

CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers, City Hall - 288 Central Avenue
Meeting Date: **Thursday, October 16, 2014**
Meeting Time: **7:00 pm**

1. ATTENDANCE

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

Members Not Present: Gary Green (Alternate)

Staff Present: Timothy Corwin (Assistant City Planner), Jean Glidden (Recording Secretary)

The Chair called the meeting to order at 7:01 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 MEETING MINUTES OF JULY 17, 2014 AND AUGUST 21, 2014

S.Reid stated that action on the July minutes had been deferred due to requests to add additional detail.

Motion: B.Hall made a motion to accept the July 17, 2014 Regular Meeting Minutes. Seconded by O.Perry.
Vote: U/A

B.Hall noted an amendment on page 2 of the August 21, 2014 draft meeting minutes, that a sentence was incomplete and the word "difference" should be inserted to read "because of the difference of what was submitted and handed out"; and on page 3, 4th paragraph starting with T.Corwin the word "not" needs to be inserted. It should read "by not approving the concept".

S.Reid noted on page 1, the first motion seconded by O.Perry, the vote states "4/1, C.Prior abstained", should be "4/0, C.Prior abstained".

Motion: O.Perry made a motion to accept the August 21, 2014 Regular Meeting Minutes as amended.
F.Landford seconded. Vote: U/A

3. HEARINGS

- A. * Z 14-22 Aimee and Jerry Dion, 3 Earle Street (Tax Map 40, Lot 12), 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 5 ft. from the side lot line where a minimum setback of 15 ft. is required.

Public Hearing Open

Aimee Dion is requesting a variance to construct an addition to her home that would be located within 5 feet of the side lot line, which requires a minimum side setback of 15 ft. There are a number of site constraints that limit where an addition to the home can be placed and she has met with staff several times to discuss options that would eliminate the need for a variance. The lot is angled, therefore the addition would have to be angled and this would cause engineering complications that would be difficult and expensive to accomplish.

STAFF RECOMMENDATION

T.Corwin stated that the Planning Department supports the request as set forth in the staff memo.

Public Hearing Closed



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Motion: O.Perry made a motion to grant the variance. Seconded by F.Landford. Vote: 5/0

- B. * Z 14-23 Margaret E. and William F. Green, 124 Dover Neck Road (Tax Map M, Lot 95B), located in the Rural Residential (R-40) District, requests a variance from **Section 170-12.A** of the Zoning Ordinance and the R-40 District Table of Use and Dimensional Requirements to permit the construction of a single family dwelling to be located 23 ft. from the front lot line where a minimum setback of 40 ft. is required.

The Chair read a letter submitted by Attorney Bruton requesting that this case be continued to the November 20, 2014 meeting.

Motion: O.Perry made a motion to continue to the next meeting. Seconded by B.Hall. Vote: 5/0

- C. * Z 14-24 Patrick M. Murray, 19 Hillcrest Drive (Tax Map 35, Lot 56N), located in the Medium Density Residential (R-12) District. The subject property's current frontage is 90 ft. where 100 ft. is the minimum required. The applicant 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 a lot line adjustment which would transfer 10 ft. of frontage from 19 Hillcrest Drive to 21 Hillcrest Drive thereby decreasing 19 Hillcrest Drive's frontage to 80 ft. and increasing its non-conformity.

Public Hearing Open

Attorney Schulte representing the applicant states this is a request for a variance to permit a lot line adjustment which would transfer 10 ft. of frontage from 19 Hillcrest Drive to 21 Hillcrest Drive so that the entirety of the driveway will be located on the 21 Hillcrest Drive, thereby decreasing 19 Hillcrest Drive's frontage to 80 ft. and increasing its non-conformity. He added that the lot line adjustment will not affect the appearance of either lot and will eliminate a driveway encroachment. The lot is large enough to allow the building to meet setback requirements.

STAFF RECOMMENDATION

T.Corwin stated that staff does support the application as set forth in the memo; however after hearing the application he made the Board aware that in the R-12 dimensional regulations, it is a requirement that you have to build to a certain distance from a lot line. Vacant lots created prior to December 2009, shall have a build to line no closer than 5 ft. and no greater than 25 ft. If the lot is narrowing it may be setting them up to require relief from the front or potentially the side. He stated that the Board may want to consider or discuss a condition that would say no further variance relief will be granted for the front or side lot lines.

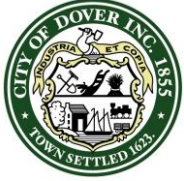
B.Hall noted that the required dimensional regulations shown on the plan are incorrect.

