

CITY OF DOVER
BOARD OF ADJUSTMENT MINUTES
February 15, 2023

A Regular/Hybrid Meeting of the City of Dover Board of Adjustment was held on Wednesday, February 15, 2023, at 9:00 A.M. in person in the City Council Chambers and using the phone/videoconferencing system WebEx. Member's present were Chairman Sheth, Colonel Ericson, Mr. Keller, Mr. Senato, and new Board member Ms. Jane Warren. Mr. Hufnal has resigned.

Staff members present were the new Planning Director Mrs. Mary Ellen Gray, Mr. Swierczek, Deputy City Solicitor Mr. Junge, Mrs. Savage-Purnell, and the new Planner Ms. Katherine Oehmke.

APPROVAL OF AGENDA

Mr. Keller moved to approve the agenda as submitted. The motion was seconded by Colonel Ericson and unanimously carried 5-0.

APPROVAL OF THE REGULAR BOARD OF ADJUSTMENT MEETING MINUTES OF OCTOBER 20, 2021

Mr. Keller moved to approve the meeting minutes of October 20, 2021, with the necessary corrections. The motion was seconded by Colonel Ericson and unanimously carried 3-0. Mr. Senato abstained from voting on the approval of the meeting minutes as he was not present at that meeting.

COMMUNICATIONS & REPORTS

The next Board of Adjustment regular meeting is scheduled for March 15, 2023, at 9:00am in the City Council Chambers and with a virtual format.

Chairman Sheth apologize for not informing the Board of Mr. Hufnal's resignation as he was not aware of the resignation until five minutes ago today. He was a great asset to the Board of Adjustment. We had a great time professionally. He had a great input on the Board of Adjustment. He was also not aware of the new Planning Director Mrs. Mary Ellen Gray. He asked if any of the other Board members would like to make comments.

SPECIAL RECOGNITION

Resolution honoring the service of Mr. William Hufnal to the Board of Adjustment

Mr. Senato asked about the resolution. Mr. Swierczek stated that there is a copy of a draft Resolution to commemorate the service of Mr. Hufnal. It should be read into the record and he is happy to do that. If the members of the Board would then like to vote on whether to adopt that or not.

Mr. Keller stated that he would subscribe to exactly what Mr. Swierczek just said, to have it read into the record and we can lend comment if we have any at the end or acceptance of the

presentation.

Chairman Sheth mentioned that's a great idea. He asked if Mr. Hufnal would be recognized at the next City Council meeting. Mrs. Gray stated that this Resolution was read into the record and presented to Mr. Hufnal at the City Council meeting on Monday as well.

Mr. Swierczek read the resolution into the record. (See attachment)

Mr. Senato moved to accept the Resolution into the record, seconded by Chairman Sheth. The Resolution was signed by the Chairman of the Board of Adjustment and the Director of Planning & Inspections.

Mr. Senato stated that he would like to express his gratitude in knowing Mr. Hufnal and serving with him on this Board of Adjustment for many years. He was diligent and he was fair. I was very honored and proud to have worked with him on the Board.

Chairman Sheth noted he tried to remember how many years of service, about 15 to 20. Mr. Keller stated that the resolution noted the time of service. Mr. Swierczek mentioned that Mr. Hufnal started the term in 2005. It was seventeen (17) years of service. Chairman stated that he has been serving for 31 years. Colonel Ericson, Mr. Keller, and Mr. Senato have been serving for 25 or more years, that is a long time.

OPENING REMARKS CONCERNING APPLICATIONS

Mr. Julian Swierczek (Planner II) stated that the meeting today will be conducted in accordance with the agenda. There is one (1) new application on the agenda under New Business. Each Application file will be read, and the floor will be opened for questions of the applicant by the Board and for public testimony. If the Board needs to consult the City Solicitor, they will recess to discuss legal matters. If the applicant must leave, they can contact the Planning Office at 736-7196 to learn of the Board's decision. A formal notice of the decision will be mailed to the applicants. Approved variances expire after one year if the approved project has not commenced.

All public notice for the new applications on this agenda was completed in accordance with Code requirements. The meeting agenda was posted in accordance with Freedom of Information Act requirements.

