

**CITY OF
DOVER**

ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting
Meeting Location: McConnell Center Room 306, 61 Locust St, Dover NH 03820
Meeting Date: **Thursday, July 20, 2017**
Meeting Time: **7:00 pm**

1. ATTENDANCE

Members Present: Chris Prior (Chair), Otis Perry, Nicholas Couturier (Alternate)

Members Not Present: Bob Hall (Vice Chair), Frank Landford, Sam Reid, George Reagan (Alternate)

Staff Present: Elena Piekut (Assistant City Planner)

The Chair called the meeting to order at 7:20 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 JUNE 15, 2017

Motion: O. Perry made a motion to approve the June 15, 2017 Regular Meeting Minutes as submitted. Seconded by N. Couturier. Vote: U/A

3. HEARINGS

- A. Z17-13 Applicant/Owner Diane Bragdon, 20 Atlantic Avenue (Tax Map 25, Lot 10), located in the Medium Density Residential (R-12) Zoning District, requests a variance from **Section 170-12.B** of the Zoning Ordinance to permit a front setback of approximately one foot where a minimum of five feet is required.

Diane Bragdon represented herself, explaining that the residence and porch have existed for 99 years, the porch was in disrepair and posed a safety concern, there will be no change in footprint, and that meeting the minimum five foot setback would not yield sufficient space for a porch.

Public Hearing Opened.

Paula Searles, 18 Atlantic Avenue, asked for clarification that the porch will be constructed on the front of the house, not on the side closest to her. The Board confirmed the porch is proposed for the front of the structure.

E. Piekut stated that Staff supports the variance, and explained that it continues a condition that has existed for 99 years without negative effect.

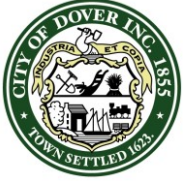
STAFF RECOMMENDATION:

Staff recommends the Board hold a public hearing and make findings as to whether each of the five variance criteria are met. If the Board finds that all five criteria are satisfied, the Board should approve the request. Staff supports the request.

Public Hearing Closed.

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

- B. Z17-14 Applicant/Owner Gordon Clark, c/o GC/AAA Fence, 304 Durham Road (Tax Map I, Lot 123), located in the Hotel/Retail (B-4) Zoning District, requests a variance from **Section 170-12.B** of the Zoning Ordinance to permit a reduced parking area setback where a minimum of 25 feet is required. The



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proposed paved parking area's distance from front and side property lines ranges from 2.3 feet to 18.3 feet.

Attorney Sean O'Connell, Shaheen & Gordon, represented the Applicant. Mike Sievert, MJS Engineering, was also present. Atty. O'Connell explained that the building and lot are nonconforming and reviewed the criteria for granting a variance.

Public Hearing Opened.

E. Piekut stated that Staff supports the variance request.

STAFF RECOMMENDATION:

Staff recommends the Board hold a public hearing and make findings as to whether each of the five variance criteria are met. If the Board finds that all five criteria are satisfied, the Board should approve the request. Staff supports the request.

Public hearing closed.

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

- C. Z17-15 Applicant/Owner D.R. Lemieux Builders, Inc., 53 Spur Road (Tax Map L, Lot 14-N), 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 side setback of 11 feet where a minimum of 20 feet is required.

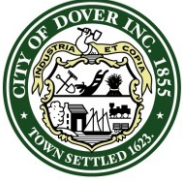
C. Prior stated that due to O.Perry's need to recuse himself from hearing this case, there is not a quorum to consider the case and the hearing will be postponed to August 17, 2017 at 7:00 p.m.

- D. Z17-16 Applicant/Owners Hadley and Shane Moores, 33 Littleworth Road (Tax Map G, Lot 6-D), located in the Assembly and Office (I-4) Zoning District, request a variance from **Section 170-12.B** of the Zoning Ordinance to permit reduced setbacks where 75 feet is required from all property lines. The proposed buildings' distance from side property lines ranges from 17 feet to 42 feet.

C. Prior informed the Board and public that the Applicant's agent, Attorney Abigail Karoutas, submitted an email prior to the meeting requesting that the case be postponed to August 17, 2017 at 7:00 p.m. due to the three-member quorum.

