

**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, June 19, 2014**  
Meeting Time: **7:00 pm**

### 1. ATTENDANCE

**Members Present:** Sam Reid (Chair), Otis Perry (Vice Chair), Frank Landford, Chris Prior, Jennifer Stone, Bob Hall (Alternate), George Reagan (Alternate)

**Members Not Present:** 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 REGULAR MEETING MINUTES OF MAY 15, 2014

**Motion:** J.Stone made a motion to accept the May 15, 2014 meeting minutes. Seconded by F.Landford. Vote: U/A

The Chair announced that the applicant for item 3.D (Z14-11) has withdrawn his request.

### 3. HEARINGS

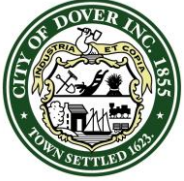
- A.** Z 14-16 City of Dover (Property Owner: Cochecho Mills Holdings, LLC), 33 Chestnut Street (Tax Map 31, Lot 4B), located in the Central Business District (CBD) – Transit Oriented Development (TOD) sub-district, requests a variance from **Section 170-32.A** of the Zoning Ordinance and the CBD-TOD District Table of Use and Dimensional Requirements to permit the construction of a 144” tall by 120” wide freestanding sign where freestanding signs are not permitted in the CBD-TOD.

#### *Public Hearing Opened*

Christopher Parker, Director of Planning and Community Development, spoke on behalf of the applicant and owner of the property. He explained that the building is situated 300 ft. back from the road. The sign will have transportation information for the City of Dover. Because of the uniqueness of the lot, it is primarily a parking lot and is unique in the sense that this is a user that is not really commercial in nature, which is what the use is in the CBD. He mentioned that one thing that he did not put in the application, which should have been, is that they would be looking for a variance that would be tied to the building itself and not to the lot itself. If the building at the Transportation Center is no longer utilized we would not expect the owner of the property would be able to utilize the freestanding sign. They would need to be more in keeping with what the underlying zoning encourages. The Dover Main Street organization is donating the sign, which will match the color scheme and architectural feel of the Transportation Center. The plot plan of the lot submitted identifies placement of the sign, which is going up towards the tracks in the green area, which is parallel to the road. This would minimize any impact of blockage of view when pulling out of the lot. He added that they are looking to work with Main Street and create an adopt-a-spot.

S. Reid confirmed with C.Parker that the City does not own the parcel and it is an independent business.

O.Perry questioned the design of the lighting, will it be blinking etc. He also asked why municipal parking isn't part of the sign, now that the City maintains the lot.



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C.Parker stated that it will be ground-mounted flood lighting tied to the lighting of the lot itself and will be geared to just illuminate the sign. He added that they would be happy to add the condition that no flashing or blinking lights are allowed. Signage for municipal parking is an option and would be more than happy to work with the donor and discuss placing that on the sign.

O.Perry stated that he would like to add the design question as a condition.

B.Hall agreed and stated that the sign seems quite large and is wondering why they are squeezing it in on the tiny piece shown, where there is an island area between the exits and entrances. He feels it would fit better in that location.

C.Parker stated that they are placing it where the property owner approved the City to place it. The pad site you are mentioning has been identified for a development on its own. The owner is not interested in encumbering that sign.

J.Stone confirmed with C.Parker that the lighting will be timed and when the last train passes at midnight it will be turned off.

C.Prior questioned the location. He recognizes that the area is dangerous with the crosswalks and traffic. Was there a concern or thought given to the placement of the sign and that it may be a distraction that may cause an impact of safety.

C.Parker stated that it was a big discussion that they had with Main Street. He hopes that by placing the sign at the location shown will actually help encourage people to not cross the road there and not make that area dangerous.

B.Hall questioned sign location as well and confirmed with C.Parker that it will be parallel to the road to minimize any impact or blockage from somebody coming up and down the road.

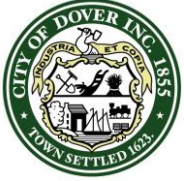
Stephen Piper, 27 Highland Street, stated he sits on the Board of Dover Main Street and also was the contract administrator when the station was built. He feels that a sign has been missing at the Transportation Center since 2001 and this sign would complete the project. The sign will contain the address which is important for 911 and for people using GPS. He stated he felt the sign was needed and is important to the community and to the Transportation Center. When you are driving up Chestnut Street from either direction you want to see the sign, it has to be parallel to the road. My vision was to have it perpendicular to the road in order to see it, but it is double sided for that reason. It has a small footprint and will be landscaped. The other reason for that spot is the electricity could be easier to get to, which is 15ft away. The other parcel would need to be excavated for electrical.

### STAFF RECOMMENDATION

T.Corwin stated that staff supports the requested variance for the reasons drafted in the Staff Memo (in file).

O.Perry would like to add a condition that any further addition to the sign, besides what the board approves tonight, has to come back before the board.

Concern and discussion ensued regarding different occupants or businesses that could possibly go in the Transportation Center.



