



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, October 19, 2017**
Meeting Time: **7:00 pm**

1. ATTENDANCE

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

Members Absent: Nicholas Couturier (Alternate)

Staff Present: Elena Piekut (Assistant City Planner)

The Chair called the meeting to order at 7:00 p.m. He introduced the Board and staff members to the audience and explained the process used to hear cases.

2. APPROVAL OF MEETING MINUTES OF SEPTEMBER 21, 2017

Otis Perry moved to approve the minutes as written. Bob Hall seconded. Vote: U/A.

3. HEARINGS

- A. 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, specifically those applied in the Rural Restricted Industrial (I-2) Zoning District, where the I-4 Zoning District requires a minimum setback of 75 feet from all property lines. For both principal and accessory buildings, a minimum front setback of 35 feet, and a minimum side and rear setback of 10 feet would be permitted if the variance is granted.

Otis Perry moved to remove the case from the table. Frank Landford seconded. Vote: U/A.

Abigail Karoutas, Esq., represented the Applicant. Hadley Moores was also in attendance. Atty. Karoutas provided an overview of the case's history and the setback and screening agreement reached with the neighbors. She distributed a signed copy of the agreement.

Chris Prior clarified that the initial request included relief for a side and rear setback of 10 feet, and questioned why the Applicant did not ask for a more specific setback in accordance with the plan provided. Atty. Karoutas explained that the Applicant has not yet completed engineered plans and needs room for possible small changes. Bob Hall clarified the requested setbacks and proposed uses of the structures. Atty. Karoutas stated that office uses would be removed from the large building to the new, small building. Bob Hall asked why the Applicant is asking for a 10-foot side setback while showing a side setback of 21 feet. Atty. Karoutas and Hadley Moore explained that the turning movements of the cranes and the rezoning that made the property nonconforming influenced the request.

Chris Prior asked whether the Applicant has petitioned for rezoning. Hadley Moores and Atty. Karoutas explained it had been discussed but not pursued per the Planning Department's recommendation. Elena Piekut confirmed. Chris Prior said a *carte blanche* variance request is unusual. Otis Perry suggested the applicant complete engineering before requesting the variance. Atty. Karoutas said the plan will be as proposed and the Applicant is unwilling to pay for



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engineering without knowing that relief from the 75-foot setbacks will be granted. She also explained that the Planning Department recommended this approach.

Chair Prior opened the public hearing.

Assistant City Planner Elena Piekut confirmed that the Planning Department suggested the “blanket” variance to apply the I-2 Zoning District setbacks and explained that part of the reason the I-4 Zoning Districts requires 75-foot setbacks is based on its minimum lot size of 5 acres, more than twice the size of the Moores lot, creating a hardship along with the shape of the lot. She pointed out that a 10 foot side setback is unlikely where 21 feet is shown, because of the curbing and slope that would be affected. She explained that the plan the Applicant ultimately presents must be substantially similar to what was presented in a variance request. Chris Prior expressed his concern about granting an open ended variance. Frank Landford asked whether the plan would be reviewed by the Planning Board. Elena Piekut responded that it would require at least Technical Review Committee review, and likely Planning Board site plan approval as well.

Chair Prior closed the public hearing.

Frank Landford moved to approve the request with the setbacks as shown on the plan submitted. George Reagan seconded. Discussion ensued to clarify the motion, particularly in regard to the rear setback. Frank Landford said proposed conditions two and three should be included in his motion and condition one should be revised to permit a side setback of 25 feet and a rear setback remaining at 75 feet. George Reagan agreed to the modification. Otis Perry explained that he agrees that 75-foot setbacks and small, irregular size of the lot present a hardship, but does not support a ten-foot side and rear setback. Discussion ensued. Bob Hall pointed out that the rear setback of 75 feet does not come into play at all with the proposed plan. Chair Prior read a motion and proposed condition that Frank Landford and George Reagan assented to:

That the Board grant a variance to permit reduced setbacks for this particular parcel, with the following conditions:

- 1) The following setbacks shall apply to all future development on Tax Map G, Lot 6-D:

Principal Building:	Outbuilding/Accessory Use:
Front: 50 feet (per footnote 3)	Front: 35 feet
Abut a Street: 35 feet	Abut a Street 35 feet
Side: 25 feet	Side: 20 feet
Rear: 75 feet	Rear: 10 feet
- 2) The Applicant shall plant and maintain six-to-eight-foot evergreens between the proposed building and Tax Map G, Lot 28-1D, as depicted on the plan.
- 3) The plan shall be revised with a reference to this decision and a note and depiction of the setback requirements described in conditions 1 and 2.

Otis Perry asked that the Board include in the motion its finding that the five variance criteria have been met, given the size of the lot and that it was conforming prior to rezoning, to which Frank Landford and George Reagan also agreed. Vote: U/A.

- B. Z17-20 Applicant/Owner Jeffrey & Sharon Warshauer, 3 Wentworth Terrace (Tax Map 8, Lot 32-1), located in the Low Density Residential (R-20) Zoning District, request a variance from **Section 170-**



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12.B of the Zoning Ordinance to permit a front setback of 48.77 feet, where a build-to line of 20 feet minimum, 35 feet maximum is required.

Jim Schulte, Esq. represented the Applicant. Barry Gier, P.E. was also present. Atty. Schulte presented the request, addressed how the five variance criteria are met, and referred to the staff recommendation.

Chair Prior opened the public hearing.

Assistant City Planner Elena Piekut stated that the Planning Department does not oppose the variance.

Chair Prior closed the public hearing.

Otis Perry moved to grant the variance, finding that the five variance criteria are met. Bob Hall seconded, amending the motion to state that the variance is granted as shown on the plan submitted. Otis Perry approved of the amendment. Vote: U/A

4. OTHER BUSINESS

Assistant City Planner Elena Piekut reminded the Board that the Climate Adaptation Chapter of the Master Plan committee is taking public input at a workshop October 21 at 9:00 a.m. at the Dover Middle School.

Otis Perry asked the Planning Department to review the build-to line requirement, given the number of variances requested. Discussion ensued regarding its applicability and desirability in various neighborhoods of the City. Elena Piekut explained that the Planning Department sets goals with the Planning Board in January of each year, and that she will bring this up to the rest of the Department in preparation for that.

5. ADJOURN

Otis Perry moved to adjourn. Bob Hall seconded. Vote: U/A. Adjourned: 7:58 p.m.