



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 15, 2018**
Meeting Time: **7:00 pm**

1. ATTENDANCE

Members Present: Chris Prior (Chair), Otis Perry, Frank Landford, George Reagan, Nicholas Couturier (Alternate), Rich Onufry (Alternate)

Members Absent: Bob Hall (Vice Chair), Anthony Sillitta (Alternate)

Staff Present: Elena Piekut (Assistant City Planner, Zoning Administrator)

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

2. APPROVAL OF MEETING MINUTES OF FEBRUARY 15, 2018

Motion: Otis Perry moved to approve the meeting minutes of February 15, 2018 as written. Frank Landford seconded. Vote: 4-0-2 with George Reagan and Nick Couturier abstaining.

3. HEARINGS

- A. Z18-04 Applicant Todd Tucker and Owner Anne E Tucker Revocable Trust, 40 Littleworth Road (Tax Map G, Lot 3), located in the Rural Restricted Industrial (I-2) Zoning District, request a variance from Section 170-12.A to add a third dwelling unit to an existing two-family dwelling, where three-family dwellings are not a permitted use in the I-2 Zoning District.

Todd Tucker presented an overview of the request and his reasons for seeking to add a third unit. He explained that when the family purchased the property in 1978 it contained three separate units. Frank Landford asked about the three units and Todd Tucker confirmed that there had been three separate units. He said a kitchen sink was removed in 2007. Frank Landford asked whether the house will be rebuilt in the same footprint and Todd Tucker confirmed that it will. Frank Landford asked whether the intent is to provide an in-law apartment and Todd Tucker explained that one unit is for his wife's parents and another is for his step-daughter. George Reagan asked how long there have been two units and Todd Tucker said it was changed to two units around 1979. Rich Onufry asked how many bedrooms there were before the fire and Todd Tucker said there were six and the intent is to have four.

Chair Prior indicated that Rich Onufry will vote on this case.

Public hearing opened.

STAFF RECOMMENDATION:

Assistant City Planner Piekut explained staff's reasons for recommending denial, including that there is no hardship inherent in the property as it has been zoned industrial since the 1960s and is surrounded by industrial uses, with some single-family homes across the road. She explained that the ordinance already provides relief for the nonconforming use by allowing it to be reconstructed after an accident such as a fire. The variance would also be contrary to the public interest in that it conflicts with the City Council's stated goals of increasing industrially and commercially zoned land and industrial and commercial developments to balance the tax base. The ordinance also would not prevent all three families living together with separate living spaces, but no more than two kitchens. She



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also explained that though it is not relevant to the variance criteria, adding a third unit would trigger a number of additional obstacles for the applicants, such as: paying impact fees and water and sewer investment fees, abandoning the septic system and connecting to City sewer, and installing a sprinkler system.

Discussion ensued regarding sewage disposal and the other implications of creating a third unit.

Public hearing closed.

Frank Landford said he doesn't want to deny the variance and sees the hardship is met but not all of the other criteria are met.

Motion: Otis Perry moved to deny the variance request as it does not meet the five variance criteria. George Reagan seconded. Vote: 4-1 with Frank Landford opposed.

- B. Z18-05 Applicant Coastal New England Development, LLC and Owner Jorel Booker, 20 Whittier Street (Tax Map 35, Lot 73), located in the Medium Density Residential (R-12) Zoning District, request a variance from **Section 170-12.B** to permit a lot size of approximately 11,390 square feet for each of two proposed lots, where a minimum of 12,000 square feet is required, and to permit a street frontage of approximately 78 feet for each of two proposed lots, where a minimum of 100 feet is required in the R-12 Zoning District.

Chair Prior noted that Nick Couturier will vote on this case.

Derek Durbin, Esq. represented the Applicant. The owners of Coastal New England Development, LLC were all present. Atty. Durbin provided an overview of the property and its history. He addressed how the request meets the five variance criteria and noted that about half of the surrounding lots are nonconforming in terms of minimum lot size and/or minimum street frontage.