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T. Corwin suggested a condition that would simply say the sign shall primarily advertise the transportation services and no off site advertising, as it needs to be related to the Transportation Center. You could add a condition regarding that the sign will not be flashing, have changeable text, nor be internally lit.

B. Hall added that the word primarily leaves it open ended, it needs to be something more concrete to provide security for a different user. It needs to be related to the condition that the sign would be used for transportation information only.

J. Stone wants to ensure that the transportation center signage is what stays on the top, not a hot dog or coffee shop.

C. Parker stated that it would take a huge overhaul for a kitchen in that space. His goal is to restrict signage, so that a business that would not be attentive to the City, would not comply with the request.

S. Reid would prefer to see a condition that the variance needs to run with the land and prefers a condition that is solely limited to transportation center users and operators of businesses that are related to that use. He thinks it is unfair to make them come back before the ZBA.

C. Prior stated that they are opting to grant the variance to install a 144" tall by 120" wide freestanding sign with the condition that the sign not be flashing, nor have electrical components and be limited to display just transportation and parking services.

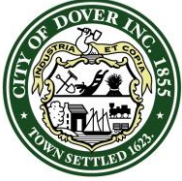
### *Public Hearing Closed*

**Motion:** O. Perry made a motion to grant the variance with the language that C. Prior mentioned. Discussion continued. The condition is that the sign shall not flash, have changeable text, nor be internally lit and the sign shall be limited to display transportation, parking information and ancillary uses of the Transportation Center. Seconded by C. Prior. Vote: U/A

- B.** Z 14-14 Jordan & Shannon Plante (Property Owners: Jordan & Shannon Plante), 92 Long Hill Road (Tax Map A, Lot 53G-1), located in the Medium Density Residential (R-12) District, requests a variance from **Section 170-12.A** of the Zoning Ordinance and the R-12 District Table of Use and Dimensional Requirements to permit the construction of a single family dwelling on the existing foundation located approximately 237 ft. from Long Hill Road, where principal buildings are required to be located between 5 ft. and 25 ft. from the front lot line.

### *Public Hearing Opened*

Atty. F.X. Bruton represented the applicants. He stated that this was before the Board to grant a variance (Z13-16) for more relief than what is being requested tonight and is more conforming than the last request. This is a request for a variance to build a single family dwelling and utilizing the existing foundation in order to be as close to the road as possible. They also have an existing septic system and well to use. The foundation was inspected and the test was found to be sound, which was provided by the Building Department. He explained that this is a unique shaped lot; it has wetlands and a wetland buffer. He stated that the neighbors are supportive. He explained how each of the criteria for granting a variance is met by this application.



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J.Stone confirmed with Atty. Bruton that the former owners sold the lot to the current owners.

### STAFF RECOMMENDATION

T.Corwin stated the Planning Department recommends the Board approve the variance as requested for the reasons stated in the Staff Memo. (in file)

*Public Hearing Closed*

**Motion:** O.Perry made a motion to grant the variance. Seconded by J.Stone. Vote: U/A

- C. Z 14-15 Jordan & Shannon Plante (Property Owners: Jordan & Shannon Plante), 92 Long Hill Road (Tax Map A, Lot 53G-1), located in the Medium Density Residential (R-12) District, appeals the determination of the Zoning Administrator that a variance is required to construct a single family home on the existing foundation located on the subject property

Discussion ensued regarding whether this item should be tabled or deferred.

S.Reid mentioned that if the previous variance was granted, this request would be moot.

Atty. Bruton stated there is a 30-day appeal period and he explained that the next Zoning Board of Adjustment meeting is on July 17, which is not 30 days from now. He requested this be tabled until the August 21, 2014 meeting and if there is no appeal filed then he will send a letter withdrawing the case.

**Motion:** O.Perry made a motion to table this item. Seconded by F.Landford. Vote: U/A

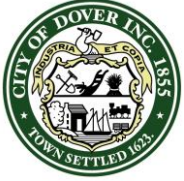
- D. \* Z 14-11 John L. Eaton Jr. (Property Owners: John & Patricia Eaton), 73 A Old Rochester Road (Tax Map A, Lot 3-1), located in the Medium Density Residential (R-12) District, requests a variance from **Section 170-12.A** of the Zoning Ordinance and the R-12 District Table of Use and Dimensional Requirements to permit the construction of a single family home to be located 50 ft. from the front lot line where the house is required to be located 30 ft. from the front lot line, which is the build to line equal to the average setback for all properties within the R-12 District within 500 ft. of the subject property.

This case was withdrawn.

- E. \* Z 14-12 Tom Schlosser (Property Owner: Gerald Smith), 1 Arbor Drive (Tax Map I, Lot 74R), located in the Medium Density Residential (R-12) District, requests a variance from **Section 170-12.A** of the Zoning Ordinance and the R-12 District Table of Use and Dimensional Requirements to permit the construction of an addition to be located 23 ft. from the rear lot line where a minimum setback of 30 ft. from the rear lot line is required.

