

DOVER ZONING BOARD OF ADJUSTMENTS
MINUTES OF MEETING

MEETING HELD: March 17, 1988 in the Council Chambers of the
Municipal Building in Dover, New Hampshire

MEMBERS PRESENT: Joyce Bowden, Mark Delanor, Bill Colbath,
Randy Turner(*was late), Steve Stancel, Tom Clark, Building
Inspection

Mrs. Bowden called the meeting to order at 7:11 P.M.
No review of minutes of last meeting.

Discussion re: Donald Hayes H87-51, 177 Spur Road,
construction of a boat dock and pier in the Conservation
District. Mr. Coleman was present for Mr. Hayes. He was
advised that there were only 3 voting members available and
that a unanimous decision was required in order to approve
variance and two members were not familiar with the case as
the the original members were no longer serving on the Board
and not present. Mr. Coleman stated that he understood the
circumstances but was prepared to go forward.

Delanor, motion to hear application
Seconded

Stancel, original members should be present to re-hear
application.

Preston, of the Planning Board, advised the Board that if
this situation happened the members on the Board could go
forward.

Coleman, presented the Army Core Engineering Report together
with the air photo.

Delanor, motion to bring off "table" and decide tonight
Colbath, seconded
Bowden, reviewed articles regulating docks.
Delanor, motion to approve variance
Colbath, seconded
Bowden, agreed to approval

Stancel, updated By-Laws were reviewed, finalized/approved.

Stancel, reviewed letter drafted to Mr. Perry, City Manager

regarding ZBA members appearing in court be reimbursed by the City, for the difference between the court payment and the members regular wage. His verbal discussion with Mr. Perry met with no objections.
Bowden, wait to hear from attorney prior to approving request.

Bowden, discussion re: Dube v. Grimes note: Board granted and Court disagreed with Board.

Bowden, discussion re: Building Inspector's Office. Applicants who are not granted permits are going to the Building Inspector's Office. Revise the check list - indicating that the applicant is responsible for obtaining all the information when requesting a variance.

ZBA: Public Hearing called to order 7:31 p.m.

Delanor, motion to suspend normal Rules of Order
Colbath, seconded
Bowden, reviewed the procedure with the applicants.

ITEM #1: H88-12 - Peter O. Widmark, 34 Floral Ave., a/k/a Assessor's Map, Lot 34, zoned RM-20, requests a variance from Article IX Section 170-32.E.(6) to increase an existing sign from approximately twenty (20) sq. ft. to approximately thirty (30) sq. ft. where a maximum of sixteen (16) sq. ft. is allowed.

Application submitted by Albert E. Souther, Attorney for Widmark.

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: Size and shape of lot and the distance of the building from the road creates an unnecessary hardship.

It is the Board Conclusion that, if granted, the variance will deliver substantial justice. This conclusion is based on the following findings of fact: allows adequate business identification which protects the safety and welfare of the

public.

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 facts: readily identify his business and creates an agreeable communication as called for in the ordinance.

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: to ease identification at a difficult intersection.

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 evidence.

Item # 2: H88-13 Thomas C. Dunnington, Jr., 230 Washington St., a/k/a Assessor's Map 10, Lot 014 zoned RM-10, requests a variance from Article II, Section 170-6, Definition of Customary Home Occupation sub-section (2) to have two (2) non-residents employed where one (1) is allowed; sub-section (4) to have approximately 1,800 sq. ft. devoted to such use where a maximum of 600 sq. ft. is allowed; and sub-section (6) to have a sign with a maximum size of eight (8) sq. ft. where two (2) sq. ft. is allowed.

Application submitted by Thomas C. Dunnington, Jr. together

with plans for proposed office and additional parking spaces.

Colbath motion to accept the application
Turner, seconded.

Oppositions and or requests for clarification:
Phil Gillis, Lexington St., zoning ordinance for common good concerned with the increase in traffic and size of sign.

Mr. Preston, (Chair of Plan Board) referenced RM10 noted that the size of the property in question would allow the owners to build and/or sub divide into apartments which would increase even more traffic.

John Guy, Lexington St., concerned that the variance be very specific as to conditions including exterior of home.

It is the Board's conclusion that, if the applicatn complies with the strict letter of the ordinance, lhe does face an unnecessary hardship. This conclusion is based on the following findsings of fact; Based on size of dwelling and property this property was in excess of 3 times the size of other homes in the area. To apply the ordinance to a home and property of their size creates an unnecessary hardship. This property is unique in its size.

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 him reasonable use of his property without adverse affect to surrounding 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; Due to the extreme size of the structure the granting of their variance still keeps the home occupation under 25% of the area.

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: Based on the information presented and with no external changes the board feels there will be no diminution in value.

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: the development proposed has the least impact on the surronding area, services and traffic.

Therefore, based upon the foregoing, it is ordered that lthe application for the variance be granted. If granted, it is subject to the following conditions: 1. screen the parking area to the Building Inspectors satisfaction; 2. no more

than 2 non-resident employees; 3. no increase of approved net floor area for law offices as presented this date.

This application was U/A granted.

Item # 3: Daniel F. Hashem, d/b/a/ Strafford Tire Inc., 118 Broadway a/k/a Assessor's Map 27, Lot 291, zoned B-3 requests a variance from terms of Article V Section 170-16 to construct a roof on a building with a twenty-four (24) foot front setback where fifty (50) feet is required and a variance from terms of Article X, Section 170-41.A to enlarge a non-conforming structure.

