



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers, City Hall, Dover, NH 03820
Meeting Date: **Thursday, October 18, 2012**
Meeting Time: **7:00 pm**

1. ATTENDANCE

Members Present: Sam Reid (Chair), William Colbath (Vice Chair), Otis Perry, Jennifer Stone, James Kelley, Chris Prior (Alternate).

Members Not Present: Frank Landford, Joshua Cote (Alternate).

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

The Chair called the meeting to order at 7:01 p.m. The Chair opened the meeting, introduced the Board and staff members to the audience, and described the process used to hear cases.

2. APPROVAL OF PRIOR MINUTES OF SEPTEMBER 20, 2012

Motion: C.Prior motioned to accept the September 20, 2012 minutes. Seconded by O.Perry.
Vote: U/A. J.Kelley abstained.

3. HEARING – CONTINUED FROM SEPTEMBER 20, 2012

A. * Z 12-18 David A. Goodwin, 37 Dover Neck Road (Tax Map M, Lot 79B), located in the Rural Residential (R-40) District. The subject property is improved with a Quonset hut and wooden office building, both which are currently used as a training facility for the carpenters' union. The applicant proposes to remove the Quonset hut and use the wooden office building as a small scale printing business with up to three (3) employees. Applicant requests a variance from **Section 170-12.A** of the Zoning Ordinance and the R-40 District Table of Use and Dimensional Requirements to permit the wooden building to be used as a printing business with up to three (3) employees where printing business is not a permitted use in the R-40 District.

Atty. James Schulte, representing Mr. Goodwin, gave an overview of the application and explained the current business operations of the owner. The location of the wooden office building is to immediate left of the residence. The proposal is to remove the Quonset hut within 12 months and relocate Mr. Goodwin's printing operations into the wooden building. Schulte discussed the previous use of the Quonset hut and the office building. He stated the carpenters union used it for training on the weekends which included inside and outside operations. The current sign on the premises will be removed. Schulte suggested that the proposed use is less intense than the previous use and that Mr. Goodwin is not actively advertising his business, but in fact is downsizing. Walk in business is very rare and most business is repeat business. There are two justifications for the variance. 1) There will be limited noise and less intensity to the property. 2) The printing business is a service business, and the volume of the paper distributed is about 30% of the value of the product. Most of the service is printing stationary and business cards. Schulte discussed the option of the R-40 zone to allow an open space subdivision and stated that this business qualifies as a personal services establishment. The use is consistent with the neighborhood. Schulte stated the business would be a part-time printing operation with no more than two additional employees. This variance would be limited to what is applied for. There is ample parking on site.

Schulte clarified for an abutter who is approximately 600 feet away, that the Goodwin property has been on City water/sewer for the past 16 years. Mr. Goodwin stated he uses a rubber based ink, and has voluntarily participated in the State of NH Department of Environmental Services pollution discharge review program.



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His business is classified as “notification level” as it does not contain hazardous chemicals. During cleanup, he uses a “wash and a little bit of solvent on a rag” and then air dries the rag. There are no hazardous waste trucks necessary after cleanup. The City of Dover Community Services Department has issued him a discharge permit with respect to pollutant discharge.

The Chair appointed Jennifer Stone (alternate) to sit in on the case.

O.Perry confirmed with Mr. Goodwin about the sewer disposal.

J.Kelley confirmed with Atty. Schulte that the printing operations were still on Littleworth Road and that the same process will be used at the current location.

S.Reid confirmed with Mr. Goodwin that the City requires annual testing of the wastewater and questioned the disposal of the rags.

Mr. Goodwin stated he submits samples once a year to the State and that they have determined that the ink is not hazardous. Goodwin also stated that his current hours of operation are between 7:30-8:30 am through 3:30 pm Monday-Thursday. There are no operations Friday-Sunday. Much of his business has gone to internet business, which is the reason for him downsizing.

Public Hearing Open.

Vera and Jeff Haus, 28 Dover Neck Road, support the variance request. They have been neighbors of the Goodwin's for the past 16 years and confirmed that they have been great neighbors. Their yard is meticulous and they are not concerned with hazardous materials.

S.Reid asked the Haus' if they felt this would be a beneficial use for the property and if it would negatively affect the neighborhood.

Mrs. Haus responded that the hours would be better and more normal than the carpenters union. She stated the Goodwin's were considering building a smaller home later.

Steve Hyde, 45 Dover Neck Road, support the variance request. He abuts the other side of the Goodwin's lot. Since UPS would be the intended delivery system, the business use would not increase traffic and would have less parking and less vehicle use than the carpenters union. The net result is a benefit of the neighborhood.

S.Reid asked Mr. Hyde if he had any concerns with the proposed use.

Hyatt confirmed that there would be less activity weekly, and less business compared to the previous educational facility.

Alisa Karwowski, 7 Dover Neck Road, spoke in favor of the variance and how caring the Goodwin's have been to their property and to their neighbors. They have been good neighbors for the past 13 years and good friends.



