

# *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**

**January 14, 2004**

### **CALL TO ORDER**

Vice-Chairman Cook called the meeting to order at 7:37 PM.

### **ROLL CALL**

**PRESENT:** Commissioner Franco, Bowles, Mizzoni, Kline,  
Alternate Matias, Vice-Chairman Cook, Chairman Scarneo (Arrived at  
7:42PM)

**ABSENT:** Commissioner Corsetto and Alternate Michalski

**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:** December 10, 2003

A motion to approve the minutes for December 10, 2003 was made by Commissioner Mizzoni, seconded by Commissioner Bowles, and followed with a Roll Call vote.

**ROLL CALL:** Ayes: Commissioner Bowles, Mizzoni, and Vice-Chairman Cook  
Noes: None

## RESOLUTIONS – None

## CASES

**18-03-** Helena Kernier; Block 1711, Lot 10, also known as 306 South Morris Street located in the R-1S Zone. The application is a Use Variance and Minor Site Plan to convert a preexisting non-conforming three (3) family residential use to a four (4) family residential use, and any other variances and waivers that may be required.

This case will be carried to the February 11, 2004 meeting. A site plan must be submitted. This is a D Variance, and Attorney Senesky encouraged the new members of the Board to listen to the tape from the previous meeting so that they can vote on the application. Attorney Johnson decided that they will begin the case over again.

A motion to carry the application was made by Commissioner Bowles, seconded by Vice-Chairman Cook, and followed with a Roll Call vote.

**ROLL CALL:** Ayes: Franco, Bowles, Mizzoni, Kline, Alternate Matias, Vice Chairman Cook, and Chairman Scarneo  
Noes: None

No further notice is necessary.

**17-03-** Stanley Votruba; Block 1217, Lot 5, also known as 8 West Blackwell Street located in the C-1 Zone. The application is a Preliminary and Final Major Site Plan and Use Variance to construct a two (2) story, 2,280 square foot addition to the rear, for a laundromat use and two (2) additional dwelling units, and any other variances and waivers that may be required.

Attorney Johnson advised that this is an application for a Use Variance and for Site Plan Approval. There are some items that are not provided for you on the Site Plan for you, but what we would like to do first, is to go as far as we can with the Use Variance. Essentially, there are two use variances; 1) with respect to the Laundromat, 2) with respect to parking because there is no on-site parking.

Kenneth Nelson, a professional Planner, was sworn in. Mr. Nelson reviewed his credentials and was qualified as an expert planner. Mr. Nelson stated he was asked to review this proposal. The State's Master Plan has identified various centers throughout the state where growth should be directed according to the state plan. Dover and Morristown have been designated and identified as centers in the state plan which affords municipalities certain preferences in Trenton for grant money and help expedite the approval process. This designation is very important for a municipality to have. Mr. Nelson stated that he has been involved in various re-development projects of various sizes. He stated the encouraging re-vitalization and enhancement and proper growth within an established center, like Dover, makes a lot of sense. It is to take advantage of the opportunities that exist when the density of development is of such a nature that various support facilities become possible. The more people that can live in a downtown area, the more successful businesses of that nature will exist. The focus is on enhancing and redeveloping many of the older downtown areas in the State of New Jersey. The ease of access to transportation facilities and the diversity of activities that can be found in a downtown area had increased the desire to live in a city location.

