

DOVER ZONING BOARD OF ADJUSTMENT
MINUTES OF MEETING

Held: April 16, 1987
Council Chambers

Members Present: Alden Joy-Chairman, David Bertrand, Barry Hager, Joyce Bowden, David Anderson, Randy Turner, and William Colbath.

Also Present: Dick Selleck-Building Inspector, Tom Clark-Assistant Building Inspector, Steve Stancel-Assistant Planner, and Kathy Munson-Recording Secretary.

Alden Joy called the Business Meeting to order at 7:00 P.M.

New Business:

David Bertrand motioned to approve the minutes of March 19, 1987. Alden Joy seconded the motion.

Alden Joy read the appeal from Willaim Dube against the granting of variance that was approved for Arthur Grimes, 250 Dover Point Road, to subdivide a lot into 2 (two) parcels, case H87-12.

Alden Joy motion to deny the request for rehearing based on the fact that enough evidence was not presented in the appeal.

William Colbath seconded the denial.

VOTE: 3-1. Variance for rehearing denied. Based on the fact that enough new evidence was not presented in the appeal. David Betrand voted in favor.

Alden Joy called the meeting to order at 7:35 P.M.

H87-13 John A. & John F. Kepics, Upper Sixth Street, also known as Assessor's Map A, lots 48 & 48A, zoned R-40, requests a variance from terms of Article V, Section 170-16, to subdivide a lot having no frontage on a public right-of-way.

John Kepics stated that he wished to combine two lots, leaving one lot (3+) acres. He stated that he intended to keep the lot natural and build a single-family dwelling. An application further down for subdivision was not his intention.

Public Hearing opened: no comment.

David Bertrand stated that he felt Mr. Kepics idea was a good one.

Alden Joy added that yes it was a good idea - especially if kept natural.

VOTE: 5-0. Variance granted. Based on the Following Findings of Fact: There is hardship involved, background property involved; Justice would be served, allowing owner to use his back property; In harmony with the Spirit and Intent; No diminution of surrounding property value.

H87-13 Continued. Variance granted with stipulations. Private drive must be posted in owner's name. Owner must apply to the Home Owner's Association for the maintenance of the private drive.

H87-14 Robert Wendell (Owners: Ed Plimpton and Virginia Ratay) Benn's Marina, Dover Point Road, also known as Assessor's Map 8, lots 9, 9A, & 12, zoned R-20, requests a variance from terms of Article X, Section 170-40 A & D, to increase a non-conforming use (a marina) in an R-20 zone.

Robert Wendell stated that he would like to expand the use of the marina waterfront - feeling that the land is unique - presently it is a non-conforming use - needed to service the marina customers - property surrounded by a B-1 zone. The marina's goal is to service the marina customers the best possible way - increase the boating and access to benefit the public. He continued to state that he felt this issue was unique because the property involved is unique and the hardship is based on the fact of best serving as a marina by expanding the facilities.

Public Hearing opened:

Martin Perenick appeared before the board in spoke out against granting the special exception for the marina. His concern was with his children;s safety that would be jeopardized with the increased traffic due to the expansion of the marinal

Elaine Hashem also spoke out against the granting of the special exception. She stated that the property in question is not commercial and that a three-story boat storage place would be unsightly.

Speaking also in opposition was Mr. Mackey. He spoke in regards to the increase in the traffic - fearing that may be an increase in deaths and accident - already many happen were his thoughts. He also stated that he has heard that within six years the General Sullivan Bridge will be reopened - afraid that with the cars dturning in and out of marina parking lot would be a poor arrangement.

Allen Davis stated that the property in question was not zoned R-20 and stated that a three-story boat storage would definitely dcrease the value of his home.

Attorney Larry Collins representing Richard and Victoria Benn expressed his clients concern for their safety and that of their children's. He stated that he could not see any hardship involved or uniqueness in granting the variance. He stated that the property is already in use - not zoned for the requested use - not within the Spirit and Intent of the ordinance - would devalue the property in the surrounding area. Signatures of other abutters all against granting the variance were handed to the board.

Robert Wendell spoke in rebuttal. He reiterated that he wished to expand the present use of the marina. The boat storage area was not only for winter storage, but for year-round storage. Boat owners will be able to remove their boat during the summer. Boat owners will have to travel back and forth - will have a lift charge of \$5 for the removal of the boat - he presented pictures displaying what he felt as not obstructing the view of surrounding abutters. He finished by saying that he is looking at best serving the marina customers - not just a winter storage space - storage will be year-round.