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Peter Caradonna, 14 Dover Neck Road, is glad the Quonset hut will be removed. He feels that vehicle and foot traffic will diminish. He stated the Goodwin's house is meticulous. Goodwin will operate a low impact business. He initially had concerns of the hazardous waste, but feels it was well overblown. This business will be tremendously beneficial to the neighborhood.

Maureen Staples, 2 Ruthie's Run, who is directly across from the Quonset hut, totally supports the use.

Jack Kimball, 24 Isaac Lucas Circle, stated it's a big deal to get rid of the Quonset hut, and it will only have positive impact on the neighborhood.

Joyce Bowden, 374 Middle Road, opposes the variance and said the variance will not end with the Goodwin's. She is glad for the clarification that the Goodwin's are on City water/sewer but is concerned with the commercial printing facility. Bowden stated she is worried about the case law that supports the termination of a variance after it is granted.

S.Reid stated that Atty. Schulte could work with the Goodwin's to sign a document stating the variance ends with the Goodwin's.

Linda Osburn, 366 Middle Road, opposes the variance and wants to know what happens when the Goodwin's leave. Osburn wants to know how the variance would be enforced.

Atty. J.Schulte stated if this went to the Planning Board for a site review, the Board would state conditions of approval, and the applicant would be required to sign a developer's agreement. There could be a developer or use agreement between the applicant and the City that would get signed and recorded with the Strafford County Registry of Deeds.

Mr. Goodwin confirmed that when he is done with the printing business, the business is done.

Tim Corwin stated he has concerns of limiting the variance to a particular applicant. A variance pertains to special conditions of the property and not to specific circumstances of the applicant. As a practical matter, if the ZBA were to condition the variance to the application, nobody would appeal it because nobody would benefit from it. Corwin suggested that the Board consider conditioning the application to severely limit any future printing operation business and to attach reasonable conditions.

Staff Recommendation:

The Planning Department is not opposed to the variance request and supports granting the requested variance on the following conditions:

- The Quonset hut shall be removed within one (1) year of the variance approval date.
- No more than three (3) employees including the business owner, shall be permitted on the premises at any time.
- The carpenters' union sign in the front of the property shall be removed within three (3) months of the variance approval date.
- The hours of operations shall be limited to 7 am – 4 pm Monday through Thursday.
- No palletized deliveries shall be permitted.



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- Obtain a sewer discharge permit from the City of Dover Community Services Department and obtain a review by the NH Department of Environmental Services with respect to pollutant discharge.
- The variance is valid only for as long as the applicant owns and operates the printing business.

O.Perry asked if it would be appropriate to propose a time limit on the variance.

W.Colbath confirmed with T.Corwin that a personal services establishment includes a printing business.

Public Hearing Closed.

Motion: J.Kelley motioned to grant the variance with the conditions of approval as listed. Seconded by O.Perry. Vote: 4/1 (Colbath opposed)

4. HEARINGS – NEW

- A. * Z 12-20 Howard M. MacDonald (Owner: Doverbrook, LLC), 1 Constitution Way (Tax Map K, Lot 21), located in the Rural Residential (R-40) District. Applicant requests a variance from the Code of the City of Dover, Chapter 126 “Mobile Home Parks”, **Section 126-5.F**, to permit a carport addition onto the existing mobile home to be located within one (1) ft. of the side property line shared with 3 Constitution Way where a minimum side yard setback of twelve (12) ft. is required.

The Chair appointed Chris Prior to sit in on the case.

Howard MacDonald presented his case and discussed his request for a carport which will contain a handicap ramp. The carport will protect them from weather conditions and existing medical problems for him and his wife. The applicant explained that due to a drop off area on the right side of his home, he could not place the carport on that side of the yard due to gravel fill.

S.Reid confirmed with MacDonald the distance is 25 feet between the applicant’s home and 3 Constitution Way.

J.Kelley questioned the applicant about the width of the carport.

Mr. MacDonald stated they need the extra space to open their car doors.

Public Hearing Open. Nobody spoke. Public Hearing Closed.

Discussion ensued from the Board about screenings between #1 and #3 Constitution Way and who would be responsible for the maintenance of the trees.

T.Corwin confirmed with the applicant that he would have no problems maintaining the screening between the carport and the abutting property at #3 Constitution Way.

S.Reid asked who is responsible for the maintenance and the trees.

Mr. Macdonald stated that Doverbrook, LLC owns the arborvitae and the land.



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O.Perry commented if the trees are damaged during the construction of the carport, they would need to be replaced. He is also concerned about maintenance of the screening.

Staff Recommendation:

Provided that the abutter at 3 Constitution Way is agreeable to the location of the applicant's proposed carport, the Planning Department supports the variance request and grant the requested variance with the following conditions:

- Adequate screening shall be maintained between the carport and the abutting property at 3 Constitution Way.

Motion: O.Perry motioned to grant the variance with the conditions of approval. Seconded by W.Colbath. Vote: U/A.

Recess at 8:29 pm. Meeting Resumed at 8:33 pm.