As the site exists now, the property is almost completely developed. The rear portion of the site has a single story structure; the front portion has a double story structure. Photographs A-2 through A-7 were submitted for the record. A-2 shows the front of the existing building, A-3 shows the second story, A-4 from parking Lot G towards property, A-5 from parking lot G to the northwest, A-6 closer look of property, A-7 closer view of rear portion of the property showing the wood side of the property. The subject property is located within the commercial core of the community and has proximity to the NJ Transit rail line and station. It is an integral part of the central business district. This area of the community is zone C-1. There are a variety of broad range retail, residential, and other uses that are permitted in this zone. High rise apartments are also permitted in this zone. Second floor apartments are permitted. It is an important set to draw people into the downtown area to live and spend money. The C-1 zone also has a minimal number of dimensional requirements such as setbacks. A-8 consists of three items: Key Map, Zoning Table, and Survey of the Property. Mr. Nelson described this exhibit. Once the rear first floor portion is demolished, the proposal is to construct a two story addition that will connect with the existing two story structure. The existing two story structure (A-9) shows floor plans for the first and second floors. The rear portion which will be the addition, again two stories, will accommodate, should the board approve it, a Laundromat/cleaners on the first floor which would be accessible from the rear and from West Blackwell Street. On top of the Laundromat would be two new one-bedroom apartments. Returning to A-8, the area marked in red is the part to be demolished. The proposed addition would add 2000 square feet. The intent of the dry cleaner is to serve the need of the immediate area, any residents as well as people who work in this area and also commuters. The commercial component of this proposal requires a use variance. The addition will create a second front façade and make that portion of the building more attractive. There is no parking on this site. It is the applicant's intent to meet all the performance standards of the ordinance, in terms of noise etc. It is the Laundromat portion of this application that is not permitted in this zone. There are no water restrictions. The second floor apartments are allowed as a conditional use of the zone. We are dealing with a use that is allowed under certain conditions; however, the conditions that second floor apartments must meet are not being met in this case. Parking is required on site and we can not do that. The size of the apartment must be a minimum of 800 square feet. The apartments proposed are less than that. The other factor that ties in with the Laundromat factor is that the apartments can only be located over a permitted use. There is another condition that requires a fifteen foot setback, when the building is not attached. There are other apartments in the area that do not have on-site parking. From a planning point of view, it is unrealistic to try and provide parking on each property in this area. The better approach is to identify areas where parking lots can be provided and allow the areas around that to be developed to their maximum. Shared usage can also be established. Residential development, in close proximity to transit facilities, requires much less parking than in suburban areas. In the case where a "D" variance is needed, in connection with a conditional use, the requirements or the test that must be met, are somewhat less stringent, because this is a use that is already allowed as long as the conditions that are being violated or deviated from are not creating a major impact; than it is appropriate for the use variance to be granted. The "C" variance: the fifteen foot setback, this application does not meet that. This property is readily accessible from the front and the rear. Parking falls under the "C" variance. The minimum floor area requirement, 800 square feet, is usually a two bedroom apartment. These are one bedroom apartments to encourage young urban professionals and young couples to occupy these premises. They will take advantage of the transit facilities. The smaller apartment discourages stacking. In both the "C" and the "D" variances, the positive and the negative criteria test must be met. Mr. Nelson stated that his testimony has been aimed at providing the support for those tests. In summary, with respect to the "D" variance requests before you, it is his opinion that this property with respect to the Laundromat is particularly suited for this use. The subject property is suited

because of its location. It is a use that will provide a service to the community and it will provide a service that is needed in the downtown area like this. It is a use that is particularly suited for this location and thus advances the general welfare of the community which is the basis for meeting the positive criteria test. With respect to the apartments that are proposed, the test is somewhat less stringent as this is an allowed use. The conditions that are not met do not create a negative impact that would adversely affect the community. He also suggested that the visual environment will be enhanced in this particular area. The combination of the uses is an appropriate use in this location. The new addition will further enhance this building. With respect to the "C" variances, we can use the flexible C provision of the Municipal Land Use Law which indicates that a variance of this type can be granted if the benefits substantially outweigh the detriments. There are no significant detriments being generated by this project. With respect to the zone plan of the community, this proposal does not impair the intent of the zone plan or the Master Plan.

The actual operation will be a combination of a Cleaner (a drop off area) and a Laundromat. There will be no dry cleaning done on the premises. There would be a wash and fold service. Commissioner Kline asked if there would be a Drop-Off/Pick-Up area provided. There is no room on site to provide this.

Attorney Senesky asked if Mr. Nelson's testimony, tying in the people who use the transit area as needing a laundromat facility in the area, backed with any documentation or information that would indicate this. Mr. Nelson stated that it was part of a broad range of services that you find coming into an area like this to service the population. Mr. Senesky stated that there are two apartments proposed and they are admittedly, substantially smaller than what is required. Mr. Nelson stated they are about twenty-five percent smaller. Mr. Senesky stated that zoning is the issue with regard to the parking issue, of which there is none, and that creates a parking load.

Vice-Chairman Cook stated that he could not see commuters from the train using the Laundromat because commuters use the parking lot on the other side of the tracks. Parking Lot G is an in-town use lot, not a commuter parking lot. Logically, it does not make sense. There is a dry cleaner across from the train station.

Mr. Nelson stated that there are no wash and fold services at that facility. He stated that the commuter traffic is just one component of it. People living and working in the immediate area can use this facility. Mr. Votruba believes strongly that this would work.