Public Hearing closed.

VOTE: 5-0. Variance denied. Based on the Following Findings of Fact: Applicant does not face unnecessary hardship, he has reasonable use of the land; Will not deliver substantial justice - expansion on non-conforming use, not in best interest of the neighborhood; Evidence presented to the board supports diminution in value of surrounding properties.

H87-15 Robert Wendell (Owners: Ed Plimpton and Virginia Ratay) Benn's Marina, Dover Point Road, also known as Assessor's Map 8, lots 9, 9A & 12, zoned R-20, requests a special exception provided by terms of Article VII, Section 170-27(C) to increase a boat docking area in the Conservation District.

Above case could not be heard based on the decision for case H87-14.

H87-16 Norma Willard, 7 Lakeview Drive, also known as Assessor's Map 39, lots 43 & 44, zoned residential, requests a special exception as provided by terms of Article VII, Section 170-27(C)2 and Article XII, Section 170-52C(3) to erect a structure within the Conservation District.

Norma Willard stated to the board members that she owned a "shack" on Lakeview Drive. She purchased the home 14 years ago. Structurally the existing shack would not be able to withstand building on top of it - so would like to tear down the existing structure and build on the existing foundation - would not change the footprint of the lot - would make sure that the clean-up would not contaminate the pond.

Public Hearing Opened: no comment.

Tom Clark stated that a building permit was issued - did not know at the time that a special exception was required. The home is in such a state of desrepair that a second story could not be built.

Alden Joy stated that his only concern with granting the special exception would be for the run-off into the pond. If the area is to be seeded, pesticides not used - and the Class A water body, Willand Pond should not be affected, he saw no reason for granting the special exception.

VOTE: 5-0. Special Exception granted. All requirements for granting of the Special Exception were met.

H87-17 Tuttle Market Gardens, 151 Dover Point Road, also known as Assessor's Map M, lot 52-B, zoned R-20, requests a variance from terms of Article IX, Section 170-32(E)6 and (N)3 to exceed maximum allowable quantity square footage of signage in residential zoning district and to replace an existing non-conforming sign with one of equal size.

Hugh Tuttle, owner and Treasurer of family farm, stated that he wished to rebuild and slightly reduce the sign for the Tuttle Farm. He stated that the sign would be of the same size

Hugh Tuttle appeared before the board. He stated that he would like to increase the signage for the Tuttle Farm.- necessary because of the new expansion and because the have redone the sign standing in front of the barn three times since the farm was reestablished and did not feel this could be done again.

Public Hearing opened: No comment.

Alden Joy asked Tom Clark if in the provision of genral signage, is their a square footage allowance for the length.

Tom Clark stated no, that only in a business zone.

VOTE: 5-0. Variance granted. Based on the following Findings of Fact: Safety overrides enforcement; Will deliver substantial justice; Will not deliver or result in diminution of surrounding property values; Safety aspect overrides enforcement.

H87-18 Kenneth & Linda Bachmann, 6 Sherman Lane, also known as Assessor's Map 39, lot 55, zoned R-12, requests a variance from terms of article V Section 170-16, to continue to construct an addition to an existing building with approximate 22 feet of setback from a side lot line that abuts a street where 30 feet is required.

Anthony McManus appeared before the board speaking on behalf of his client. His client brought a sketch of propped addition down to the Building Inspector's Office for review. The Bachman's began to build the addition, and started the wiring. Tom Clark informed them that they might have a problem with the setback and issued them a notice to stop building an addition. Addition is now 70% completed and would like to finish. The house lot is very small - like the other lots in the area - the house issmall also - very hard to do anything to it - hardship is involved because of the side and setback lot lines. Abuttors were asked to sign their signatures if they were in favor of the granting the variance. (Sheet given to board members for review). Substantial justice would be served if the Bachmann's could improve their property, and the general neighborhood.

Public hearing opened: no comment.

VOTE: 5-0. Variance granted. Based on the following Findings of Fact: Hardship involved whereas applicant cannot expand property because of lot size and character; Justice will be delivered, allowable use consistent with surrounding area; Will be in harmony with the Spirit and Intent of the ordinance; No diminution of surrounding property values.

Meeting adjourned at 9:25 P.M.