NEW BUSINESS

Applicant #V-23-01

One Parcel containing multiple addresses: 519, 527, 533, and 533A Kerbin Street. Horizon Property Investments, LLC has requested a variance from the requirements of Article 4 §4.1 of the *Zoning Ordinance* pertaining to the bulk standards for the R-8 (One-Family Residence Zone). Specifically, to allow a reduction of the Required Minimum Lot Width from 70 feet to 66.5 feet at 519 Kerbin Street; a reduction in the Required Minimum Lot Width from 70 feet to 62.94 feet at 527 Kerbin Street; and reduction in the Required Minimum Lot Width from 70 feet to 67.8 feet and an increase in the Maximum Permitted Lot Coverage from 35% to 44% at 533 Kerbin Street. This is to then allow for the subsequent Minor Subdivision of the current parcel into three

(3) separate parcels. The subject property is zoned R-8 (One Family Residence Zone). The Tax Parcel is ED-05-077.09-05-41.00-000. The owner of record is Horizon Property Investments, LLC.

Mr. Swierczek gave a summary presentation of the Application Request for a variance from the requirements of Article 4 §4.1 of the *Zoning Ordinance* pertaining to the bulk standards for the R-8 (One-Family Residence Zone). Specifically, to allow a reduction of the Required Minimum Lot Width from 70 feet to 66.5 feet at 519 Kerbin Street; a reduction in the Required Minimum Lot Width from 70 feet to 62.94 feet at 527 Kerbin Street; and reduction in the Required Minimum Lot Width from 70 feet to 67.8 feet, and an increase in the Maximum Permitted Lot Coverage from 35% to 44% at 533 Kerbin Street. This is to then allow for the subsequent Minor Subdivision of the current parcel into three (3) separate parcels.

Mr. Swierczek stated that there are four separate buildings 519, 527, 533 and 533A Kerbin Street. Three single family homes and an accessory building are all located on one parcel of land. They seem to have been built by the year 1954. The earliest property record we could find was dated to 1977 at which point all four (4) buildings were showing present on one single parcel. This has been the standing condition of the property for a good number of years. Without any variance request of course.

Mr. Keller asked regarding the second topic addressed of Character of the immediate vicinity and the contained uses therein. Within your presentation on page 6, second paragraph, there's a statement made about the Historic District Zone in which you note that the parcels immediately adjacent to the north and across Kerbin Street to the west are subject to the Historic District Zone, nor are the other residential properties similarly zoned R-8. I thought that perhaps this is a misstatement, and it should. Do you mean that the subject property is not subject to the Historic Zone?

Mr. Swierczek said what would we do without you Mr. Keller. It is missing a "not" in that sentence. It should read, the subject property is not in the Historic District.

Chairman Sheth questioned if there was any member present who had a conflict of interest and there was none.

Representative: Mr. Matthew Brown, owner Horizon Property Investments, LLC

Mr. Brown was sworn in by City Solicitor Mr. Junge.

Mr. Brown stated that he represented Horizon Property Investments. I am the owner of this property. I don't have much to add besides what Julian has already presented to you. This is an existing property that was non-conforming. I've owned it for about 10 years. I did not develop it, obviously I was not around in 1954. I have a current tenant in the middle unit which is 527 Kerbin Street. The tenant has expressed interest in purchasing the property. I am entertaining the idea. The first step obviously is I needed to separate these properties. It is standard. If you look at the properties and if you drive by it looks like 3 separate properties. There's going to be no other

changes except for the imaginary property line between each property that becomes a permanent property line.

Ms. Warren stated that she sees the lot coverage is going from 35% to 44%, what is the coverage now? Mr. Swierczek replied, I believe that the lot coverage stated at present would pertain to the entirety of the parcel. Because there is no separate parcel for 533 Kerbin Street, we don't have the figure of that specific lot coverage. The 44% would apply once that parcel is created.

Mr. Brown stated that he believed that 44% was specific to 533 Kerbin Street because of the accessory building and the driveway size.

Mr. Swierczek replied that is correct. The plans note that the other two parcels are proposed to be under the maximum lot coverage requirement.

Mr. Keller questioned as he referred to the engineering plan sheet that was provided with notes, as you face the 3 dwellings on Kerbin Street, do you still own Horizon Property Investments LLC (parcel)? Mr. Brown replied yes sir, I still own that property. That property line which is already exists is already below the minimum setbacks (compliant).

