



**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, March 16, 2017**
Meeting Time: **7:00 pm**

1. ATTENDANCE

Members Present: Chris Prior (Chair), Sam Reid (Vice Chair), Otis Perry, Frank Landford, Nicholas Couturier (Alternate), Arianna Adams (Alternate)

Members Not Present: Bob Hall, George Reagan (Alternate)

Staff Present: Elena Piekut (Assistant City Planner), Tracy Smith (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.

2. APPROVAL OF MEETING MINUTES OF JANUARY 19, 2017

Motion: O.Perry made a motion to approve the January 19, 2017 Regular Meeting Minutes as submitted. Seconded by S.Reid. Vote: U/A F.Landford abstained from the vote as he was not present at that meeting.

The Chair described the process used to hear cases.

3. HEARINGS

- A. Z17-01 Owners Frank & Laurie Leichthammer, 15 Cote Drive (Tax Map L, Lot 58-G), located in the Low Density Residential (R-20) Zoning District, request a variance from **Section 170-15.B** of the Zoning Ordinance to permit a distance of approximately nine (9) feet between the principal structure and accessory structure where a minimum distance of 11 feet, four (4) inches is required based on the height of the accessory structure's rear wall.

Frank Leichthammer presented the proposed plan and displayed a plan for viewing. Laurie Leichthammer was also present.

Discussion ensued regarding State requirements pertaining to the location of the structure, a letter issued to the applicant from an engineer regarding safety issues associated with the roof if the structure were attached to the home, clarification that 3.3% of the proposed structure is out of compliance, and that the Building Official requested a fire-rated wall to protect the house.

F.Leichthammer agreed with the Board to add a condition to the variance regarding adding firewall protection to the structure.

Public Hearing Opened.

Patricia Rose, 17 Cote Drive, spoke against the proposed plan and stated her concerns regarding the minimum setback requirements, the pending State approval, the building height, and safety issues regarding the roof. She addressed the location of the structure and suggested moving the structure even though there would be loss of trees.

Robert Briggs, 10 Cote Drive, spoke in favor of the proposed plan.



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F.Leachhammer explained for C.Prior the City and State approval process and the reason for the postponement of construction due to neighbor objection, adding the trees could not be removed due to the regulations and that this location was the only place for the structure. He provided information regarding his previously submitted Conditional Use Permit application to the Planning Board, and explained the conditions of approval.

P.Rose stated the NH DES requires a 20 ft. side setback.

E.Piekut addressed the use and hardship regarding the regulation for the non-removal of trees, and the orientation of the house in relation to the side property line. She confirmed for C.Prior the State requirements regarding setbacks, adding the State has the ability to grant a waiver for the setback. She addressed the Planning Board conditions regarding the Conditional Use Permit.

S.Reid confirmed with E.Piekut the height of the building is part of the variance. She clarified that the height of the rear wall determines the minimum distance of the structure from the principal building.

E.Piekut addressed the hardship regarding the height and angle of the structure.

P.Rose asked whether the Planning Board's condition of approval requiring a surveyed plan had been completed. E.Piekut stated the applicant submitted plans completed by a surveyor and confirmed that plan was not submitted to the Planning Board yet.

STAFF RECOMMENDATION:

Staff recommends that the Zoning Board vote on the variance request. Staff does not oppose the variance request.

Public Hearing Closed.

The Chair recognized A.Adams to vote on the case.

Motion: O.Perry made a motion to grant the variance with two conditions:

1. The necessary NH DES permits are approved.
2. The applicant shall construct a 1-hour fire-rated or fire resistant wall along the wall of the proposed structure adjacent to the house.

Seconded by S.Reid. Vote: U/A

- B. Z17-02 Owner Derek Fisher (274-276 Central LLC), 274-276 Central Avenue (Tax Map 9, Lot 113-A), located in the Central Business District – General Subdistrict (CBD-G), requests a variance from **Section 170-32.C(19)(b)** of the Zoning Ordinance to permit a sign to project five (5) feet, seven (7) inches over the sidewalk, where signs are prohibited from projecting more than four (4) feet eight (8) inches.

Derek Fisher presented the application.

Discussion ensued regarding the general construction of building with a ledge and location of the frame, and confirmation of the materials used for the sign design.

Public Hearing Opened.



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STAFF RECOMMENDATION:

Staff recommends that the Zoning Board approve the variance request.

E.Piekut clarified the applicant's hardship regarding the roof of the building and the clearance of the sidewalk, and confirmed for N.Couturier that the sign would not project past the edge of the sidewalk.

