



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers, City Hall, Dover, NH 03820
Meeting Date: **Thursday, February 21, 2013**
Meeting Time: **7:00 pm**

1. ATTENDANCE

Members Present: Sam Reid (Chair), James Kelley, Otis Perry, Chris Prior, Jennifer Stone (Alternate), Joshua Cote (Alternate)

Members Not Present: Frank Landford

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

The Chair called the meeting to order at 7:00 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 AND THE JANUARY 17, 2013 MINUTES

Motion: O.Perry motioned to accept the December 20, 2012 meeting minutes. Seconded by C.Prior. Vote: U/A.

Motion: O.Perry motioned to accept the January 17, 2013 meeting minutes as amended. Seconded by J.Kelley. Vote: U/A.

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

3. ELECTION OF OFFICERS

The Chair motioned to move the election of officers until the end of the meeting.

4. HEARING – NEW

- B. ***Z 13-03 STF Development Corp.**, 1 George Street (Tax Map 20, Lot 37), located in the Urban Density Multi-Residential (RM-U) District, proposes to remove the existing buildings and to construct a multi-family building containing six (6) dwelling units. A variance is required from **Section 170-12.A** of the Zoning Ordinance and the RM-U District Table of Use to permit a multi-family building containing six (6) dwelling units, where a maximum of only four (4) dwelling units per multi-family building is permitted by special exception in the RM-U District.

Atty. James Schulte, represented the applicant. Dave Paolini from STF Development was on hand to answer any questions. Atty. Schulte gave a brief overview of the proposed plans and discussed the location of the building which will sit back significantly from George Street. He discussed the parking spaces of two spaces per unit, 14 spaces for the building total. He discussed the CBD and RMU districts and pointed out that if the lot was one lot to the east they would not need the variance. He described that the units nearby carry between 4 and 5 units each. The lot being discussed is much larger than some other area lots. The building will be placed toward the front of the property along Hanson Street with parking in the rear with access off George Street. There will be landscaping and screening to provide screening for neighbors. The building will be a significant improvement from the current conditions, and consistent with the neighborhood. Most homes on Hanson and George Streets are duplexes and many have 4 or 5 units. He stated that there would be minimal impact on the neighborhood due to the topography and the elevation.



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J.Schulte confirmed for J.Kelley that the property is at a lower elevation compared to the abutting property and Hanson Street and that the homes on George Street are similar in elevation.

J.Schulte pointed out that parking is to the back and at the same elevation by entering on the ground floor.

J. Schulte confirmed for J.Kelley that there are more parking spaces than required. There would be two per unit and two extras for visitors.

Brian Lapierre, owns 17-19 Hanson Street but his current address is in Somersworth NH. He is concerned about parking on George and Hanson Streets, parking for his building, grading of the street, standing water and water runoff. He is worried about visitor parking and tenants wanting to enter from the front of the building and not the rear of the building where the parking lot will be.

James Moss, represents 15, and 17-19 George Street. He discussed that the proposed lot is a "hole" and by filling in the hole and changing the topography will make the residents at the bottom of the hill suffer. He stated that there is no shortage of apartments in Dover and he would like to see it elsewhere. Because of the change in traffic on Henry Law Avenue, people travel too fast on George Street. With this proposal he feels that surface and ground water will be affected and cause water issues in peoples basements. Essentially George Street will become an entrance to a parking lot. He feels it will change the neighborhood.

Chair Reid questioned Mr. Moss about his comment that it would change the neighborhood and that Atty. Schulte stated that many of the homes are duplexes, 4 or 5 unit buildings.

Mr. Moss stated that he is speaking for himself on George Street, which is primarily single family or duplex homes.

Patrick Kelly, 8 Hanson Street, has no objections to the plans but has questions about a more detailed site plan. He commented on a retaining wall on the lower part of George Street, but due to the topography would like to know more about it, which abuts the property that he has. The higher elevation is on his property and would there be a retaining wall between the properties.

Atty. Schulte stated that if the Zoning Board approves this plan that a Site Review will be necessary and they would have to go to the Planning Board. He invited Mr. Kelly to attend the public hearing. Any questions that Mr. Kelly has would be discussed at the Planning Board meeting.