Applicatin submitted by Daniel F.Hashem.

Delanor motion to accept the application
Colbath seconded

Oppositions and/or request for clarification: None

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 has created the special condition that creates an unnecessary hardship. In 1969 - setback 20' building built and conformed. City changed ordinance and set back requirement in 78. City created 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: Allow the applicant full use of the property under the terms of the ordinance when built before the city created the hardship.

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 spirt is to bring property into conformity.

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: No evidence presented that it will be detrimental.

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: As per plans described.

This application was U/A Granted.

HBB15- Salvator <A> Castiola, 139 Spur Rd., a/k/a/ assessor's Map L. Lot 36, zoned R-20 requests variances from: (A) The terms of Article V, Section 170-16 to construct an addition approximately ten (10) feet from a front property line where a minimum of thirty-five (35) feet is required; (B) The terms of Article V, Section 170-16 to permit a structure to maintain a floor ratio of approximately 0.37 where a maximum floor ratio of 0.2 is

allowed; (C) The terms of Article X, Section 170-41.A to enlarge a non-conforming structure; (D) The terms of Article VII, Section 170-27.E. (6) to erect a structure approximately forty-one (41) feet from the mean high water mark where a minimum of seventy-five (75) feet is required, and; (E) The terms of Article VII, Section. 170-27.E.(7) to increase an existing structure by approximately one hundred and one (101) percent where a maximum of twenty (20) percent is allowed.

AND

H88-16 Salvatore A. Castiola, 139 Spur R., a/k/a/ Assessor's Map L, Lot 36, zoned R-20 requests a Special Exception as provided by terms of Article VII, Section 170-27.C.(2) and Article XII, Section 170-52.C.(3) to permit development in the Conservation District. (This item will be heard if previous item is granted.)

Application submitted by Garry Bosic (son-in-law)
Delanor, Motion not to accept application(s) at this time.

No renotification of application to be on agenda until all information is available.

Turner, Seconded

Board is to visit site together with the property owner and/or representative. In addition, a Conservation report is needed before voting on the variance.

H88-17 Shirley M. Hennessey, d/b/a/ Lipson's, 63 Fourth St. a/k/a/ Assessor's Map 31, Lot 4A, zoned RM-8 requests variances from: (A) The terms of Article X, Section 170-41.B to restore a building destroyed by fire to more than its former bulk; and (B) The terms and Article X, Section 170-40.A, to increase a non-conforming use.

Application submitted by Ray Hennessey

Turner, Motion to accept application
Delanor, Seconded

Oppositions and/or request for clarification

Ruth Ann Kell, #17 Dover Station: noise level, delivery quiet after building came down-let him relocate.

Karen Harvey, #6 Dover Station: noise level, loading am & pm.

Scott Pierson, #1 Dover Station: children in area, noise.

Diane Barbour, #8 Dover Station 3-4am noise re Fridg. units of trucks.

Skipp Schultz #11 Dover Station: area not cleaned up, garbage, odor, health hazard, 2 stories less sun, would not have bought home if building was to be a 2 story high bldg., privacy reduced,

Wendy Schultz #11 Dover Station: opposes Helnessy pays \$9,000 in taxes for business, while owners pay \$1,000 (per year) in taxes of condos x 24 units.

12/24 date of fire

3/17 smell of garbage etc.

Nicole Pierce, #1 Dover Station: Limitation on variance as

Steve Leavett to type of business
#18 Dover Station: 3 story building

REBUT:

Hennessey: Clean up: no garbage in cellar,
EPA Guidelines
Last truck load - was today
All materials removed are sorted
ie metals/woods/
Note at time of variance for Dover Station
Hennessey requested it be noted that his
business infact way noisy.
Realizes truck is loud as it is 10-yrs old
Why move? 30 years in business.
Time of the essence - busy season
cellar - dangerous
volume increase
zoning changed around Hennessey

REBUT:

Scott Pierson #1 Dover Station: extra storage no cellar
made up on top - more business

Tom LeFleur #14 Dover Station: Load on other side of
building

Hennessey: Not practical to load from other end.

It is the Board's conclusion that, if the applicant complies with the strict letter of the ordinance, he does/does not face an unnecessary hardship. This conclusion is based on the following findings of fact: The configuration of the land does not allow reasonable use of the land and building.
For: Colbath, Delanor, Turner
Against: Bowden

It is the Board's conclusion that, if granted, the varians will deliver substantial justice. This conclusion is based on the following findings of fact: Allows him reasonable use of his property and business.
Will: Delanor, Colbath, Turner
Won't: Bowden

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: Rebuild for height only which is within the height limits of the zone itself.

Will: Turner, Colboth, Delanor
Will Not: Bowden

It is the Board's Conclusion lthat, if granted, the variance will/will not result in a diminution in value of surround properties. This conclusion is based on the following findings of fact: Evidence presented and the Boards feelings are lthat it is possible that a diminution in value of surrounding properties could ddooccur.

This was U/A

It is the Board's conclusion that, if granted, lthe variance will/will not be of benefit to the public intereste. This conclusion is based on the following findings of fact: Based on testimony given this variance will allow a structure to be erected that the surrounding neighborhood feels would not be in their best interest. No further testimony was given.

Will: Colbath
Will Not: Turner, Delanor, Bowden

Thjerefore, based upon the foregoing, it is ordered that the application for the variance be denied. If granted, it is subject to the following condisitions

Based on the fact it did not meet the 5 point test.