yes. Development is the same regardless of internal lot line. (iii) Did the applicant demonstrate that the proposed use is a reasonable one? Z10-06A & Z10-06B-Yes. Existing approved plan.

Therefore based upon the foregoing, it is ordered that the applications for the variance be granted with the following conditions.

1. Commercial building be limited to two stories in height and no residential development be allowed.
2. Applicant returns to TRC and Planning Board for Site Review and to create necessary easement.
3. Plan will be as presented (i.e. no substantial change from previously approved development plan) with the caveat that the residential units 11 & 12 may be moved.

Motion: S.Reid made the motion to approve the variance requests for both cases with the conditions. F.Landford seconded. Vote: Unanimous Approval.



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5. OTHER BOARD BUSINESS

A. Discussion of Rules of Procedure

This will be discussed at the next meeting.

Discussion of confirming the abutters list on the applications took place.

6. ADJOURN

Motion: S.Reid made the motion to adjourn at 10:00 PM. S.Reid seconded. **Vote:** Unanimous Approval.

DRAFT



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Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820
Meeting Date: **Thursday, June 17, 2010**
Meeting Time: **7:00 pm**

1. Attendance

Members Present: William Colbath (Vice Chair), James Kelley, Otis Perry, Frank Landford, Chris Prior (Alternate Member)

Members Absent: Sam Reid

Staff Present: Bruce Woodruff (Zoning Officer), Lisa Ertle (Recording Secretary).

Vice Chair called the meeting to order.

W. Colbath noted he was Acting Chair for the evening. He stated that O.Perry was nominated as regular member and Masi Denison was not offered a position. A scheduled election will take place to nominate a Chair at the next meeting.

2. Approval of Prior Minutes of March 18, 2010 and May 20, 2010

W.Colbath noted the inability to hear the recorded audio for March 18, 2010 Meeting Minutes. He stated that a copy of the recording needs to be provided to all members in order to approve the minutes.

Motion: O.Perry made the motion to table the March 18, 2010 Minutes, and approve the May 20, 2010 Minutes. C.Prior seconded. Vote: Unanimous

3. Old Business - None

4. New Business

- A. *Z 10-07 Greg Porciello, 163 Spur Rd., Tax Map L, Lot 43, zoned R-20, requests a Variance from the terms of Article IV, Section 170-12.A to convert a single family dwelling for the purpose of establishing a two family dwelling

Dick Schneider represented the applicant, G.Porciello is present. D.Schneider stated due to hardship of the economy they have fell behind on this plan and noted other families have been splitting their homes into multi-family units, and that is what they are seeking. The applicant is held back from making this a multi family unit by not allowing them to add a stove. D.Schneider stated his concerns, and spoke about discussions with the Planning Directors and abutters. He noted that he is looking for a relief from the 1964 zoning amendment. Added they have received a letter from The Cheney Real Estate Company, which abuts the property, stating they have no issue with this plan.

J.Kelley asked if the two units are similar in size. D.Schneider confirmed that it is of equal size, and J.Kelley stated this is similar to duplex units instead of adding an in-law type unit.

The Chair opened the public hearing.

In favor of the request - nobody spoke.

In opposition of the request - nobody spoke.

B.Woodruff stated that Planning Staff is neutral on this plan. The original structure was demolished because of its condition, and feels this may be a self inflicted hardship if owner had known about the



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May 27, 1964 provision. The lot is almost within the entire conservation district, and is entirely in the shore land protection zone. Applicant has met with DES and the Planning Board for approval of conditional use permit. Discussion occurred regarding the square footage of the lot. The applicant is doubling the square footage and occupancy compared to the old dwelling. A discussion ensued of the type of housing in the area.

G.Porciello stated that he put in a new sewer line to bring the septic away from the conservation area. C.Prior stated his concern on parking in regards to the conservation guidelines, and how the applicant expected to get vehicles parked. D.Schneider stated there should be no concern. C.Prior and D.Schneider discussed plans from the original construction. D.Schneider stated the changes they have made, with the exclusion of a stove, have been filed with the City to finish their project.

W. Colbath stated to D.Schneider, that anyone who purchases this property could do what the applicant is asking. D.Schneider stated nobody wants to do what they are applying for, so this is why they are seeking the approval so they can sell the property finished.

Public Hearing Closed

C. Prior stated at the time of the construction the applicant should have expressed his intent up front, and in his opinion the economy is not a hardship. F.Landford agreed, and feels it may be a personal hardship and property is not meant for a multi family use. J.Kelly stated the applicant could have deflected the hardship up front. O.Perry stated the view of the neighborhood, and his concern the house is on conservation district, and does not comply with other homes in the area. W.Colbath stated he agrees with the board members, and expressed his concerns of the intentions of the applicant. B.Woodruff added that in the entire zone, if the camps and other dwellings were constructed prior to 1964 they could convert to a duplex without the approval of the board. He explained the requirements that the applicant would have needed, just as long as they did not tear down the building. In this case, a previous building on this lot has been torn down. O.Perry asked for the requirements for structures that would fall into that date, wants clarification on what can be done according to the new amendments. B. Woodruff read the language of the old amendments, and the current amendments. Discussion ensued on the application.

Findings of Fact:

1. Did the Applicant provide proof that demonstrates the variance will not be contrary to the public interest? No. This expansion does not meet the requirements of the ordinance.
2. Did the Applicant provide proof that demonstrates how a variance observes the spirit of the ordinance? No. The spirit of the ordinance was to allow an existing structure to be converted by right after the zoning had changed.
3. Did the Applicant provide proof that demonstrates how a variance will result in substantial justice? No. Substantial justice is to continue the existing trend of single family homes remaining in use despite age.
4. Did the Applicant provide proof that demonstrates the variance will not diminish the values of surrounding properties? Yes. Only evidence presented indicated no diminution in value.
- 5A. The Applicant was to provide proof that literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. (i) Did the Applicant demonstrate that special



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820
Meeting Date: **Thursday, June 17, 2010**
Meeting Time: **7:00 pm**

conditions of the property exist that distinguish it from other properties in the area? No. Similar to surrounding property. **(ii)** Did the Applicant demonstrate that no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property? No. Self imposed hardship is created by applicant. **(iii)** Did the applicant demonstrate that the proposed use is a reasonable one? No. Intension of use is inconsistent with area and lot side.

Motion: C.Prior made a motion to deny the variance. F.Landford seconded. Vote: Unanimous

- B. **Z 10-02 Summit Land Development;** property owned by 2830 Holding LLC, located at Dover Point road/Thornwood Lane: Tax Map K, Lot 19C, zoned R-12/B-3/ETP. The applicant requests a Special Exception from the terms of Article IV, Section 170-12/B-3 Table, Article VI, Section 170-18, Section 170-12, B-3 Table, and Article XII, Section 170-52.C.3, to allow a six bay station.