Kirstan Darvan, a resident of 5B George Street is concerned about the 14 parking spaces. She feels that the traffic flow has changed for George Street due to the changes on Henry Law Avenue. It is already difficult to get out of her driveway with the current cars parked along George Street and she is concerned about increased tenant or visitor traffic. Many people only have one parking spot, which means visitors park on George Street which is narrow and traffic flows both ways. She lives in the building owned by Vincent Duffy which has 4 units which is next door to the proposed lot. When questioned by Chair Reid about the number of parking spaces, she felt that even 12 spaces are too many.

Atty. Schulte responded to the concerns. The City allows for 4 units and the increased use for this property is consistent with what was there. As long as enough parking spaces are provided, it should keep people from parking on the streets.



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S.Reid asked Atty. Schulte about the drainage. Atty. Schulte stated it needs site review because it is more than 4 units. He discussed engineering will have to review the drainage and that they will not aggravate the existing conditions. He explained that the engineering and drainage analysis must be done as part of the site review process.

Recommendation

The Planning Department recommends the Board approve the variance request on the following conditions:

- A vegetative buffer at least seven (7) ft. in height is installed and maintained along the side lot line shared with 5 George Street.
- The parking lot shall be angled, as shown on the plan submitted, to avoid direct glare to abutters.
- Consistent with the standards of the Central Business District, located adjacent to the subject property, the building shall be located as close to the front lot line along Hanson Street as is reasonably possible given the site constraints and steep slope.

T. Corwin noted that drainage and other site issues for this project would be resolved through the Planning Board site plan approval process. For the record, the parking requirement is 3 spaces per unit, and a preliminary discussion was held with the Planning Director that a waiver request would be suitable which would allow less than the 3 spaces per unit.

J.Kelley commented that with the needs of the construction, he feels uneasy about the variance request. He went on to ask who would pay for damages caused by runoff to neighborhood homes if they occur.

J.Stone asked why the zone meanders around the neighborhood and is it to protect those homes from damages.

B.Lapierre spoke about businesses in the area up on Central Avenue which include the Masiello group and the gas station, and suspects that the zoning line is where the businesses are.

Atty. Schulte commented that if this was a 4 unit structure instead of a 6 unit, parking would only be 2 per unit and it bumps up after that.

T.Corwin added that they are permitted by special exception to have 4 units so there would be at least 8 additional spaces by right.

Tom Duffy, spoke on behalf of his brother who owns the abutting property at 5 George Street, (lives at 59 1/2 Fourth Street) is not opposed to the plan because it pushes the building off of George Street; they are concerned about water runoff. While the Planning Board will discuss the engineering portion of the plan in regards to the retaining walls, water runoff, and traffic study, he is concerned with the parking and it should be handled by the Planning Dept. T.Duffy wanted to verify that the Zoning Board has not diminished the 3 space requirement down to 2.

Chair Reid confirmed that the Zoning Board was not being asked to reduce the parking requirement.

J.Schulte stated there would be 8 parking spaces for 4 units (2 per unit). They had discussed with the Planning Director and it was suggested pushing the building back towards Hanson Street. They can make the building three stories tall and it will fit in with the street scape on Hanson and George Streets.



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Vincent Duffy asked about outside green space. He is not opposed to a 4 unit, but if there are children where would the children play and where would the adults recreate. He is all for the increased parking but concerned about the green space, and the traffic flow since Henry Law Avenue has become one way. George Street has become a thoroughfare road. He would like to see the traffic stopped from entering George Street from Central Avenue.

T.Corwin confirmed that a requirement for a four unit dwelling is to provide a certain amount of green space as part of the special exception. But the special exception green space criteria are not applicable in this case. If this were a 4 unit application the applicant would need special exception approval, but as long as they meet the criteria they would be permitted by right.

V.Duffy asked for the green space location. He spoke about the area being wet and marshy. He asked if the land is raised for foundation work it will change the drainage and what happens to his property.

T.Corwin stated that these concerns are not relevant to the variance request, rather these concerns would be better addressed at the Planning Board.

