



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Room 306, McConnell Center – 61 Locust St. Dover, NH 03820
Meeting Date: **Thursday, July 19, 2018**
Meeting Time: **7:00 pm**

1. ATTENDANCE

Members Present: Chris Prior (Chair), Bob Hall (Vice Chair), Otis Perry, Nick Couturier (Alternate), Rich Onufry (Alternate), Anthony Sillitta (Alternate)

Members Absent: Frank Landford, George Reagan

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 JUNE 21, 2018

Motion: Rich Onufry moved to approve the meeting minutes of June 21, 2018 as written. Bob Hall seconded. Vote: U/A

3. HEARINGS

- A. Z18-13 Applicant Charles Robbins and Owner Fred E. & Ruth K. Riley Trust 1991, 64 Littleworth Road (Tax Map G, Lot 2), located in the Rural Restricted Industrial (I-2) Zoning District, request a special exception per Section 170-12.A of the Zoning Ordinance to permit a vehicle refueling and recharging station with an accessory retail store.

Bob Stowell of Tritech Engineering represented the applicant as did applicant Chuck Robbins. Bob Stowell provided an overview of the project and addressed items involved in site plan review such as traffic and utilities.

Otis Perry asked whether the station would include any electric vehicle charging and Chuck Robbins stated that it likely would.

Public hearing opened.

Dave Bovee, 75 Littleworth Road, stated that he had lived there since 1990. He addressed the nature of the property as having been a farm and now wildlife habitat, and that he is concerned about the heavy traffic on the road and the existing danger of leaving his driveway. He believes the proposal will have a negative impact on property values. He noted that the property has been zoned industrial for a long time, but that he doesn't see a gas station fitting in nor does he see a need for it. Chris Prior asked Mr. Bovee to indicate the location of his property on the concept plan and he showed the Board where it is.

Joanne Fairchild, 77 Littleworth Road, stated that she had lived there since 1969. She is concerned about Harmony Lane and neighbors who did not receive notice. She said there is a dangerous blind curve near Harmony Lane, and that it is difficult to exit her driveway already and is concerned she will only be able to turn west. She said she doesn't oppose the Rileys, but that the proposal is dangerous and described an accident that happened in the vicinity as well as an instance when a police officer was unwilling to park in her driveway. She reiterated that her biggest concern is safety.



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Sandra Cutchin, 81 Littleworth Road, stated she had lived there since 1999. She said that traffic has worsened and that she is not anti-development but that she has rights as well. She said that people will not visit her because of the traffic. She added that although it will affect wildlife, safety is the more important issue. She asked the Board to consider the decision from an abutter's perspective.

David Pelletier, 73 Littleworth Road, is concerned about the impact on safety and believes that the proposal will definitely have a negative impact on his property value. He thinks the plan does not show the actual danger on the ground, and that the corner to the west is sharper than what is depicted. He said he has spoken with the DOT. He encouraged the Board to view the site in person. Chris Prior asked for clarification on Mr. Pelletier's thoughts about the existing traffic versus the conditions that will result if the use is approved. Mr. Pelletier said that there is already a lot of traffic, but that the use would increase its congestion. He added that the land is zoned industrial and that he is not opposed to industry as it wouldn't have as big of an impact on traffic. He raised concerns about the relationship of a refueling station to the nearby wetlands. He does not see a need for a gas station/convenience store with others nearby, and believes this would be neither a benefit nor a convenience to the public. He encourage the Board to see the site before making a decision. He would like to see the entrance shifted to the east to limit the direct effect of headlights into his property.

Joanne Fairchild, 77 Littleworth Road, added that the curve in the road is so sharp that she can see the road from her house, behind her Sandra Cutchin's house.

Sandra Cutchin, 81 Littleworth Road, added that the concern is not so much the increase in the number of vehicles as it is the introduction of additional turns.

Paul Butler, a Dover resident and representative of abutter Chauvin Arnoux, supported the abutters concerns about traffic and suggested widening the road to accommodate an additional lane.

