

DOVER ZONING BOARD OF ADJUSTMENTS  
MINUTES OF MEETING  
OCTOBER 29, 1987  
COUNCIL CHAMBERS

MEMBERS PRESENT: Alden Joy-Chairman, Barry Hager-Vice-Chairman, Bill Colbath, Dave Bertrand, Joyce Bowden, Randy Turner, Mark Dellner

ALSO PRESENT: Tom Clark-Assistant Building Inspector, Dick Selleck-Building Inspector, Steve Stancel-Assistant Planner, Patricia Unish-Recording Secretary

Minutes for September 17, 1987 excepted.  
Mark Dellner moved to except minutes  
Dave Bertrand seconds

Reopening Nominations for Chairperson and Vice-Chairperson  
Mark Dellner declined position as Chairmen.  
Mark Dellner excepted the nomination for Vice-Chairman

Mark Dellner moves to closed  
Dave Bertrand - seconds

Alden Joy stated that the Elections for Officers will be held the first meeting in January.

OLD BUSINESS:

Tom Clark stated the agenda for November is now full.  
Tamposi/Nash will be on the December agenda.  
McQuade Realty had not filed for a rehearing. The 20 days allowed for an appeal has passed.  
Martel has not reapplied so far.

NEW BUSINESS:

The agenda for December has four hearings so far.

CASE ACCEPTANCE:

H87-56 J.B. Austin Inc., 40 Fisher Street, also known as Assessor's Map 15, Zoned I-1, requests a Special Exception as provided by terms of Article VII, Section 170-27.C to continue storage of concrete products.

J.B. Austin - was withdrawn

Case excepted were H87-49, H87-55, H87-57A/B, H87-58, H87-59, H87-60, H87-61.

The acceptance on these cases was voted 5-0

Business meeting closed 7:30 P.M.

PUBLIC MEETING OPENED AT 7:30 P.M.

Alden Joy introduced all board member and explained all the procedures that the board will take during the hearing.

H87-49 Charles F. Schuh, Jr., 272 Dover Point Road, also known as Assessor's Map L, Lot 102, Zoned R-20, requests a variance from Article V, Section 170-16 to subdivide an existing lot and create two (2) lots, one of which having insufficient frontage (fifty-one (51) feet where one hundred twenty-five (125) feet is required) on a Public Right of Way.

Bob Murphy Attorney represented Charles F. Schuh, of 272 Dover Point Road stated that there is a 190' frontage. The hardship is in the zone (R-20). The size and the shape of the land is 5 times of what is required in that zone. It is not possible to cut in a town road. Also it is not possible to increase the frontage. The ordinance does not allow the use of this property. Area and all other requirements have been met. This track of land is too large for the owner to tend. The zoning ordinance is making this land non-productive. The property value in this area will not decrease. A house will be constructed it will be setback, so that it will not be seen from the road. This means two houses on 2 1/2 acres. This will also mean additional taxes for the City, and the land will become productive.

**OPPOSITION:**

Bill Tangway (Attorney) represented Dr. Maloney and Wife Bill Tangway stated this variance if granted will be economical. There is no hardship in this case. There is nothing unique about this land. This variance should not be granted. They are short 71 feet, that is a very large variance. Granting this variance will be an over burden on Maloney's property.

**REBUTTAL:**

Bob Murphy stated all lots are smaller in size in this area. The Zoning Board has granted this variance before when land was unique and unproductive. There is dense vegetation between these properties. The value of the surrounding land will not diminish.

**OPPOSITION:**

Bill Tangway stated the boundary line between Dr. Maloney's property and this abutting property has no vegetation. This property does not have the necessary frontage. One more house and driveway will just add more problems.

Bob Murphy states there will be no additional driveway. Mr. Schuh's original driveway will be used from the back of the lot.