For the record, per Mr. Hantson, the Residential Site Improvement Standards are applicable to the residential component of this application by State Law. These standards have parking requirements associated with them and a parking table that's provided which indicates, for this type of use, that a one bedroom apartment, on average, would necessitate 1.8 parking spaces per unit, whereas the two bedroom unit, would require, on average, 2.0 parking spaces per unit. The moral of the story is that if you had one – two bedroom unit, it would necessitate two parking spaces as opposed to two – one bedroom units, which would require 3.6 parking spaces. The RSIS does say that alternative parking standards shall be accepted if the applicant demonstrates that the proposed standards better reflect local conditions. Commissioner Kline was concerned where the overnight parking, in a lot, would be provided as well as on-street parking. The Town of Dover paid for a parking study approximately one year ago and the study highly recommended consideration be given to shared parking. It also pointed out that the current layout of the existing parking lots in the Town of Dover is not adequate to properly sustain growth on the north side of the tracks. It recommended the construction of a parking garage as

part of that study. One of the biggest problems with the downtown, right now, is not that there is a lack of parking in the general area, but that there is a lack of parking in the immediate acceptable walk able distance to the center of downtown, which was identified as the corner of Blackwell Street and Sussex Street. The parking study was done by the same firm who is the parking consultant for the Morristown Parking Authority who prepared the standards for Morristown and what they did. The purpose of Parking Lot G is a permit lot that is mostly intended for use by businesses in the downtown as opposed to use by commuters.

Regarding the issue of the layout of the building on the lot and occupying essentially one hundred percent of the lot, Mr. Hantson asked Mr. Nelson if he could testify as to various openings or windows or doors that exist on the building to the left. The planner has testified that he has seen little if any negative impact as a result of the variances that are being requested. The Board has to be aware of the fact, if you turn to Page S-2 of the drawing that you have, if you look to the left of the Votruba building, you will see first story windows with bars, second story window, and the fact that currently there is open air space between the existing one story building that is there now and those windows, and the proposed two story development of this property will block up those windows. Hence the issue of variance for setback from an adjacent building as required will impact the adjacent building because essentially what is being proposed is a zero lot line development where the two buildings will be attached. There are requirements for setback from an adjacent building. There are light and air issues associated with zoning and construction that have to be taken into account. When you are dealing with in-fill type development, in addition to a building fitting in between two fully developed buildings, Mr. Hantson submitted that this is an issue. Mr. Nelson responded that from a planning point of view, if the setback requirements are enforced stringently, than what the C-1 zone envisions will never happen and there seems to be an inconsistency here. The applicant advised me that construction issues can be addressed. Mr. Nelson felt the safety issues could be addressed without requiring any setback and that is what should be done. Mr. Hantson submitted that the current layout of the building does currently have a setback from the adjacent building recognizing and respecting the location of the windows and the functionality of light and air issues associated with it. Respecting that building line and going up from the current building line is one thing, but taking the space away is a different issue. The C-1 district is a very old district, and if it were being constructed all as one, the buildings could be put up adjacent to one another because at that time the windows could be planned. You have to recognize what is already there and what exists next to the proposed building. In addition to that issue, the area designated as a courtyard, on this particular exhibit, although it is not the responsibility of this applicant, if people were to escape out of those buildings during a fire, their exit would be out of the existing narrow alley way. That would be the only way they could get out.

The Transportation Hub which is in the Master Plan was essentially proposing a Bus/Mass Transit Parking Deck for commuters to come in and utilize with associated commercial uses as opposed to what Mr. Nelson was talking about which is a Transit Village which is different.

Mr. Hantson also brought to the attention of the Board, that a revision to the ordinance which was made approximately a year ago requires the provision for solid waste and recyclable material storage. It is the proposal for the residents to take care of their own garbage, put out their own garbage on Blackwell Street and what about the garbage associated with the commercial use. The applicant is proposing to contain that inside.

Mr. Johnson was advised by Attorney Senesky that he has had approximately an hour and a half and was asked how he would like to proceed.

Mr. Hantson advised that the Site Plan, as it stands, is incomplete, unless the Board is inclined to grant waivers for the items contained in my report. We are hearing the Use Variance.

A five minute break was taken.

Chairman Scarneo called the meeting back to order.

