

# *Town of Dover Board of Adjustment*

↘ Michael Scarneo - **Chairman**  
↘ **William Cook** – **Vice-Chairman**  
↘ Cephas Bowles  
↘ Robin Kline  
↘ Joseph Corsetto  
↘ Charles Franco

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↘ LuAnn Mizzoni  
↘ Walt Michalski (Alternate I)  
↘ Carlos Matias (Alternate II)  
↘ Kurt Senesky - Board Attorney  
↘ Michael Hantson - Town Engineer/Planner  
↘ Regina Nee - Clerk/Secretary

## **REGULAR MEETING OF THE BOARD OF ADJUSTMENT**

**AUGUST 11, 2004**

### **CALL TO ORDER**

Chairman Scarneo called the meeting to order at 7:32 PM.

### **ROLL CALL**

**PRESENT:** Commissioner Bowles, Kline, Corsetto, Mizzoni, Alternate II Matias, Chairman Scarneo

**ABSENT:** Commissioner Franco, Alternate I Michalski, Vice-Chairman Cook

**ALSO PRESENT:** Board Attorney Kurt Senesky and Town Engineer Michael Hantson

**PLEDGE OF ALLEGIANCE:** was recited by all

**ADEQUATE NOTICE OF MEETING** was read by Clerk/Secretary Nee.

**APPEAL TIME** was read by Clerk/Secretary Nee

**APPROVAL OF MINUTES:** June 9, 2004 Minutes and July 14, 2004

A motion to approve the July 14, 2004 minutes was made by Commissioner Bowles, seconded by Commissioner Corsetto and followed with a Roll Call vote.

**ROLL CALL:** Ayes: Commissioner Bowles, Kline, Matias, and Chairman Scarneo  
Nays: None

A motion to approve the June 9, 2004 minutes was made by Commissioner Mizzoni, seconded by Commissioner Matias and followed with Roll Call vote.

**ROLL CALL:** Ayes: Commissioner Bowles, Kline, Corsetto, Mizzoni, Matias, and Chairman Scarneo  
Nays: None

## RESOLUTIONS

**01-04-** Manuel & Luz Maria Gonzalez; Block 1211, Lot 3, also known as 45-47 East Blackwell Street located in the C-1 Zone. The application is a Use Variance and Minor Site Plan for the operation of rooming or boarding house with 12 single room occupancy units on the second floor, and any other variances and waivers that may be required.

A motion to accept the Resolution of Denial was made by Commissioner Kline, seconded by Commissioner Bowles, and followed with a Roll Call vote.

**ROLL CALL:** Ayes: Commissioner Kline, Corsetto, Mizzoni, Matias, Chairman Scarneo  
Nays: None

**04-04-** Town Square Industrial Center LLC; Block 603, Lot 1, also known as 22-40 Richboynton Road located in the IND Zone. The application is a Use Variance and Minor Site Plan approval for retail sales of damaged goods in the Industrial Zone, and any variances and waivers that may be required.

This will be heard next month.

**06-04-** Dover Plaza, Inc. and R&L Parking Company, LLC; Block 1318, Lots 1 & 6, also known as 150 and 212-216 East McFarlan Street located in the C-2 and R-3A Zone. The application is a Preliminary and Final Major Site Plan and Use Variance to construct a 1,584 SF addition to an existing retail center with associated parking and other site improvements, with side yard setback, parking setback, bulk requirements, and any variances and waivers that may be required.

A motion to approve the Resolution for the Variance, with conditions and pending site plan approval, was made by Commissioner Bowles, seconded by Commissioner Matias and followed with a Roll Call vote.

**ROLL CALL:** Ayes: Commissioner Bowles, Kline, Matias, and Chairman Scarneo  
Nays: None

They will be heard September 8<sup>th</sup> and no new notice is required.

**07-04-** Fausto Ricart; Block 2105, Lot 17, also known as 163 Oram Drive located in the R-2 Zone. The application is a setback variance for an above ground pool and deck, and any variances and waivers that may be required.

This resolution is a partial approval with conditions requiring removal of part of the deck that protrudes over the existing water pipe located in a rear easement.