Attorney John Ryan, of Casassa and Ryan, represented the applicant. He stated they have been before the Board for other meetings, and tonight they are submitting exhibits and have consultants to discuss the application. His belief is that the applicant did not need a special exception. Gasoline stations in the past had repair facilities, convenience stores with gas dispensing facilities did not exist then. He noted the difference, in definitive terms, between gasoline auto repair stations and gas pumping stations, stating there is no repair or maintenance repair so they don't feel that they qualify for a gasoline auto service station as termed in this ordinance. The entire 60,000 square footage does not have to be in the entire B3 zone, in the past it was voted that it didn't have to be. He stated that upon discussion with the Planning Department, and research of other approved gas stations, he feels that the 60,000 sq. ft. requirement has been met. He asked the Board to find that the square footage requirement has been met. He stated that the Board had taken a vote on this determination during the original hearing.

Gregg Mcleod, of Appledore Engineering, explained the visual layout plan of the applicants proposed gas station. He described the landscaping and fencing that will be created around the property, and closed drainage installed at this site. They have met with TRC, as well as the Conservation Commission for approval on minor grading in the wetland buffer zone to accommodate an outlet structure. Noted this is a conventional site plan in regards to parking and convenience, and pointed out that an electric charging station could be implemented instead of gasoline dispensing, by right in the zone.

Attorney Ryan stated that he will present a lighting expert, who will speak on behalf of the photometric reports, to help dispel lighting concerns from abutters.

Ralph Sweet, licensed engineer, speaking on behalf of Kenneth Sweeney (Charron Inc.), who generated the lighting report, stated that information provided meets all the requirements codes for The City and NH for lighting. R.Sweet generated a report similar to Kenneth Sweeney's, and came up with the same results. J.Kelley asked for a review of the lighting plans for this site. R.Sweet stated they have flush lighting at the top and bottom of the canopies that will be at the station, and will extend 5 feet to the parking lot. J.Kelley asked if the lighting is modern and contained. R.Sweet described a non-cut off type of light fixtures; this was designed to meet code and be conscious of the abutting areas.



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Kim Hazarvartian, Traffic Engineer with TEPP LLC, stated that he completed the traffic study. He addressed the generated trips, and analyzed the intersections of projected queuing areas. They have proposed a couple of road improvements at different access points, and sign proposals that will help control this. He explained his calculations for the generated trip counts that would reflect the traffic on Dover Point Road, which he feels wouldn't increase traffic flow, will not create traffic congestion, and will not impair pedestrian safety. J.Kelley and K.Hazarvartian discussed pedestrian safety. C.Prior stated the regulation states that it will not unduly impair pedestrian safety, and asked for clarification of site use by all modes of traffic. K.Hazarvartian stated this would not be a destination site. J.Kelley asked if the traffic study was in concern to only those projects and nothing beyond it, and K.Hazarvartian confirmed.

Chad Kageliery, owner and applicant, stated his goals for the application and the project. He feels that this will be a desirable location for the residents; project follows and achieves the city's Master Plans. It will offer job growth, and will help increase the standard of living, and offer a tax relief. Attorney J.Ryan stated the water, sewer, or municipal services will not be overloaded, and the City's general welfare will not be unduly affected.

Brian White, of White Appraisals, has prepared two appraisals letters for the abutters to give to the ZBA. He stated that he looked at the property, for possible value change in the surrounding properties, and noted the mixed use of properties on this road. He suggested that he could not find any data that shows that abutting property value would be affected negatively. The area was looked into of the modern gas stations that have been added to the Dover. He looked at their property value in the area, and the property values of the abutters to these constructed gas stations. W.Colbath and B.White discussed the property values that were assessed, and any adjustments that were made to make up square footage. C.Prior stated that it is important to know we are here for the gas pumps and not the convenience store, and in his opinion there seems to be no diminution to property value on gas pumps. B.White said that his comparisons can not be specific, but his data speaks in reality to the proposed plan. W.Colbath confirmed that he didn't have any specific properties that had, before and after effects on property value, expect for behind Philbricks. B.White considered others station in the area, and confirmed what he could find to assess.

C.Kageliery compared two area gas stations to get property values, and found the assessments to be a lot higher compared to Dover Point Road. He stated the traffic on this side of Dover is a lot lower, and stated how the properties on Central Avenue have had growth, and increased property value in that area beside the gas stations. It may not impact adjacent property value, and feels there is business growth on Dover Point Road.

Rick White, of ADS Architects, was contacted by applicant to do a rendering view from the Hoppe residence to show the abutters view point of the property. He described the roof line, and the lay of the land and the contour of the property. It is hard to say it has a huge impact as far as the height. Discussion ensued on who is going to maintain the fence on the property, determined applicant would be responsible.

Attorney J.Ryan stated there has been concern in the past from abutters on the fumes from the gas pumps. Ronald Laurence, of Stantech Auto, provided in the report what was required by the state for rules and regulations, including all safety regulations required for this facility. He stated the EPA



CITY OF DOVER

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requirements for vapor recovery systems were being followed. These types of facilities are tightly regulated, and when properly constructed, installed, and regulated with all of the controls there should not be any vapor leakage. There should be no reason for pollution in the area; there is intent of containing vapor currents. He stated the guidelines that is used in California that they will be adhering to, and J.Kelly asked if this will be constructed by those guidelines. R.Lawrence confirmed, expect for the diagnostic equipment that is not available in NH.

Attorney Ryan stated there has been concern of the underground tanks, and stated the vapor smell is highly unlikely. He mentioned Tritech Engineering confirmed that no such impact will occur. Attorney Ryan addressed a few concerns that were received from abutters in regards to their concerns of proposed property. He feels there is no odor, lighting issues, or decreased property value. In respect to the criteria that was required from the Planning Department, all requirements have been made. He is asking whether this project is a special exception, to note that all requirements have been met, and the special exception to be approved based on the testimonials heard tonight. W.Colbath and Attorney J.Ryan discussed the previous discussions of the square footage requirements of the property.

The Chair opened the public hearing – In favor of the request.

Dan Barufaldi, of 31 Old Madbury Lane, and the Economic Director, for the Dover Business and Industrial Authority, here to speak in favor. He feels this will be a benefit to commuters, will not add to traffic, and will help to reduce local traffic going to Newington for gasoline. This site is a modern gas station and will have no environmental issues, lighting concerns will be addressed, and traffic noise will not exceed the existing noise level. Residents will enjoy the convenience and the property will be an enhanced tax writable. He feels the applicant, as a developer, can be trusted. Stated as a representative of Dover Business and Industrial Authority he approves this development.

Steve McCusker, of 2 Gold Post Rd, followed this application since the beginning. He has sat on the City Council in the past and have and seen citizens come to look for tax burden relief. Developing business use can help assist tax payers. This is a business opportunity and will offer a tax relief for residential land owners.

Jay Dell Isola, of Evans Drive, speaking as a resident on Dover Point Road. He feels the impact will have a better tax relief, a convenience, and does not see an impact on traffic. Stated he feels that this will be a great use to surrounding neighbors.

John Gray, of 34 Dover Point Road, owns a retail location adjacent to this site and stated that the gas station will increase the property value to his building and will benefit his retail clients. This is a commercial zoning area and feels this will be a great benefit, and traffic will not increase, instead will be a destination for the traffic that flows there.

John O'Neil, 42J Dover Point Road, owns a small office park on this road. This will be a convenience to have this site up the road. He states that himself along with the homeowner's in his development support this proposal.



