



**CITY OF DOVER**

## ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting  
Meeting Location: Council Chambers, City Hall – 288 Central Ave., Dover, NH 03820  
Meeting Date: Tuesday, April 21, 2020  
Meeting Time: 7:00 pm

### 1. ATTENDANCE

The board members introduced themselves, stated their current locations and that they agree to the terms of the video conference call.

**Members Present:** Chris Prior (Chair), Rich Onufry (Alternate), George Reagan, Nick Couturier, Anthony Sillitta (Alternate), Otis Perry (Vice Chair)

**Members Absent (Excused):** James Burdin (Alternate)

**Members Absent (Not Excused):** Frank Landford

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

The Chair called the meeting, which was continued from Thursday, April 16<sup>th</sup>, to order at 7:03 PM and noted if a vote occurs tonight, Rich Onufry will be a voting member

### 2. HEARINGS

- A. Z20-03 Applicant/Owner Sun Jensen, LLC, 6 ½ Deerfield Drive (Tax Map I, Lot 22), located in the Rural Residential (R-40) Zoning District, requests a variance from **Section 170-33.A** of the Zoning Ordinance to permit a fence to exceed four (4) feet in height within 10 feet of the Durham Road right of way.

The Chair read the following into the record:

GIVEN THE SOCIAL DISTANCING PRACTICES NEEDED TO SLOW AND CONQUER THE SPREAD OF THE COVID-19 CORONAVIRUS BEING RECOMMENDED BY OUR FEDERAL AND STATE HEALTH OFFICIALS, AND IN ACCORDANCE WITH THE DIRECTIVES ISSUED BY THE GOVERNOR OF OUR STATE TO LIMIT PUBLIC GATHERINGS, THE PUBLIC IS ENCOURAGED TO TEMPORARILY ACCESS PUBLIC MEETINGS OF THE CITY OF DOVER REMOTELY, INCLUDING WATCHING CABLE TELEVISION CHANNEL 22 AND ONLINE STREAMING ACCESSIBLE THROUGH THE CITY WEBSITE. WE HAVE ENSURED THAT DOVER CITIZENS CAN STAY INFORMED WHILE REMAINING IN THE COMFORT OF THEIR OWN HOMES BY OBSERVING MEETINGS REMOTELY. CITIZENS CAN ALSO REMAIN ENGAGED—WE ENCOURAGE COMMENTS ON SCHEDULED PUBLIC HEARINGS TO BE SUBMITTED EITHER IN WRITING BY EMAIL: DOVER.PLANNING@DOVER.NH.GOV OR ZONINGBOARD-ALL@DOVER.NH.GOV OR POSTAL MAIL: Planning Department, 288 CENTRAL AVENUE, DOVER, NH 03820. CITIZENS MAY ALSO SUBMIT COMMENTS FOR ANY SCHEDULED PUBLIC HEARING OR CITIZEN'S FORUM BY LEAVING A VOICE MESSAGE AT: 516-MEET (6338). ALL MESSAGES THAT ARE RECEIVED FROM CITIZENS BY THESE MEANS ARE PROMPTLY FORWARDED TO ALL MEMBERS OF THE ZONING BOARD AND WILL BE PUBLICLY ACKNOWLEDGED AS BEING RECEIVED AND WILL BE MAINTAINED WITH THE MEETING MINUTES.

*Public hearing was reopened.*

No public was present to make any comments in person.

Elena Piekut stated no comments were received to the office regarding this case.



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### STAFF RECOMMENDATION:

Elena Piekut stated the Planning Department recommends granting the variance with the following proposed condition:

The applicant shall consult a licensed landscape architect and follow their recommendations for providing long term landscaping to complement the Durham Rd side of the fence.

She explained the reasoning for the condition is that if the manufactured housing park was being built today, a fence would be acceptable screening with suitable plantings. This park was created in the 1970s and there were no landscape requirements at that time.

Dan Clark, regional property manager for Sun Jensen, LLC was present to answer questions.

Board comments and questions:

Rich Onufry commented there are still a significant amount of white pines remaining. The application makes it seem as though they were all cut down and replaced by arborvitae.

Mr. Clark commented that there are about 350 trees remaining. He also inquired about what type of landscape is being requested by the Planning Department. The applicant would like to install erosion control- about 4" of rye grasses.

The applicant has wasted thousands of dollars on arborvitae that won't grow in that area.

The Chair asked Elena Piekut what type of landscape is being requested under the condition.

She said there is no specific vegetation requested, but the Planning Department would like confirmation from A landscape architect that nothing will grow there. And if something can survive, to add that vegetation to break up the fence line.

Mr. Clark commented they won't have any water spickets to hook up to for watering the vegetation, which is why they are considering rye grasses.

George Reagan would not want them to plant something not sustainable, but having some vegetation would be much better.

Otis Perry noted the fence will be on top of the berm so it will be about 12' high which he believes is not necessary. He agrees that probably not much vegetation will grow there, but he is not in favor of having a long white 12' high fence on that whole stretch of roadway in that neighborhood.

Elena Piekut clarified the reason for the variance request is for the variance to exceed 4' within 10' of the right of way in certain locations.

Rich Onufry pointed out a conservation issue relating to the removal of the trees even though they are not flourishing. The roots must extend quite far. How much damage will be done removing them and will the berm remain intact afterwards?

Mr. Clark stated based on the work they have done in the past, the top foot of berm was disrupted, but adding loam on top took care of that stability.



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*The public hearing was closed.*

Otis Perry commented that he is concerned about having a white plastic fence along that route. He wondered if a more natural fence would look better. There is currently a 5' berm there which is acting as a fence. Adding the 7' fence on top of that will be a 12' fence height along the inside and outside of that fence/ berm area. He can't think of another fence in Dover that of that height except along the highway. He is not in favor of granting the variance. A 4' fence on top of the berm is permissible without a variance.

Chair Prior confirmed with Elena Piekut that the applicant is allowed to cut down the trees and put up a 7' fence anywhere along their property line as long as it's more than 10' from the right of way.

Rich Onufry wondered how the Planning Department would regulate the condition.  
The consultation documents would need to be submitted to the Planning Department.

Chair Prior wondered how much of the fence line will be within 10' of the right of way. About 60%.

Otis Perry noted that if a motion in favor is not made, he would pose a motion to deny the variance. He believes the applicant has not satisfied the requirement for substantial justice. The benefit to the applicant outweighs the benefit to the public due to the height and appearance of the fence. The 4' fence allowed should satisfy the applicant for barrier since it's on top of the berm. He is unsure they have met the hardship requirement either.

**Motion:** Nick Couturier moved to approve the variance with the condition recommended by staff. George Reagan seconded.

Discussion:

Rich Onufry noted it would be nice to see what the architect comes up with because the parameters of the condition are very vague.

Chair Prior is concerned that there is not a specific outline of which parts of the fence are within the right of way. He also commented that he doesn't believe substantial justice has been proved.

Otis Perry noted that although he was not present at the meeting Thursday, he did watch it in its entirety.

Roll Call vote: Rich Onufry - no, George Reagan - yes, Nick Couturier - yes, Otis Perry- no, Chris Prior- no

With the vote 3-2 opposed, the variance was denied.

### 3. OTHER BUSINESS

NONE.

### 4. ADJOURN

**Motion:** Otis Perry moved to adjourn at 7:44pm. George Reagan seconded.

Roll Call Vote: Rich Onufry - yes, George Reagan - yes, Nick Couturier - yes, Otis Perry, yes, Chris Prior- yes