

DOVER ZONING BOARD OF ADJUSTMENTS
MINUTES OF MEETING

Held: June 18, 1987
Council Chambers

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

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

Old Business: David Bertrand motioned to approve May 10, 1987 Minutes. David Anderson seconded the motion. May 21, 1987 minutes were approved.

New Business: Steve Stancel discussed the new agenda policy whereas voting to accept applications for the public hearing would take place during the business meeting. If the application was approved during this time, application would be heard during the public hearings.

Business Meeting adjourned at 7:30 p.m.

Alden Joy called the meeting to order at 7:35 p.m.

H87-21 Charles and Katie Merritt, 57 Maple Street, also known as Assessor's Map 30-32, lot 22, zoned RM-10, requests a variance from terms of Article V, Section 170-16, to construct an addition approximately eight (8) feet from a side property line abutting a street where thirty (30) feet is required. (Case Tabled from May 21, 1987).

Charles Merritt appeared before the board requesting to construct an addition onto his home because his family is growing. The proposed addition would not create any traffic hazards, and could only be added to the left, back side.

Public Hearing Opened: No comment.
Public Hearing Closed:

David Bertrand motioned to grant the variance. Dave Anderson seconded the motion.

VOTE: 4-0. Variance granted based on the following findings of fact: Faces unnecessary hardship, will deliver substantial justice by allowing applicant to use property to the fullest capacity; In harmony with the spirit and intent, grandfathered; No testimony for diminution of surrounding property value. Based on the following condition: There shall be no increase in the home occupation square footage use.

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H87-22 Lorene Cook, 31 Silver Street, also known as Assessor's Map 10, lot 117, zoned RM-10, requests a variance from terms of Article IV, Section 170-12, Table of Use Regulations (Table I: Principle Uses, Part C) to convert an existing single-family dwelling into either an office building or a Bed and Breakfast establishment. (Case Tabled from May 21, 1987 Meeting).

Attorney Malcolm McNeil appeared before the board stating that prior to this public hearing the case was looked at by the Technical Review Committee - the consensus is that this type of use is a desirable one. He asked if he should review previous discussion to the board members that were not present in May. Alden Joy asked him to just proceed. Joyce Bowden and Barry Hager step down from hearing the case. He stated that his client would and has stated that their first choice for use of the property is a Bed and Breakfast establishment. Second would be for office use, and thirdly, condos.

Public Hearing Opened: No comment.
Public Hearing Closed:

Alden Joy added to the comments discussed at the Technical Review Committee. In general, the Bed and Breakfast would have the least amount of an impact on most of the services in area - an office would generate all-day traffic and there would be no control as to what type of office could be allowed. If used for condos would have to have a large occupancy. The best use appears to be the Bed and Breakfast.

William Colbath inquired if any of the room would be rented out as meeting rooms.

Lorene Cook stated no.

Dave Anderson motioned to grant the variance. David Betrand seconded the motion.

VOTE: 4-0. Variance granted based on the following findings of fact: Applicant faces unnecessary hardship, ordinance is outmoded; Will deliver substantial justice by perserving the architectural qualities of the building; In harmony with the spirit and intent of the law, allows minimum amount of change to the property; Will not result in diminution of surrounding property values; Will benefit the public interest by minimizing the traffic use and will open a service new/valuable to the community. Subject to the following condition: No weekly/monthly rental of rooms, definition of package, four square foot sign allowed, management must be on the premise 24 hours a day, and the only meal served will be breakfast and breakfast will only be served to registered guests.

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H87-25 Susan Snow, 53 Third Street, also known as Assessor's Map 31, lot 21, zoned RM-8, reequests a variance from Article IV, Section 170-12, Table of Use Regulations, Table I, Principal Uses, Part A, to allow seven (7) dwelling units on a lot with 12,584 square feet, where 14,000 square feet is required.

Susan Snow stated that 53 Third Street is currently a 2 1/2 story building with five bedrooms. Would like to convert this one large unit into two smaller units which will fit into the character of the present neighborhood.

Public Hearing Opened: No comment.
Public Hearing Closed:

David Betrand motioned to grant the variance. Barry Hager seconded the motion.

VOTE: 4-0. Variance granted based on the following findings of fact: Harship does exist, limits two units rather than 10 bedrooms; Will deliver substanstial justice by reducing density and enhancing the neighborhood; No adverse testimony given for dimuition of surrounding property values.

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H87-26 Richard Millette and Associates, 3 Plaza Drive, also known as Assessor's Map D, lot 2, zoned B-3, requests a Special Exception as provided by terms of Article VI, Section 170-19, and Article XII, Section 170-52C(3) to establish a multi-family project (140 condos) in a B-3 zone.

Case tabled until completed results are received from the City Engineer's Office.

