

Town of Dover
Development Review Board

Meeting Minutes

September 22, 2016 at 7:00 PM
Dover Town Office

**THESE MINUTES ARE NOT OFFICIAL UNTIL THEY HAVE BEEN APPROVED BY
THE DEVELOPMENT REVIEW BOARD**

- I. The regular meeting was called to order at 7:00pm by Chair Shippee.
- II. All parties present were asked to sign in.
- III. The notice of hearing was read into the record. Chair Shippee informed all present that the DRB is a 5-member board. Three members were currently present representing a quorum. But with only 3 members, all would have to be in agreement on an application. A fourth member was expected to be present and due to arrive shortly. However, all applicants may request a larger board to hear their application without any penalty.
- IV. Board members present were: Chair Sarah Shippee, Geri Golet, Stephen Palermo, Steven Montello**. The Board introduced themselves to the audience. The Zoning Administrator, David Cerchio and Recording Secretary, Jeannette Eckert was also present along with Applicants Bob Holland, Marcia Conrad and Vasilios Lefkaditis
- V. A general description of the evening's proceedings was presented by the Chair. as well as a brief explanation of Interested Parties. All Interested Parties were notified of their rights as Interested Parties to speak on the application and to appeal the application. Interested Parties were notified that participation in the hearing, either by verbal or written testimony, is required in order to appeal the Decision to the Environmental Court.
- VI. A draft of the minutes for the meeting will be posted by Tuesday, Sept 27, 2016 and all Applicants are encouraged to review those minutes for accuracy and any comments or inconsistencies should be sent to the ZA before the next meeting. All exhibits presented are available for public viewing through the ZA or Recording Secretary. All parties intending to give testimony were sworn in.
- VII. To consider application #16-DR080X-01** by Town of Dover for the construction of an addition to the town garage in accordance with Sections 375, 380, 385 and 470 of the Zoning Bylaw. The property is located at 11 Landfill Road and Dover Hill Road in West Dover. The property is known as the Town's Transfer Station. Parcel #DR080X.

- ZA Cerchio testifies that the hearing has been properly warned and posted
- Applicant Bob Holland has authorization from the Selectboard Chair to represent the Town on this application
- Applicant Holland testifies that all abutters have been notified and in a timely manner
- Applicant Holland testifies that the ZA's summary is accurate (labeled Exhibit A)

Applicant Holland testifies to following:

- Propose to build a three sided 40 x 40 addition for more storage because too much equipment is being stored outdoors

- Lighting and heating will come from the existing garage
- 24 feet in height
- Storage for backhoe, excavator which current garage cannot accommodate

On a motion by Board member Golet, seconded by Alternate Palermo, the Board unanimously agreed to close the hearing.

**Board member Steve Montello arrived at 7:16 pm in time to hear the following two applications

VIII. To consider appeal #16-RT068-10 by Marcia Conrad for the appeal of the Zoning Administrator's decision, which states that the maintenance work performed on a shed located at 210 Route 100 was completed in accordance with Section 332.2 and 332.5 of the Dover Bylaw. The shed is located at the Northern end of the aforementioned property. The property is known as Sticky Fingers. Parcel #RT068.

- ZA Cerchio testifies that the hearing has been properly warned and posted
- Applicant Conrad testifies that all abutters have been notified and in a timely manner
- Applicant Conrad testifies that the ZA's summary is accurate (labeled Exhibit A)

Additional Exhibits submitted:

- B: Applicant's summary
- C: Photograph of shed @ 2010
- D & E: Two Google Earth photos @ 2012
- F & G: Two Google Earth photos @ 2009
- H: Google Earth interpretation: shows shed well within the 50 ft. setback
- I & J: Photos of interior of shed/garage
- K: Photo of ramp into garage
- L: Photo of car going into the garage
- M: Photo of garage with doors open
- N: Photo of flags (pins) put in by Dick Joyce to show property lines
- O & P: Photos showing proximity of rear of building to a tree
- Q, R, S & T: Foundation photos
- U & V: Photos of unidentified object on ground
- W: Photo of tape measure
- X: Photo of tape measure
- Y: Photo of back of structure showing tape measure

