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, April 20, 2017** Meeting Time: **7:00 pm**

1. ATTENDANCE

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

Members Not Present: Sam Reid (Vice Chair), Arianna Adams (Alternate), Nicholas Couturier (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. He explained the meeting would not be broadcast live due to the School Board meeting. He described the process used to hear cases.

2. APPROVAL OF MEETING MINUTES OF MARCH 16, 2017

Motion: O.Perry made a motion to approve the March 16, 2017 Regular Meeting Minutes as submitted. Seconded by F.Landford. Vote: U/A Passed - B.Hall and G.Reagan abstained from the vote as they were not present at that meeting.

3. HEARINGS

A. Z17-06 Owner Christi Haffner, 45 Boston Harbor (Tax Map 7, Lot 17-A), located in the Low Density Residential (R-20) Zoning District, requests a variance from **Section 170-12.B** of the Zoning Ordinance to permit a front setback of 37.8 feet where a front build-to line of 20 feet minimum, 35 feet maximum is required.

Attorney Timothy Phoenix of Hoefle, Phoenix, Gormley & Roberts, P.A., represented the applicant, displayed plans for viewing, and presented the criteria pertaining to the application and the proposed plan. He stated the applicant could not attend the meeting due to a conflict with her schedule. Paul Dobberstein of Ambit Engineering was also present.

Public Hearing Opened.

STAFF RECOMMENDATION:
Staff recommends the Board determine whether each of the five criteria are met, and approve the request.

E.Piekut presented the Staff recommendation.

Cody Cartnick, 53 Boston Harbor Road, stated if the power lines were placed underground there would be no need for a variance, and that the power lines were placed underground for his home.

Discussion ensued regarding clarification that the power lines service other homes in the surrounding area, and that the lines would still need to be rerouted to do the work and the expense involved.

Michael Garofano, 258 Dover Point Road, requested clarification regarding the two driveways for the single family home with the apartment and asked if this was allowable for the R-20 District.

E.Piekut briefly explained the City and State regulations regarding Accessory Dwelling Units (ADU), addressed the existing driveways on the property, and provided the procedure for the applicant to obtain a building permit and an ADU Certificate of Use.

Discussion continued regarding clarification of the build to line and access to the property, and the location of the front property line.

Public Hearing Closed.

Motion: O.Perry made a motion to grant the variance. Seconded by B.Hall. Vote: U/A

O.Perry recused himself from hearing item 3.B, and left the room.

The Chair explained the rules of procedure requiring at least three votes for approval, and provided the applicant the opportunity to defer to a later meeting. The applicant elected to proceed.

The Chair recognized G.Reagan to vote on the case.

B. Z17-07 Owner DR Lemieux Builders, Inc., 53 Spur Road (Tax Map L, Lot 14-N), located in the Low Density Residential (R-20) Zoning District, requests an equitable waiver of dimensional requirements from **Section 170-12.B** of the Zoning Ordinance to permit a side setback of 11 feet where 20 feet is required.

Attorney F.X. Bruton of Bruton & Berube, PLLC, represented the applicant, and presented the criteria pertaining to the application. David Lemieux of DR Lemieux Builders, Inc. was also present.

F.X.Bruton addressed the Staff comments, recited the definition of the structure according to the Zoning Ordinance, and argued that the foundation is a complete structure. He addressed the timing of the foundation survey and when to ask for relief, and clarified this was a mistake by the builder.

Discussion ensued regarding clarification that the property pins were used as a reference for the installation of the foundation and the miscalculation by the builder, and that the applicant spoke to the abutters and stated there were no objections by them regarding the requested waiver.

F.X.Bruton noted the time, procedure, and expense to seek a Lot Line Adjustment (LLA) for 9 ft., and the purpose for the equitable waivers.

D.Lemieux confirmed for B.Hall that he has previously placed over 100 foundations, that he read the tape incorrectly, and that his mistake was unintentional.

Public Hearing Opened.

Michael Garofano, 258 Dover Point Road, requested the Board table the item to consider the LLA in order to stay in compliance with the regulations, and consider future abutters in case the property is sold.

Discussion ensued regarding the purpose for the equitable waiver, consideration that all other avenues have been considered, the cost and factors associated with a LLA, that the foundation is not crossing the property line, that the abutter's home is located 100 ft. from the foundation, and that the abutter is not opposing the project.

B.Hall stated that the abutters were not present at the meeting to confirm there are no objections, that the applicant presented nothing in writing from the abutter, and that the abutter's house location has no bearing on the case.

F.X.Bruton stated that any future neighbor would buy the home based on the house location. He addressed the nuisance of nonconformity, and the absence of the abutter. He stated that the applicant spoke to the abutter.

STAFF RECOMMENDATION:
Staff recommends the Board determine whether each of the four criteria are met, and deny the request.

E.Piekut clarified when an equitable waiver should be granted according to the regulations, and that a request must meet all four criteria. She recommended the Board review the four criteria.

Public Hearing Closed.

The Chair addressed the four criteria to be met. Discussion ensued regarding the structure and expense to change it, and comparison to past equitable waivers that were granted.

Motion: B.Hall made a motion to deny the equitable waiver as it did not meet the required criteria. Seconded by G.Reagan. Vote: 3/1 F.Landford opposed

4. OTHER BUSINESS

The Chair addressed the email from Sam Reid distributed to the Board members stating he was stepping down as Vice-Chair. The Board voted by secret ballot to elect a new Vice-Chair. The votes were tallied and the results were announced by C.Prior. B.Hall was elected as Vice Chair.

5. ADJOURN

Motion: B.Hall made a motion to adjourn at 7:42 p.m. Seconded by G.Reagan. Vote: U/A