

ZONING BOARD OF ADJUSTMENT
MINUTES
AUGUST 11, 1988

MEMBERS PRESENT: Barry Hager, Joyce Bowden, William Colbath
Randy Turner, David Anderson

ALSO PRESENT: Tom Clark and Steve Stancel

Meeting brought to order at 7:15

NEW BUSINESS

Steve Stancel passed out flyers on upcoming workshops he thought the Board might be interested in attending at the City's expense.

He also gave them a copy of the latest "Board of Adjustment Handbook."

OLD BUSINESS:

H88-18 Michael Rosholt

Joyce Bowden stepped down and Barry Hager took over the meeting.

Mike Rosholt supplied a recent deed to his property dated 8/11/88 which proved that he indeed owns the 50' right-of-way. He also stated that he has supplied the Board with all the information they required.

Steve Stancel stated that the Planning Department was against the variance because they cannot see a hardship.

FINDING OF FACTS

1. He does not have a hardship. He does have reasonable use of his land.
2. If granted, the variance will not deliver substantial justice as the property can be used as it is now.
3. If granted it will not be in harmony with the spirit and intent of the zoning ordinance due to the frontage requirements.
4. The variance will not result in a diminution of property value because no evidence was presented.
5. It will not be of benefit to the public interest because no evidence was presented that it would be a detriment.

DENIED
VOTE U/A

H88-35 Jay Edwards - Underwood Enterprises

Jack Dolan spoke for Mr. Edwards. He explained that they were seeking to create 3 lots with insufficient frontage. he said that when they were before the Board in November the Board gave them a variance with conditions that only single family homes be built. He also stated they have backed the house lots away from the slopes.

Mr. Dolan feels there is an unnecessary hardship due to the nature of the land and he feels that granting the variance would allow for reasonable use without congestion.

He feels it will deliver substantial justice and will not have an adverse affect to abutting property and it will be a benefit to put the land to productive use.

Randy Turner made a motion to accept the case.
William Colbath seconded

VOTE U/A

Joyce Bowden read the last minutes of the case which stated that only 4 single family homes be built.

AGAINST

Don Smith, 44 Back River Road stated he bought land on Back River Road because it was a quiet place. He is against people getting 1 variance on top of another. He feels it defeats the purpose of Zoning.

Steve Stancel spoke against the variance because he feels there is not an unnecessary hardship and the conditions of the previous variance doesn't hold them to accepting this case.

Mr. Dolan stated they are trying to provide for growth in a measured manner. If they wanted to they could put in multi-family units, but they don't want to develop intensely.

Steve Stancel pointed out that single family is allowed with the proper road frontage.

CLOSE PUBLIC HEARING

Discussion ensued on how up-front they were last time they were before the Board; the number of condo's that could be put in; how it is a rural area and people would like to keep it rural. The point was made by Barry Hager that single family homes would limit the traffic. Mr. Turner stated that

if we force him to put in a City Street it will force him to overdevelop the land. He would rather see 3 houses than a lot of Condo's.

FINDING OF FACT

1. Does He face an unnecessary hardship?

Does Not: David Anderson
Joyce Bowden
William Colbath
Barry Hager

Does: Randy Turner

2. Will not deliver substantial justice because there was no injustice - the prior variance delivered justice.

Will: Randy Turner

Will Not: David Anderson
Joyce Bowden
William Colbath
Barry Hager

3. Will not be in harmony with the spirit and intent of the zoning ordinance because it does not meet the specifications of the ordinance.

Will: Randy Turner
Barry Hager

Will Not: David Anderson
Joyce Bowden
William Colbath

4. The variance will not result in a diminution in value of surrounding properties because there is no evidence presented

VOTE U/A

5. Will be of benefit to the public interest because it would mean less density.

VOTE

Denied Joyce Bowden
David Anderson
William Colbath
Barry Hager

Granted Randy Turned

DENIED

H88-41 Janet & Anthony Irons and Daniel Quinto, 430/4232 Dover Point Road, A/K/A Assessor's Map 8, Lots 28 and 29, zoned B-1, requests a variance from the terms of Article IV, Section 170-012, Table I, Part C, to establish a commercial recreation facility in a B-I Zone.