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Kirt Schuman, Executive Director of Greater Chamber of Commerce, representing the business members. Chamber of Commerce is encouraged by continued growth with the City, and they are in support of the commercial growth in this area. He feels this will add growth in commercial growth.

Dave Paolini, of 78 Waterloo Circle, lives adjacent to this parcel and feels this will be beneficial. It is in a business zoned area that will serve the South End of Dover. He cited all of the business that have developed in this area.

B.Woodruff read an email from abutting property owners, Charlie and Debbie Reid, in support of the application. (Copy in File)

Public Hearing - In opposition of the request.

Mrs. Marilyn Follansbee, of 25 Dover Point Road, is against the request and addressed her concerns. She noted that she had submitted letters to the Board members. (Copy in File)

James Miller, property owner on Dover Point Rd., summarized all of the key points presented tonight. He expressed his concerns of lighting, noise, and fumes. He addressed the characteristic of Dover Point Road, and the low volume operation of the commercial businesses. Stated the traffic is low on this road in the night hours. This is a resident based area, and just down the road are two convenience stations. He feels that this will change the characteristic of this road, and will turn into a high volume area.

Steve Wilkinson, 33 Dover Point Road, owns adjacent property. He feels that this will not be aesthetically pleasing to anyone living across the street. He states that there is no need for a convenience station for residents on this road.

Public Hearing Closed

J.Kelly stated he felt development in this area is inevitable, and meets all requirements. W. Colbath wanted clarification of the language on the zoning ordinance, and compared the B3 lot to other areas. The area requirement of 60,000 sq. ft. is correct of the intent to be in the B3 zone completely and should be addressed by a legal attorney. He addressed the abutters concerns, and there is a need for a definition on abutter for this. Anyone living on Dover Point Road is affected by this proposal. He wants clarification on adjacent owners, so we can figure out who is affected by this. C. Prior discussed previous meetings that involved applicant and the Paolini's, and had the zoning lines been drawn accordingly this plan may have fallen into the B3 zone. A discussion ensued on how the lot lines were implemented and about whether they need outside legal opinions. B.Woodruff stated that he is the Zoning Administrator, and defined his role to the Board as a Zoning Officer as worded in section 170-53 of the Zoning Code. He feels that we don't need legal consult. F.Landford feels that the applicant has followed through with their requirements. W.Colbath thinks this will depreciate surrounding properties. C.Prior stated that he was a realtor and feels that the professional opinion of the appraiser is correct, and has taken into consideration the properties assessed on Dover Point Road and Central Avenue. W.Colbath discussed the negative impact this proposal could have to the abutters.



CITY OF DOVER

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Motion: O.Perry motioned to grant the special exception based on the evidence that the applicant has met all requirements. J.Kelly seconded. Vote: 4 to 1 (Colbath opposed)

Recessed at 9:45pm, resumed at 9:51pm.

W.Colbath announced that he would step down on the next case. The applicant will continue with four voting members.

- C. *Z-10-08 Kristi Hartley, 22 Rabbit Rd., Tax Map J, Lot 13-Q, zoned R-40, requests a Variance from the terms of Article IV, Section 170-12.A to convert a single family dwelling for the purpose of establishing a two family dwelling.

Kristi Hartley gave a brief history of the home from 1971 to present, including the parking issues. When she bought the house, she rented the in-law unit. The traffic and volume was quiet. She now rents the house, and her tenants do not impact the surrounding area. She stated the abutters and acreage of the property. Discussion ensued on the exact location of the property, the abutters and wetland property surrounding it. O.Perry has asked if this has been a duplex. K.Hartley stated the house was constructed as two units, and wants to continue renting this as two units. She does not intend on selling the property.

B.Woodruff stated this property has had a history as a two-family dwelling. Applicant is here tonight because an issue of code enforcement needed to be corrected. J.Kelly clarified that applicant is the owner that lives out of state. K.Hartley stated her mother is a property manager that lives next door.

The Chair Opened the Public Hearing
In favor of the request – nobody spoke.
In opposition of the request – nobody spoke.

Susan Krecklow, of 12 Rabbit Road, abutter of this property stated that there has been a tenant in the back apartment for about 10 years, and feels that this does not affect the neighborhood. She is in favor of accepting the variance.

B.Woodruff stated this is an opportunity to make right a code case, and states applicant here to address the code enforcement issue. J.Kelly stated his concern for granting this variance in regards to any future owners. Discussion ensued.

Public Hearing Closed

Findings of Fact:

1. Did the Applicant prove proof that demonstrates the variance will not be contrary to the public interest? Yes. An existing circumstance since 1984. There are no objections. Abutters are in favor.
2. Did the Applicant provide proof that demonstrates how a variance observes the spirit of the ordinance? Yes. The ordinance has changed a few times. There has been no problem.
3. Did the Applicant provide proof that demonstrates how a variance will result in substantial justice? Yes. Allows for better facility with additional capacity.



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4. Did the Applicant provide proof that demonstrates the variance will not diminish the values of surrounding properties? Yes. She will have a legal apartment that she has been taxed on for many years.
- 5A. The Applicant was to provide proof that literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. (i) Did the Applicant demonstrate that special conditions of the property exist that distinguish it from other properties in the area? Yes. The apartment has existed since 1984. (ii) Did the Applicant demonstrate that no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property? Yes. This allows the applicant to keep the present apartment. (iii) Did the applicant demonstrate that the proposed use is a reasonable one? Yes. Existing condition with no problems.

Motion: O.Perry made the motion to grant the Variance. C.Prior seconded. Vote: Unanimous

5. Other Board Business

Discussion regarding rules of procedure did not take place.

70 Silver Street, Former ZBA Case/Court Case

B.Woodruff discussed the letter from Mark Moeller in regards to the 70 Silver Street case. (Copy in File) O.Perry asked who occupied the other 3 units. B.Woodruff stated this lot is owned by the landlord. The definition of a dwelling unit was discussed, and what type of unit this is assessed as. J.Kelly stated the appliances, and amenities show proof of residency in these photos. Discussion ensued on whether this should be brought to Court. O.Perry states that if he is living there, then he is under violation of the codes. J.Kelley is concerned about other residents that have been denied by the same action that he is trying to do. Discussion ensued on finding evidence on how many people living there, and whether the owner lives there. B.Woodruff needs exact language of dwelling to define this unit. There was discussion in regards on whether this needs enforcement. B.Woodruff suggested taking this case to the City Attorney, and noted that we want to try to abate the case before court. J.Kelly expressed his concerns of this case not being addressed. B.Woodruff stated what steps have been made, and what could happen next.

