



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers, City Hall, Dover, NH 03820
Meeting Date: **Thursday, August 16, 2012**
Meeting Time: **7:00 pm**

1. ATTENDANCE

Members Present: William Colbath (Vice Chair), Frank Landford, James Kelley, Chris Prior (Alternate), Joshua Cote (Alternate)

Members Not Present: Sam Reid (Chair), Otis Perry, Jennifer Stone.

Staff Present: Timothy Corwin (Assistant City Planner), Gail Pare (Recording Secretary)

The Vice-Chair called the meeting to order at 7:00 p.m. The Vice Chair opened the meeting and introduced the Board and staff members to the audience.

2. APPROVAL OF PRIOR MINUTES OF JUNE 21, 2012

Motion: J.Kelley motioned to accept the June 21, 2012 minutes as amended. Seconded by F.Landford.
Vote: U/A

3. NEW HEARINGS

- A. * **Z 12-13 STF Development Corp.**, 37 Dover Point Road, Tax Map K, Lot 38, located in the Medium Density Residential (R-12) District, proposes to construct eight (8) townhouses per variance granted on February 16, 2012 (Case Z 11-23). 12 of the 28 proposed parking spaces are located in garages which directly abut the remaining 16 proposed parking spaces. As a result, the garage parking spaces do not have independent access to an aisle or driveway as is required by **Section 170-44.J** of the Zoning Ordinance. Therefore, applicant requests a variance from **Section 170-44.J** to permit parking spaces, to be located in the garages of the townhouses, that do not have independent access to an aisle or driveway.

Atty. James Schulte, representing the applicant, gave a brief overview. The applicant is asking for two variances due to the parking requirement of 3 spaces per unit. He stated that if this were a single family structure, it would only require 2 spaces. The end units will be larger in size including two car garages, and two additional spaces in front. Four of the units in the middle will be smaller units, and will have 1 car parking. He referred back to the ordinance and feels what they have provided to the board is adequate. The parking layout also reduces the amount of impervious space.

W.Colbath asked about additional parking possibilities.

J.Schulte stated the Planning Board may require a circular driveway to coincide with additional plans across the lot. He cannot guarantee additional parking due to planning details and concerns with abutters.

F.Landford questioned the number of proposed spaces (28).

J.Schulte clarified the number of spaces and the number of garages.

J.Kelley questioned that visually, the parking spaces appear narrow on the plan. He also questioned parking spaces for guests and where that would be.



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J. Schulte stated the residents have designated parking in front of their own unit, whether it is for residents or guests. He showed a fire lane area on the layout which may allow two additional spaces at the far end.

Board discussion ensued about the use of fire lanes for parking.

J.Kelley asked if the ZBA counts the garage spaces underneath as actual spaces.

T.Corwin spoke about granting the variances, and the conditions of approval. He stated the Planning Board may condition their approval on providing additional parking spaces.

J.Cote feels it is a reasonable request, but feels additional parking will become an issue and needs further review.

Public hearing open. No one spoke. Public hearing closed.

Staff recommendations:

T.Corwin stated that staff is supportive of the request. He asked J.Schulte if two additional spaces were the bare minimum, or can a third be added.

J.Schulte stated the adjacent lot is under agreement.

J.Kelley has no problem allowing parking underground; however, he asked why the ZBA is involved in requiring the number of parking spaces in a development.

C.Prior motioned to grant the variance with the following condition: Seconded by J.Cote. Vote: U/A.

- Two additional on-site parking spaces shall be provided, and a third additional on-site parking space shall be provided if technically feasible.
- B. * **Z 12-14 STF Development Corp.**, 37 Dover Point Road, Tax Map K, Lot 38, located in the Medium Density Residential (R-12) District, proposes to construct eight (8) townhouses per variance granted on February 16, 2012 (Case Z 11-23). Applicant requests a variance from **Section 170-12.A** of the Zoning Ordinance and the R-12 District Table of Use and Dimensional Requirements to permit the townhouses to be located approximately 180 ft. from the front property line, where a minimum build to line of no greater than 25 ft. from the lot line is required.

Atty. James Schulte continued representing the applicant. He discussed where the driveway needs to be located and that there is no room to locate the units closer to the road. He discussed the old Dover set back rule, and the build-to rules.

J.Kelley asked why 25 ft. is required.

T.Corwin feels the variance is appropriate. The build-to line applies to your average neighborhood lot. He stated generally speaking, it encourages close-knit neighborhoods, larger backyards, and it does not fit this development.

Public hearing opened. Nobody spoke. Public hearing closed.



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Staff recommendations:

J. Kelley motioned to grant the variance. C.Prior seconded. Vote: U/A.

- C. * Z 12-15 Friends Forever Real Estate, LLC., 16 Summer Street, Tax Map 12, Lot 23, located in the Urban Density Multi-Residential (RM-U) District. Applicant requests variances from **Section 170-12.A** of the Zoning Ordinance and the RM-U District Table of Use and Dimensional Requirements as follows: (a) to permit the first floor of the existing building to be used as office space where office is not a permitted use in the RM-U District, and (b) to permit a rooming house use on the second floor of the existing building to be occupied by up to thirteen (13) people where only ten (10) are permitted.