Public Meeting Closed:

Alden Joy stated that this hardship is an unnecessary hardship. The uniqueness in the land, is the imposition. Dover Point has a traffic problem. This would even make it greater. The idea is to develop a community with as few homes and as large of a lot than can be used. There has to be a balance of complete development.

This variance was denied due to the traffic conditions in this neighborhood. The traffic conditions in this area are very dangerous.

Mark Dellner motions to deny this variance  
Joyce Bowden - seconds

Vote 3/2 (Mark Dellner, Joyce Bowden, Dave Bertrand - deny)  
(Alden Joy, William Colbath - grant)

Public Hearing Opened:

H87-55 Jack R. and Dorothy I. Storm, Piscataqua Road, also known as Assessor's Map I, Lot 94-C, zoned R-40, requests a variance from the terms of Article V, Section 170-16 to create a lot having no frontage on a Public Right of Way.

Jack Storms property owner stated the lot is 45 acres and it is land bound. There is a 50 foot right of way to Piscataqua Road leading to this 45 acres. Mr. Storm also owns the abutting land of 1.5 acres. He would like to build a house on this land.

No Opposition:  
No Rebuttal:

Public Hearing Closed:

Alden Joy stated that Mr. Storms was asking for 2 lots with 2 right-of-ways.

Steve Stancel questioned when was the front piece of property subdivide.

Mr. Storms state this subdivision was done in 1977.

This variance was granted vote U/A

Dave Bertrand motions to grant the variance  
Mark Dellner - seconds

H87-57A Cathleen Coakley and Cecelia DeMarco, 189 Central Ave., also known as Assessor's Map 20, lot 61, Zoned RM-10, requests a variance from the terms of Article VI, Section 170-25.1.E to convert an existing building which has a sixteen (16) foot setback where twenty (20) feet is required.

H87-57B Cathleen Coakley and Cecelia DeMarco, 189 Central Ave., also known as Assessor's Map 20, Lot 61, Zoned RM-10, requests a Special Exception as provided by the terms of Article VII, Section 170-25.1 and Article XII, Section 170-52.C(3) to convert a two-unit apartment building into a four unit apartment building.

Cecelia DeMarco stated the characteristic will not change. On the property now there is a duplex and a barn. This Structure is over 100 years old. The Barn is not structurally sound. It is an eye saw. They would like to construct a two unit building where the barn is now. Location of this part of the land is non-functional. The 20' set back would be impossible to move. The setback of the existing house is 16'. There is plenty of land on the sides and rear of the property. This is where the turn around parking will be. There will still be 55' of property left in the rear. All the entrances to the apartments are rear entry.

**PUBLIC HEARING CLOSED:**

This variance was granted            vote U/A  
Dave Bertrand motions to grant variance  
Barry Hager seconds

**H87-57 Special Exception:**

There was sufficient evidence to show that all the requirements have been met. A site review will be done also to checking to see if there is the required 8 parking spots.

**PUBLIC HEARING OPEN:**

H87-58 Robert D. and John L. Callan, 20 Bay View Road, also known as Assessor's Map J, lot 21, Zoned R-40, requests a variance from terms of Article V, Section 170-16, to create three (3) lots, two (2) of which have no frontage on a Public Right of Way.

Jay Schultz stated there are 17 acres they would like to divide into three parcels of land. One parcel will be located on Bay View Road. Construct a driveway with a cul-de-sac, which will allow access to parcels two and three. The hardship is in the size, configuration, remote and impossible to develop this lot. Developing this land this way will keep the area less dense. City ordinance will permit private driveways with up to four lots. This requirement will be met. This will be a benefit to the city. Public Interest will be with keeping the character of the area.

Mr. Huggins (abutter) This will be in the best character for this area. The area will be maintained. Mr. Huggins read a letter from another abutter. The abutter stated he also was in favor, and there would be no objections to the improvement of this area.

Mr. Draper (abutter) also agreed this will be good for the area.

Alden Joy questioned if this application had come before the Board once before?

