

**Zoning Board of Adjustment**  
**Tuesday, November 14, 2006**  
**TOWN COUNCIL CHAMBERS -- DURHAM TOWN HALL**  
**7:00 P.M.**

**MEMBERS PRESENT:** Chair Jay Gooze; Vice Chair John de Campi; Michael Sievert;  
Ruth Davis

**MEMBERS ABSENT:** Ted McNitt; Myleta Eng; Linn Bogle

**OTHERS PRESENT:** Thomas Johnson, Zoning Administrator; Minutes taker Victoria  
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**I. Approval of Agenda**

Chair Gooze noted that the Singelais application had been postponed to Dec 12<sup>th</sup>, at the request of the applicant.

He also said the attorney for the Manage Plus LLC application had attempted to call Mr. Johnson that day but was not successful. He said he assumed that this was to postpone or possibly withdraw the application.

Chris Reagan, the attorney for Manage Plus, LLC, arrived at the meeting, and said his client was interested in a two month postponement.

Chair Gooze said in that case the applicant should withdraw the application, and then come back to the ZBA later if that was appropriate.

***John deCampi MOVED to amend the Agenda as follows: Items II A and B are deleted, with Item II A being deferred to the next meeting. Ruth Davis SECONDED the motion, and it PASSED 4-0.***

**II. Public Hearings:**

- A. PUBLIC HEARING** on a petition submitted by Larry & Mary Singelais, Bow, New Hampshire, for an **APPLICATION FOR VARIANCE** from Article XXIII, Section 175-133(D)(3) of the Zoning Ordinance to permit a residential accessory sign larger than six square feet. The property involved is shown on Tax Map 12, Lot 2-3, is located at 239 Piscataqua Road, and is in the Residence C Zoning District.

This Agenda item was postponed to the December 12, 2006 meeting.

- B. PUBLIC HEARING** on a petition submitted by Manage Plus, LLC, Amesbury, Massachusetts, on behalf of VHS Realty Inc., Canton, Massachusetts, for an **APPLICATION FOR**

**VARIANCE** from Article XII, Section 175-45(F)(2) of the Zoning Ordinance to permit four regular and two handicapped parking spaces in front of a commercial building. The property involved is shown on Tax Map 4, Lot 49-0, is located at 3 Dover Road, and is in the Courthouse Zoning District.

This Agenda Item was deleted.

## **II. Board Correspondence and/or Discussion**

- A. REQUEST FOR REHEARING** on a September 12, 2006, denial by the Zoning Board of Adjustment on a petition submitted by Paul Berton, Fall Line Properties Inc., Portsmouth, New Hampshire, for an **APPEAL OF AN ADMINISTRATIVE DECISION** from a decision of Thomas Johnson, Zoning Administrator/CEO, to limit the number of occupants in each of the units at 16-21 Dover Road to two people. The property involved is shown on Tax Map 4, Lot 50-0, is located at 16-21 Dover Road, and is in the Courthouse Zoning District.

Mr. Sievert recused himself concerning this Agenda Item, as he had done for previous applications concerning this property.

Chair Gooze said in order to have a rehearing, the Board needed something in writing as to what the request for rehearing was in regard to, and why it should be granted. He said because such information had not been provided, he felt the request for rehearing should be denied.

Mr. deCampi agreed, and said there were no specifics provided by Mr. Berton stating that the Board had made a legal mistake in its previous ruling, and nothing on any new information concerning the application.

There was discussion that a request for rehearing concerning an appeal of administrative decision didn't need to include information on the variance criteria that should be reconsidered.

It was noted that there had been no appeal by the abutters.

