



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers, City Hall, Dover, NH 03820
Meeting Date: **Thursday, January 17, 2013**
Meeting Time: **7:00 pm**

1. ATTENDANCE

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

Members Not Present: Sam Reid (Chair), Joshua Cote (Alternate)

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

The Vice Chair called the meeting to order at 7:02 p.m. He 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 DECEMBER 20, 2012

Motion: O.Perry motioned to accept the December 20, 2012 minutes. Seconded by J.Kelley. C.Prior made corrections to page 2, where J.Kelley asked T.Corwin about the density;

Page 4, **Motion:** J.Kelley motioned to deny the variance (Landford and Reid objected to the motion and W.Colbath was in favor of the denial. Motion was to deny the motion per J.Kelley;

On page 5, T.Corwin stated that when the homes “are built” they would become legal non-conforming – strike (that);

On Page 5, (in the Kent Howard paragraph) J.Kelley asked when the project is increased, would there be an increase in trash and recyclables, it should read “collection of trash and recyclables at the intersection of middle road.”

Last paragraph, page 5, “he is concerned about the single traffic pattern if the road is continued through to Thornwood Lane.”

Motion: O.Perry motioned to withdraw the motion to approve the minutes until they have been revised. J.Kelley tabled the minutes and any revision until the next meeting. Seconded by J.Stone. Vote: U/A.

The Chair appointed Jennifer Stone (alternate) to vote on all cases this evening.

3. ELECTION OF OFFICERS

Motion: J.Kelley motioned to refer the election of officers to the next meeting. Seconded by O.Perry. Vote: U/A.

4. HEARING – NEW

- A. * Z 13-02 Mattress Firm, Inc. (Property Owner: Prime Circle, LLC), 15 Webb Place (Tax Map D, Lot 2A), located in the Thoroughfare Business (B-3) District, proposes three (3) signs for its proposed retail store in the multi-tenant commercial building located on the subject property: a panel on an existing freestanding sign, a wall sign on the front of the tenant space, and a wall sign on the side of the building



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that faces Indian Brook Drive. A variance is required from **Section 170-32.A** of the Zoning Ordinance and the B-3 District Table of Use to permit three (3) signs where a maximum of two (2) are permitted.

F.X. Bruton of Bruton & Berube, represented the applicant. He discussed the existing signs and the proposal for a sign on the side of the building facing Indian Brook Drive. He spoke about the two road frontages. He stated that other tenants have signs on that side of the building and he feels the proposed signs would be in keeping with the current signage. The applicant does not feel that any of the abutter's properties would be diminished in any way and that the property is unique in its location, at the intersection of Indian Brook Drive, and New Rochester Road. The roads surrounding the property are unique with the roads having either 7 or 9 lanes of traffic on either side. They feel the use is reasonable and it would be critical for a good balance of visibility to the property. He explained that the rental unit doesn't have the benefit of two road frontages which would allow two signs.

O.Perry, reviewed the proposed layout for the signs, asked about sign B, and confirmed with F.X. Bruton that the sign would be flush to the building.

C.Prior confirmed with F.X. Bruton the distances between signs B & C are approximately 75 feet.

W.Colbath asked for the purpose of sign B.

F.X. Bruton confirmed it is to increase the visibility of the tenants business and do it in a way that is consistent with all the other tenants have. The other tenants have frontage on two streets. Five Guys and Eye Associates have signs on that side as well. It is a matter of right to have two signs.

J.Kelley asked about Sign C (pilon sign) which is vertical. He asked Mr. Bruton if the other tenants would be requesting additional signage on Indian Brook Drive.

F.X. Bruton responded that the situations for the other tenant's signage are different, depending on their prospective road frontage.

C.Prior commented that he noticed that the requested location for the proposed sign would not be in the line of site if you were driving, and asked if the tree is going to be removed so the new sign would be in line of site.

F.X. Bruton explained it is a possibility but that the location is specific due to the electrical location.

J.Kelley confirmed with F.X. Bruton that it would be a lit sign similar to other signs on the buildings.

F.Landford asked about size of the proposed sign in comparison to the Five Guys Signs.

It was confirmed that the sign is roughly 58-59 sq. ft., probably smaller than the Five Guys sign. The allowance is for 75 sq. ft. This sign would not max out the size allowance, but it is appropriate in size.

W.Colbath again asked what the purpose of the sign is.

F.X. Bruton stressed it is for the visibility of the property and for economics. It would be critical to the applicants business.



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The Vice-Chair appointed alternate Jennifer Stone to vote on the case.

Staff Recommendation:

Provided that the applicant satisfactorily demonstrates compliance with the five (5) variance criteria, the Planning Department supports the variance request and recommends the Board grant the variance. A sign permit will be required.

T.Corwin stated that he met with Tom Clark earlier today on a different scenario and T.Clark gave his interpretation of Section 170.32.c.17.b to Tim Corwin that the provision “permits a tenant to have an extra wall sign when there are two frontages” and this was not how it was interpreted in the past. Corwin read Section 170, page 101 of the ordinance that states that “in all nonresidential zoning districts where a business/premises fronts on more than one (1) public street or municipal parking lot, “one (1) wall sign shall be permitted for each frontage”. Corwin went on to discuss the maximum size allowed and spoke of the Five Guys sign size.

T.Corwin responded that the Zoning Board has interpreted the request differently in the past.

O.Perry asked T.Corwin what is the difference in this application compared to the Dover Chevrolet variance request for signage.

T.Corwin replied that it is a very different case; they would be entitled to the third sign if they were in the Five Guys spot. Section 170.32.c.17.b is a bonus, not a restriction. What the applicant is asking for is a third sign. They meet the size requirement, but not the number of signs. It's not a requirement; it's a limitation on that bonus.

C.Prior asked if every tenant can now request a sign on the side facing Webb Place.

T.Corwin responded, they cannot.

O.Perry asked who owned the tree and if it's in the right of way. It would make no sense to allow the sign and not be allowed to cut the tree.

Board discussion ensued about the cutting down of trees.

W.Colbath stated that with regards to what T.Clark characterized – he thinks that T.Corwin's interpretation is correct, but that T.Clark's characterization is incorrect. For example, 828 Central Avenue, which is at the corner of Glenwood Avenue in the office district, only allows one sign per tenant; T.Clark had interpreted that multiple tenants, can take advantage of two wall signs.

Public hearing closed.

Motion: O.Perry motioned to grant the variance with a condition that the tree cannot be cut down. Seconded by J.Kelley. Vote: 3/2 (Colbath and Stone opposed.)

5. ADJOURN:

Motion: O.Perry motioned to adjourn the meeting at 7:50 p.m. Seconded by F.Landofrd. Vote: U/A.