

**CITY OF
DOVER**

ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers – City Hall
288 Central Avenue, Dover NH 03820
Meeting Date: **Thursday, February 18, 2016**
Meeting Time: **7:00 pm**

1. ATTENDANCE

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

Members Not Present: Arianna Adams (Alternate), Chris Prior

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

The Chair called the meeting to order at 7:01 p.m. He opened the meeting and introduced the Board and staff members to the audience, as well as Nicholas Couturier as a new Zoning Board member.

2. APPROVAL OF MEETING MINUTES OF NOVEMBER 19, 2015

Motion: O.Perry made a motion to approve the November 19, 2015 Regular Meeting Minutes as amended. Seconded by F.Landford. Vote U/A

G.Reagan arrived at 7:01 p.m.

3. ELECTION

Motion: O.Perry made a motion to nominate S.Reid as Zoning Board Chair. Seconded by F.Landford. Vote: U/A

Motion: F.Landford made a motion to nominate O.Perry as Zoning Board Vice Chair. Seconded by B.Hall. Vote: U/A

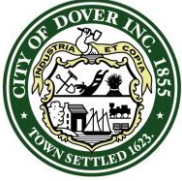
The Board voted by secret ballot. The votes were tallied and the results were announced by C.Parker. S.Reid was elected as Chair and O.Perry was elected as Vice Chair.

4. HEARINGS

- A. Z16-01 Owner Michael Nicholas, 6 James Street (Tax Map I, Lot 76-F), located in the Medium Density Residential (R-12) District, requests a variance from **Section 170-18.H** of the Zoning Ordinance to permit a commercial kitchen/bakery as a home occupation, where “caterers or bakeries” are not considered home occupation uses.

Michael Nicholas presented his application and stated the information and five criteria as listed in the application. Gretchen Nicholas was also present.

M.Nicholas answered questions from S.Reid to verify information concerning the homestead kitchen license, the coming and going regarding his business to include trips via the concession trailer and/or to purchase ingredients, and that he would produce the product in his kitchen and sell it in the concession trailer. He further clarified with S.Reid the odors would be normal cooking odors because he would be using an electric kitchen. He stated there would be no exhaust fan because he would not be using gas equipment nor would there be grease laden smoke. He further stated he did not use this equipment at the previous establishment at the Mill either.



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Discussion ensued regarding the license requirements. C.Parker explained the requirements for the City of Dover, and the Staff's process to define this application. M.Nicholas clarified he would not be a retail establishment like Dunkin Donuts. He stated he is a baker and wants to bake and sell the product in his trailer.

Discussion continued with further clarification regarding other customer options to order the product via the business website and facebook page. M.Nicholas stated he would offer delivery or mail service, considering the requests, with the theme of business centered on the concession trailer, and the facebook page would advertise his locations. He further stated he did not anticipate and increase in traffic at the house, except including possibly one employee. He added no customers would come to the house for the product.

Discussion ensued regarding including no sales occurring on the site as a condition. C.Parker stated the applicant stated this information in his application and it is stated in the minutes. Discussion continued with including the condition in the event the applicant moves out of the home.

Public hearing opened.

STAFF RECOMMENDATION:

Staff recommends that the Board approve the request for variance with the following conditions:

1. The additional kitchen shall be limited to 200 sq. ft. in area, and so long as the Customary Home Occupation use continues, the property owner shall not create an Accessory Dwelling Unit.
2. Proof of the health license shall be provided to the Planning Department and kept on file.
3. No direct sales of any product or goods created shall be permitted.

The Chair appointed G.Reagan to sit in on the case.

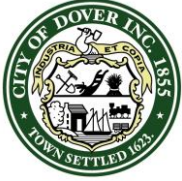
Public hearing closed.

Motion: B.Hall made a motion to grant the variance with the suggested Staff recommendation. Seconded by F.Landford. Vote U/A

- B. Z16-02 Owner Knox Marsh Development, LLC, 23 Knox Marsh Road (Tax Map H, Lot 22), located in the Low Density Residential (R-20) District, requests two variances from **Section 170-12.B** of the Zoning Ordinance: 1) to permit lot frontages of 111 feet, 86 feet, and 74 feet where 125 feet is required and 2) to permit lot sizes of 12,231 sq. ft., 12,136 sq. ft., and 9,122 sq. ft. where a minimum 20,000-square-foot lot size is required.

