



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers, 288 Central Avenue, Dover, NH 03820
Meeting Date: **Thursday, February 20, 2014**
Meeting Time: **7:00 pm**

1. ATTENDANCE

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

Staff Present: Timothy Corwin (Assistant City Planner), Diane Britt (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 THE JANUARY 16, 2014 MEETING

Motion: B.Hall made the motion to accept the January 16, 2014 meeting minutes. Seconded by F.Landford. Vote: U/A

3. HEARINGS

- A.** *Z 14-04 Mark G. Phillips, 385 Sixth Street (Tax Map D, Lot 16) (Property Owner: Weeden Family Revocable Trust) and 387 Sixth Street (Tax Map D, Lot 15) (Property Owner: Diane I. and Jeffrey A. Weeden), located in the Hotel/Retail (B-4) District, requests a variance from **Section 170-12.A** of the Zoning Ordinance and the B-4 District Table of Use and Dimensional Requirements to permit a self storage facility use to be located no closer than 500 ft. from the front property line where self storage facilities are not permitted in the B-4 District.

Before the applicant spoke, O.Perry stated he wanted to make part of the record that about three or four weeks ago he received a telephone call from Mark Phillips but that they did not discuss this application during that conversation, as he told M.Phillips it was not appropriate for them to have that discussion.

Mark Phillips, of Newington, the applicant, stated that the nature of that call was to ask if he could propose an amendment to his original application rather than go through a whole new meeting, but the conversation was abruptly terminated by Mr. Perry.

He stated that the nature of the variance concerns the land 500 feet back from the road. He displayed a map of the proposed buildings. He explained the utility easement running through the property which was obtained by the City to service Venture Drive, the setbacks on the property, and the wetlands and a wetland buffer zone which all impact the buildable area of the property. He gave details of his proposed plan to build self storage on the property, with one building being a one and a half story building resembling a barn housing the office on the first floor and a residence above for the security manager, and an attached building, also one and a half stories, resembling stables. The barn would be built first and storage units would be built further back from that building over time.

J.Kelley confirmed with the applicant that water, sewer and gas would only be needed in the barn type building where the office and residence are located.

M.Phillips stated the building resembling stables would be used for climate controlled storage and the units would be loaded and unloaded from the rear. He also stated there would be no electrical outlets in the storage units, and there will be no dumpster on site.



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B.Hall confirmed with M.Phillips that the road going to the back of the building is the access to the building. J.Stone asked M.Phillips what the dimensions of the storage buildings would be, and also asked if there would be any screening such as landscaping for the buildings in the back.

M.Phillips stated the buildings would be 30 to 40 feet wide, 180 to 200 feet long and the aisles between the buildings would be 24 to 25 feet wide. He stated that national statistics on self storage show that traffic would be minimal, only five or six cars per day per 100 storage units. He stated there was no screening planned but he would be open to that.

M.Phillips went through his five criteria for the variance and explained how each was met by his application.

J.Stone confirmed with M.Phillips that he was purchasing the property and that he would maintain ownership of the storage facility.

Public Hearing Open

Recommendation

The Planning Department neither supports nor opposes the application for the reasons set forth in the staff memo. T.Corwin stated he had four recommended conditions of approval, should the Board grant the variance, which he read for the record: (1) Self storage use shall be permitted no closer than 500 feet from the front lot line, (2) No further variances from the City of Dover Zoning Ordinance shall be permitted, (3) The building identified on the plan submitted with the application as barn and stable shall be constructed in accordance with the architectural rendering and descriptive text provided in the application, and (4) Gable ends for the two storage buildings located closest to the front lot line shall be provided.

S.Reid confirmed with T.Corwin that a future owner could not change the barn appearance of the building as long as that is a condition of approval. He requested that condition #3 state that the barn and stable building be constructed "and maintained" in accordance with the architectural rendering. He asked T.Corwin to elaborate on how it could be ensured that no further variances on this property from the City of Dover be permitted.

T.Corwin explained that the Planning Department views this request as a substantial deviation from the terms of the Zoning Ordinance and wants to ensure as much as possible that the development of the front 500 feet of that lot are developed in accordance with the B-4 district. He stated self storage is not permitted in this district for a reason, but the Planning Department is not opposed to the application as long as the Board decides the five criteria for the variance are met.

Discussion ensued regarding the applicant's assertion that deviation from the strict requirements of the ordinance is consistent with the spirit of the ordinance because storage units in the rear of the property will be a consistent use with the industrial buildings developed by the City on Venture Drive, which abuts the property, and is a permitted use for I-4 and B-4.

T.Corwin explained that warehousing is an allowed use in the I-4 district which is how staff has interpreted self storage but that staff is looking into creating a separate use for self storage facilities and that new use may or may not be permitted in the I-4 district.



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J.Kelley asked T.Corwin what could be done with this land otherwise and if the Planning Department envisioned anything else going on this land.

T.Corwin stated what you see at the front of this property is a start.

J.Kelley asked if a property owner is compensated when an easement is taken.

S.Reid stated the City could not take an easement without compensating the owner.

M.Phillips explained that several years ago the City of Dover paid the Weedens \$15,000 for the easement that runs through their property, to allow a sewer line to be put in to service Venture Drive. Within two months the Weedens received a bill for \$56,000 for a sewer betterment fee from the City. The situation was remedied, but he stated he felt this was egregious.

