

DOVER ZONING BOARD OF ADJUSTMENTS  
MINUTES OF MEETING

MEETING HELD: February 25, 1988 in the Council Chambers of the Municipal Building in Dover, New Hampshire

MEMBERS PRESENT: Joyce Bowden, Mark Delanor, Barry Hager, Bill Colbath, Randy Turner, Dave Anderson, Mr. Selleck - Building Inspector, Steve Stancel - Planner.

Mrs. Bowden called the meeting to order at 7:00 P.M.

Review of Bylaws; members who fail to attend meetings; new applications should include 5 steps of variance procedures, copy of bylaws should be available, by request, in Building Inspectors office.

RE: Powers Motion for rehearing of Variance submitted by Taylor, Esquire. Motion denied as no new evidence presented vote was U/A

Applications Committee meeting next week - up to 5 alternates  
Need for alternates to attend meetings.

Mrs. Bowden opened the Public Hearing of the Zoning Board of Adjustment at 7:30 P.M. welcomed the public and introduced the Board members. In addition, instructed the applicants of the procedure.

Item #1: Public Hearing Opened:7:40 P.M.  
H88-6 Kenneth and Cathy Young: 235 Dover Point Rd., also known as Assessor's Map L, Lot 71-B, zoned R-20, requests a variance from the terms of Article V, Section 170-16 to construct a side addition to an existing building thirty-one (31) feet from a front property line as it abuts a street where thirty-five (35) feet is required and a variance from the terms of Article X, Section 170-41.A. to increase a non-conforming structure.

Application submitted by Mr. Kenneth Young.

Motion to accept the application  
Seconded

Sitting: Bowden, Delanor, Hager, Colbath, Turner

This application was U/A GRANTED with no conditions.

It is the Board's Conclusion that, if the applicant complies with the strict letter of the ordinance, he does face an unnecessary hardship This Conclusion is based on the following findings of fact: Time and circumstance have placed the property in a non-conforming status. It is the Boards

decision that this addition will not change the total picture of the non-conforming use. The special conditions which exist in the land are the change in the ordinance over time.

It is the Board's Conclusion that, if granted the variance will deliver substantial justice. This Conclusion is based on the following findings of fact: Will allow the applicant lawful use of her property and the public would have no gain from the enforcement of this ordinance.

It is the Board's Conclusion that, if granted, the variance will be in harmony with the spirit and intent of the zoning ordinance. The conclusion is based on the following findings of fact: Has not changed the R-20 low density goal of that zone.

It is the Board's Conclusion that, if granted, the variance will not result in a diminution in value of surrounding properties. This conclusion is based on the following findings of fact: No evidence presented to the contrary.

It is the Board's Conclusion that, if granted, the variance will be of benefit to the public interest. This conclusion is based on the following findings of fact: As he not changed the low density of the zone in question there would be a benefit to the public interest.

Therefore, based upon the foregoing, It is ORDERED that the application for the variance be Granted. If granted, it is subjected to the following conditions: No conditions

Item #2: Public Hearing opened: 7:55 P.M.

H88-7 Richard Hodgson, doing business as Granite State Tool and Die, Inc., RFD 4, Durham Rd., also known as Assessor's Map 1, lot 129, zoned R-40 requests a variance from terms of Article X, Section 170-40 A and D to increase a non-conforming use and to construct an addition in connection with a non-conforming use. Also requests a variance from terms of Article XI, Section 170-46. B and C to have a loading bay within thirty-two (32) feet of an abutting residential property where one hundred (100) feet is required and to have the bay in the front of the building where to have it on the side or rear of the building is required.

Application for a variance submitted by Richard Hodgson.

Motion to accept application  
Seconded

Sitting: Bowden, Delanor, Colbath, Hager, Anderson

This application was U/A GRANTED with conditions\*.

It is the Board's Conclusion that, if the applicant complies with the strict letter of the ordinance, he/she (does/does not) face an unnecessary hardship. This conclusion is based on the following findings and fact: Due to the changing ordinance (time & circumstance) creates a special condition inherent in this land.

It is the Board's Conclusion that, if granted, the variance will deliver substantial justice. This conclusion is based on the following findings of fact: Allows the applicant lawful use of his property without change to his business activity.