- E. Z17-17 Applicant/Owner Cornelis J. Lotter, 21 Fairway Drive (Tax Map N, Lot 14-K), located in the Rural Residential (R-40) Zoning District, requests a variance from **Section 170-12.A** of the Zoning Ordinance to permit the keeping of "farm animals," specifically a rooster, on a 93,200-square-foot lot, where the keeping of a rooster is permitted only on a lot of at least 100,000 square feet with the animal's shelter located a minimum of 100 feet from any property line.

Cornelis J. Lotter represented himself. C.J. Lotter explained that he keeps five hens and a rooster as a hobby in genetics and developing a new, rare breed of bantam chickens. The chickens are kept in a converted golf cart shed which is vacuumed daily, located 140 feet from the Cochecho Country Club and 200-300' or more to the nearest



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tee off. He noted that the birds are checked by veterinarians yearly and certified free of avian flu and other diseases.

C. Prior asked C.J. Lotter to clarify how many chickens he keeps including chicks. C.J. Lotter explained that he keeps no more than five mature hens and one rooster. The chicks are sent to a farm in Maine until the fall, when he may choose to replace the rooster or hens for breeding purposes. C.J. Lotter added that he does not raise the chicks for business purposes and gives the unneeded chickens away instead.

Public Hearing Opened.

Edward Townsend, 117 Gulf Road, spoke in favor of the variance, noting that the property does not look like a farm, the chickens are not disruptive, and that crows and Gulf Road traffic also create noise in the area.

H. Paul Boackle, 105 Gulf Road, spoke in favor of the variance.

Liz Miller and Tom Davis, 19 Fairway Drive, spoke in favor of the variance, noting that the neighborhood creates a lot of other noise from yard work and the chickens are not very noticeable.

Jaimie Donovan, 12 Trakey Street and member of Cochecho Country Club, 145 Gulf Road, spoke against the variance, noting that ordinances exist for a reason and the zoning ordinance does not permit the Applicant to keep a rooster. He stated that the noise can be heard from many areas of the golf course and suggested that the Applicant and Board consider a method of keeping the rooster from crowing. He noted that Fairway Drive has covenants.

C. Prior asked J. Donovan whether he felt 6,800 square feet of additional lot area at 21 Fairway Drive would make a substantial difference in the effect of the rooster. J. Donovan stated that the ordinance requires 100,000 square feet.

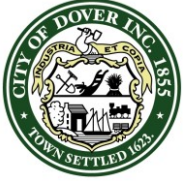
Tim Halverson, 13 Fairway Drive, spoke against the variance as President of the homeowners association, stating that the association's restrictive covenants prevent the keeping of animals other than household pets or animals kept for breeding or commercial purposes.

C.J. Lotter noted that the Zoning Board does not have jurisdiction regarding restrictive covenants and that there are instances where the covenants are not enforced.

E. Piekut stated that Staff supports the variance request, and explained the conditions under which the keeping of "farm animals for family use," which includes up to six hens, goats, or sheep, and "farm animals," which includes all other livestock animals, are permitted. She noted that the Board should focus on the property's size in comparison to the 100,000 square feet of lot area required to keep "farm animals" by right and confirmed that the Zoning Board of Adjustment decision is independent of any private covenants in the neighborhood. She suggested that the Board could add a second condition limiting the number of "farm animals" to one rooster and five hens.

STAFF RECOMMENDATION:

Staff recommends the Board clarify the extent of the Applicant's plan to keep "farm animals" as defined, which may include more than six hens, more than one rooster, or other animals, and consider imposing additional conditions.



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The Board should hold a public hearing and make findings as to whether each of the five variance criteria are met. If the Board finds that all five criteria are satisfied, the Board should approve the request. Staff supports the request and suggests the following conditions:

- 1) The Applicant shall provide at least three square feet of chicken coop and 20 square feet of fenced enclosure per chicken.

Motion: N. Couturier moved to approve the variance request subject to conditions provided by the Planning Department. C. Prior clarified that the second proposed condition is to restrict “farm animals” to mean no more than one rooster and five hens and N. Couturier confirmed. O. Perry seconded. O. Perry stated that the association’s covenants are a civil matter and that he believes the Applicant has met the burden of proof for a variance and that given the small amount of land involved it is a reasonable request. Vote: U/A

4. OTHER BUSINESS

E. Piekut noted that a summary of land use board and commission activities was included in members’ packets.

5. ADJOURN

Motion: O. Perry made a motion to adjourn at 8:12 p.m. Seconded by N. Couturier. Vote: U/A