Motion: O.Perry motioned to bring this case to the City Attorney. Vote: Unanimous

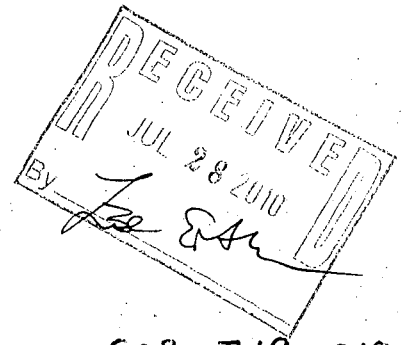
6. **Adjourn** Motion: W.Colbath made the motion to adjourn at 10:37pm. J.Kelley seconded. Vote: U/A

CASE # 210-09 DATE RECEIVED _____

AMOUNT PAID \$ 208.00 TIME RECEIVED _____

+ 1 Abutters \$8.00
Total paid 216.00

CITY OF DOVER
ZONING BOARD OF ADJUSTMENT
APPLICATION



I. APPLICANT Rob & Ann Marie Wilkins PHONE #: 603-749-2183
ADDRESS 2 Browning Drive
PROPERTY OWNER _____
ADDRESS Dover, NH
PROPERTY LOCATION _____
BRIEF DIRECTIONS corner of Browning Drive & Henry Law Ave.
ZONE R-12 ASSESSOR'S MAP 21 LOT #(S) 79

TYPE OF APPEAL: (Please check off one)

- | | | |
|---|---------------|---------------|
| <input checked="" type="checkbox"/> VARIANCE | ARTICLE _____ | SECTION _____ |
| _____ VARIANCE (Physical Disability - RSA 674:33-V) | ARTICLE _____ | SECTION _____ |
| _____ SPECIAL EXCEPTION | ARTICLE _____ | SECTION _____ |
| _____ ADMINISTRATIVE DECISION | ARTICLE _____ | SECTION _____ |
| _____ EQUITABLE WAIVER | ARTICLE _____ | SECTION _____ |

Describe briefly your plans for this property:

Addition: 11'-4" Basement level (storage) (see plan)
13'-6" Master bedroom (upper level) (" ")
width: 24'-6" (width of existing house)

II. REQUIREMENTS SUBMITTED: (Please check off)

A. Plot plan drawn in accordance with a boundary line survey to scale not less than 1" = 40', (9 copies). They need to include the lot dimensions including area in square feet, and also the size and location of existing and proposed buildings if applicable, including setbacks.

B. List of abutters including addresses and map and lot number of parcels who adjoin or are directly across the street or stream from property.

C. Application fee of:

\$100.00 VARIANCE	\$ <u>100.00</u>
\$100.00 SPECIAL EXCEPTION	\$ _____
\$25.00 APPEAL FROM ADMINISTRATIVE DECISION	\$ _____
\$100.00 EQUITABLE WAIVER	\$ _____

D. Certified letters fee:

# of abutters <u>6</u> X \$8.00 =	\$ <u>48.00</u>
Applicant & Owner <u>1</u> X \$8.00 =	\$ <u>8.00</u>
Foster's newspaper public notice	\$ <u>60.00</u>
TOTAL	\$ <u>216.00</u>

III. **NARRATIVE:** Complete the section pertaining to your request for a variance. Keep your answers brief and be prepared to explain them in detail at the meeting. The burden of proof is on the applicant. If you need more space use an additional sheet of paper

VARIANCE REQUIREMENTS: (PLEASE TYPE OR PRINT IN INK)

1. Provide proof that demonstrates the variance will not be contrary to the public interest.

Due to the uniqueness of the lot on a corner parcel of land adding an addition to the Henny Law Ave side of the house is the only solution. Other homes on Henny Law Ave are closer to the street than our addition...

2. Provide proof that demonstrates how a variance observes the spirit of the ordinance.

By granting a variance for our addition we will not be denied the ability to build as was granted to other neighbors on Henny Law Ave. An existing garage on the property already exists, closer to the street, than the addition.

3. Provide proof that demonstrates how a variance will result in substantial justice.

Other homes on Henny Law Ave have been granted permits to add additions that are closer to Henny Law Ave. than the new addition that is being added.

4. Provide proof that demonstrates the variance will not diminish the values of surrounding properties.

Adding an addition to the Henny Law Ave side of home will keep the architectural integrity of the home and not make it look like a home with a lot of small additions added to it.

5A. Provide proof that literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Unnecessary hardship standards are:

(i) Special conditions of the property that distinguish it from other properties in the area; and

Uniqueness of corner lot... restrictions because of corner is different than other homes. Side setbacks on both sides.

(ii) no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and

(iii) the proposed use is a reasonable one.

The small addition 13'-6" x 24'-6" will fit into the neighborhood like other homes already built. They will not look any different.

OR

5B. If the criteria in subparagraph 5A above are not established, provide proof that an unnecessary hardship exists if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

SPECIAL EXCEPTION REQUIREMENTS

1. Explain how the requested use would be essential or desirable to the public convenience or welfare.

2. Detail how the requested use would not create undue traffic congestion or unduly impair pedestrian safety.

3. Describe how the requested use would not overload any public water, drainage or sewerage system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the City will be unduly subjected to hazards affecting health, safety or the general welfare.

THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS

IV. As applicant of standing of this request, I certify that the information herein is complete and accurate.

IMPORTANT
PROPERTY IDENTIFICATION SIGN
MUST BE POSTED ON THE PROPERTY
FOR THE 5 DAYS PRIOR TO HEARING.
FAILURE TO POST MAY RESULT IN
APPLICATION NOT BEING ACCEPTED

Robert F. Wheeler

Signature of Applicant*

Ch. Marie Wheeler *R. Wheeler*

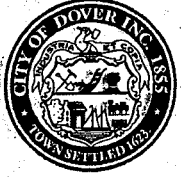
Signature of Owner*

*Both Signatures Required

The applicant waives the requirement of holding a hearing within thirty (30) days of receipt of the application, pursuant to RSA 676:7, III:

