

**CITY OF
DOVER**

ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting
Meeting Location: McConnell Center, Room 306
61 Locust Street, Dover NH 03820
Meeting Date: **Thursday, August 20, 2015**
Meeting Time: **7:00 pm**

1. ATTENDANCE

Members Present: Otis Perry (Vice-Chair), Frank Landford, Bob Hall, Arianna Adams (Alternate)

Members Not Present: Sam Reid (Chair), Chris Prior, George Reagan (Alternate)

Staff Present: Christopher Parker (Assistant City Manager), Elena Piekut (Assistant City Planner), Tracy Smith (Recording Secretary)

The Chair called the meeting to order at 6:59 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 16, 2015

Motion: F.Landford made a motion to approve the July 16, 2015 Regular Meeting Minutes. Seconded by B.Hall. Vote U/A

O.Perry stated there is a three person vote required to approve a variance, and gave the applicants the option to withdraw their application and notify abutters for the next meeting. None of the applicants opted to withdraw.

Richard Dolbec, 47 Cielo Drive, asked if the Zoning Board operates under Roberts Rule and asked about the number of voting members present.

O.Perry said yes and that three members need to be present to approve a variance.

3. HEARINGS

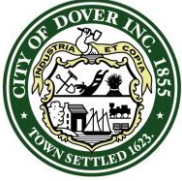
- A. Z15-12 Owners Gregory & Laura Halsey, 7 Hull Avenue (Tax Map 35, Lot 49), located in the Medium Density Residential (R-12) District, request a variance from **Section 170-14.A(2)** of the Zoning Ordinance to permit the demolition and reconstruction of an existing attached breezeway and garage, where the widened garage will require a two-foot setback where a six-foot side yard setback is required.

Gregory Halsey presented his application and stated the information and five criteria explanations as listed on the application, adding the project was discussed with his neighbor, Pasco and Winifred Del Ponte, who provided written support which was distributed to the Board members. He addressed the Staff Memo regarding the recommendation for the lot line adjustment, and stated his concern regarding the cost issue, and that there is no guarantee The Del Pontes would sell the land to him.

B.Hall requested clarification on the uniqueness of the property. G.Halsey stated the frontage is narrower in comparison to the other lots in his neighborhood.

F.Landford confirmed with G.Halsey that he did not discuss obtaining the land from his neighbor.

C.Parker confirmed with G.Halsey that he knew at the time he purchased the home that it was a nonconforming lot, and he intended to rebuild the garage at that time.



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B.Hall asked the applicant if the garage could be restructured for additional clearance. G.Halsey stated he would like to widen it to add a stair set from the garage to the house, and to have enough space for an opening to get the car in the garage.

A letter from Pasco and Winifred Del Ponte, 3 Hull Avenue, which expressed support of the variance was distributed to the Zoning Board members and read by O.Perry.

Public Hearing Opened. Nobody Spoke. Public Hearing Closed.

STAFF RECOMMENDATION:

The Planning Department recommends the Board hold the public hearing and deny the request for the variance, and suggests the applicant instead seek a lot line adjustment with the owners at 3 Hull Avenue.

C.Parker recommended the application be denied due to lack of hardship, and stated the applicant knew when he purchased the home that he did not have a conforming lot to do the project, adding it would be a hardship if the neighbor stated they would not do the lot line adjustment. He further stated the applicant has the option to construct a 14 ft. garage which would comply with the setbacks.

G.Halsey stated he was uncertain whether his neighbor would approve of the lot line adjustment, and asked the Board to consider a condition of approval. C.Parker stated the variance is supposed to be the last option when all other options have been exhausted.

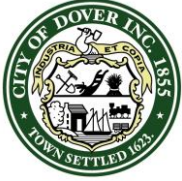
Motion: B.Hall made a motion to deny the variance due to no demonstration of hardship or deviation from the strict requirement of the ordinance, and the intent of the ordinance has not been met. Seconded by F.Landford. Vote U/A

- B. Z15-15 Owners Steve and Briana Hyde, 45 Dover Neck Road (Tax Map M, Lots 78 & 79D), located in the Rural Residential (R-40) District, request a variance from Section **170-12.A** of the Zoning Ordinance and the R-40 District Table of Use and Dimensional Regulations to transfer the two-family conversion right of a pre-1964 single-family dwelling on lot 78 to lot 79D to permit the construction of a two-family dwelling on lot 79D, where a single-family dwelling is permitted.

Christopher Berry, Berry Surveying & Engineering, represented the applicant and stated the information and five criteria explanations in regards to the application, adding the motive for the applicant is the duplex style and they want to live in the duplex and have a family member live with them. He explained the location and style of the structure, adding the style would be non-congruent with each the existing home. He further stated if the application is denied, the applicant would have to build a single family home in the building area provided and would have to remove vegetation. Steve and Briana Hyde were also present.

C.Berry said the special condition of this property is that it is the only of its kind in that area. The special condition on the second vacant lot is long standing vegetation in the front that they want to maintain.

S.Hyde clarified the location of the existing lot they own and the purchased property, adding the majority of their lot is wooded. They would prefer not to add the house in one area, instead to transfer the second unit right in the back so it



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would not affect the character of the street and to give a wooded buffer. If they later sell, the newly constructed property could not be viewed from the home.

F.Landford confirmed with C.Parker that the Planning Department has a signed copy of the application.