Attorney Schulte mentioned that you could add a condition that any structure to be built on 19 Hillcrest Drive would have to meet setback or build-to requirements for new lots.

B.Hall added that this could be a problem in the future.

Attorney Schulte stated that if this lot were to be developed its more likely they would ask for a variance to place the house further back in the lot.

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Motion: O.Perry made the motion to grant the variance with the understanding that because of the nature of the subdivision and the nature of the location of the lot, they have met the requirements for the variance. Seconded by C.Prior. Vote: 5/0

- D. * Z 14-25 Christopher and Melissa Snow, 10 Leathers Lane (Tax Map I, Lot 4), located in the Medium Density Residential (R-12) District. The applicant proposes to subdivide the subject property into three lots and 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 lots to have a minimum front setback of 30 ft., in place of the required build to line of 115 ft., which is equal to the average front setback for all properties within the R-12 District within 500 ft. of the subject property.

S.Reid recused himself as he knows the applicants. O.Perry was seated as Chair for the hearing, and G.Reagan was appointed to sit as a voting member for the hearing.

Public Hearing Open

O.Perry mentioned that he used to own this property.

Attorney Schulte representing the applicants stated that the proposal is to subdivide into three lots, one for the existing dwelling, and two new lots for proposed single family dwellings. Per the R-12 District requirements, each lot will have a front "build to line" of 115 ft., which is equal to the average front setback for all properties within the R-12 District within 500 ft. of the subject property. The applicant requests a variance to replace the "build to line" with a 30 ft. front setback.

F.Landford confirmed with Attorney Schulte that the existing house has a septic system, however has city water and asked if there was a reason why a driveway couldn't be brought in from Back River Road to lot 2.

Attorney Schulte stated that it is a busier road and this was presented to the City Planner and he suggested bringing it off of Leathers Lane.

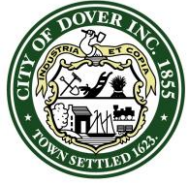
B.Hall said it would have been helpful to see the proposed positions of the houses on the plan. 30 ft. is tight.

G.Regan stated that it looks like this is a practical request; however did you consider making it two lots instead of three lots.

Attorney Schulte said there is enough land and is consistent with the neighborhood. There is ample room and it is three times the min lot size. It just fits.

STAFF RECOMMENDATION

T.Corwin stated that staff does not oppose the application; they are not taking any position. He expressed concern that the applicant is not asking for a reasonable accommodation given the characteristic of the proposed lot. They are not proposing a specific location for the project. They are asking to throw out the zoning requirement and replace it with a new setback. Staff would have been more comfortable with a more specific proposal or reasonable accommodation of the existing regulations.



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Attorney Schulte stated that with respect to the L shaped lot you cannot site a house on the property that meets the current build-to line. For purposes of development of the lot, it is best for everyone that it be placed much further back.

B.Hall stated that he is very uncomfortable without more information.

C.Prior noted that this is where the problem starts with setbacks versus build-to lines.

Public Hearing Closed

Motion: C.Prior made a motion to grant a variance to replace the build-to line for lots 1 and 2 as described on the survey with a 30 ft. front setback on condition that all other setback requirements in the Zoning Ordinance are met. Seconded by F.Landford.

B.Hall stated that he is concerned and doesn't feel they have enough information to vote on it and feels they would be creating an island of non-conformance.

G.Reagan agreed and would like to see the location of the homes on the plan.

O.Perry added that the applicant is asking for a variance in order to enable them to go to the Planning Board and request a subdivision. The Board's decision is based on our judgment of whether or not they have met the requirements of granting the variance.

B.Hall reiterated what C.Prior noted in regards to the problem with setbacks vs. build-to line is an issue.

Motion on the table: Vote: 4/ 1 - Approved (B.Hall opposed)

S.Reid returned to sit with the Board and resumed his duties as Chair.

4. REVIEW OF ZONING BOARD OF ADJUSTMENT RULES OF PROCEDURE

T.Corwin reviewed the rules of procedure. The red line presents all changes discussed and have been reviewed by the City Attorney. Discussion ensued regarding hiring a consultant to review materials and plans at the applicants cost, alternates role on voting and participation and information pertaining to determining standing in for an abutter or non-abutters.

S.Reid mentioned that the build-to line is an issue and in some districts it doesn't make sense.

B.Hall added that is why we are getting hit with the variance requests.

5. ADJOURN

MOTION: O.Perry made the motion to adjourn at 8:12 p.m. Seconded by F.Landford. Vote: U/A