Signature of Applicant

Date

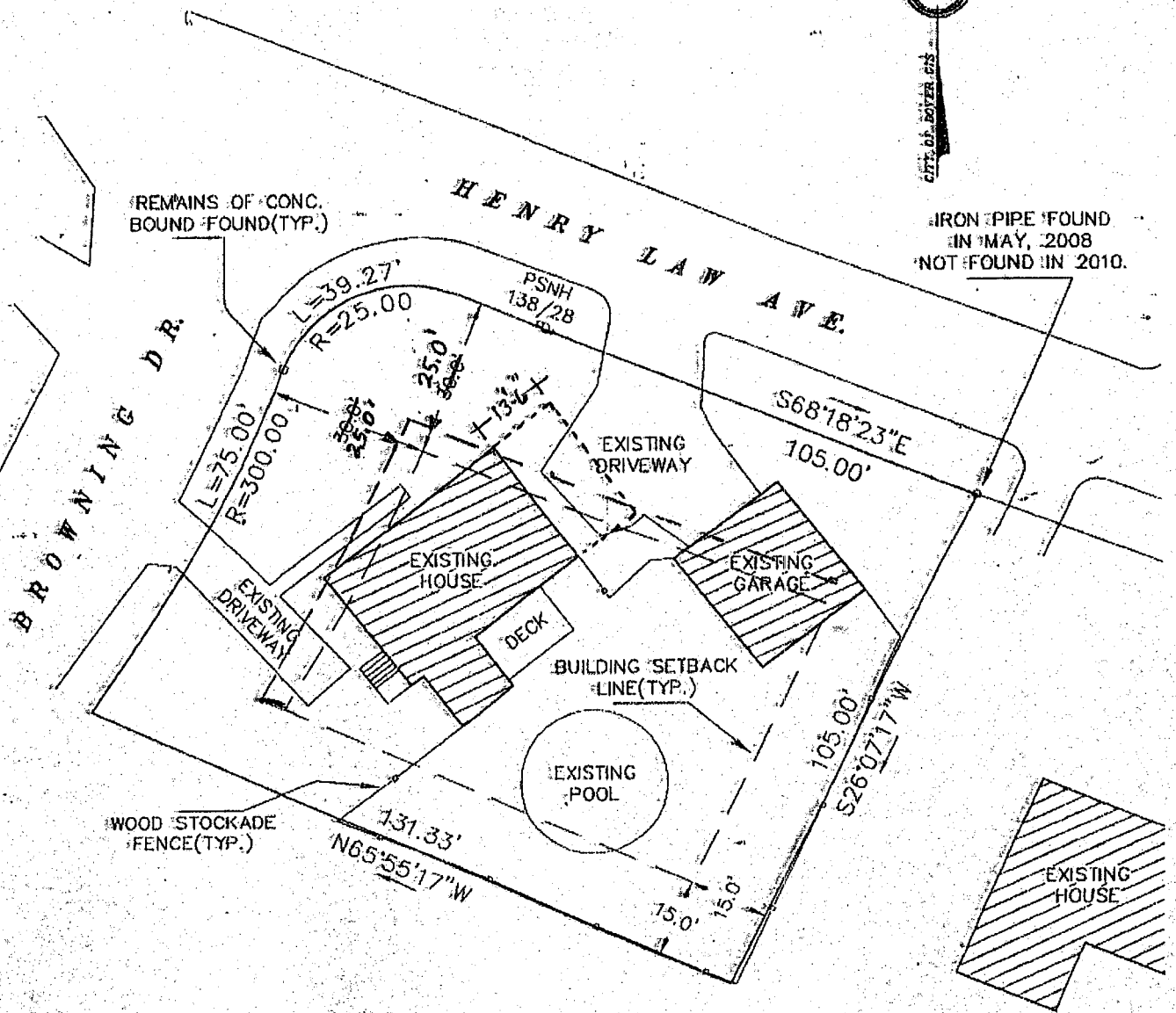


CITY OF DOVER

ZONING BOARD OF ADJUSTMENT – ABUTTER NOTICE

Meeting Type: Regular Meeting
 Meeting Location: Council Chambers – 288 Central Avenue, Dover, NH 03820
 Meeting Date: Thursday, August 19, 2010
 Meeting Time: 7:00 pm

Z10-09





CITY OF DOVER

ZONING BOARD - STAFF MEMO FILE #Z10-09

Application Type: Dimensional Variance
Applicant(s): Robert & Ann Marie Wilkins
Owner(s): Robert & Ann Marie Wilkins
Location: 2 Browning Drive (Assessor's Map 21, Lot 79)

INTENT: To obtain a dimensional variance to allow construction of 13'-6" x 24'-6" addition within 12.5 ft. of the front lot line where 25 ft. is required.

LOTS/UNITS PROPOSED: 0 Lots

AGENDA ITEM #: 5-A

ZONING DISTRICT: R-12

EXISTING LAND USE: Single Family Dwelling

PROPOSED LAND USE:
No Change

SURROUNDING LAND USE: Single Family houses

PREVIOUS ZBA ACTION: None

PB APPROVAL REQUIRED: No

ATTACHMENT: Site Plan, application and abutter's notice

APPLICATION IS COMPLETE: Yes

NOTICES AS REQUIRED: Yes

STAFF RECOMMENDATION:
The Planning Department conditionally recommends that the application be disapproved.

Summary of Request and Background

Applicant wishes to construct an addition to add bedroom, closet space and bathroom space to the dwelling that do not meet front setback requirements. The addition would not protrude any farther into the setback than the current detached garage does now.

Attached find site plan, and interior layout plan.

Reason for Staff Recommendation

Staff recommendation is conditional because if the applicant can demonstrate that the interior layout of the existing house makes it impractical or impossible to construct the addition at the rear of the house within the building envelope, then the recommendation would change to that of approval.

Basis for recommendation is that there appears to be room to construct the addition within the building envelope.

Recommendation

The Planning Department recommends the Zoning Board accept the application, hold the public hearing. If the Board approves the variance, staff would suggest the following conditions:

Conditions:

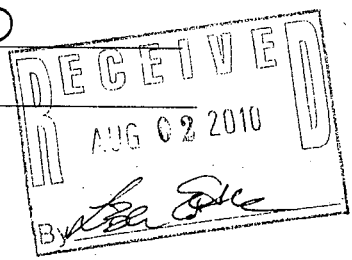
1. That there be no additional dimensional variances granted for this property.

CASE # 210-10

DATE RECEIVED 8/2/10

AMOUNT PAID \$ 187.70 CK# 5089
12.30 CK# 5090

TIME RECEIVED _____



CITY OF DOVER
ZONING BOARD OF ADJUSTMENT
APPLICATION

I.
APPLICANT Tom and Deborah Child PHONE #: 742-4606
ADDRESS 8 Rutland St. Dover, NH 03820
PROPERTY OWNER ChildHill LLC
ADDRESS same
PROPERTY LOCATION 9 -11 Hamilton St.
BRIEF DIRECTIONS from Silver St. turn on to Elm St. and take your second right on to Hamilton the property is on the right side 3rd driveway

ZONE RM 10U ASSESSOR'S MAP 12 LOT #(S) 92

TYPE OF APPEAL: (Please check off one)

- VARIANCE ARTICLE 170 SECTION 41 C
- VARIANCE (Physical Disability - RSA 674:33-V) ARTICLE _____ SECTION _____
- SPECIAL EXCEPTION ARTICLE _____ SECTION _____
- ADMINISTRATIVE DECISION ARTICLE _____ SECTION _____
- EQUITABLE WAIVER ARTICLE _____ SECTION _____

Describe briefly your plans for this property:

Move the existing garage 8 feet toward the West property line, no change in use.

9/11 Hamilton St. includes 6 one bedroom apartments with limited off street parking. Relocating the garage would improve off street tenant parking. The current set back on the Westerly side is 27 feet based on reference points written in the 1928 deed. I would maintain with the proposed move a 19 foot set back to the west and no change in the set back on the north side.