Public hearing closed. 7:56 pm

J.Kelley commented that it would be easier for the tenants and visitors to park on the Hanson Street side to save themselves climbing stairs.

C.Prior commented that he likes the parking plan especially because it forces the people to drive around to the back and enter from the back.

Motion: O.Perry motioned to grant the variance subject to the conditions set forth by the Planning Dept. Seconded by C.Prior. Vote: 4/1 (*J.Kelley opposed*).

- C. * Z 13-04 Eric and Elizabeth Hagman, 205 Silver Street (Tax Map 13, Lot 12), located in the Medium Density Residential (R-12) District, has constructed an addition to the existing nonconforming dwelling, which at its closest is located approximately five (5) feet from the front lot line. Applicant requests a variance from **Section 170-41.D** of the Zoning Ordinance to permit the addition to be located approximately 7.8 ft. from the lot line at its closest, where additions to nonconforming structures may be located no closer than 10 ft. from the lot line.

Chris Berry, Berry Surveying and Engineering represented the applicants. The property is on the Silver Street Extension. He discussed the boundary lines and referenced that the road width varies from 50 feet to as much as 55 feet with varying widths. When you are on the center line of the street visually looking at the property, you would have no idea that the addition is closer than it should be to the street. The applicant had received a building permit, continued with construction and a plot plan was presented that the property had a 5 foot front line setback, showed as a variable width of 5 to 25 feet and proceeded in that fashion. The plane of the house and the right of way line are not parallel. The irony is if this was new construction, by right you could build right up to five feet from the lot line. Because it was an existing structure, it requires 10 feet. This does not diminish the property values of other homes on the street. Tom Clark, Building Official, was on hand to answer any questions.



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Ken Berry, a licensed land surveyor for Berry Surveying & Engineering, spoke about the uniqueness of the bounds of this property, based on the property lines on the southern side which used to be Knox Marsh Road, and is now known as Silver Street Extension, the line on the plan is the 50 foot right of way line. They found a monolith, the legal right of way width is greater than 50 feet. Looking at the plans, Mr. Hagman's back yard used to be Long Marsh Road which was cut off due to the development of the Spaulding Turnpike. The monolith on the corner was 2.2 feet short. (*A monolith is a granite stone in the corner of the property*).

Tom Clark confirmed that Mr. Hagman had dropped off the permit application along with a plot plan showing the proposed location. He issued the building permit, and with a normal turn of events, they received the foundation certification and it came back showing it was only 7.8 feet off the property line where Section 170-41D says it has to be 10 feet. In the legend it says between 5 and 25 which was the build-to lines for new construction. Mr. Hagman submitted the correct one, but it was not caught at the permit stage. It was caught at the foundation certification stage. The second mistake is that 10 feet applies to non-conforming structure, and build to lines. This home is now a conforming structure despite the age of the home, because it is more than 5 feet back. If you build a conforming house at the 5 feet any additions can't be closer to the road than 25 feet.

Public hearing open.

Mr. Hagman spoke to the Board and thanked Tom Clark for clarifying the chain of events.

Recommendation

The Planning Department recommends the Board grant the variance as requested. Corwin discussed if it were new construction it could be built right up to 5 feet.

The Chair appointed Joshua Cote (Alternate) to sit on this case.

Public hearing closed.

Motion: O.Perry motioned to grant the variance. Seconded by J.Cote. Vote: U/A.

3. ELECTION OF OFFICERS

The Chair entertained nominations for Chair.

J.Kelley nominated Sam Reid as Chair. There were no other nominations for Chair. With a show of hands Sam Reid was elected as Chair of the Zoning Board. Vote: U/A.

S.Reid expressed F.Landford's willingness to serve as Vice-Chair. The Chair entertained nominations for Vice-Chair.

J.Cote nominated O.Perry as Vice-Chair. There were no other nominations. With a show of hands Otis Perry was elected as Vice-Chair of the Zoning Board. Vote: U/A.

4. ADJOURN:

Motion: J.Kelley motioned to adjourn at 8:25 p.m. Seconded by O.Perry. Vote: U/A.