It is the Board's Conclusion that, if granted, the variance (will/will not) be in harmony with the spirit and intent of the zoning ordinance. The conclusion is based on the following findings of fact: Already non-conforming-however this change will not result in the non-conformity. This will not change the total picture of the non-conforming use.

It is the Board's Conclusion that, if granted, the variance will not result in a diminution in value of surrounding properties. This conclusion is based on the following findings of fact: No evidence presented.

It is the Board's Conclusion that, if granted, the variance will be of benefit to the public interest. This conclusion is based on the following findings of fact: This will enhance the safety of the operation to the public and will result in a benefit to the public.

Therefore, based upon the foregoing, it is ordered that the application for the variance be GRANTED. If granted, it is subject to the following conditions: Loading dock be angled to maximize the available space for all equipment & trucks backed to the loading dock\*.

Item #3: Public Hearing Opened: 8:24 P.M.  
H88-8 Edward Plimpton: doing business as Benn's Marina, and Virginia Ratya, 423 and 425 Dover Point Rd., also known as Assessor's Map 8, lots 9, 9A and 12, zoned 20, requests a variance from terms of Article X, Section 170-40.A to increase a non-conforming use (a Marina).

Application for variance submitted by Attorney John Ryan for Edward Plimpton, Bradgate Properties, together with \* letter from Department of Environmental Services Wetlands Board, report from David Colt, Real Estate Appraiser and Consultant, and memorandum from Conservation Commission.

Turner, Motion to accept application  
Anderson, Seconded

Sitting: Delanor, Hager, Colbath, Turner, Anderson

This application was U/A GRANTED with no conditions.

It is the Board's Conclusion that, if the applicant complies with the strict letter of the ordinance, he does face an unnecessary hardship. This conclusion is based on the following findings of fact: We imposed the zone, and the situation has changed.

It is the Board's Conclusion that, if granted, the variance will deliver substantial justice. This conclusion is based on the following findings of fact: Allows legitimate use of the property.

It is the Board's Conclusion that, if granted, the variance will be in harmony with the spirit and intent of the zoning ordinance. The conclusion is based on the following findings of fact: Will not have a great impact with the spirit and intent.

It is the Board's Conclusion that, if granted, ~~the~~ variance will result in a diminution in value of surround properties. This conclusion is based on the following findings of fact: Detailed evidence submitted to support no diminution of

surrounding properties\*.

It is the Board's Conclusion that, if granted, the variance will be of benefit to the public interest. This conclusion is based on the following findings of fact: Supplying a recreational facility and service to the community.

Therefore, based upon the foregoing, it is ordered that the application for the variance be GRANTED. If granted, it is subject to the following conditions: NO

Item #4: Opened Public Hearing: 9:23 P.M.  
H88-9 Barbara and William Scotti, 863 Central Ave., also known as Assessor's Map 38, lot 5, zoned B-3, request a variance from terms of Article IV, Section 170-12, Table of Use Regulations, Table I: Principal Uses, Part C, to operate and eating and drinking establishment in a B-3 zone on a lot with approximately 14,425 sq. ft. where a minimum of 60,000 sq. ft. is required.

Application submitted by: Attorney Evans for T.J. Cinnamon, Crumb Castle for Barbara and William Scotti.

Motion to accept application  
Seconded

Sitting: Bowden, Hager, Colbath, Turner, Anderson

This application was DENIED

One (1) Vote by Hager to Grant

Four (4) Votes by Bowden, Colbath, Turner, Anderson to Deny

It is the Board's Conclusion that, if the applicant complies with the strict letter of the ordinance, he/she does not face an unnecessary hardship. Has reasonable use of the property.

It is the Board's Conclusion that, if granted, the variance will not deliver substantial justice. This conclusion is based on the following findings of fact: He has reasonable use of his business and the fact he cannot have tables on the premises is merely an inconvenience not an injustice.

It is the Board's Conclusion that, if granted, the variance will not be in harmony with the spirit and intent of the zoning ordinance. The conclusion is based on the following findings of fact: The square footage requirement is approximately four (4) times the square footage available.