II. REQUIREMENTS SUBMITTED: (Please check off)

A. Plot plan drawn in accordance with a boundary line survey to scale not less than 1"=40', (9 copies). They need to include the lot dimensions including area in square feet, and also the size and location of existing and proposed buildings if applicable, including setbacks. (X)

B. List of abutters including addresses and map and lot number of parcels who adjoin or are directly across the street or stream from property. (attached) (X)

C. Application fee of:

\$100.00 VARIANCE	\$	<u>100.00</u>
\$100.00 SPECIAL EXCEPTION	\$	_____
\$25.00 APPEAL FROM ADMINISTRATIVE DECISION	\$	_____
\$100.00 EQUITABLE WAIVER	\$	_____

D. Certified letters fee: # of abutters 4 X ~~\$5.34~~ ^{\$2.00} = \$ 22.16 ^{32.00}

Applicant & Owner 1 X ~~\$5.54~~ ^{\$2.00} = \$ 5.54 ^{2.00}

Foster's newspaper public notice \$ 60.00

TOTAL \$ 187.70

\$300.00

III. **NARRATIVE:** Complete the section pertaining to your request for a variance. Keep your answers brief and be prepared to explain them in detail at the meeting. The burden of proof is on the applicant. If you need more space use an additional sheet of paper

VARIANCE REQUIREMENTS: (PLEASE TYPE OR PRINT IN INK)

1. Provide proof that demonstrates the variance will not be contrary to the public interest.

The proposed relocation of the building will not affect public interest because:

- 1) The use of the building will not change.
- 2) The East and West side setback will remain greater than the minimum required.
- 3) The rear setback will not change.
- 4) The sidewalk and street are at opposite ends of the lot.
- 5) It is in the public interest because it will provide additional off street parking.

2. Provide proof that demonstrates how a variance observes the spirit of the ordinance.

The proposed relocation observes the spirit of the ordinance by:

Improved utilization of the property and buildings
Providing additional off street parking
Restoring a deteriorating structure
Maintaining an historic quality to the neighborhood

3. Provide proof that demonstrates how a variance will result in substantial justice.

By the Improved utilization of the property and the garage building the residents will be able to enjoy additional parking with room to maneuver without the possibility of damaging another vehicle. Also access to the garage for storage of personal items will be substantially improved.

4. Provide proof that demonstrates the variance will not diminish the values of surrounding properties.

A variance of this type has virtually no downside potential and most likely will not affect property values either way. I have personally talked with each abutter to ask them there opinion and advice and no one has expressed concern over property values.

5A. Provide proof that literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Unnecessary hardship standards are:

(i) Special conditions of the property that distinguish it from other properties in the area; and

The Hamilton St. neighborhood is comprised of homes with detached accessory buildings that were built long before the setback requirements of today. The 9/11 Hamilton St. Garage is unique in that it only has the rear lot line which does not conform. If the building were moved to a position where it would comply with all the setback rules the net effect would be less parking and more potential driveway problems.

(ii) no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and

(iii) the proposed use is a reasonable one.

The proposed use remains the same as in the past 100 plus years. Originally a Stable for horses now a garage for autos and personal belongings.

OR

5B. If the criteria in subparagraph 5A above are not established, provide proof that an unnecessary hardship exists if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

SPECIAL EXCEPTION REQUIREMENTS

1. Explain how the requested use would be essential or desirable to the public convenience or welfare.

2. Detail how the requested use would not create undue traffic congestion or unduly impair pedestrian safety.

3. Describe how the requested use would not overload any public water, drainage or sewerage system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the City will be unduly subjected to hazards affecting health, safety or the general welfare.

THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS

IV. As applicant of standing of this request, I certify that the information herein is complete and accurate.

IMPORTANT
PROPERTY IDENTIFICATION SIGN
MUST BE POSTED ON THE PROPERTY
FOR THE 5 DAYS PRIOR TO HEARING.
FAILURE TO POST MAY RESULT IN
APPLICATION NOT BEING ACCEPTED

[Handwritten Signature]
Signature of Applicant*
[Handwritten Signature]
Signature of Owner*
*Both Signatures Required

The applicant waives the requirement of holding a hearing within thirty (30) days of receipt of the application, pursuant to RSA 676:7, II:

Signature of Applicant

Date

9 / 11 Hamilton St. abutters List

Map / Lot	Location	Owner - Address
12 - 91	13 Hamilton St.	Kevin J. Dumont 446 Raymond Rd. Candia, NH 03034
12 - 93	7 Hamilton St.	Mark D. Rafferty Elizabeth Rafferty Megan E. Rafferty 55 Summer St. Dover, NH 03820
12 - 98	44 Summer St.	Patrick J. Kelly Jane Ann Kelly 44 Summer St. Dover, NH 03820
12 - 110	12 Hamilton St.	Paul F. McNamara Pawn Nitichan 12 Hamilton St. Dover, NH 03820

Variance request

12 - 92	9/11 Hamilton St.	Thomas L. Child Deborah M. Child ChildHill LLC 8 Rutland St. Dover, NH 03820
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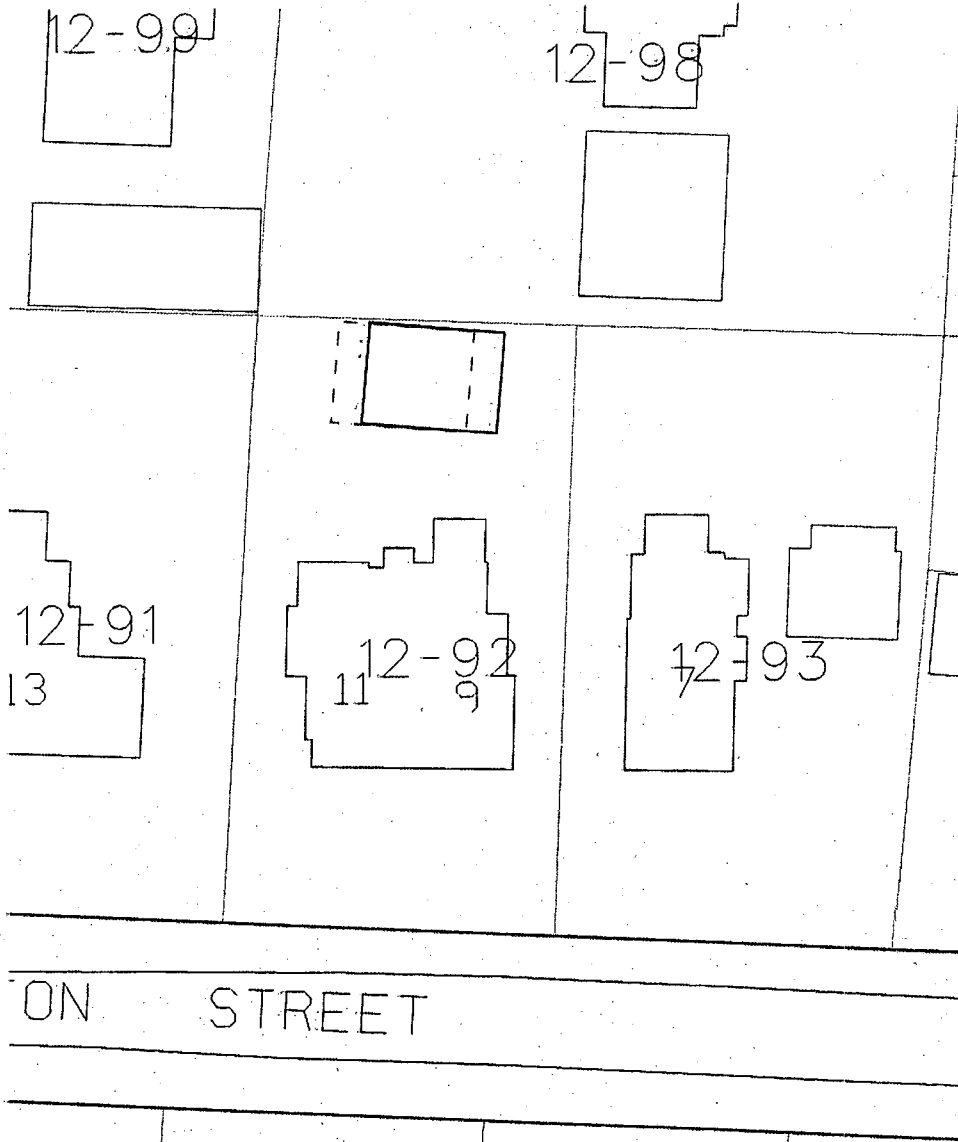