H87-27 Rayoun Ballard, 3 Back Road, also known as Assessor's Map K, lot 12-C, zoned R-12, requests a variance from terms of Article X, Section 170-41A, to construct a breezeway within twenty-six (26) feet of a front property line where thirty (30) feet is required.

Case withdrawn prior to public hearing.

H87-28 Neil & Eileen Underwood, 304 Dover Point Road, also known as Assessor's Map L, lot 111A, zoned R-20, requests a variance from terms of Article IX, Section 170-32E(6) to exceed the maximum allowable quantity (3 where 1 is permitted) and square footage (eighty-four, where twelve square feet is permitted) of signage in an R-20 zone.

Neil Underwood stated that he wished to have two, twenty-four foot "Pennsylvania House" signs his property - signs are important for his furniture business - according to the ordinance - needs a variance - signs are a chocolate brown color with white lettering - they are very unique - has signed an agreement with the company to display the signs - trying his best to stay within the grandfathered area - they will not be injurious to the surrounding property area.

Public Hearing Opened:

Eliza Glory appeared before the board and stated as a direct abuttor that she felt the signs are done in good taste and upgrade the one's there previously.

Public Hearing closed:

Joyce Bowden inquired as to what the exact dimensions of the signs were.

Neil Underwood responded by stating the signs are four feet by six feet, and would be more conforming and will reduce the present signage by at least half of the amount.

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Joyce Bowden inquired if Mr. Underwood still could keep the business without displaying the signs.

Neil Underwood stated that he had signed a contract with the Pennsylvania House Company.

Alden Joy asked if the freestanding sign would remain.

Neil Underwood stated yes - could do business with only the freestanding sign - but would like to have one on the barn tie the two buildings together.

Joyce Bowden asked if one of the signs could be displayed in the window.

Neil Underwood responded that this also would not meet the requirements.

Tom Clark added that the window sign could not exceed 10% of the window space.

Barry Hager motioned to grant the variance. David Betrand seconded the motion.

VOTE: 4-0. Variance granted based on the following findings of fact: Hardship does exist, subject to grandfathered lot; Reduces the signage footage; Enhances the property area; Will be less conforming. Subject to the following conditions: Limited to two (2) signs and barn signs must be firmly attached.

H87-29 Joseph Furbish, 159 Spur Road, also known as Assessor's Map L, lot 42, zoned R-20, requests a Special Exception as provided by terms of Article XII, Section 170-27C(2) to demolish an existing single-family dwelling and construct a new one within the Conservation District.

Joe Furbish simply stated that he wished to remove the existing camp and build a new one in its place.

PublicHearing Opened:

Salvatore Fanfera stated that he had no objections with the construction, only concern was with the septic system.

Public Hearing Closed:

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Barry Hager motioned to grant the Special Exception. Randy Turner seconded the motion.

VOTE: 5-0. Special Exception granted.

H87-30 Thomas F. Moran, Inc., Central Avenue and Oak Street, also known as Assessor's Map 27, lots 219 and 220A, zoned B-3/R-12, requests a variance from terms of Article V, Section 170-16, to construct an addition forty-two (42) feet from a side property line as it abutts a street where fifty (50) feet is required. (Note: Side setback may be less if proposed reconstruction of Oak Street occurs)

Attorney Malcolm McNeil represented the Thomas F. Moran, Inc. also known as the Northeast Federal Credit Union. The property was purchased in 1985 from the South East Bank (copies of the deed and tax map were passed out to board members). When the property was acquired, the purchased included the entire bank space area and land all the way back to Oak Street. When the project engineer, Brian Holt designed the proposed addition he assumed that he could use the R-12 zone - using the deed line - all regulations, requirements were met - when case appeared before Technical Review - history of deal with city had not been recorded on the deed - resolution was made in April of 1984 to improve the (Central Avenue & Oak Street) - land was given to the city - city has made this very clear that they have not forgotten - problem for proposed addition is that in this case, addition would be too close to the set-back requirement and inappropriate to use the R-12 set-back - the proposed addition is 20 feet short of requirement - the credit union has experienced expanded growth - the proposal is for an 11,000 foot addition - for service not of a teller function - this is not the only place for the addition - yet it is the only practical one - another area would be to place the addition on the market side - could not be an effective use because of the drive-up teller window - cannot be added on to the front of the building - the set back is at 50 feet and at this exactly - only a portion of the roof is under 50 feet. Hardship exists in the fact the lot was presumed larger than it actually is - reasonable miscalculation made by the survey - made by the set-back - could cut-off corner off building to comply - Suggesting that it is a reasonable request to make the addition - set-backs are more severe than they are to the other business in the area - hardship is that could be expanded in area of propped addition with variance - there would be no dimuition of surrounding property values - still a commercial use - will remain within spirit and intent of the ordinance by making effective use for what is already allowed - substanstial justice will be served - no devalue for any surrounding property.

