

DOVER ZONING BOARD OF ADJUSTMENT
MINUTES OF MEETING

Held: October 22, 1981
Council Chambers, Dover, N.H.

Members present: Vice Chairperson G. Lamoureux, A. MacVane, R. Shortill, H. Wersosky, and R. Keefe. Also present was Planning Director T. Sheldon and Building Inspector R. Selleck.

Approval of minutes of September 17, 1981 meeting delayed as there were no members present at this time that were at the September 17, 1981 meeting.

Secretary handed out copies of rough draft of existing by-laws. It was requested that everyone review the draft with additions/deletions in mind and bring to the next meeting. The next meeting will be held on November 19, 1981.

The Board entertained a request from Mr. Peter Pappas as to hearing case H81-23 first due to the applicant's age and health. Request approved.

No objection was made as to the Board members sitting on any of the following cases.

H81-23 KATHERINE V. CASH, 47 Court Street, Assessor's Map 19, Lot 23 zoned RM-8, petitions for a variance from Article 21:5.4 to convert a single family home on an existing non-conforming lot to three apartments.

-Secretary read case and list of abutters. No additions or deletions.

-Mr. Peter Pappas, real estate agent, representing the applicant, read the letter which was submitted with the application into the record as to the intentions of the applicant. He further stated that he believed that there was room to park the required amount of cars.

-Chairperson read memorandum from the City Engineer and a letter from abuttor Dunn into the record.

-Mr. George Poulin spoke in favor.

-Mr. Raymond Stevens spoke in favor.

-No opposition.

VARIANCE DENIED: 5-0 as request did not meet all the conditions required to grant a variance.

H81-22 PAULINE CALDERWOOD, 202 Dover Point Road, Assessor's Map L, Lot 89G, zoned R-20, petitions for a variance from Article 21:5.4 to subdivide a 22 acre parcel into two lots with one lot having insufficient frontage.

-Secretary read case and list of abutters. No additions or deletions.

-Attorney Raymond Ouellette, representing the applicant, informed the Board of Mrs. Calderwood's intentions. He stated that there would be a restricted deed for one residence and parcel only. He further stated that approval would increase the City's tax revenue. He noted that there had been prior approval of variances and subdivisions that were similar cases to this one. The use of the land was to stay the same. He submitted to the Board a petition in favor of the variance signed by ten abutters (Chairperson read petition into the record).

-Arthur Grimes spoke in favor of variance.

-Irene York, speaking in favor, stated that the right-of-way (25') existed in the 40's and was acquired by the Calderwoods while constructing their home. She further stated that the Calderwoods were planning to relinquish their rights to the right-of-way to the new owners.

-Edward Hoginsky spoke in favor.

-Mrs. Gross spoke in favor.

-Constance Moxley opposed to the plan as presented with reference to the access into the site being the 25' right-of-way across the Rasmussen's property and not from the Calderwood's 50' right-of-way.

-Attorney J.P. Nadeau, representing the Rasmussens, noted that the Calderwood's had prior requests that the Board restrict all development in that area to the 125' frontage requirement (prior cases before the ZBA). He stated that the plan, as presented with access from the 25' right-of-way was inappropriate and that Calderwood's did not want to be infringed upon thus keeping their 50' right-of-way for their own use.

-Mr. George Maskulak spoke in opposition with reference that the use of the 25' right-of-way was in fact utilizing another persons property.

-Irene Loughlin spoke in opposition, citing the accessway of the 25' right-of-way.

-Attorney James Ritzo, representing the Horton's (option holder of Rasmussen's property) questioned Mr. Sheldon if this case had been presented to the Planning Board prior coming to the ZBA. He stated that the constant use of the 25' right-of-way would devaluate the Rasmussen's property. He noted that the existing driveway is now 8' wide and that if the purchasers of the proposed lot 2 extended it to its fullest, 25', it would not only decrease the Rasmussen's property but that of the property to the north. He noted that Mr. Horton would approve of the proposed subdivision if the applicant had access to the proposed lot 2 from her 50' right-of-way.

-LronaRae Smith spoke against the variance with reference to the right-of-way.

-Attorney Paul Cox spoke against the variance with reference to the 25' right-of-way.

-Mr. Sheldon spoke on the Driveway Ordinance and stated that a right-of-way or driveway could serve no more than two lots.

-Attorney Ouellette gave the legal description of a right-of-way. He read how the 25' right-of-way in question was worded in the subject deeds. He further noted that the 5+ acre lot (included in proposed lot 2) was to be tested for a source of water by the City.

-Attorney Nadeau stated tha the right-of-way should be an issue as to the width of said right-of-way and the availability of public vehicles, such as fire trucks, ambulances, etc. to maneuver into the proposed lot 2.

-Attorney Ritzo questioned where the property owners of the proposed lot 2 were going leave their trash for pick up and what snow removal arrangements would be made between the option owners. He noted that the right-of-way, at the time it was incorporate in the subject deeds meant a pathway to and from the water.

VARIANCE GRANTED: 3-2 with the following conditions:

"That the applicant submit the proposal to the Planning Board for their approval for subdivision and review of Chapter 44, Driveway Ordinance."

H81-24 DAVID C. McINTOSH JR., 17 Riverside Drive, Assessor's Map L, Lot 91, zoned R-20, petitions for a variance from Article @±:10.2A to permit applicant to expand an existing non-conforming land use.

-Secretary read case and list of abutters. No additions or deletions.

Mr. Louis McIntosh representing his father, spoke of their intentions of constructing a structure that would house an office, an area for design work and construction area for their boat concern. He noted that the structure would be completely obscure from view.

-Mr. Richard Merrill spoke in favor.

-Mr. Edward Hoginsky spoke in favor.

-Mrs. Irene York, on behalf of the Calderwoods, spoke in favor.

-Mrs. Irene Loughlin spoke in favor.

-Mr. Hugh Tuttle spoke in favor.

-No opposition.

VARIANCE GRANTED: 5-0 as plan presented with no stipulations.

H81-25 WALTER LADISHEFF, 37 Sixth Street, Assessor's Map 30, Lot 72, zoned RM-10, petitions for a variance from Article 21:5.4 to permit applicant to construct a two-car garage and storage area with insufficient sideyard and rear yard setbacks.

-Secretary read case and list of abutters. No additions or deletions.

Ladisheff continued.

-Mr. Ladisheff spoke of his intentions of construction a two car garage and storage area directly on the property line. This garage is for storing of lawn mowers etc., and not for business use.

-No one spoke in favor.

-No one spoke in opposition.

VARIANCE DENIED: 5-0 as proposal did not meet all the conditions required to grant a variance.

H81-26 TUTTLE MARKET GARDENS, INC., 151 Dover Point Road, Assessor's Map M, Lot 52B, zoned R-20, petitions for a variance from Article 21:10.2A to permit applicant to expand an existing non-conforming land use.

-Secretary read case and list of abutters. No additions or deletions.

Mr. Hugh Tuttle spoke of his intentions of enclosing the wired area in front of the existing building, quoting weather problems for displaying flowers and vegetables. He noted that the traffic pattern will be changed as requested by the State to having two individual parking areas, each with their own entrance and exists, with the front section between each lot converted into an area with flowers, shrubs, and/or trees.

-No one spoke in favor of variance.

-No one spoke in opposition of variance.

VARIANCE GRANTED: 4-1 as plan presented with no stipulations.

Moved by MacVane, seconded by Shortill to adjourn. U.A.