Christopher Berry, Berry Surveying & Engineering, displayed the plans for viewing, and stated the information and five criteria as listed in the application. Robert Baldwin, Knox Marsh Development, LLC was also present.

C.Berry confirmed with C.Parker that the applicant did not approach the abutters to obtain land for lot size, and the existing building was not inspected. R.Baldwin stated he met with Jim Maxfield and determined the house needed to be gutted, as well as, the amount of work and cost needed to repair the home. He further stated he considered the land owned by Jeff Rowe, but did not want to squeeze the houses together.



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C.Parker clarified for the Board the two variances for the applicant and why this was not two applications.

Discussion ensued regarding why the applicant choose three structures instead of two, the shape of the lots and not wanting to create problems with the neighbors by having an odd space between lots.

S.Reid asked the applicant why the duplex would decrease surrounding property values. C.Berry stated that a duplex could affect property values because this could be rented and could change the feel of the neighborhood.

S.Reid requested clarification regarding the hardship and how that property compares to the neighbors. C.Berry stated the hardship is the general proximity to the commercial zone. He addressed the homes on the plans that have hardship due to commercialization in the area and explained the proximity to the commercial area, and that there is only one way to the project that has commercial activity. O.Perry asked if it creates additional hardship to add two additional houses to the area.

C.Berry clarified in response to C.Parker's question that Norma Rowe owned the site when the plan was produced, and Knox Marsh Development LLC now owns the site.

C.Parker clarified the information in the Staff Memo.

C.Berry stated the hardship of the commercial area has to do with the property constraints.

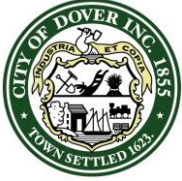
Public hearing opened.

Parker Cook, 11 West Knox Marsh Road, asked if the buildings would be sold, or rented. He stated his concerns regarding the dynamic of the neighborhood and how building three houses could bring traffic concerns. He addressed the plan using a different road to exit from the site where the school is, which could bring additional traffic concerns.

Robert Dubois, 11 Chandler Way, displayed a picture of the site from his back porch and stated his concerns regarding his view due to the removal of the trees, and why the applicant can build in his back yard and he could not build an in-law apartment to care for his family member. He further stated his concern with building three homes in comparison to the lot size. R.Dubois confirmed for S.Reid that there would be a diminution of his homes value if the variance was granted.

Jeffrey Rowe, 29 Knox Marsh Road, stated he sold the property to Robert Baldwin, and offered to sell additional acreage to them. He owns the house next to the project, and the property line is right next to his driveway. He stated his concern regarding the three buildings on one property, and concerns with noise. He stated he removed the trees due to the condition of the trees. J.Rowe confirmed for S.Reid that there would be a diminution of his homes value if the variance was granted.

Ryan Queenan, 12 Chandler Way, stated his concern with building three houses and the how that could affect the property values of the surrounding homes. R.Queenan confirmed for S.Reid that there would be a diminution of his homes value if the variance was granted.



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Parker Cook stated an additional concern regarding the timing of receiving his abutter notice, and that he had less than 24 hours to consider the proposal.

S.Reid read an email from Doug MacDonald, 17 Littleworth Road, which stated his concerns regarding the building of three houses and the lot sizes. He further stated concerns regarding noise pollution, congestion, the impact on his home's value, and the lots should meet the code requirements.

C.Berry addressed the abutter concerns and requested the Board table the application in order to review the comments and develop a different plan.

Discussion ensued regarding options for the applicant to make changes to the application and tabling the application and how the abutters would receive notice.

C.Parker addressed the abutter concern regarding the in-law apartment, and stated regulation changes where he could have the apartment.

Public hearing closed.

Motion: O.Perry made a motion to table the variance. Seconded by F.Landford. Vote U/A

S.Reid welcomed N.Couturier to the Zoning Board.

Discussion ensued regarding the need to change when the abutter notices are mailed out from the Planning Department, and to evaluate the change made by the Board members in the Rules of Procedure. C.Parker stated he would address the timing issue regarding when the applications are received and the abutter notices are sent in the Department.

5. ADJOURN

Motion: O.Perry made a motion to adjourn at 8:26 p.m. Seconded by B.Hall. Vote: U/A