



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

Last paragraph, page 5, it creates two hardships. The first is the construction of Thornwood; There would be a noise concern if the road is continued through to Thornwood.

Motion: O.Perry motioned to withdraw the motion to approve the minutes until they have been corrected. 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 the following case.

3. ELECTION OF OFFICERS

Motion: J.Kelley moved to refer the elections to the next meeting. 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 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. be occupied prior to construction of the non-residential structures.



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Atty. Bruton of Bruton & Berube discussed the locations of the proposed signs. He spoke about the two road frontages. The building does have signs on the side and they feel the proposed signs would be in keeping with the current signage. They are proposing signage on the side of Indian Brook Drive, and would be consistent of the ordinance. They do not feel that any of the abutter's property would be diminished in any way. They feel the property is unique in its location, at the intersection of Indian Brook Drive, and Rochester Road and unique in the lanes of traffic having either 7 or 9 lanes of traffic on either side. The use is reasonable and they feel it is critical that a good balance of visibility has to the property.

Atty. Bruton confirmed for O.Perry that sign B, would be flush to the building.

Atty. Bruton confirmed for C.Prior the distance between signs B & C would be at least 75 feet.

Atty. Bruton confirmed for W.Colbath that the purpose of the sign B is to increase the visibility of the tenants business and to do it in a way that the other tenants have. The other tenants have frontage on two streets, and only have two signs.

J.Kelley asked about the pylon sign which is vertical. He asked if the other tenants would be requesting additional signage.

C.Prior asked if the tree is going to be removed so the new sign would be in line of site.

Atty. Bruton explained it is a possibility, but that the location is specific due to the electrical location.

Atty. Bruton confirmed for J.Kelley that the sign would be would be a lit sign similar to other signs on the buildings.

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

Atty. Bruton confirmed the sign would be 58-59 sq. feet and probably smaller than the Five Guys sign. The allowance is 75 sq. ft. It would not max out the size, but is appropriate in size.

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 hold the public hearing. A sign permit will be required.

Tom Clark had previously interpreted to Tim Corwin 170.32.c.17.b that "one wall sign shall be permitted on each frontage". The Zoning Board has interpreted the request differently in the past.

O.Perry asked T.Corwin what is different in this application compared to the Chevrolet sign.

T.Corwin stated that it is a very different case and that they would be entitled to the third sign if they were in the Five Guys spot. Chapter 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.



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

T.Corwin responded no, that is not the case.

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.

W.Colbath commented that in regards to T.Clark's characterizztion, he thinks T.Corwin's interpretation is correct, but that T.Clark's characterization is incorrect. He stated that 828 Central Avenue, which is at the corner of Glenwood Avenue and 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.

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

5. ADJOURN:

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