Applicant Conrad testifies to the following:

- This is an extension of a problem with James Fernot when the Town of Dover did not apply the zoning document and rules and allowed a non-conforming structure to be built within the road and side setbacks
- It was discussed with Mr. Fernot and as a result Dick Joyce was asked to come put in pins to show him that he was 3 feet from my boundary line. At that time, the setback was 12 feet; at some point it was changed to 15 feet
- Mr. Fernot agreed to use his equipment to roll it back. However, it still would have been in the setback of the road
- It was a verbal agreement. Unfortunately, Mr. Fernot had an accident and passed away

- My big issue is that my rights were not protected; created a big problem for me by the Town initially; no variance or permit was issued
- Am I beyond the statute of limitations? Probably
- However, six years ago when Dave & Heather Kelly bought the property, I spoke with them about the problem with the shed. At that time, it was only used to store a lawnmower
- There is no hardship on land as they have two acres
- Footprint has been changed by three feet; Shed is now being used as a garage
- Entire foundation has been changed
- Real basis of my point is that a pre-existing non-conforming use cannot have a change of footprint, especially if it does not come before the board for a hearing; no permits were issued
- Do not know the exact date the original shed was built; Town did not do anything about it then; now this non-conforming use has been expanded
- A heavy duty ramp has been added to accommodate a car
- Not sure if garage doors, when opened, infringe on my property boundary
- Originally was up on wood skids; now on cement tubes—new support structure
- There is an unidentified object that is being stored in the setback
- At the time of construction, I spoke with the carpenters regarding a pile of debris that was covering the boundary pins of my property. This resulted in a heated verbal exchange between the Kelly's and myself.
- My appeal was denied based on Section 332.2 and 332.5 of the Zoning bylaws
- According to Section 325, a reduction in setback is only for a single family home. This is not a single family home; it is a business. That shed is not a home.
- Section 330 2. a.: Non-conforming use needs approval for a change to another use: shed to a garage
- Section 330 2. b. 1.: Change in character, aspect of use altered
- Section 330 3. 2) & 3): May not approve an extension or enlargement of a non-conforming use...that increases the non-compliance
- Section 332 1.: Increase in size does not occur in a required setback—it was against all setbacks
- Section 332 5.: Prevent normal maintenance??—not relevant, this was a total rebuild
- Section 475: Minimum setback is 50 feet
- I should have asked the Town why this was allowed to be built right on Route 100 and on top of my property and in the setback of Rte. 100. There is plenty of land to put it elsewhere
- The footprint has changed; not sure about the height; now there is a window on both sides of the door
- Thank you for your time. Property disputes are not nice.

Board member Golet: What makes you think the footprint has changed? Have you measured the old in relation to the new one?

Applicant Conrad: You can see in the photos from the wood inside that it has been extended

Board member Golet: According to the Stone 1 Metal and Wood Works sheet in the packet, it was inspected 8/8/16 and there was no indication of expansion. What is the biggest issue for you? It looks a whole lot better than it did before

Applicant Conrad: Suppose I want to do something with my land across the river and the State engineers say that is the only place I can put a bridge. I feel I am the injured party here. I think there would be many people in this town that would not like it if someone was improving property increasing the size of it less than 3-4 feet from the side of their boundary. I don't care whether it looks better or not, that is not the point.

They are not following the spirit of the Zoning law. Before it was too short for a car to fit in it. I was hoping back in 2010 before it was a permanent structure that they would move it to be in compliance

ZA Cerchio: The structure is non-conforming and was in existence prior to 1997 and possibly as early as 1977. First of all, it is not a shed, it is not a garage...it is a structure. Use of the structure is a storage facility. They have not changed the use of this structure because neither of those words have a definition in our bylaws. The Google photos are land photos and not accurate, therefore not valid. The only valid photos from Google Earth are taken from above. Height was mentioned, you are allowed to change the height as long as the height is in conformity and in compliance, which it is. It has been stated that there is new wood, evidence of expansion. When I inspected, this appeared to be the replacement of rotten wood. The setback is believed to be 4 feet. No additional square footage was added to the structure except a ramp. Permits for ramps have never been required. It has always been a permanent structure. There is no validity to any of the evidence presented today.