Tony Irons, owner, explained that there are 2 parcels by 2 different owners. The land surrounding the property is owned by the state and by the city of Dover. There are no other abettors.

He said the 2 lots will be joined. One of the lots #28 was granted a variance for office use 2 years ago. That piece is owned by himself. The Carpenter's Union is the owner of the other lot.

The plans are a fitness center, office space and a restaurant.

Steve Stancel stated that you can only have 1 principal structure on a lot.

Tony Iron made it clear that there is no definition of the use in the ordinance. He wants a fitness Center and the closest thing in the ordinance is a commercial recreation Facility.

Mr. Iron claims that rerouting of the road has made the land unviable for anything but a service club. A single residence would be permitted but due to the noise it is not feasible.

By granting him this use the spirit of the Zone will be kept in tact. He states that the land is unique because of its position between 2 bridges.

David Anderson made a motion to accept the case.
Dana Turner seconded.

Vote U/A

Steve Stancel stated that the Planning Dept. is in favor of this project. It is on a dead end street and of the 7 possible uses for the site this would be a good use. There is a hardship in the land also the lots are very unique in that area.

Mr. Iron stated that the Health Center will take up 2 floors and the building will be 5 stories high.

CLOSE PUBLIC HEARING

5 POINTS

1. He does face an unnecessary hardship because his property

is unique and the allowed uses are not viable in this area. Circumstances in the area prohibit reasonable use of the land under present zoning regulations.

2. The variance will deliver substantial justice and allow him a viable, reasonable use of this property.
3. The variance will be in harmony with the spirit and intent of the zoning ordinance based on the following findings of fact: B-I zone was designed for commercial use.
4. The variance will not result in a diminution in value of surrounding properties because no evidence was presented.
5. The variance will be of benefit to the public interest because it will be offering a service to the public and it will keep the commercial character of the zone.

GRANTED U/A with the following condition:

1. The lots 28 and 29 be combined for the purpose of this variance.

H88-42 William & Grace Huff and Norman Labrie, 30 Cushing St., A/K/A Map 10, Lot 81, zoned Rm-10, requests an appeal from an administrative decision concerning a non-conforming use (Article X, Section 170-40).

Alan Crans, an attorney, spoke for the participants. He said that Mr. Huff has owned the farm house with the 5 bay garage since 1962. He has been using this garage for storage for his furniture storage and moving business on 3rd street.

There will be no enlargement when Mr. Huffs transfers to Mr. Labrie. Mr. Labrie will be storing plumbing supplies, piping, PVC, hot water heaters. He will not be running a retail business. It will be secondary storage. There will be no parking of vehicles at night.

Tom Clark felt that changing a 5 bay garage from overflow furniture to allow Mr. Labrie to store plumbing adds to a non-conforming use.

Dan Gabriel, a realtor, and resident agreed with Mr. Crans and he does not see any adverse affects to the area. The use will just continue as storage as it has been. He feels the variance should be granted.

Mark Adams states it will not be any worse when Mr. Labrie carries on with storage as long as there are conditions put down not to have commercial vehicles there. He see no problems with it.

Close Public Hearing

David Anderson made a motion to vote on whether it is an increase in non-conforming use.
Randy Turner seconded.

VOTE - It is not an increase in a nonconforming use.

U/A

This decision was made based on the testimony given that the facility will be a secondary use and everything will be kept inside and no storage of vehicles will be left overnight. It will not be used as a workshop. Based on this the Board feels there is no change in non-conforming use.

H88-44 Dana & Monica Crocket (Applicant: David & Debra Wilson), request a variance form the terms of Chapter 126, Section 176-5.F to place a new mobile home on a lot which will have a zero front setback where twenty (20) ft is required, a ten (10) ft side setback where twelve (12) ft is required and a ten (10) ft rear setback where fifteen (15) ft is required.

David Willson's (8' X 38') "1958" mobile home has many things that must be replaced. There is a sever space problem and safety factor. He has found a 12 X 50" mobile home to replace the old one. If the variance is granted it will give him more room and a safer home for his family.