Public Hearing Closed.

The Chair recognized N.Couturier to vote on the case.

Motion: S.Reid made a motion to approve the variance. Seconded by O.Perry. Vote: U/A

- C. Z17-03 Owner Profero Management & Holdings LLC, 23 Cataract Avenue (Tax Map 13, Lot 23), located in the Medium Density Residential (R-12) Zoning District, requests a variance from **Section 170-32.A and 170-32.D(2)** of the Zoning Ordinance to permit a freestanding sign of up to 40 square feet in area, where the maximum sign area for a freestanding sign in the R-12 is 16 square feet.

Attorney Denis Robinson, Pierce Atwood, represented the applicant, displayed a plan for viewing, and presented the application. Robert DeColfmacker was also present.

Discussion ensued regarding the location of the proposed sign to the left of the driveway, previous sign locations, that it will be a single free standing sign, the sign will be lit but not internally, and the number of tenants to be listed on the sign.

R.Decolfmacker explained that the building is currently structured in four suites and two suites could be subdivided for a total of six potential units.

Public Hearing Opened.

STAFF RECOMMENDATION:

Staff recommends that the Zoning Board vote on the variance request. Staff does not oppose the variance request.

Public Hearing Closed.

R.Decolfmacker confirmed for E.Piekut the approved sign for Great Bay Services would be installed only if the variance is not granted.

E.Piekut addressed the hardship with the property, and confirmed the illumination of the sign would be between 6 a.m. to 9 p.m.

The Chair recognized A.Adams to vote on the case.

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



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- D. Z17-04 Owner Aranosan Oil Company, Inc. and Applicant R&P Singh, LLC, 52 Central Avenue (Tax Map 15, Lot 71), located in the Gateway (B-5) District, requests a variance from **Section 170-12.A and B** of the Zoning Ordinance to permit drive-through services to be located 72 feet and 84 feet from abutting residential structures where a 100-foot setback is required, and 27 feet and 44 feet from abutting residential lot lines where a 50-foot setback is required.

Attorney F.X. Bruton, Bruton & Berube, PLLC represented the applicant, and presented the proposed plan. Bob Stowell, Tritech Engineering Corporation and Raghbir Singh of R & P Singh, LLC were also present.

Discussion ensued regarding the two drive-through lanes and that the bypass lane is standard, the applicant is not losing any parking, and the order board distance from the abutters.

Public Hearing Opened.

Tom Hurley, 53 Central Avenue, spoke in favor of the project.

Scott Cannon, 298A Dover Point Road and owner of 292 Locust Street, stated his concerns regarding the existing vegetative buffer, light and noise pollution affecting tenants, and the need for additional buffer with a fence. He requested 6 a.m. to 9 p.m. service hours for the drive-through be added as a condition.

S.Reid confirmed with D.Wagner that there is a current issue with light pollution.

Dorothy Wagner, 292A Locust Street, stated her concern regarding the existing vegetative buffer and requested a fence be located on top of the existing retaining wall and extend back to the dumpster. She further stated the fence would address the light and noise issues.

Discussion ensued regarding fence height and materials. E.Piekut noted that fences eight feet or taller require a building permit. F.X.Bruton stated the applicant would prefer a six-foot fence.

R.Stowell recommended a vinyl fence for an effective sound barrier to be placed as close to the ground as possible.

STAFF RECOMMENDATION:

Staff recommends that the Zoning Board approve the variance request.

E.Piekut addressed the hardship regarding shape of the lot and the required front setbacks.

Discussion ensued regarding a possible condition of approval regarding the installation of a fence. E.Piekut explained that the Planning Board will also review this amendment to the approved site plan.

Public Hearing Closed.

O.Perry stated he opposes drive-through services due to air quality concerns, with the understanding that the variance could be granted.



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The Chair recognized N.Couturier to vote on the case.

Motion: S.Reid made a motion to approve the variance as requested with two conditions:

1. Drive-through service hours of operation shall be limited to 6 a.m. to 9 p.m.
2. The applicant shall install a vinyl or plastic (hollow core) fence with no gap at the bottom and with a minimum height of 9 ft. above the asphalt. The fence must extend from the existing fence at Map 15, Lot 72 to the existing dumpster location. Seconded by F.Landford.

Vote: 4/1 Passed - O.Perry opposed the variance.

F.Landford thanked the Board for the cards he received.

4. ADJOURN

Motion: O.Perry made a motion to adjourn at 8:09 p.m. Seconded by S.Reid. Vote: U/A