Tim Corwin distributed and discussed updated documents that were handed out to the Board.

W.Colbath read a letter received from Hamilton & Pamela Krans in opposition of the variance. He also read an email letter received from Berrien Moore III, who also opposed the variance. Copies of the two letters are on file at the Planning Department.

Atty. Patty Weathersbey, represents the applicants. She identified the owner of the property, David Reall; Steve Martineau, Executive Director of Friends Forever; and Michelle McCarthy, realtor. She pointed to the photo of the 200 year old house which has been for sale just over a year. She spoke about the neighborhood (RM-U) which is adjacent to The Wadleigh House, which is a 16 bed assisted living facility. There are other multi unit residential homes in the neighborhood, and one single family dwelling on the same side of the street, at the corner of Locust and Summer Streets. She provided photos of the properties for the Board.

She spoke about the Friends Forever organization which is a 501.c. non profit organization. They run cultural programs for youth from around the world that are in conflict. The youth spend two weeks in the area, receive training, learn cultural differences, return to their home country and work for a year long program. The home at 16 Summer Street is intended to have a small office space and temporary back-up housing for high school students who don't have a host family or another place to go. When the application was filled out, the term "rooming house" was not the appropriate description, but the closest fit. The children are sent here in groups of ten, and will be there no more than two weeks at a time. The Director and an additional chaperone would stay there. Currently, there are one full time and two part time employees, but they would like to grow the organization. There are only two parking spaces on-site. They have acquired two additional spaces off site. A rental van is rented only when needed to transport the children and will not be parked on the site continually. Ms. Weathersbey gave a brief overview of the RM-U district and permitted uses. The variance request is to allow up to 10 children and 3 staff members. She feels that this use is less intense than other permitted uses. The character of the building and neighborhood will not change. She feels with the Friends Forever purchase of the property, it will help the neighborhood and enhance it.

C.Prior asked about the current parking and additional offsite parking.

P.Weathersbey requests some flexibility of the Board if they cannot locate private off street parking for the additional spaces.

J.Kelley asked about the typical time of the year that the students would occupy the home and is it consecutive.



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S.Martineau stated that the groups traditionally come in the fall and the summer. Friends Forever uses other sites in Maine, Massachusetts, and Louisiana. The Dover location would be backup space only. He stated that it is not 20 weeks consecutively, rather two weeks at a time, now and again.

W.Colbath asked to define the students.

P.Weathersbey stated they are youth leaders. They go through an intensive application process. They are not permitted to travel alone, use cell phones, and there are strict guidelines which they must follow.

Public hearing open.

Robert Whiting, 160 Silver Street, opposes the variance for a residential mixed use to commercial use. He feels once allowed, others will follow. He recommended using other locations instead of Summer Street.

Sara Treacy, 148 Locust Street read a letter she wrote to the Board. She opposes the group home and stated it is a youth hostel. The proposed plan is more intense than a home occupation space. A copy of the letter is on file at the Planning Department.

Joe Hill, Sara's husband spoke about the location of the dormitory area, and stated this section of the structure looks down on his property. There are concerns with the number of people staying there at any time, privacy and noise.

Tinka Pritchett, lives across the street at 19 Summer Street and spoke in opposition. She has three apartments at 17 Summer Street. She resents an office space in her neighborhood.

Mark Visciano, 185 Locust Street, thanked Ms. Weathersbey for her presentation. He feels it has limited parking, and a professional office would have a negative impact on the neighborhood.

Mark Rafferty, own property at 55 Summer Street which is a 4 unit building. He has lived there for the past 11 years. He spoke about the neighborhood, and how the neighbors interact. He spoke about Friends Forever being a Limited Liability Corp. which he feels limits their liability. He has concerns about the number of proposed parking spaces. The plans have changed last minute and neighbors didn't have the benefit of seeing the latest changes. He has concerns about the children being on a neutral ground instead of being in a private home and limiting their liability as an LLC.

Robert Giegengack, 14 Hamilton Avenue, spoke about the dormitory space being in the same space as the office. He also asked if there is available dormitory space in the Dover Children's home three blocks away or in the old McIntosh College dormitories, or in homes of those who rented to those college students. There is an abundance of other rental space within the city.

Matt Cox, 33 Fisher Street, commented as a resident of a neighborhood of antique homes. He states it's a shame that it relaxes the character of the neighborhood, and it becomes less residential.

Corby Feeney, 195 Silver Street doesn't feel the location is appropriate. She referred back to the McIntosh College and culinary school dormitories which she felt caused neighborhood problems. She questioned the sleeping



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arrangements for that size group and mentioned they would be in cramped quarters. She feels it's a fine organization, but for that neighborhood it would just be too much.

Ron Pfeiffer, owns and operates The Wadleigh House with his wife, has mixed emotions but does have serious concerns about ruining a quaint and beautiful town and turning it into a commercial interest that may not be conducive with the neighborhood. He is concerned if Friends Forever were to sell the property, what would move into it. He feels there are better places that would be more appropriate.