**ROLL CALL:** Commissioner Franco, Bowles, Mizzoni, Kline, Matias, Vice-Chairman Cook, and Chairman Scarneo

Marvin Kane was sworn in. Mr. Kane develops and builds coin laundries for the past thirty-nine years. An attended Laundromat offers wash and fold services. Dry cleaning, an off premise option, is also offered. They are called a "Fabric Care Center". Dover is ideal for a laundromat. Today, we offer a larger machine and one that is not a top loader which uses more water than a front loading machine. Mr. Kane stated that the existing Laundromat in Dover is small and does not have a large number of machines nor does it offer wash, dry, and fold services. Dover has sufficient population to sustain another Laundromat. Mr. Kane is familiar with the site and feels through proper marketing, this is a service that people will come to. The proposed plan shows eighteen washers and eighteen dryers. The Laundromat is busiest on Saturday and Sunday. The idea is to get the customer in and out as quickly as possible. The average customer stays in the store. There would be a full time employee. Today, Laundromats are air conditioned to secure the business during the summer months. If you had a choice, parking would be more desirable. When you go into the inner city or densely populated areas most of the laundromats do not have parking but do rely on walk-ins.

Commissioner Kline questioned the hours of operation. Mr. Kane stated that they recommend from 7:00AM to 10:00pm but the hours of operation are up to the owner. There are ways of operating twenty-four hours and maintaining security in the store. Near a train station, we may recommend opening at 6:00AM. There are one hundred and five hours of operation. Employing five people on a part-time basis usually works. Most of the Laundromats have a drop off and pick up and some do have delivery.

Mr. Kane gave his credentials per the request of Vice-Chairman Cook. He has worked for the past eleven years for Fowler. He believes that this is a good spot for a Laundromat, but it is not the best. It can be marketed.

Commissioner Kline asked if the site was viable for water and sewer. There are no details provided with the application. Mr. Kane stated that they usually tie into a sewer line. He stated that a lint interceptor kit has to be built before the water reaches the sewer line. Water is an issue and a new line would have to be brought in. An approval from the Rockaway Valley Regional Sewage Authority must be obtained. Mr. Hantson advised the Board that the applicant must show you that the property is uniquely suited for this particular business. The fact that there is not a Laundromat in this particular, general area, is not proof. The real question is, "Is this particular property and this particular proposed location towards the back of this building uniquely suited for a Laundromat or are there better locations in the area to put one."

Mr. Kane stated that there is no such thing as a perfect location. Location is dictated by the competition, the population, and the operator. Cleanliness is one of the most important factors in operating a successful Laundromat. The second most important aspect is the machines must be up and running on the weekends.

It is the Board's jurisdiction in granting a Use Variance to deal with the particular property, the particular layout of the site, and have to know that this is the appropriate spot for this. Mr. Hantson stated that this might not be the best spot on this property for this. Would it be better suited if it was fronted on Blackwell Street or in a location that has parking for it. Mr. Kane stated that the front would be better but he did not see that part of the site.

Mr. Kane stated that Dover can handle another Laundromat in the area. He reviewed the plans for the proposed Laundromat. There are eighteen washers and eighteen dryers. The success of this business is to maintain the overall appearance of the facility as well as complete upkeep of the machines. Mr. Kane sells the concept.

The public was asked if they had any questions of this witness. There were none.

Mr. Johnson asked to continue this application at the February 11, 2004 meeting. Commissioner Franco made a motion to carry the application, seconded by Commissioner Bowles, and followed with a Roll Call vote.

**ROLL CALL:** Ayes: Commissioner Franco, Bowles, Mizzoni, Kline, Matias, and Vice Chairman Cook, and Chairman Scarneo

Noes: None

**19-03-** Shaukat Malik and Naheed Malik; Block 302, Lot 2, also known as 395 West Blackwell Street located in the R-2 Zone. The application is a Use Variance to permit a single family dwelling unit and a professional office use which will be utilized by a non-resident of the property, and any other variances and waivers that may be required.

George Johnson, Attorney for the applicant, was present. Mr. Malik was sworn in. He is the owner of the property on 395 West Blackwell Street. He lives there with his wife. It is a four bedroom house. Part of the property consists of a former physician's office. It is an independent building but is connected to the house. The propose is to rent out this property for professional use. Zoning calls for the use of this office space by the person living in the residence. Neither Mr. nor Mrs. Malik require this situation and thus need a variance to rent out the space. Part of the problem with renting this space is that a variance is needed. They have proposed a professional use and have a tenant who is interested in renting the space.