- B. * Z 12-22 Dover Chevrolet/Jerry Staveris (Owner: M & E Jespersen Realty, LLC), 5 Dover Point Road (Tax Map K, Lot 40-B), located in the Thoroughfare Business (B-3) District. Applicant requests a variance from **Section 170-32.F** of the Zoning Ordinance and the B-3 District Table of Use and Dimensional Requirements to permit a second wall sign where only one is permitted.

The Chair appointed Jennifer Stone (alternate) to sit in on the case.

Art Guadano of AG Architect, represented the applicant. He stated that the applicant has approval for all signs on the side of the building. The building is being upgraded to improve the image of the dealership after 50+ years and to tie in with Chevy's new standard look. Mr. Guadano, using the displayed plans, discussed the proposed signage and showed how the tower extends out from the façade. He stated that they are not trying to duplicate the signage and have two signs. They are trying to have "Dover Chevrolet" and there is no room for Dover on the tower. He explained they are not trying to exceed the sign allowance, but the sign is split apart as part of the design of the sign. He reviewed other design elements for the lot, lighting and building improvements which add value to the neighborhood and which will have a positive impact to the neighbors. The applicant is trying to use the word Dover to confirm to travelers on Dover Point Road, they have reached the correct destination.

J.Stone confirmed with Guadano that there was a sign there previously; Dover Auto World did have a sign.

J.Kelley questioned Guadano about the sign summary and if Chevy dictates the sign size.

Guadano replied that Chevy dictates everything.

O.Perry asked why three signs are required that say Chevrolet to be visible from Dover Point Road, including the two freestanding signs. He questioned the need of the freestanding signs.



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Discussion ensued by Guadano explaining the need for the signage for overall visibility. He stated that the applicant had met with City staff to discuss the layout and the City considers the Dover and the Chevrolet as two signs.

J.Kelley confirmed that the two freestanding signs will be upgraded.

Guadano explained that one of the freestanding sign faces has already been up updated and another one will be done next week.

T.Corwin discussed that due to sign regulations; non-conforming signs can be repaired but cannot be replaced.

W.Colbath asked Guadano if the size of the towers could be enlarged.

Guadano confirmed that Chevrolet allows for three prefab towers. Chevrolet drives the size of the signs. In this case, visibility is an issue.

J.Stone asked if the applicant is willing to remove one of the freestanding signs.

Guadano confirmed that the architecture is difficult to allow only one sign and it's not an option.

W.Colbath wants a compelling reason for the Dover sign.

Guadano stated that the applicant is trying to comply with the square footage of the signs.

Public Hearing Open.

Paul Barnes, 13 Dover Point Road, had questions about the lighting and if they are internally lit. He asks that the signs are in conformance with light pollution and within the zoning ordinance for signage.

Guadano confirmed for Mr. Barnes that the applicant is willing to work with him about any lighting concerns that would shine on his property.

T.Corwin suggested that the Board may recommend limiting the operating times of the signage. He feels that the abutter is concerned with the overall pollution of lighting onto his property and what the new signs would add. The Board could require the applicant to supply documentation from a licensed lighting professional after the lighting is installed, that the lighting meets all maximum illumination standards (daytime and nighttime) and they comply with the standards of the zoning ordinance.

Staff Recommendation:

The Planning Department is not opposed to the variance request and recommends approval. Should the Board vote to approve the requested variance, staff recommends that such approval be limited to auto dealer occupants only.

O.Perry asked why the Zoning staff recognizes it as two signs.



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T. Corwin stated that the Planning staff has discussed the sign proposals with the architect several months ago and Planning staff disagrees with Mr. Guadano and believes it is very clear that the application is for two separate signs.

The Chair read a letter received from Linda Merullo in opposition of the second sign.

Public Hearing Closed.

J. Stone recognized that she likes the design of the sign; however, she feels the applicant already has two signs.

J. Kelley stated he is not in favor of two signs and if approved it would set precedence.

Motion: J. Stone motioned to reopen the public hearing. Seconded by W. Colbath. Vote 4/1 (O. Perry opposed).

Public Hearing Open.

S. Reid stated he feels that two freestanding signs are clutter and one needs to go.

O. Perry commented that the applicant feels it is one sign separated by a larger space, which is wrong.

Public Hearing Closed.

Motion: O. Perry motioned to deny the variance. Seconded by W. Colbath. Vote: U/A.

~~C. * Z 12-23 Changing Places, LLC (Owner: Estate of Rita T. Taylor), 72 Durham Road (Tax Map I, Lot 12), located in the Low Density Residential (R-20) District and the Suburban Density Multi-Residential (RM-SU) District. Applicant proposes to construct a twenty (20) unit townhouse residential development in addition to the existing residence for a total of twenty-one (21) units. Applicant requests a variance from **Section 170-12.A** of the Zoning Ordinance and the R-20 and RM-SU District Tables of Use and Dimensional Requirements to permit +/- 7,306 sq. ft. of land per unit where a minimum of 10,000 sq. ft. is required.~~

Item C has been tabled until the November 15, 2012 Zoning Board Meeting.

5. ADJOURN:

Motion: O. Perry motioned to adjourn at 9:26 p.m. Seconded by J. Stone. Vote: U/A.