Public Hearing Closed

There was discussion regarding the previous variance request by this applicant and S.Reid explained that that case was withdrawn.

F.Landford asked who would be voting on this case.

S.Reid stated that all full members of the Zoning Board were present to vote on this case.

Motion: J.Kelley made the motion to grant the variance with the first three conditions, excluding the fourth condition.

Board discussion ensued.

O.Perry proposed a change for condition #4 that, instead of the gable ends, there could be placement of an arborvitae screen to screen the whole area of the storage buildings, with site plan approval.

C.Prior proposed a revision to condition #1, stating it should read "500 feet back from Sixth Street", not "from lot line", in case there is ever a subdivision in the future.

O.Perry proposed that it read "500 feet from Sixth Street right of way".

Motion: J.Kelley made the motion to grant the variance with the four conditions as amended.

S.Reid read the four conditions of approval.

F.Landford commented that he would rather approve the variance with no conditions.

O.Perry seconded the motion with the four conditions as amended. Vote: 4-1 (S.Reid opposed)

M.Phillips had some questions about transfer of development rights, waiving setbacks and frontage requirements, and subdividing a piece of the property.



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S.Reid advised M.Phillips that he could appeal the conditions of the approval and ask for reconsideration in the future.

M.Phillips confirmed with O.Perry that the arborvitae would be placed in front of the buildings to the property boundary west of the driveway.

- B. *Z 14-05 Matthew Kozazcki/Tendercrop Farm**, Dover Point Road (Tax Map M, Lot 52B) (former location of Tuttle's Red Barn), located in the Low Density Residential (R-20) District, requests a variance from **Section 170-44.F** of the Zoning Ordinance to permit the installation of a four (4) ft. split rail fence adjacent to the parking lot for the retail center, in place of the seven (7) ft. screening that is required wherever parking spaces are provided for nonresidential structures and the parking area adjoins a residential use.

Tyler Madison, the controller for Tendercrop Farm, represented the applicant. He read a letter summarizing the application for the variance from the fence requirement. He stated the applicant agrees with the intention for the 7-foot screening fence but feels the 4-foot split rail fence is aesthetically pleasing and in keeping with the traditional and historically appropriate look of the property. Their intention is to plant lilies and ornamental grasses along the fence in the spring which will provide additional screening and they have offered to plant trees on abutting properties in order to give the neighbors more control over the screening. He stated the hours of operation, that there was a gate to close the parking lot when the business was not open, and that the 4-foot fence makes it safer for vehicles to exit out of the parking lot with more visibility.

O.Perry confirmed with T.Madison that an arborvitae or green screen was present in the past but it was torn down to put in the fence that is there now and more fence was added to what was already there.

T.Madison had a google map printout showing what existed on the property in the past and he showed that to board members.

O.Perry pointed out that what was there in the past met the basic provisions of the ordinance and was put there to meet those conditions.

T.Corwin stated he assumed that was the case, but it was not shown on the approved site plan for this property.

O.Perry asked if what was there was removed for aesthetic reasons.

T.Madison stated he found exiting the parking lot to the left was dangerous with trees blocking the view and traffic moving fast as it went by, and that is why it was removed.

There was discussion about planting an evergreen hedge such as dwarf juniper which would not be seasonal, as well as the seasonal bulbs, along the fence, and T.Madison was amenable to that.

O.Perry stated his concern that the applicant is asking for a variance for what has already been done.

J.Kelley stated he understood that the neighbors were disappointed that the screening of the business property had been removed, but that the applicant offered to replant the screen on their properties if it was a continued concern.



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He also stated he agreed with the safety issue, that exiting the parking lot now would be safer and the neighbors would have control of the screen that they want.

C.Prior pointed out the height differential, that the screening according to the ordinance is to be 7 feet high, but the parking lot dips down about 3 feet, so there is a 4-foot buffer to shield neighbors from the parking area, and miniature shrubs would probably be sufficient for this.

Public Hearing Open

Charles Linn, 2 Tuttle Lane, stated visibility was better after the trees were taken down and the 4-foot split rail fence was installed, and he thought the fence was attractive. He stated he did not mind that the green screen was gone and he likes it the way it is now.

Sharon Brough, 7 Tuttle Lane, stated she likes the split rail fence that is there now and is happy that the business is opening there.

Brian Gennaco, 19 Tuttle Lane, stated he likes the fence that is there now.

T.Corwin stated staff was opposed to granting the variance and wanted a compromise solution but the applicant was not interested in pursuing that.

S.Reid stated it appears that the people most affected are not opposed to the variance.

B.Hall asked, in regards to the requirement for a hedge, why there are no hedges and no fences at the other businesses in the area.

T.Corwin explained they are legal nonconforming with respect to that requirement.

Public Hearing Closed

F.Landford stated he likes the split rail fence and he is glad the business is coming to Dover.

Motion: C.Prior made the motion to grant the variance to permit the 4-foot split rail fence in place of the 7-foot screen. Seconded by F.Landford. Vote: 4/1 (O.Perry opposed)

4. ADJOURN

Motion: C.Prior made the motion to adjourn at 8:05 p.m. Seconded by O.Perry. Vote: U/A