Jay Schultz stated it was. At that time they were asking for four (4) accesses on to the right-of-way. Now they are asking for two (2).

Mr. Huggins stated it would be in the City's Interest that Dover support this right-of-way. The town should bring this road up to town standards on this right-of-way.

Alden Joy stated that to develop 4 lots on what is now a narrow right-of-way. In the future the road will have to come up to City standards.

Steve Stancel stated if the road is made to City standards the town will still have to vote to accept this road as a City street. This Board could not make that commitment.

Barry Hager stated there should be a stipulation with this variance. Stipulation that this private drive be posted with a name, for fire and safety reasons. Also a Home Owners Association to maintain this road for safety and health reasons.

Barry Hager motions to grant this variance with these stipulations.

Dave Bertand second

Variance granted vote 4-1 (Joyce Bowden)

H87-59 Wayne and Dierdie Estes, Durham Road, also known as Assessor's Map H, Lot 6-2, Zoned R-20, requests a variance from the terms of the Interim Growth Management Ordinance to create a major subdivision.

Wayne Estes stated there are two lots there. One with a house on it and the other with approx. 7 1/2 acres to be subdivide. Jay Steven suggested not to do any major subdivisions. With a minor subdivision there would not be any objections. Now the City has an Interim Growth Management Ordinance. Mr. Collins talked about road conditions, water pressure, sewer capacity and the over crowding in the schools. Durham Road is not a substandard Road. Water pressure has over 100 pounds of pressure. If given this variance restrictions would be put on the deeds. There will be sidewalks put in from the high school on up to this area.

Mr. Burinum stated his concern is about the access to these lots, with a proposal for a nine lot subdivision. With a restriction that a builder cannot build no smaller than the neighborhood. This is a mixed neighborhood. With all types of housing.

Steve Stancel stated that the Planning Department is against the approval of this application. The Growth Management Ordinance was adopted to ensure the orderly development of land within the City of Dover. To promote the public health, safety, and welfare of its residents by preventing the premature approval of new developments which would be incompatible with the Master Plan currently being revised. The City needs time to revise the Master Plan and Zoning Codes so that the City can effectively manage its growth.

State RSA 674:23 specifically gives the City the right to adopt emergency Interim Regulations while developing or revising a Master Plan or Capital Improvement Program if faced with unusual growth circumstances. I feel we can all agree that unusual growth circumstances have been occurring in the City. The applicant does not face a hardship. There is reasonable use of this land. The applicant can now come in for a minor subdivision. The City needs time to stand back and review all the services. Water, sewerage, schools. Applicant does have use of this land. The Planning Board feels this variance should be denied.

Mr. Estes questioned Steve Stancel was this the voice of the Planning Department or the Planning Board.

Steve Stancel stated the Planning Department.

Mr. Estes stated most of the people on the Board passed this Interim Growth saying we could go to the Zoning Board of Adjustments for a variance.

Steve Stancel stated a subdivision of three lots in a four year span is allowed. Anything more will be a major subdivision. Mr. Estes can come back for a minor subdivision if he has the road frontage. This area is also a aquifer area.

#### PUBLIC HEARING CLOSED:

Dave Bertrand stated the Growth Management Ordinance was adopted by the City for a reason and the Board must abide by it.

Steve Stancel stated that Mr. Estes can come in and subdivide three (3) lots. If he comes back in a two (2) year period it will be a major subdivision.

This variance was denied           Vote U/A  
Mark Dellner motions to deny with variance  
Dave Bertrand seconds

H87-60 William C. Hill, 6 Bellamy Road Extention, also known as Assessor's Map 13, Lot 18A, Zoned R-20, requires a variance from the terms of Article V, Section 170-16, to construct an addition twenty-eight (28) feet from the front property line where thirty-five (35) is required and a variance from the terms of Article X, Section 170.41.A to enlarge a non-conforming structure.