Mr. Keller said Mr. Swierczek mentioned that it was already compliant. Does it not have the 70-foot frontage required? Is that correct? Mr. Swierczek asked again just to confirm that Mr. Keller was asking regarding the property further to the south of 533 Kerbin Street. I'm not sure of the existing lot coverage on that property. We only looked at the subject parcel in regard to the variance request. The frontage requirement is 70-feet and that's why we are here today to reduce it for the 3 lots in question, correct? Mr. Swierczek replied correct. The status of that property if it were not to meet the 70-feet as an existing condition, it would again be considered legal nonconforming for that property.

Mr. Keller mentioned that it sparked the question in my mind as to why not perhaps you were seeking a variance on the frontage of all 4 lots.

Mr. Brown stated that the one that's already separated is either compliant or existing. We're not proposing to move the existing property line between the building on the right and the 4th one. It is already existing; so, we didn't see the need to move it.

Mr. Keller mentioned that there is no structure on it. Mr. Brown stated that there is a single-family home on that property.

Mr. Keller questioned, the one on the extreme right? Mr. Brown replied yes, that the one on the extreme right which shows on this is just an adjacent property.

Mr. Keller said that's a vacant lot. Mr. Brown replied no sir, there's a house on the lot. Mr. Keller said okay. Mr. Brown said there's a home on that lot right now.

Mr. Keller mentioned that it came to my attention because on Exhibit A it does show a structure, but it does not show that as being within the subject property limitations as shaded in yellow. When I saw the Site Plan, I thought well it doesn't have a dwelling on that also or not.

Mr. Brown stated that the Site Plan just shows the adjacent properties. We are talking about the one on the right but the one on the left also currently has an office building that's not shown on the Plan. It just shows the outline of the property. Since we were not asking for any changes to that property, we did not do any engineering specs on it or anything.

Mr. Keller mentioned that it was an unsigned Site Plan that was not signed. I didn't know what the circumstance was with that. Mr. Brown replied understood.

Colonel Ericson questioned if the property was in compliance with 70-feet before you decided to make these separate properties. Mr. Brown replied that they were all one large property so that was well over 70-feet, but it had 3 separate single-family homes on the one property. What we are proposing is to reduce the one property into the 3 lots to make them single family homes on individual lots.

Colonel Ericson mentioned that he understood. Otherwise, if you didn't do this, you couldn't sell the homes, but you'd have to get the entire package as is. Mr. Brown replied correct. I am a firm believer in home ownership, don't get me wrong, even though I am a landlord. If I have a tenant that is interested in purchasing the property, I would prefer to sell it to the tenant over an investor. As it stands right now, the only thing I could do is sell it to an investor and it would remain a rental property indefinitely.

Mr. Senato mentioned the property to the left and to the right, I believe it's the center house that's potentially being sold. Mr. Brown replied that's correct. It is potentially the one that the tenant has shown interest in purchasing. The other ones may eventually. If the tenants choose to buy it, I will actually entertain it. The plan right now is to continue to hold on to it till there's an interest. If one day, there is an interest and there's the potential to put it up for sale, which most likely at that point would be owner occupied.

Mr. Senato suggested to Mr. Chairman that this looks good to me. That's about the only choice he has; and so, I think affirmative on this request. I suggest we go to the vote.

Mr. Brown thanked the Board for their time and the Planning Office, especially Mr. Swierczek, as he walked me through this. It was something new for me, so I appreciate all the effort and time he put into it. Thank you.

Chairman Sheth opened the public hearing.

Chairman Sheth closed the public hearing after seeing no one wishing to speak.

Chairman Sheth questioned if there was any additional correspondence for the record. There was none.

Colonel Ericson moved to approve variance application V-23-01 based upon the Staff Reports and the testimony given. The motion was seconded by Mr. Senato. The motion unanimously carried 5-0.

Chairman Sheth mentioned to Ms. Warren that she did good on her first meeting and thanked her for her participation.

The meeting was adjourned by Mr. Senato and seconded by Mr. Ericson at 9:56 A.M.

Sincerely,

Maretta Savage-Purnell
Secretary