Applicant Conrad: Under 330, this is a change in character and an aspect of altered use whether it mentions the word storage facility, shed or garage, the whole character has been changed. Google Earth pictures were not submitted to show distances; distance was shown by tape measurements. Issue of replacement of rotten wood is true in some areas but there is definitely a change of footprint. You can see how close it is now to the tree. There is no way the shed was there back in 1992 when Mr. Fernot bought the property. Town maps do not show it. But he definitely built it. From containing a lawnmower to containing a car is definite change of character and use.

The Board recessed briefly.

On a motion by Board member Golet, seconded by Board member Montello, the Board unanimously agreed to continue the hearing to Oct 13th at 7pm

The Board will do some independent research to be used in its deliberations

IX. To consider application #16-XS012-01 by Shaw Funding for a setback variance in accordance with Sections 360, 555 and 1140 of the Zoning Bylaw. The property is located at 23 Spring Hill Road in West Dover.

ZA Cerchio testifies that the hearing has been properly warned and posted

Mr. Vasilios Lefkaditis is the Managing Director of Shaw Funding

Applicant Lefkaditis testifies that all abutters have been notified and in a timely manner

Applicant Lefkaditis testifies that the ZA's summary is accurate (labeled Exhibit A) with the exception of no mention of a 15-foot setback

Additional Exhibits submitted:

- B: Photo of front of home
- C: Plat map of property
- D: Sketches of the left, right and rear elevations
- E: Diagram indicating variance requests
- F: Google map
- G: Google map
- H: KFR Contractors Inc. proposal

Applicant Lefkaditis testifies to the following:

- I have been charged with the completion of the construction on this property which was foreclosed upon by Shaw Funding

- One of the strict requirements of a request for a variance is that unnecessary hardship was not created by the Applicant and I did not start the construction. It was 70% built including the majority of the porches. We just completed the top.
- It was an oversight on our part. While I did not create the problem, it has become my problem. I am requesting a 34” variance on the Northeast deck and 39” & 28” variance on the Northwest corner of porch
- According to Exhibit F, there is 127 feet between the next closest property
- There is no deck on the wooded area
- From the Northwest corner, it is an estimated 395 feet to the next property
- This requested variance will not alter the essential character of the neighborhood or district; or substantially impair the appropriate use of adjacent properties
- Because of Exhibit H, without a variance, we would have to change footers, roofline, materials, decking—it is a substantial cost of \$21,500
- As seen on Exhibit D, the doors are circled because the property drops off in those areas and a deck or porch is needed to access those doors
- Home is a modular, built by Westchester Modular Homes
- Took this property back in March or April 2015 because of foreclosure

Board member Golet: You are asking for variances on either side. Is there any other way to structure these so you would not need a variance?

Applicant Lefkaditis: Yes, it would involve major construction; repositioning the entire roofline above the porch. Roofline is in the setback. There might be a small eave, I did not consider that. I can measure it.

Chair Shippee: I am comfortable assuming the eave is 6 inches. If it is different than that and you want to email Dave that information you can.

ZA Cerchio: This is what was submitted with the original application. It is up to the property owner to construct the structure according to the permit. An inspection is really meaningless. At the time, I thought the deck wrapped around to the back. Abutting property owner did not seem affected by it.

On a motion by Board member Montello, seconded by Board member Golet, the Board unanimously agreed to close the hearing.

X. To consider any other business which may legally come before the Development Review Board.

On a motion by Board member Golet, seconded by Alternate Palermo, the Board unanimously agreed to move into Deliberative Session at 8:20pm.

On a motion by Board member Golet, seconded by Board member Montello, the Board unanimously agreed to move out of Deliberative Session at 9:00pm and the hearing was adjourned.

Respectfully submitted by Jeannette Eckert, Recording Secretary

POSTED AT: Town Clerk's Office, Administration Office, Dover Free Library, East Dover Post Office & Town website www.doververmont.com.