It is the Board's Conclusion that, if granted, the variance will not result in a diminution in value of surrounding properties. This conclusion is based on the following findings of fact: No evidence presented (Note this was U/A)

It is the Board's Conclusion that, if granted, the variance will not be of benefit to the public interest. This conclusion is based on the following findings of fact: To allow a business with insufficient parking square footage would not be of benefit to the public safety.

Therefore, based upon the foregoing, it is ordered that the application for the variance be DENIED.

Item # 5: Open public hearing: 9:55 P.M.  
H88-10 Dana and Monica Crocket (Applicants: Bruce and Constance Dockham) 125 Middle Rd., lot 11, Gordon's Mobile HOME Park, also known as Assessor's Map TM00, lot 062011, zoned R-20 requests a variance from terms of Chapter 126, Section 126-5.F to place a new mobile home on a lot with ten (10) foot setback from the front of the lot line where twenty (20) feet is required.

Application submitted by Dana Crocket and Monica Crocket

Hager Motion to hear applicant  
Delanor seconded

Sitting: Bowden, Hager, Colbath, Turner, Anderson

This application was U/A Granted with no conditions

It is the Board's Conclusion that, if the applicant complies with the strict letter of the ordinance, he/she does face an unnecessary hardship. This conclusion is based on the following findings of fact: Time and circumstances have created a special condition in the land which creates the hardship.

It is the Board's Conclusion that, if granted, the variance will deliver substantial justice. This conclusion is based on the following findings of fact: Allows them lawful use of their property and reasonable housing.

It is the Board's Conclusion that, if granted, the variance will be in harmony with the spirit and intent of the zoning ordinance. The conclusion is based on the following findings of fact: The current dwelling doesn't meet the set back requirement and the new home will not change the currently existing condition.

It is the Board's Conclusion that, if granted, the variance will not result in a diminution in value of surrounding properties. This conclusion is based on the following findings of fact: No evidence.

It is the Board's Conclusion that, if granted, the variance will be of benefit to the public interest. This conclusion is based on the following findings of fact: Replacement unit will be of a safer and higher quality.

Therefore, based upon the foregoing, it is ORDERED that the application for the variance be GRANTED. If granted, it is subject to the following conditions: NO

Item #6: Public Hearing Opened: 10:09 P.M.  
H88-11 Scott Perry and Lester Butler, 3 Gov. Sawyer Ln. also known as Assessor's May 17, Lot 161, zoned R-12, requests a variance from terms of Article V, Section 170-16 to construct a deck with a rear setback of approximately nine (9) feet where twelve (12) feet is required (Refer to Section 2, Amendment 4, Chapter 170, rewording definition of "Building" in 170-6, effective dte 6/16/87).

Application submitted by Lester Butler

Hager Motion to hear applicant  
Turner seconded

Sitting: Bowden, Delano, Hager, Colbath

This application was U/A GRANTED with no conditions

It is the Board's Conclusion that, if the applicant complies with the strict letter of the ordinance, he/she does face an unnecessary hardship. This conclusion is based on the following findings of fact: Site condition required the building be place in a specific area. At the time of the foundation being paved the ordinance did not pertain to open deck.

It is the Board's Conclusion that, if granted, the variance will deliver substantial justice. This conclusion is based on the following findings of fact: Allows lawful use of the property.

It is the Board's Conclusion that, if granted, the variance will be in harmony with the spirit and intent of the zoning ordinance. The conclusion is based on the following findings of fact: Ordinance interpretation changed during the construction of the dwelling.

It is the Board's Conclusion that, if granted, the variance will not result in a diminution in value of surrounding properties. This conclusion is based on the following findings of fact: No evidence.

It is the Board's Conclusion that, if granted, the variance will be of benefit to the public interest. This conclusion is based on the following findings of fact: No evidence to show the public interest would be harmed.

Therefore, based upon the foregoing, it is ordered that the application for the variance be **GRANTED**. If granted, it is subject to the following conditions: **NONE**

Hager Motion to adjourn  
Delanor Seconded

Public Hearing closed 10:31 P.M.

Note discussion as to a member stepping down....  
conflict as to undo influence.