A motion to approve was made by Commissioner Bowles, seconded by Commissioner Matias, and followed with a Roll Call vote.

**ROLL CALL:** Ayes: Commissioner Bowles, Kline, Matias, and Chairman Scarneo  
Nays: None

**08-04-** Ivan and Carmen Monaco; Block 1102, Lot 32, also known as 52 Grant Street located in the R-2 Zone. The application is a building coverage variance for a two (2) story rear addition, and any variances and waivers that may be required.

Attorney Senesky advised that the Board approved the application subject to the applicant producing building plans and elevations with respect to the new construction. The applicant will be returning for the September 8<sup>th</sup> meeting. The resolution will not take effect until the Board has approved those elevations.

A motion to approve the Resolution with conditions was made by Commissioner Kline, seconded by Commissioner Bowles and followed with a Roll Call vote.

**ROLL CALL:** Ayes: Commissioner Bowles, Kline, Matias, and Chairman Scarneo\  
Nays: None

**09-04-** Albert W. Ferrante; Block 408, Lot 3, also known as 25 Reservoir Ave. located in the R-1 Zone. The application is a Use Variance to construct two (2) bathrooms and a family room/hobby room with associated heating and plumbing within an accessory structure, and any variances and waivers that may be required.

A motion to approve with conditions was made by Commissioner Kline, seconded by Commissioner Matias, and followed with a Roll Call vote.

**ROLL CALL:** Ayes: Commissioner Bowles, Kline, Matias, Chairman Scarneo  
Nays: None

## **CASES**

**10-04-** 5<sup>th</sup> Street Club, LLC; Block 603, Lots 2 & 3, also known as 42 – 60 Richboynton Road located in the IND Zone. The application is a Use Variance and Minor Site Plan approval to convert an existing warehouse space for use as a social club, and any variances and waivers that may be required. **New Application.**

Mr. Amato Glasso, Esquire, was present for the applicant. The application is for a Use Variance NJSA40 (D), the property is zoned Industrial, and the applicant requests a relief to use the property as an amusement/recreation center and social club.

Richard Winstock was sworn in. John W. Hill was sworn in. Mr. Hill is the owner of the building and a Professional Engineer. Actual floor plan was marked A-1, A-2 – list of activities at 5<sup>th</sup> Street Club, A-3 – newspaper article, A-4 – application to club.

Mr. Hill stated the space measures approximately 8,000 square feet on the second floor at 48 Richboynton Road. There are two means of egress. He has been given an estimate of one hundred regarding occupancy which would be at peak time. (Mr. Hill provided his qualifications and was recognized as an expert.) He advised that two exits are sufficient to handle five hundred people; this club proposes a maximum of one hundred occupants. There would be no detrimental effect to the surrounding area as it is an industrial area. There are no residents within three to four hundred feet. That portion of the building has been vacant for approximately fifteen to twenty years. The building

has a fire alarm system, there is a Knox Box at the adjacent building (it is a box where the keys to the premises are kept and the local fire department has a key to that box) and the building has a sprinkler system. The majority of the parking is directly across the street. There are 213 spaces for use within a reasonable walking distance. The proposed hours of use for the club would be Thursday and Friday from 4:00PM to 1:00AM, Saturday from Noon till 1:00AM, and Sundays from Noon till 9:00PM. There would be four to six employees. There is additional vacant space in these buildings and additional parking could be utilized by any new tenants. Mr. Hantson advised that under the Town's ordinance, the parking requirement for this building would equate out to forty parking spaces. The portion of Richboynton Road between the two buildings is a narrow road and is a public right of way. The Fire Marshall suggested parking in marked spaces. Mr. Hantson suggested that the Board could recommend an ordinance be passed prohibiting parking on Richboynton Road in designated areas. There is street lighting and safety lighting at the site. There would be no negative impact to any of the tenancies currently in the building.