**Mr. Johnson provided details on the status of Mr. Berton's concerns.  
PLEASE HAVE TOM CHECK THIS**

*John deCampi MOVED to deny a Request for Rehearing on a September 12, 2006, denial by the Zoning Board of Adjustment on a petition submitted by Paul Berton, Fall Line Properties Inc., Portsmouth, New Hampshire, for an APPEAL OF AN ADMINISTRATIVE DECISION from a decision of Thomas Johnson, Zoning Administrator/CEO, to limit the number of occupants in each of the units, for the property located at 16-21 Dover Road, in the Courthouse District, because the applicant has given us no reasons or explanation as to why the matter should be reheard. Ruth Davis SECONDED the motion, and it PASSED unanimously 3-0.*

## **IV. Approval of Minutes**

September 12, 2006 (See Page 15)

Page 2, 5<sup>th</sup> paragraph from bottom of page, change 127 to 27.

Page 3, 5<sup>th</sup> paragraph, should read “..could have 75 people in total in one unit if....”

Page 7 3<sup>rd</sup> paragraph from bottom, Cross out sentence starting “He said this situation bothered him.....”. Also cross sentence after that, starting “This one bothers me....” Then insert the following “He stated that this one bothered him in that all the structures were the same.”

September 26, 2006

Page 3, 6<sup>th</sup> paragraph, should read “..vacant lot with a large wetland...”

Page 6, bottom paragraph, should read “..interest was that not all of the wetland setback variances had been asked for.”

Page 7, 3<sup>rd</sup> paragraph, should read “Martie Gooze”

October 10, 2006

Page 4, 4<sup>th</sup> paragraph, should read “..would be only slighter higher than surrounding properties.”

Page 12, 1<sup>st</sup> paragraph, should read “..though it was reasonable to allow 3 occupants, when there had been 4.”

***John deCampi MOVED to approve the September 12, 2006, September 26, 2006 and October 10, 2006 Minutes, as amended. Ruth Davis SECONDED the motion, and it PASSED unanimously 4-0.***

**V. Other Business**

**A.**

There was detailed discussion concerning regarding a document developed by a committee looking at rental housing issues, which involved among other things trying to make more landlords in Durham more accountable.

Chair Gooze noted that in the 2005 Annual Report, he had discussed the more than three unrelated occupancy issue, which the ZBA had frequently been faced with that year. He said this had been much less of an issue in 2006, and provided details on this. He asked Mr. Johnson to forward to all members of the ZBA the information from the committee.

Chair Gooze discussed the committee’s idea of allowing greater density in some properties where there was professional management. He said draft criteria concerning this concept had been developed, and he provided some details on this.

Mr. Johnson said he had attended the meetings of this committee, and he noted that during discussions by the committee the previous week, there had been some disunity among the landlords. He explained that some were concerned that if this concept was approved, they would be penalized

in terms of their tax assessment. He provided details on this, and said the issue was being looked at. He also provided details on the idea of allowing greater densities as an incentive to build higher buildings downtown.

Chair Gooze said he thought that by March, the committee would have something to present to the Town. He said the next step after that would be to recommend related Ordinance changes.

Chair Gooze next discussed a letter from Town Engineer Dave Cedarholm concerning the ZBA's discussion at its October 10<sup>th</sup> meeting concerning a second curb cut for an applicant. He said the letter noted that limiting curb cuts didn't just have to do with sight distance and limiting conflicts between drivers, but also served to limit impervious surfaces.

There was discussion about this, and about how much of a difference in impervious area would result if the number of driveways in Durham were limited.

Mr. Sievert noted that he had done some further research on denial letters. He said he had found that some towns included doing this as one of their requirements.

There was discussion that Durham presently did not include this as a requirement, along with discussion on the disadvantages and advantages of doing this. Mr. Sievert spoke about his personal experience on the other side of the table, and said the procedure wound up being a benefit for the Board as well as the applicant.

Other Board members agreed with this. It was agreed that in order to make a decision concerning this policy, the whole board should be present, and that it therefore should be on the Agenda for the December meeting.

**B.** Next Regular Meeting of the Board: \*\*December 12, 2006

**C.**

**VI. Adjournment**

***John deCampi MOVED to adjourn the meeting. The motion was SECONDED by Michael Sievert, and PASSED unanimously 4-0.***

Adjournment at 8:04 pm

Victoria Parmele, Minutes taker