

ZONING BOARD OF ADJUSTMENT
Tuesday, February 11, 2025 at 7:00 p.m.
Town Council Chambers, Town Hall
8 Newmarket Road, Durham, NH
MINUTES

MEMBERS PRESENT: Micah Warnock, Chair
Neil Niman, Vice Chair
Kevin Lemieux
James Bubar
Mark Morong
Joe Warzin, alternate

OTHERS PRESENT: Audrey Cline, Zoning Administrator (via Zoom)

I. Call to Order

Chair Warnock called the meeting to order at 7:00 pm.

II. Roll Call

Chair Warnock introduced all members of the Board in attendance.

III. Approval of Agenda

Member Bubar MOVED to approve the agenda as presented. SECONDED by Member Morong, and PASSED unanimously 5-0-0.

IV. Seating of Alternates

No alternates were seated.

V. Public Hearings:

A. PUBLIC HEARING on a petition submitted by Scott Mitchell Real Estate, LLC, New Hampshire, for an APPLICATION FOR VARIANCE in accordance with Article XII.1 Use and Dimensional Standards Section 175-54 Table of Dimensions; parking spaces (175-7 structure) to be located within the front, side, and rear setbacks. The property involved is shown on Tax Map 108, Lot 38, located at 3 Dover Road and is in the Courthouse (C) Zoning District.

Chair Warnock reviewed the procedures for a public hearing, and Secretary Lemieux read the above public hearing into the record.

Jim Mitchell, Scott Mitchell's son, introduced himself. He explained Scott Mitchell Real Estate has been the owner of the Irving gas station for nearly 20 years, and Dunkin' Donuts has been their tenant for quite some time. Irving wants to occupy the entire facility

at the current location, and Mr. Mitchell wants to revitalize the Irving location. John Arnold, the attorney representing Scott Mitchell Real Estate, reviewed the plans for parking at the proposed location for the Dunkin' Donuts at 3 Dover Road. He explained the net difference in additional asphalt within the setbacks is about 150 square feet. A 24' wide drive aisle is required, which is why the parking encroaches into the setbacks. Mr. Arnold spoke to the character of the neighborhood, indicating the proposal is in line with the current character as neighboring lots have pavement within the setbacks. The pavement isn't encroaching on green space but rather pavement of neighboring lots. Mr. Arnold is unaware of any public health or safety risks due to the proposed increase in pavement. He stated he sees no public harm from this increase in asphalt; in fact, he believes there is a public benefit as the lot has been vacant for years, is not very attractive, and the variance would keep Dunkin' Donuts in town. Redevelopment of the site has the potential to improve neighboring property values. Ground level encroachment is less significant than if the building were to encroach on the setbacks. Mr. Arnold further stated there isn't a reasonable use of the property that wouldn't require some kind of zoning relief for encroachment on the setbacks.

Member Morong asked if the applicant considered diagonal parking spaces. The applicant said it would limit access on the site, as it would only allow for one-way traffic, and would result in fewer parking spots. Member Bubar pointed out a contradiction between the narrative and the application and plans and recommended the applicant address that clerical issue.

No members of the public rose to speak in favor or in opposition to the proposal.

*Vice Chair Lemieux **MOVED to CLOSE THE PUBLIC HEARING. SECONDED** by Member Morong, and **PASSED unanimously 5-0-0**. The public hearing was closed at 7:21pm.*

In discussion, the board did not see any reason to deny the application for variance. Vice Chair Niman stated the application is in the spirit of the ordinance, the encroachment is minor, and there are clear benefits to the town.

*Chair Warnock **MOVED to APPROVE the APPLICATION FOR VARIANCE** in accordance with Article XII.1 Use and Dimensional Standards Section 175-54 Table of Dimensions; parking spaces (175-7 structure) to be located within the front, side, and rear setbacks. The property involved is shown on Tax Map 108, Lot 38, located at 3 Dover Road and is in the Courthouse (C) Zoning District, while referencing the tech engineering corps survey noted as C1 for the allotted request for setback relief.*

77 ***SECONDED*** by Secretary Lemieux, and ***PASSED unanimously 5-0-0 by roll call vote***
78 ***(Lemieux - aye, Niman - aye, Morong - aye, Bubar- aye, Warnock - aye).***

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80 Chair Warnock explained there is a thirty day appeal period.

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82 **VI. Other Business**

83 No other business was discussed.

84 **VII. Approval of Minutes: October 8, 2024**

85 ***Vice Chair Niman MOVED to approve the minutes of October 8, 2024 as presented.***

86 ***SECONDED by Chair Warnock, and PASSED 5-0-0.***

87 **VIII. Adjournment**

88 ***Vice Chair Niman MOVED to adjourn the meeting. SECONDED by Member Bubar,***
89 ***and PASSED unanimously 5-0-0.***

90 Adjournment at 7:24 pm

91 Daphne Chevalier, Minutes taker