Lisa Nugent, 69 Littleworth Road, believes that the proposal would diminish values. She said the public hearing notice sign was too small and hard to see. She noted that the proposal also affects homeowners on Columbus Avenue. She said that especially if it is open late, the use will affect quality of life.

Paul Butler added that the plan shown does not illustrate the elevation changes in the road.

Chris Prior asked Bob Stowell to respond to the points raised by abutters. Mr. Stowell said that the applicant has had initial conversations with the NH DOT and that a detailed traffic study will be completed. He explained how the sharp corner influenced the proposed driveway location and explained that this is the safer side of the road for sight distance due to the lesser curve. He listed other uses permitted by right in the zoning district that could be busier than a gas station.

Chris Prior asked if it is possible to move the entrance to the east. Chuck Robbins explained that if there is to be a single entrance, it is best centered. He said he relates to the abutters' concerns. He described how the construction of an Irving resulted in increased property values for commercially zoned properties and described how the abutters are located in a strip of R-40 zoned land that is surrounded by industrial zones. Rich Onufry asked whether the applicant has completed a market study and noted that there are many stores and gas stations nearby. Chuck Robbins said that



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he has permitted six gas stations and that market studies don't compare to knowledge of an area and gut feeling. He believes the whole area will be developed.

STAFF RECOMMENDATION:

Assistant City Planner Elena Piekut stated that the Planning Department does not oppose the request for a special exception. She explained that there are general criteria that apply to all special exception uses, and specific criteria developed for this particular use in this zone. She said that the requirement that the Board find that the use "will not create undue traffic congestion" is applied to all special exception requests, some of which do not undergo additional review through the site plan approval process. She recommended that the Board evaluate the criterion regarding property values in the same way that they do for variance requests, by balancing applicant and abutter testimony with their own personal knowledge.

Bob Hall asked to clarify the Planning Board's purview over traffic and Ms. Piekut explained the process by which the project will be evaluated and potential improvements that may be required to accommodate increased vehicle trips and turning movements.

Public hearing closed.

Otis Perry said that he doesn't agree with the Assistant City Planner's comments on the importance of traffic impacts at the Zoning Board level, and would like to obtain more information regarding traffic and the NH DOT's opinion. **Motion:** Otis Perry moved to refer the item to the August 16 meeting with the understanding that more information will be provided. Rich Onufry agreed and also still feels it needs to be measured as a benefit to public convenience versus impacting public welfare. Rich Onufry seconded. Chair Prior asked Rich Onufry and Nick Couturier to vote. Vote: U/A

- B. Z18-07 Applicant Industrial Tower and Wireless, LLC and Owners Peter and Susan Rousseau, 200 Henry Law Avenue (Tax Map K, Lot 1), located in the Rural Residential (R-40) Zoning District, request a variance from **Section 170-22.C(1)** of the Zoning Ordinance to permit the construction of a new, 180-foot tall telecommunications tower on the above referenced property, where the construction of new telecommunications towers is only permitted on 15 parcels specified by the Zoning Ordinance.

Chair Chris Prior and alternate member Nick Couturier recused themselves from hearing the case and left the table.

Vice Chair Bob Hall explained the process used to review the case and its progression to this point. He explained that as only four Board members were present to hear the case, and three positive votes would be required to grant a variance, that the applicant has the option of postponing the hearing to the next meeting. Discussion ensued with the applicant about their availability and desire to postpone to September rather than August. Chair Hall asked the applicant if they would be willing to extend the 150-day "shot clock" by 90 to 120 days in order to cover both the extension and possible rehearing. The applicant was willing to extend the shot clock by 60 days, and agreed to that and to continue the case to the September 20, 2018 meeting. Otis Perry moved to do so. Vote: U/A.

4. OTHER BUSINESS

None.

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5. ADJOURN

Motion: Otis Perry moved to adjourn. Anthony Sillitta seconded. Vote: U/A. Adjourned: 8:13 p.m.