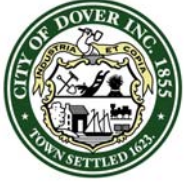
CITY OF DOVER

ZONING BOARD OF ADJUSTMENT — ABUTTER NOTICE

Meeting Type: Regular Meeting
 Meeting Location: Council Chambers — 288 Central Avenue, Dover, NH 03820
 Meeting Date: Thursday, August 19, 2010
 Meeting Time: 7:00 pm

Z10-10





CITY OF DOVER

ZONING BOARD - STAFF MEMO FILE #Z10-10

Application Type: Dimensional Variance
Applicant(s): Tom & Deborah Child
Owner(s): Child Hill LLC
Location: 9-11 Hamilton Street (Assessor's Map 12, Lot 92)

INTENT: To obtain a dimensional variance to allow moving a nonconforming garage while continuing to meet side setbacks, but without meeting current rear setback requirements (keeping the current approx. 2 ft. where 25 ft. is required.)

LOTS/UNITS PROPOSED: 0 Lots

AGENDA ITEM #: 5-B

ZONING DISTRICT: RM-U

EXISTING LAND USE: Multi-Family Dwelling

PROPOSED LAND USE:
No Change

SURROUNDING LAND USE: Single & Multi-Family houses

PREVIOUS ZBA ACTION: None

PB APPROVAL REQUIRED: No

ATTACHMENT: Site Plan, application and abutter's notice

APPLICATION IS COMPLETE: Yes

NOTICES AS REQUIRED: Yes

STAFF RECOMMENDATION:
The Planning Department recommends that the application be approved with the provided condition.

Summary of Request and Background

Applicant wishes to move an older garage from left to right a distance of 8 ft. as you face the lot. The applicant intends to construct a more permanent foundation for the garage to sit on. The rear setback would not change from the current 2 or 3 feet. Applicant states moving garage would make it more useable with regard to access with vehicles, etc.

Attached find site plans.

Reason for Staff Recommendation

Staff recommendation hinges on both the age of the structure and the fact that it predates zoning in the City, and the fact that the neighborhood has many instances of accessory structures that are close to lot lines and do not meet current setbacks. Refer to the map in the file that shows these neighborhood structures.

The applicant has also submitted letters of support from the neighbors.

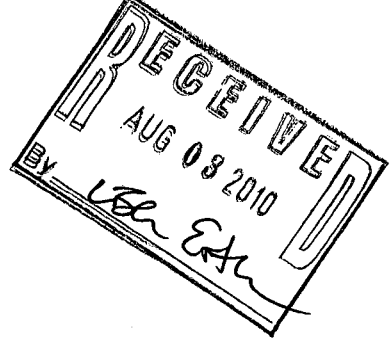
Recommendation

The Planning Department recommends the Zoning Board accept the application, hold the public hearing. If the Board approves the variance, staff would suggest the following conditions:

Conditions:

1. That the required building permits be acquired prior to constructing the new foundation and moving the garage.

CASE # 210-11 DATE RECEIVED _____
 AMOUNT PAID \$ 216- TIME RECEIVED _____



**CITY OF DOVER
 ZONING BOARD OF ADJUSTMENT
 APPLICATION**

I. APPLICANT Chad Weathers & Olga Mollin PHONE #: 603-418-8438
 ADDRESS 24 Westwood Circle Dover, NH 03820
 PROPERTY OWNER Olga Mollin
 ADDRESS 24 Westwood Circle Dover, NH 03820
 PROPERTY LOCATION 24 Westwood Circle Dover, NH 03820
 BRIEF DIRECTIONS Rt 16 North to Exit Bw. Take Rt onto Rt 9 from Rt 155. Travel 2 miles to westwood circle Rt, left at "T" first on Rt
 ZONE R-40 ASSESSOR'S MAP F LOT #(S) 15N

TYPE OF APPEAL: (Please check off one)

<input checked="" type="checkbox"/> VARIANCE	ARTICLE <u>170</u>	SECTION <u>12B</u>
<input type="checkbox"/> VARIANCE (Physical Disability - RSA 674:33-V)	ARTICLE _____	SECTION _____
<input type="checkbox"/> SPECIAL EXCEPTION	ARTICLE _____	SECTION _____
<input type="checkbox"/> ADMINISTRATIVE DECISION	ARTICLE _____	SECTION _____
<input type="checkbox"/> EQUITABLE WAIVER	ARTICLE _____	SECTION _____

Describe briefly your plans for this property:

Our plan is to remove our existing one car garage; add a 2 car garage in its place. The extra width will be towards the 26 Westwood Circle - 26' wide by 34' deep. This increased width will further encroach on the property line, w/in the 25' set-back

II. REQUIREMENTS SUBMITTED: (Please check off)

- A. Plot plan drawn in accordance with a boundary line survey to scale not less than 1" = 40', (9 copies). They need to include the lot dimensions including area in square feet, and also the size and location of existing and proposed buildings if applicable, including setbacks. _____
- B. List of abutters including addresses and map and lot number of parcels who adjoin or are directly across the street or stream from property. _____
- C. Application fee of:

\$100.00 VARIANCE	\$ <u>100.00</u>
\$100.00 SPECIAL EXCEPTION	\$ _____
\$25.00 APPEAL FROM ADMINISTRATIVE DECISION	\$ _____
\$100.00 EQUITABLE WAIVER	\$ _____
- D. Certified letters fee:

# of abutters <u>6</u> X \$8.00 =	\$ <u>48.00</u>
Applicant & Owner <u>1</u> X \$8.00 =	\$ <u>8.00</u>
Foster's newspaper public notice	\$ <u>60.00</u>
TOTAL	\$ <u>216.00</u>

III. **NARRATIVE:** Complete the section pertaining to your request for a variance. Keep your answers brief and be prepared to explain them in detail at the meeting. The burden of proof is on the applicant. If you need more space use an additional sheet of paper

VARIANCE REQUIREMENTS: (PLEASE TYPE OR PRINT IN INK)

1. Provide proof that demonstrates the variance will not be contrary to the public interest.
We feel that this will not be contrary to public interest as many of the homes built in the 60's : 70's w/in the neighborhood do not comply w/ newer zoning, 2 concord way for ex. All other setbacks will be maintained, no additional curb cuts will be maintained, and we will match other Cape style houses who have added a second bay.
2. Provide proof that demonstrates how a variance observes the spirit of the ordinance.
Other homes originally built in Westwood Circle are within newer setback parameters and there is a wooded buffer between 24:26 Westwood. The garage has been positioned to comply w/ all other setbacks and match the look of other Westwood Cape properties
3. Provide proof that demonstrates how a variance will result in substantial justice.
• Will match the look of other Westwood circle homes that have a second bay • Like other homes built w/in Westwood circle during the 60's : 70's prior to exist ordinances it will allow for cost-effective & practical enhancements and upgrades
4. Provide proof that demonstrates the variance will not diminish the values of surrounding properties.
• Will match existing arch look • The property encroached upon has a substantial buffer to their garage • Will match the look of recently renovated homes