Mr. Winstock is one of the owners of the 5<sup>th</sup> Street Club. This is an amusement and recreation center for adults or like minded adults consisting of business type of people, after hour executives, law enforcement officers. The proposed hours were previously discussed. They are calculating four to six employees present during operating hours. He does not foresee any problems with operations and the existing tenants. There will be no alcohol served on premises. Light snacks will be available but there will be no cooking on premises. There will be a number of various activities at the club, there will be a conversation area, a computer center, a headphone stereo area, smoking lounge, and a television viewing area. Everything offered in the club will be free of charge. This is a private membership with dues being paid. Membership is based on referral. Age limitation is 21 and up. There are now approximately sixty members. There are no elevators. There are restroom facilities. There will be no showers. The location of the club to major highways and not being located in any residential zone, plus the dollar amount per square footage is an economical advantage. There will be no parties. The structure of this organization is such that an advertising sign is not required. An annual fee would be about \$50.00 per year and then a charge per visit. Mr. Hantson asked Mr. Hill if he had any objection to having something in the approval, if the Board should approve, that would make it very specific for this type of use such that if this organization were to abandon it, it does not give you the right to bring in something else. He stated he would have no objection. The applicant stated that rather than "social" club, this should be referred to as an amusement/recreation club. A-4 was a copy of the application to the club. No one under the age of twenty-one will be allowed in this club. Mr. Hantson advised that a construction permit will be required because this is a change of use from storage to a place of assembly. The standards are higher thus prior to getting a Certificate of Compliance they will have to meet all the codes for that use.

Scott Furer was sworn in. He advised that the computers will have Internet access and members will be able to intermingle.

Mr. Hantson stated that the unique aspect of this club is that it will not have a bar and alcohol of any type will not be served. It is not a gym but a recreation facility.

They have a five year lease with a five year option and hope that this will be successful.

This portion of the meeting was opened to the Public. Seeing no members from the Public, this portion of the meeting was closed to the Public.

Shared-use parking has become very popular and is an accepted planning tool providing testimony will support this. Mr. Hantson stated that this facility, in the evening hours, does have sufficient parking. A condition can be added that members should be made aware that parking is available at

the south end of the property across from Richboynton Road and that parking area should be utilized.

A motion to approve was made by Commissioner Kline with conditions for fire and safety, seconded by Commissioner Corsetto, and followed with a Roll Call vote. A recommendation of No Parking along Richboynton Road will be made to the Mayor and Board. The resolution will also include a very specific use for this site.

**ROLL CALL:** Ayes: Commissioner Bowles, Kline, Corsetto, Mizzoni, Matias, Chairman Scarneo  
Nays: None

A break was taken at this time.

Chairman Scarneo called the meeting back to order at 9:24pm.

**ROLL CALL:** Present: Commissioner Bowles, Kline, Corsetto, Mizzoni, Matias, and  
Chairman Scarneo  
Absent: None

Also present is Board Attorney, Kurt Senesky and Town Engineer, Michael Hantson

**11-04-** Leifken-Dover Realty Co., LLC; Block 1902, Lots 25, 26, 27 & 28, also known as 218 E. Blackwell Street located in the C-1 Zone. The application is a Use Variance and Preliminary and Final Major Site Plan to construct a 6,265 SF eight bay motor vehicle body repair addition, a 1,500 SF office addition, a 4,500 SF eight storage space addition and a 3,200 SF retail building with associated site improvements and demolition as a phased project, and any variances and waivers that may be required. **New Application.**

George Johnson, Attorney, was present for the applicant. Joseph Leifken was sworn in and is one of the owners of Leifken-Dover Realty Co., LLC. Denville Bear and Body does auto body repair. The only mechanical work that is done is a result of auto body repairs. There are ten employees, office and shop, at this time. They deliver between 20-25 cars per week. The site was previously an auto dealership. Mr. Leifken discussed several problems that currently exist with this property. The property is also located in the flood zone. They also own Mr. Auto Glass and Tony's Towing is also located on site. There is also a used car lot that is leased on this site. Improvements have been made to the present building. They want to tear down the second building and add gable ends to the present building. Changes in operation, as a result of these proposed additions, would result in improved site appearance, and additional retail space which is more beneficial to the applicant. The proposed retail use, under Phase I, is a motorcycle, apparel, and accessory shop. The other two offices will become rented space. The auto body use would be one hundred percent in the rear yard of the property. The applicant would like to deal with Phase I which would include the demolition of the existing second building. This phase would run at least a year and a half. Mr. Hantson suggested looking at Page 6 of 12. (A-1 Architectural Elevation Views) Mr. Leifken described what they proposed to do, basically giving them a new front. The addition would be to the back building. Tony's Towing will go into the building that fronts on the South Salem Street side. His building would be used for stored vehicles and maintenance of his trucks. The proposed construction is all flow through designs since they are in the flood zone. Mr. Hantson cautioned the Board that to grant a variance for something that will not happen for ten years is something that they must consider. Under the Municipal Site Plan Law, the applicant, for Site Plan Approval, gets

