

ZONING BOARD OF ADJUSTMENT
MINUTES OF MEETING
APRIL 19, 1990

Members Present: Joyce Bowden, Dave Paolini, Bill Colbath,
Dean Trefethen, Chris Jacobs, Randy Turner

Also Present: Steve Stancel and Thomas Clark

Meeting brought to order at 7:07 PM.

NEW BUSINESS

Bill Colbath made the motion to accept the minutes of the last meeting.

David Paolini seconded.

VOTE U/A

H90-3 Mark & Avis Bennett, 41 Summer Street, A/K/A Assessor's Map 12, Lot 85, zoned RM-10, requests a Variance from the terms of Article V, Section 170-17 to construct an accessory building (detached two-car garage) within five (5) feet of a side lot line where ten (10) feet is required.

Mr. Bennett explained his new plan which places the garage 5 feet from the lot line. Addressing the Board's concern regarding water running off the roof onto the abutting property, he said that they would put gutters on the garage and run it onto their own property.

Tim Pearson, owner of property in the neighborhood, stated that the Bennetts do have a hardship because of the magnificent tree in their backyard.

Steve Stancel stated the Planning Department is opposed because there is no hardship. There is sufficient room to put the garage in the back yard or they could build a one car garage.

Mrs. Bennett stated that all garages are built within 1 or 2 feet of the lot lines in their neighborhood and the Historic District Commission felt it is very important to keep in harmony with the neighboring properties for eye appeal.

Dave Paolini asked the Bennetts what is stopping them from putting in a 20 foot garage.

Mr. Bennett stated that he has 3 vehicles and wants to keep them out of view. He needs room for lawn equipment, bicycles and general storage. The larger garage would keep his yard nice by keeping these things out of view.

Tim Pearson stated the garage would not result in any diminution of property values.

Steve Stancel stated that there are an assortment of garages, barns and apartment units in the neighborhood. He can't see how it can be inconsistent with the neighborhood.

CLOSE PUBLIC HEARING

Joyce Bowden won't be voting on this case.

Randy Turner stated that he can't see a hardship but feels that they were led to believe that 5 feet might be acceptable.

Chris Jacobs stated that 5 feet is more agreeable than 1 foot but feels they can meet the setbacks.

Dean Trefethen stated that he drove through the neighborhood and feels they should move the garage into the back yard.

Bill Colbath said that there isn't a set motif in that neighborhood that he can see.

5 CRITERIA

1. The applicant does not face an unnecessary hardship because no hardship was proven and it is possible to comply with all setback requirements.
2. The Variance will not deliver substantial justice because a case of injustice has not been proven in this case.
3. The variance will not be in harmony with the spirit and intent of the zoning ordinance because the ordinance requires a 10' setback and the applicant is able to comply.
4. The variance will not result in a diminution in value of surrounding properties because no evidence was presented.

Will - Chris Jacobs
Bill Colbath

Will Not - Dean Trefethen
David Paolini
Randy Turner

5. The variance will not be of benefit to the public interest because the public interest is best served by the enforcement of zoning.

Chris Jacobs made the motion to deny the variance.
Bill Colbath seconded.

VOTE U/A
DENIED

H90-8 Anthony McManus, Page Avenue, A/K/A Assessor's Map 37, Lot 54, zoned R-12, requests a Variance from the terms of Article IV, Section 170-12, to allow the establishment of the uses permitted in the Office Zoning District.

Randy Turner will not be voting on this case.

Atty. McManus stated that the map enclosed in the packets is not a tax map. It is a sketch done a few years ago of Page Avenue and the lot in question is Lot #6 on the map. He stated that he owns 806 Central Avenue, which is a small cape marked Laurence Richardson and the property next door, marked Pelletier, is owned by Dan Gabriel. Along down the line is Dr. Blackman, another doctor's office and Rush Realty, all zoned office. He stated that Lot #6 cannot be used for residential purposes because there is no frontage as Page Avenue is a dead end and falls short of the property. He has no frontage on a City Street.

Atty. McManus stated that he has spoken to a neighbor, Mr. Lazarus, about buying the property for residential use. The hardship is that the property is zoned residential but can't be used for residential. If he is allowed office zoning it will be consistent with the rest of the property on Central Ave. He stated that Dr. Blackman has parking in the back and this will be consistent with the use from the Gabriel property all the way south. He stated that he would properly screen the property to protect the neighbors and there would be no diminution in value of surrounding property. Justice would be served as the lot cannot be used for what it is zoned.

Atty. McManus stated that the lot was a gift and he has owned it for 8 or 10 years. It is an empty lot.

Mr. Hamilton, an abutter, brought in a map that helped to clarify some of the confusion regarding the lot, street, and sewer easement.

Tom Clark stated that the right-of-way could be used as an alternative to widening Central Avenue.

Atty. McManus stated that the logical use is parking but he has no specific plan right now.

Dean Trefethen stated that he is not sure of the intent, we don't give variances for "probably".

Joyce Bowden asked Atty. McManus if he had tried to use it for building a house.

Atty. McManus said that he had not.

Chris Jacobs made the motion to deny the variance because of the following:

1. He understood the land to be land locked but it can be accessed on Page Avenue which is an accepted right-of-way.
2. Atty. McManus is asking to change the use to Office when he is not sure what he wants to do with the property.

Joyce Bowden asked what could be done with the lot if they gave the variance.

Tom Clark stated that any of the uses listed in the Office Zone. He said that the zoning was put through in May of 1979 and the sewer easement is in the R-12 zone. Someone specifically did it that way.

Atty. McManus stated he was withdrawing his application.

Dave Paolini made the motion to adjourn.
Bill Colbath seconded.

Meeting adjourned at 8:00 PM.