George Reagan asked about the Applicant's building plans. Sam Auffant, of Coastal New England Development, LLC, stated that he intends to construct an 1,800-square-foot, three-bedroom home. Nick Couturier asked about their plans for the existing structure and Sam Auffant said they intend to renovate it. Rich Onufry asked about whether the current owner is staying or not. Atty. Durbin explained that the property has gone into foreclosure and the Applicants are under contract to purchase the property. Frank Landford asked why the plan shows a 2,200-square-foot house and Sam Auffant explained that that figure includes the garage.

Public hearing opened.

Rita Hibscheiler, 24 Whittier Street, shared her opinion that granting the variance would cause a significant change in the neighborhood, that a 20% reduction in the required frontage is not insignificant, that a 15-foot side setback is not sufficient, and questioned whether there will be a single-family or a two-family.

Nancy Couture, 19 Whittier Street, stated that the current owner let the house fall into disrepair, and that she is totally opposed to the variance.

Tony Retrosi, 23 Whittier Street, also commented on the property's deterioration, said he believes the house includes an apartment, and that the variance would negatively impact property values.



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Assistant City Planner Piekut explained why the abutter's notice says the proposed land use may include a two-family dwelling, as the existing dwelling may be converted to a two-family dwelling given its age (predating May 27, 1964). Atty. Durbin said the Applicants would not buy the property if the variance is not granted. Frank Landford asked whether there is an apartment in the house. Sam Auffant said it appears that there is a space above the garage but they are not sure and are not sure of its legality. Rich Onufry asked whether the owner is there during the foreclosure, and Atty. Durbin said it appears that he is, but that they don't know much about the property. George Reagan explained that the current owner will no longer own the property if the sale is completed and Atty. Durbin confirmed that he and any other tenants will leave if the Applicants buy the property. Atty. Durbin reiterated that many nearby lots are nonconforming.

STAFF RECOMMENDATION:

Assistant City Planner Piekut explained why the Planning Department supports the variance request, as the lots would be very close to conforming and the spirit and intent of the ordinance is upheld by being so close to the required density intended for this single-family zoning district. She explained that the Applicant cannot obtain conforming street frontage without creating a nonconformity on either side.

Public hearing closed.

Chair Prior suggested a condition of approval preventing further variances from the R-12 Zoning District requirements.

Motion: George Reagan made a motion to grant the variance with the condition that no further variances are granted on the property. Otis Perry seconded. Vote: U/A

- C. Z18-06 Applicant STF Development Corp. and Owner Strafford Farms Restaurant, Inc., 58 New Rochester Road (Tax Map 40, Lot 43), located in the Thoroughfare Business (B-3) Zoning District, request a special exception per **Section 170-12.A** of the Zoning Ordinance to permit multi-family dwellings.

Chair Prior noted that Rich Onufry will vote on the case.

Chris Berry, Berry Surveying & Engineering, represented the Applicant. He provided an overview of the special exception and site plan, which has already been reviewed by the Technical Review Committee. He explained how elements of the site plan show that the proposal meets the general criteria for a special exception, and how the proposal, along with the use of transfer of development rights, meets the criteria specific to this use in the B-3 Zoning District.

Discussion ensued regarding the application of the Transfer of Development Rights Overriding District and how the special exception criteria are met in part by relocating the COAST bus stop and providing a bus pull-out. Rich Onufry asked about the type of units proposed and Chris Berry said they will be a mix of one- and two-bedroom apartments.

Public hearing opened.



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STAFF RECOMMENDATION:

Assistant City Planner Piekut explained that staff is of the opinion that all the special exception criteria are met and supports the request.

Public hearing closed

Motion: Otis Perry moved to grant the special exception. Rich Onufry seconded. Vote: U/A

4. OTHER BUSINESS

Chair Prior noted that the Office of Strategic Initiatives annual Planning & Zoning Conference will be held April 28th, 2018 at the Grappone Center in Concord.

5. ADJOURN

Motion: Otis Perry moved to adjourn. George Reagan seconded. Vote: U/A. Adjourned: 8:08 p.m.