protection for three years and up to two – one year extensions. If zoning were to be changed within that three year period or two subsequent years of an extension, they are protected from having to get a variance with that zoning change. With Phase II, they are proposing to get rid of an existing non-conforming use and replace it with what is now a permitted use. However, that portion may never happen. Mr. Hantson asked why landscaping design has not been submitted for the site. When you have increased intensity of the use on the site, you will get an increase in the need for parking. The proper balance has to be the building, the required parking, and the appropriate site improvements such as landscaping, grassy areas, etc. Mr. Hantson stated there is significant improvement proposed for this property yet it is still a mass of pavement and parking.

Jennifer Schwenker was sworn in, gave her credentials as a licensed professional engineer, and was accepted as a professional. Ms. Schwenker reviewed the site plan which consists of four lots; approximately 2.1 acres. 92% of the lot has building coverage, five buildings at present. The applicant is proposing to consolidate the entire body shop business into one building with the office and paint shop. Tony's Towing would move from the western rear portion of the property to the eastern rear of the property. Storage area would be hidden. Being in the flood plane, there are various problems to deal with. Removal of the building will give the applicant credit for fill. Calculations were submitted to the DEP. The floor will be raised in the existing building. The existing paved areas will be left in place and will be resurfaced with asphalt. Mr. Hantson advised that there are a number of opportunities on this site for areas that are not traffic areas to create curbed landscaped areas or grassed areas.

Ms. Schwenker reviewed the current and proposed parking area. For the new proposed use of the site she stated an additional thirty-three spaces would be required. The existing one story building, fronting on Salem Street would wind up with the same number of spaces. Mr. Hantson advised looking at Phase I, all the uses on the property and their required parking and what they have. Automobile sales lots require one per employee plus one for every ten cars displayed. Retail sales have a requirement of one per two hundred square foot. The body repair shop would fall under service stations and would require four spaces per bay and work area. Take all those uses and calculate the number. If you create another area for storage, that would be different. Mr. Hantson stated that the analysis that there is a used car business on the property necessitates parking. If the towing company has repair bays associated with his use, he will need to meet the requisite parking. Mr. Hantson advised that the site plan should have the uses and calculation and designations. Mr. Hantson stated he would like to meet with the applicant and his professionals.

A motion to carry this application to the September 8<sup>th</sup> meeting was made by Commissioner Bowles, seconded by Commissioner Kline and followed with a Roll Call vote.

**ROLL CALL:** Ayes: Commissioner Bowles, Kline, Corsetto, Mizzoni, Matias, Chairman Scarneo  
Nays: None

Commissioners Franco, Michalski, and Vice-Chairman Cook should listen to the tape.

**OLD BUSINESS:** None

**NEW BUSINESS:** None

**COMMENTS:** None

**DATES:** Next Regular Meeting is September 8, 2004 at 7:30PM.

**ADJOURNMENT** A motion to adjourn was made by Commissioner Corsetto, seconded by Commissioner Kline, with all in favor. The meeting adjourned at 10:38 PM.

**IF ANY MEMBER CANNOT ATTEND THE MEETING, PLEASE CALL CLERK/SECRETARY NEE AT 366-2200 Ext. 115.**

Respectfully submitted,

A handwritten signature in cursive script that reads "Regina Nee".

Regina Nee  
Clerk/Secretary  
Board of Adjustment