Brian Haines, lives at and owns 15-17 Elm Street, for the past 13 years. He thanked the representative of the applicant for stating this is a lovely 200 year old home and is in a wonderful neighborhood. He is not opposed to the mission, but it is the wrong place and at the wrong time. Addressing the applicant's comments that this project will help the neighborhood, he stated his neighborhood does not need help, as it is already a wonderful neighborhood.

Patty Weathersbey responded to the concerns of the neighborhood abutters. She stated she understands that the residents wish to maintain the property as a single family home, but the fact is the home is for sale and there are several possibilities of more impactful permitted uses that could go in there. They are trying to use two permitted uses: a rooming house and an office and tweak them slightly. If Friends Forever sells or leaves, the variance would expire and future tenants/owners would have to come back to the Zoning Board.

Public hearing closed.

Staff recommendations:

T. Corwin thanked the abutters for sharing their concerns. He clarified that in the future, the home could be used as a rooming house which can be occupied by up to 10 occupants as a permitted use. Since a rooming house is a permitted use, he cautioned that there would be no chaperones, possibly an absentee landlord and nobody in the office to discuss problems with. He clarified that the applicant proposes only two parking spaces. Staff does not believe the enforcement of conditions of approval related to parking will be an issue. A building permit and a certificate of occupancy are required. Staff generally does support the request, proposes the following conditions:

- The office portion of the building shall be located on the first floor of the building, be no greater than 650 square feet (net), and be used by no more than two (2) employees at any time. Future lessees/occupants shall be limited to non-profit organizations.
- Up to three (3) additional employees are permitted provided that a copy of a five (5) year lease is provided to the Planning Department for each parking space, which shall be located within a reasonable distance of the property on a lot where parking lot is a permitted use. The parking spaces may be leased from the City of Dover, if available, and shall be leased for the maximum term possible up to (5) years. Leases for the off-street parking spaces shall be maintained throughout the duration of the office use.
- Parking for the office shall utilize the existing driveway area only. On-street parking for the employees of the office use shall not be permitted.
- The rooming house is permitted as an accessory use to the office only, for a period of not greater than twenty (20) weeks per year. Rooms may not be rented to the general public, and shall be used in a manner that is corollary to the core function/purpose of the office occupant's business/activities.



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Future occupants of the office area must operate and use the rooming house portion of the building in a manner that is substantially similar to the applicant.

- Applicant shall obtain a Conditional Use Permit from the Planning Board to permit the rooming house use to have zero (0) on-site parking spaces, or to permit shared parking per Section 149-14.D.4.b of the Site Regulations.
- Travel to and from the rooming house by occupants of the rooming house shall be restricted to a single vehicle, which shall be parked in accordance with the parameters of the Conditional Use Permit.
- The notice of decision shall be recorded at the Strafford County Registry of Deeds.

W.Colbath asked if the variance can not be tied to the property, but tied to the occupant.

T.Corwin stated that it may not be legal to tie the variance to a particular applicant, but you can tailor the variance approval to both the property and the applicant.

J.Kelley asked about the City's point of view and the new ordinances, the reality is that the City does displace what was residential. He asked what the ZBA's view is. He also stated that the intent of the applicant is not to modify the building, but their plan is to make sure they upkeep the home. It would be difficult for a home of this nature to upkeep. He feels the office use is a very confined use.

T.Corwin stated that in his personal opinion this particular property may be one that would benefit from a historical district. However, Dover does not have a historical district. He stated that there are certain planning tools available under State Law which the City can use to protect neighborhoods such as this, to maintain and protect historical buildings.

C.Prior stated that historically these youths have been placed in residential homes. This now opens up possibilities that brings in 10 youths and not look for that residential structure, which displaces the entire process. He feels 10 is a permitted use, which is fairly liberal. He struggles with the number of 13. He questions if this is the best reasonable use.

F.Landford feels the best use for this home is to keep as single family; however, he does not feel it is an unreasonable use.

J.Cote struggles with the amount of opposition there is for it, but there are worse alternatives for the home.

W.Colbath stated the application is more for a rooming house, but the definition is more of a group home and it is for a short term.

T.Corwin stated they looked at all definitions including group home for minors. Group homes for minors are licensed through the State of NH and this home would not be. Staff worked with the applicant to identify the use. This is a hybrid use.

J.Kelley motioned to accept and grant the variance with conditions as stated by the Planning Dept. Seconded by F.Torr. Vote: 3/2 – approval carries. (W.Colbath and F.Landford against.)

The Vice Chair reminded the abutters that there is an appeal period of 30 days.



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4. APPROVAL OF REVISED ZBA APPLICATION FORM

C.Prior motioned to approve the revised Zoning Board Application. Seconded by F.Landford. Vote: U/A.

5. STAFF COMMENTS:

6. ADJOURN

Motion: J.Kelley motioned to adjourn at 9:31 pm. Seconded by J.Cote. Vote: U/A