



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, February 17, 2011**
Meeting Time: **7:00 pm**

1. ATTENDANCE

Members Present: Sam Reid (Chair), William Colbath (Vice Chair), Frank Landford, Jennifer Stone (Alternate), Joshua Cote (Alternate)

Members Not Present: Chris Prior, Otis Perry, Jim Kelley

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

S. Reid noted that he would not be present at the March ZBA Meeting.

2. APPROVAL OF PRIOR MINUTES OF JANUARY 20, 2011.

Motion: F.Landford made the motion to approve the minutes. W.Colbath seconded. Vote: U/A

3. OLD BUSINESS

Bruce Woodruff mentioned the LGC publications and suggested that the new members receive copies.

4. NEW BUSINESS

- A. * Z 11-03 Edward Heaphy, 19 Leighton Road, Tax Map 8, Lot 25-B, zoned R-20, requests a Variance from the terms of Article II, Section 170-6, Definition of Lot; to build a single family house, while allowing the existing house to remain and be occupied until the new dwelling is completed, upon which time the existing structure shall be demolished.

Edward Heaphy, 9 Heaphy Lane, applicant, stated that his daughter and husband are living in the existing home. Upon completion of the new dwelling, they would demolish the existing structure.

F.Landford confirmed where Mr. Heaphy resided in relation to this property. Mr. Heaphy stated that he was holding on to this lot and the dwelling, so that one of his children could build a new home at this location.

M.Moisan approached the podium and stated that she is Mr. Heaphy's daughter. The home is a modular and would be a 6-8 week delivery. They are intending on being in the home by summer. A photo replica was passed around showing what the new dwelling would look like.

W.Colbath and B.Woodruff discussed the previous variance on this property.

F.Landford confirmed with Mr. Heaphy that he would agree on a one year time period to demolish the existing structure.

Public Hearing Opened – nobody spoke.

B.Woodruff stated that the reason for staff recommendations, which is supporting this request, will eliminate the need for temporary housing for the family, and makes sense so long as the demolition of the older structure has a date specific stipulated. The residential lot will be in keeping with the neighborhood because this condition is temporary, and will not create a liability or nuisance for the



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neighborhood. The spirit and intent of the zoning ordinance will be retained, as the lot will remain single family (low density) once the older structure is demolished. The ordinance creates the hardship because there is no language that specifically allows this temporary condition to happen, even though it makes sense and it is reasonable.

Public Hearing Closed

S.Reid confirmed with Mr. Heaphy that they intend on having a modular home delivered and put on a foundation this summer and would plan on moving in immediately. S.Reid noted that it makes sense that the existing structure be demolished in about 90 days after certificate of occupancy (CO) is issued for the home, but no longer than a year. Discussion continued regarding the condition.

Motion: W.Colbath made the motion to grant the variance with the condition that the existing house be demolished at the earlier of one year or 90 days after a CO is issued for the new residence. F.Landford seconded. Vote: U/A

Findings of Fact:

1. Did the Applicant provide proof that demonstrates the variance will not be contrary to the public interest? Per application and testimony.
2. Did the Applicant provide proof that demonstrates how a variance observes the spirit of the ordinance? Per application and testimony.
3. Did the Applicant provide proof that demonstrates how a variance will result in substantial justice? Per application and testimony.
4. Did the Applicant provide proof that demonstrates the variance will not diminish the values of surrounding properties? Per application and testimony.
5. A. 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, per application and testimony. (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, per application and testimony. (iii) Did the applicant demonstrate that the proposed use is a reasonable one? Yes, per application and testimony.

5. OTHER BOARD BUSINESS

B.Woodruff updated the Board on the zoning changes and stated that they have made progress with the build-to line and if it applied to lots that have pre-existed the change. The other changes are being addressed that Mr. Parker spoke about at last months meeting. Those changes will be moving forward to the Planning Board in an informal way, February 22, 2011 and then brought to a workshop session in March.

S.Reid thanked L.Ertle for her service to the Board and wished her the best of luck.

6. ADJOURN

Motion: W.Colbath made the motion to adjourn at 7:20 pm. F.Landford seconded. Vote: U/A