O.Perry stated his concern regarding the transfer. C.Parker clarified the transfer of the right and explained the applicant wants to create a duplex on a lot where a single family unit is ordinarily allowed by right and have a single family unit on the lot where the duplex is allowed. He stated three units are allowed on the lot.

Public Hearing Opened

David Goodwin, 23 Dover Neck Road, spoke in favor of the variance as long as it is being built as proposed. He addressed another current project pertaining the renovation of a house in relation to the applicant's proposal, adding the completion of both projects would provide open space that would make the area look better. He explained the property he owned in comparison with the proposal and how the applicant supported him when he made changes on his property. F.Landford confirmed with D.Goodwin the property he sold to the applicant.

Vera Haus, 28 Dover Neck Road, spoke against the variance and stated her concern with building the two family home where there are none in that area. She expressed her concern with the property values diminishing by allowing the two family home to be built and used as a rental property. Jeffrey Haus was also present.

S.Hyde stated their proposal has less of an impact on the area, where if they expanded their existing home they would be very close to their neighbor. He further stated the proposed structure would keep the nature of neighborhood, and if the variance was not granted, they could sell the property to a builder who would not care about the area or the trees and would remove them. He further stated the home they would eventually rent would be across the street from an existing rental, adding anyone could rent their homes at any time.

C.Berry stated the applicants live in the neighborhood and care about the area, and clarified there are reconfigured units on Arch Street as an example of the concept.

Discussion ensued about the septic system for the duplex, and the applicants are required to bring sewer to the new units.

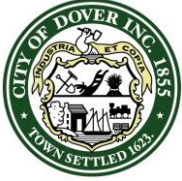
STAFF RECOMMENDATION:

The Planning Department recommends the Board hold the public hearing and does not oppose the request for variance. If the Board chooses to approve the request, staff suggests a condition that a deed restriction be added for Lot 78, stating that there shall be no conversion of the existing dwelling to accommodate two units. A note to this effect should also be added to the plan.

C.Parker addressed the previous comments and stated conditions as suggested by the Planning Department.

Public Hearing Closed

Motion: B.Hall made a motion to grant the variance with the following conditions:



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- The house be constructed as shown on the plan.
- The new units be required to tie in to the sewer system.
- No more than three units exist on the combined two lots.
- There will be minimal cutting of the existing wooded buffer.
- The lot line adjustment be approved by the Planning Board.

Seconded by F.Landford. Vote U/A

- C. Z15-16 Owner Carl Thibodeau, 8 Pineview Drive (Tax Map L, Lot 48M), located in the Low Density Residential (R-20) District, requests a variance from **Section 170-12.B** of the Zoning Ordinance and the R-20 Table of Use and District Dimensional Regulations to allow 92.51 feet of frontage where 125 feet is required.

Christopher Berry, Berry Surveying & Engineering, represented the applicant and stated the information and five criteria as listed on the application. He stated Mr. and Mrs. Thibodeau were also present.

Discussion ensued regarding the proposed structure to be built and that the utility easement would remain. C.Parker confirmed the applicant would not build an Accessory Dwelling Unit structure.

Public Hearing Opened. Nobody Spoke.

STAFF RECOMMENDATION:

The Planning Department recommends the Board hold the public hearing and approve the request for variance. If the Board chooses to approve the request, staff suggests a condition that a deed restriction be added for Lot 48M, stating that there shall be no conversion of the existing dwelling to accommodate two units. A note to the same effect should be added to the plan.

C.Parker recommended to approve the variance with the following conditions:

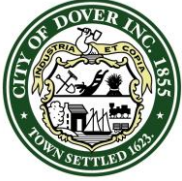
- No more than two units over the two lots be created.
- Screening will be installed prior to issue of the building permit.
- The utility easement would be donated to the City, if needed.
- The new home will have a similar look and feel to the existing neighborhood mitigated through street-scape improvements.

Public Hearing Closed

B.Hall stated his concern with the condition regarding the look and feel with existing lots and meeting the zoning requirements. C.Parker stated the applicant wants to build with a look that the structures have been there all along, which is why he put in that condition.

Motion: F.Landford made a motion to grant the variance with the conditions as suggested by the Planning Department. Seconded by A.Adams. Vote U/A

- D. Z15-17 Owner Heron Bay Partners, LLC, 38 Cielo Drive (Tax Map H, Lot 4-38), located in the Assembly and Office (I-4) and Residential-Commercial Mixed Use (RCM) Overlay Districts, requests



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an equitable waiver **per Section 170-52.C(d)** from the dimensional requirements of **Section 170-28.2.F(2)**, specifically where 24 feet between buildings is required but 20.7 feet exists.

Christopher Berry, Berry Surveying & Engineering, stated he represented himself for Heron Bay Partners, and stated the information as listed on the application.

F.Landford requested clarification of the location of the structures on the plans.

C.Berry explained the cost to demolish the structure and asked the Board allow the structure to remain.

Public Hearing Opened

Richard Dolbec, 47 Cielo Drive, spoke in favor of the waiver.

STAFF RECOMMENDATION:

The Planning Department recommends the Board hold the public hearing and grant the request for an equitable waiver.

C.Parker stated he does not believe the measurement error would be noticed due to the shared space, adding this is not typical for C.Berry or his company. He recommended the equitable waiver be granted.

Public Hearing Closed

Motion: F.Landford made a motion to grant the request for the equitable waiver. Seconded by B.Hall. Vote U/A

4. ADJOURN

Motion: B.Hall made a motion to adjourn at 8:40 p.m. Seconded by F.Landford. Vote: U/A