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Public Hearing Opened:

Roland Hemon expressed his concerns with the traffic impact the proposed addition would have on Oak Street - especially if entrance on Oak Street was closed off. He questioned if the credit union could incorporate the unused portion of the property.

Paul McQuade stated that he was disappointed that the city had not already acted on this situation. City is and has made long ranged plans to improve the traffic flow on Central Avenue. He stated that he felt that the City Attorney should address this problem. Wentworth Douglass donated \$30,000 to study the traffic flow - Oak Street area is a problem - and the bank did give the property to the city to improve the problem.

Malcolm McNeil spoke in rebuttal. South East Bank sold the property and never deeded the corner to the City. Northeast Federal Credit Union came to me asking me to represent them and their rights to the property. This is a unique hardship - if Credit Union had known this - the plans would not have been drawn this way. The bank is not acting selfishly - it is trying to block off a portion of Central Avenue that contributes to the traffic problem - They have an area that is zoned for banking - is being used for banking - and would like to add an addition for banking.

Roland Hemon again asked if bank could incorporate using the unused property - particularly the vacant lot next door.

Paul McQuade stated that the case is not unique - not for success of the bank. City should act on the long ranged terms.

Brian Holt stated that he has met with the Screening Committee and has presented this case to Bill Collins, Planning Director.

Public Hearing closed:

William Colbath stated that the only apparent function was to increase the bank's services and ordinance if the addition could be put on the otherside.

Malcolm McNeil restated that this was not possible because of the drive-up teller window and because of the safes.

Barry Hager stated that he sympathized with the bank, but the city must make the changes to improve the traffic conditions in this area.

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Steve Stancel informed the board members that the Planning Department did review the proposed addition plan and feels that a hardship does not exist. A second level could be constructed.

Barry Hager motioned to deny the request for variance. Dave Anderson seconded the denial.

VOTE: 3-2. Variance denied based on the following findings of fact: Does not face unnecessary hardship, has reasonable use of the property; Will not deliver substantial justice, no injustice present; Not within the harmony with the spirit and intent, does not meet requirements; Not within the best interest of the public; traffic safety issues.

H87-31 White Enterprises, Inc., Mast Road, also known as Assessor's Map I, lot 30B, zoned R-40, requests a Special Exception as provided by terms of Article VI, Section 170-20 and Article XII, Section 170C(3) to establish a mobile home park in an R-40 zone.

Attorney Douglass C. Gray represented White Enterprises, Inc. He stated that preliminary approval was granted by the Planning Board and is now subject to further approval by Zoning Board. The proposed area for the mobile home is Mast Road running to Spruce Road. The proposed park must meet requirements subject to Article VI, Section 170-20 and Article XII, Section 170C(3). In conformance to Chapter 126 - most critique is the park must be serviced by city water and sewer.

Project Engineer, Brian Holt stated that the lot sizes are 10,000 square feet, 10.2 acres will remain open - will provide access in the end to the culdasec - water and sewage improvements will be done - hydrants will be on the side - has been brought to the attention of the Screening Committee - all requirements in Chapter 126 have been met in the design. The City Engineer has reviewed the plans. Entrance will be off of Mast Road - has been adjusted to provide safety for vehicles going on and off the site.- a sidewalk will go down - the requirements for Chapter 126 have all been detailed in the application - will be well drained, spaces lots, there will be safe traffic flow from and onto Mast Road - proper screening will be put in place, and will have city streets. There will be no decrease in surrounding property values. Walter Colby of Kendall Realty has stated that in the contrary - the property value in the surrounding area will increase. According to Article XII, a proposed traffic study was done in great detail (included in application package). This type of housing is very desirable (New Hampshire Housing Analysis Report included in application package as well). Will provide affordable housing for the area. There will be no overload on drainage and sewage systems.

Public Hearing Opened: no comment.
Public Hearing Closed:

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David Bertrand questioned if a sidewalk would be part of the overall project.

Brian Holt stated yes. The sidewalk would run on 108.

Alden Joy inquired if this project tied in with the consortium efforts set-up with the Planning Department.

Steve Stancel informed the board members that yes this was part of the overall consortium and that all parties have agreed to the specifics, but covenants have not yet been signed.

Harold Preston stated that all five parties have agreed to the 1.6 million dollar consortium - this must be met before Planning Department will give final approval.

Joyce Bowden asked applicant if Zoning Board approval could be subject to the final approval given by the Planning Department.

VOTE: 3-2. Special Exception granted. Based on the following: approval remains contingent upon the Planning Board's approval of the infrastructure and consortium agreement.

Meeting Adjourned.