*F.Landford recused himself. S.Reid asked B.Hall to sit in on this case.*

*Public Hearing Opened*



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Tom Schlosser, of Thomas Price Builders, represented the applicant. He stated the proposal is to build an addition, 16 ft. x 20 ft., off the rear of the existing single story ranch home. The addition will be located approximately 23 ft. from the rear lot line. The required rear setback in the R-12 District is 30 ft. and, therefore, a variance is being requested. He stated any addition built on this structure would automatically be skewed due to the position of the building on the lot. The proposed addition will be off the kitchen at the rear of the house and will be a dining area. This addition creates needed square footage. Two letters in support of the variance to the Board from the most impacted abutters, Mr. and Mrs. Joseph Noone of 13 Meridian Drive, and Mr. and Mrs. Scott Fahey of 3 Arbor Drive.

Discussion ensued regarding the dimensions of the proposed addition and deck, and it was determined that the scale was off on the drawings, but the closest point to the rear property line is 23 ft.

Frank Landford, 3 Monroe Street, spoke in favor of granting the variance, stating that this addition will give the owners needed square footage.

### **STAFF RECOMMENDATION**

T. Corwin stated the Planning Department supports the granting of the variance with the only condition being that the addition be constructed in accordance with the plans and materials submitted.

The Chair read the letters of support for the record. (in file)

*Public Hearing Closed*

**Motion:** O. Perry made a motion to grant the variance with the condition that the addition and the deck be constructed with the dimensions and the location as shown on the request.

B. Hall mentioned that due to the drawings being inaccurate, he would like to confirm that this not exceed 23 feet. The setback is not mentioned on the drawing.

Discussion ensued regarding the drawings submitted, the dimensions and encroachment into the rear setback.

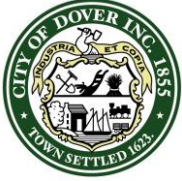
The motion failed for lack of a second.

**Motion:** B. Hall made a motion to grant the variance with the condition that the structure meets the dimensions as shown with the distance to the rear lot line not to be less than 23 ft. Seconded by C. Prior. Vote: U/A

- F.** Z 14-13 Adam Fogg (Property Owners: Jade & Sheryl Fogg and Adam Fogg), 25 Nute Road (Tax Map L, Lot 13), located in the Low Density Residential (R-20) District, requests a variance from Section 170-12.A of the Zoning Ordinance and the R-20 District Table of Use and Dimensional Requirements to permit the construction of a single family home to be located 4 ft. from the side lot line shared with 23 Nute Road where a minimum setback of 20 ft. from the side lot line is required.

*Public Hearing Opened*

Atty. Scott Hogan represented the applicant. He explained that the proposal is to remove the existing structure on the property and replace it with a new two-story modern residential structure to provide a family home where



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extended family could also live. The existing stand-alone garage would also be removed. The family has owned the property since the late 1920s. The structure which exists on the property now has a side setback of 1.2 ft. The proposed structure would have a 4.2 ft. side setback, so the nonconformity is decreased. The intent is to keep the structure as far away from the shoreline as possible. Atty. Hogan read a letter of support from the most immediate abutter at 23 Nute Road and submitted it to the Board. The new structure will use municipal utilities.

Discussion took place regarding the steps that the applicant will be required to take regarding obtaining a Conditional Use Permit and going before the Conservation Commission, the size of the house and location of the garage under the house. A rendering of the house was given to Board members to view.

### **STAFF RECOMMENDATION**

T.Corwin stated the Planning Department takes no position on the application as stated in the Staff Memo. (in file)

There was discussion about the footprint of the house forcing the house to be located where it is and that the house does not have to be the size that is being proposed.

*Public Hearing Closed*

**Motion:** C.Prior made a motion to grant the variance with the condition that the house is to be located no closer than 4 ft. to the side lot line. Seconded by O.Perry. Vote: 4/1 (J.Stone opposed)

### **4. REVIEW OF ZONING BOARD OF ADJUSTMENT RULES OF PROCEDURE**

T.Corwin explained that the first document in the Board member's packets is the present operating rules and the red lines represent edits suggested by O.Perry, B.Hall, S.Reid, T.Corwin and the Legal. The second document is the model rules of procedure from the OEP Handbook and the highlighted text is what is not otherwise contained in the existing operating rules.

S.Reid stated he would prefer to have more time to read over the documents. He suggested a change to Article 4 so that it states the Chair and Vice Chair shall be elected at the first regular meeting of each year. He suggested Article 4E state that all officers shall serve until their successors are voted in as officers.

There was discussion regarding the deadline for applications and notices being sent out by certified mail either seven or ten days before the hearing date, and sending notices possibly by both certified mail and by regular mail. The Board decided they want to have the notices sent ten days before the hearing date.

### **5. ADJOURN**

**Motion:** O.Perry made the motion to adjourn at 8:42 p.m. Seconded by B.Hall. Vote: U/A