Mr. Hantson asked if they were asking for a waiver of the site plan. It is important for the Board to understand that because this does not qualify as a site plan nor has he submitted a check list for a site plan. The application is a use variance and waiver of site plan. The waiver is because there are no proposed changes for the site.

Mayank Goswami was sworn in. He is interested in this building and representing his brother-in-law. He is proposing an Open MRI Center. There would be one radiologist, two MRI techs, and one office manager. There is no MRI facility at St. Clare's which is located across the street. It must be run by a physician. He has looked around for a site. They were attracted to

this site because of its location. The parking is adequate. Only one machine would be used; it weighs twenty-three thousand pounds. The use of the basement would be for storage only. The radiologist would not necessarily be on site at all times. This is not a traditional doctor's office.

Mr. Hantson reviewed the parking requirements for this site and use. The Ordinance requires for doctors and dentists four spaces per doctor plus one for each employee. Mr. Hantson did not feel this standard was appropriate for this unique, particular use. The residential use requires two parking spaces. There are fifteen spaces available. There would be more than enough parking spaces for the site.

Internally, the floor would have to be reinforced because of the weight of the machine and the front area, or reception area, will be decorated. The MRI room will have to be shielded. Is there any health risk to the residents in the house? Mr. Goswami stated that they are regulated. Mr. Goswami is not in the business. He does not have any knowledge of a MRI center being connected to a residential dwelling. Attorney Senesky suggested that the Board should be made aware of the safety issues concerning this application.

Chairman Scarneo suggested that a facility as such must have requirements that must be met and verification of this could be added as a condition to the resolution. Mr. Hantson stated that it is very important for the Board to specify the specific use and anything else would require Board approval.

This portion of the meeting was opened to the public. Seeing no hands and hearing no voices, the meeting was closed to the public.

Commissioner Kline asked what the hours of operation would be. They proposed to be open Monday through Saturday, no earlier than 8:00AM and to close at 9:00PM. Mr. Hantson advised that the hours of operation should be a condition of the resolution that the applicant would be acceptable to. To put a sign up, in a residential area, for this business, an application for a variance would be required to put up an appropriate sign. They should come back with a separate application.

The Board asked for a landscape plan as opposed to a full blown site plan. Mr. Johnson stated that they are going to add to the aesthetics of the site, not much will be done. A proper sign needs to be added from the point of safety with cars traveling along Route 46.

Commissioner Franco made a motion to approve the Use Variance subject to all federal laws regarding installation of an MRI Center, the hours of operation specified, a landscaping plan, and a sign plan to be approved by the Board. Commissioner Matias seconded the motion followed with a roll call vote.

**ROLL CALL:** Ayes: Commissioner Franco, Bowles, Mizzoni, Kline, Matias, Vice-Chairman Cook, and Chairman Scarneo  
Noes: None

Mr. Hantson stated that the Board Attorney was requested to prepare a short synopsis of procedure that could be attached to the minutes and given out at every meeting. Mr. Senesky stated that he would get that out tomorrow.

Mr. Hantson also asked if the applications can be supplemented with a required sign-off authorizing access to a property and was advised in the affirmative by Attorney Senesky.

Commissioner Kline asked if there would be any conflict of interest if a Board member participates on the Citizen's Committee that is being formed in the town. She was advised that if the Transit Village Proposal starts moving in any shape or form, it would involve a Master Plan amendment, which is Planning Board, a potential Re-Development Plan, which is Planning Board, so this Board would have no legal jurisdiction in it. There might be a problem if a Planning Board member became part of a group that is formulating opinions, it could become a conflict of interest. Attorney Senesky stated, "You could join a citizen's group if you want, but, you then have to be mindful of the fact that it potentially going to curtail your participation in terms of hearing certain applications if the application involves a piece of property that would touch upon the interest of the citizen's group." If that were the case, you should recuse yourself from hearing that application.

Mr. Senesky will get the statute which will identify the situations where a board member may be required to recuse themselves from hearing an application.

**OLD BUSINESS:** Plaques will be ordered for the former Board members who will be recognized at a date to be announced.

**NEW BUSINESS:** None

**COMMENTS:** None

**DATES:** Next Regular Meeting is on February 11, 2004 at 7:30PM.

**ADJOURNMENT** Chairman Scarneo adjourned the meeting with all in favor. The meeting adjourned at 11:27PM

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

Respectfully submitted,



Regina Nee  
Clerk/Secretary  
Board of Adjustment