5A. Provide proof that literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. Unnecessary hardship standards are:

- (i) Special conditions of the property that distinguish it from other properties in the area; and
- (ii) no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and
- (iii) the proposed use is a reasonable one.
current set-backs would not allow for building of a new identical garage in the same footprint. To comply w/ the provisions a new garage on the other side of the house would be required - longer drive, curb cuts, renovations to home

OR

5B. If the criteria in subparagraph 5A above are not established, provide proof that an unnecessary hardship exists if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

N/A

SPECIAL EXCEPTION REQUIREMENTS

1. Explain how the requested use would be essential or desirable to the public convenience or welfare.

N/A

2. Detail how the requested use would not create undue traffic congestion or unduly impair pedestrian safety.

N/A

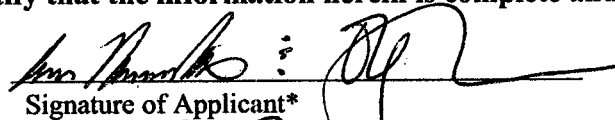
3. Describe how the requested use would not overload any public water, drainage or sewerage system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the City will be unduly subjected to hazards affecting health, safety or the general welfare.

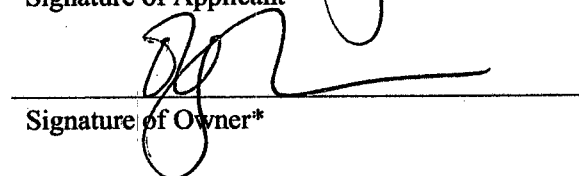
N/A

THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS

IV. As applicant of standing of this request, I certify that the information herein is complete and accurate.

IMPORTANT
PROPERTY IDENTIFICATION SIGN
MUST BE POSTED ON THE PROPERTY
FOR THE 5 DAYS PRIOR TO HEARING.
FAILURE TO POST MAY RESULT IN
APPLICATION NOT BEING ACCEPTED


Signature of Applicant*


Signature of Owner*

*Both Signatures Required

The applicant waives the requirement of holding a hearing within thirty (30) days of receipt of the application, pursuant to RSA 676:7, II:

Signature of Applicant

Date

Names	House	Address	Map/Lot	Book	Page
Fred and Lillian Torres	11 Concord Way	11 Concord Way, Dover, NH 03820	F0018-A00000	1773	189
John and Marie Mellyn	43 Westwood Circle	43 Westwood Circle, Dover, NH 03820	F0018-G00000	735	46
Steve and Lisa Hergott	2 Concord Way	2 Concord Way, Dover, NH 03820	F0017-R00000	1878	289
Pete and Diane Harvey	26 Westwood Circle	26 Westwood Circle, Dover, NH 03820	F0017-H00000	1142	242
Brenda Grondin	45 Westwood Circle	45 Westwood Circle, Dover, NH 03820	F0017-L00000	2950	929
Ken and Donna Neenan	47 Westwood Circle	10 New Bellamy Lane, Dover, NH03820	F0017-M00000	2943	733

F-1/R

Lot = .43 acres
= 18,730.1 ft²

F-17N

24

F-17

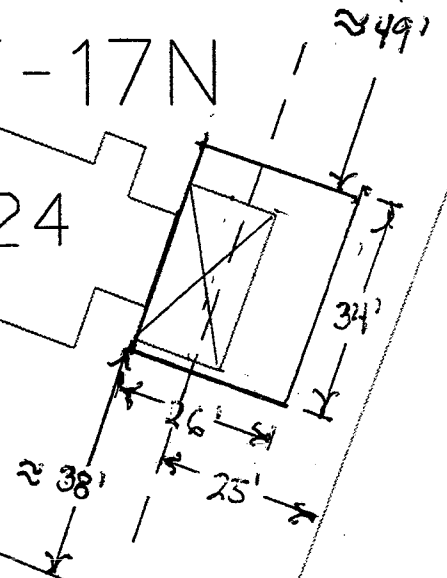
26

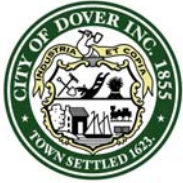
X - Existing Garage

CIRCLE

45

-17L





CITY OF DOVER

ZONING BOARD - STAFF MEMO FILE #Z10-11

Application Type: Dimensional Variance
Applicant(s): Chad Weathers & Olga Mollin
Owner(s): Olga Mollin
Location: 24 Westwood Circle (Assessor's Map F, Lot 17N)

INTENT: To obtain a dimensional variance to allow removing a single car garage and constructing a two-car garage that will not meet the twenty-five ft. side setback by 14 ft. (New setback would be 11 ft.)

LOTS/UNITS PROPOSED: 0 Lots

AGENDA ITEM #: 5-C

ZONING DISTRICT: R-40

EXISTING LAND USE: Single Family Dwelling

PROPOSED LAND USE:
No Change

SURROUNDING LAND USE: Single Family houses

PREVIOUS ZBA ACTION: None

PB APPROVAL REQUIRED: No

ATTACHMENT: Site Plan, application and abutter's notice

APPLICATION IS COMPLETE: Yes

NOTICES AS REQUIRED: Yes

STAFF RECOMMENDATION:

The Planning Department recommends that the application be approved with the provided condition.

Summary of Request and Background

Applicant wishes to remove an existing, attached single car garage and replace it with a larger, two-car garage that would not meet the side setback by approximately 14 ft. Applicant states abutting properties have principle structures closer than what is being asked for. (3 and 4 feet to the property line).

Attached find site plans.

Reason for Staff Recommendation

Staff recommendation is based on the fact that during the years this subdivision was approved and houses were being constructed, the area was an R-1 zone with a 12 ft. side setback. This request allows the applicant a similar use that his neighbors have and would be within one foot of the old side setback. These types of dimensions are reflected in the neighborhood for the older structures. Refer to the map on the side opposite that shows the closer neighborhood structures.

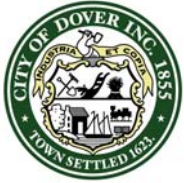
Staff reserves the rights to amend this approve recommendation based on abutter input or other facts presented during the hearing.

Recommendation

The Planning Department recommends the Zoning Board accept the application, hold the public hearing. If the Board approves the variance, staff would suggest the following conditions:

Conditions:

1. That the required building permits be acquired and a foundation plot plan be prepared by a surveyor prior to constructing the new garage.



CITY OF DOVER

ZONING BOARD - STAFF MEMO FILE #Z10-11

Application Type: Dimensional Variance
Applicant(s): Chad Weathers & Olga Mollin
Owner(s): Olga Mollin
Location: 24 Westwood Circle (Assessor's Map F, Lot 17N)