David Anderson motioned to accept the case.
Barry Hager seconded

Biran Peletier, Middle Road owns a trailer parallel with Mr. Willson's. He doesn't want to loose his property value. There is not 14 feet between the trailers and he doesn't feel the same distance can be maintained when the larger mobile home is put in.

Steve Stancel said the Planning Dept. is neither for or against the variance. The park doesn't come close to health and safety standards and they realize that it is a fire hazard if they stay in the existing trailer. Actually the Park owner should come in for a variance and the park could be upgraded.

Mr. Willson stated that Dana Crocket has the trailer park up for sale. There are no designated lots in the park.

CLOSE PUBLIC HEARING

5 POINTS

1. He does face an unnecessary hardship because the

condition of the home is unsafe. It is currently an unsafe situation which cannot be corrected without a variance.

2. If granted the variance will deliver substantial justice because It will give the applicant reasonable, safer and adequate uses.
3. It is the Board's conclusion that, if granted, the variance will be in harmony with the spirit and intent of the zoning ordinance because it is a single family housing zone and this is a single family.
4. The variance will not result in a diminution in value of surrounding properties because no evidence was given.
5. The variance will be of benefit to the public interest because of safer circumstances will prevail with a new trailer.

GRANTED - With the following conditions:

1. The applicant's new trailer will be placed no closer to the home of Brian Pelletier than it currently is.
2. All construction will be completed within 60 days.

The Building Inspector's office will inspect for compliance.

H88-45 Paul & Anna Proulx (Applicant: Robert Smith), 51 Sixth Street, A/K/A Map 30, Lot 47, zoned RM-10, requests a special exception as provided by the term of Article VI, Section 170-25.1, and Article XII, Section 170-52.C(3) to construct a four (4) unit apartment in a RM-10 Zone.

Mark Peter with Civil Works represented Mr. Smith. They will create a 10 off-street parking spaces, screened with vegetation. It will not contribute to vehicular traffic or have an adverse affect on pedestrian traffic. It will provide housing near town and meets all the requirements. There is good visibility in both directions . There is an 8" water main on 6th Street. It will have an impact of 0.2 percent and it has a 15" sewer main.

They will provide a crush stone dry well.

Anderson motions to accept the special acceptance.

Dana Turner seconded
Vote U/A

Steve Stancel is against because of the wetland on back of lot and the lot coverage is more than the lot is allowed.

Steve Stancel said it is confusing because he is using percentage rather than feet.

Paul Conolly interprets developed to mean to it potential. Developed has a different definition to a lot of people. He feels he is applying it fairly to the ordinance to the best of his ability.

There was a discussion on whether or not this case meets the criteria set in the ordinance and if there is an existing house on this lot is already developed.

Steve Stancel stated the Ordinance is self explanatory and if there are any questions the case should be tabled.

Motion was made to TABLE and to talk to Scott Woodman.

VOTE U/A

It will be back under Old Business at the next meeting.

H88-46 William & Shelia Dube, 252 Dover Point Road, A/K/A Assessor's Map L, Lot 96L, zoned R-20, requests a special exception as provided by the terms of Article VII, Section 170-27.C(3) and Article XII, Section 170-52.kC(3) to have a boat dock on a residential lot.

John Lang of Lang Construction represented Mr. & Mrs. Dube. and stated it would allow the Dube's to travel safely to the boat and would not create undue congestion. It was just a small residential dock for a single boat. It doesn't use municipal systems and will have 1 electric outlet. it will 40' form abutter's property which is more than required.

Against

Mr. Arthur Grimes, 252 Dover Point Road is against the dock be cause of the total disregard of the procedure required to put in a dock. He said that before the variance the dock was already in use. he resent having served on many boards and having people that do not follow rules.

Mr. Dube, owner said he contracted with Mr. Land to build the dock. He thought Mr. Land had all the approvals he needed until he received a Cease & Assist letter from the Building Inspector's office.

Tom Clark spoke to Mrs. Duby and he authorized them to finish the work. Mr. Dube thought it was the OK to continue the dock.

Tom Clark said there was a definite breakdown in

communications

Pilings had been installed and there was nothing to stabilize them. They should be allowed to secure the pilings.

The B.I's Office didn't follow up as soon as they should have

Arthur Grimes states that the Army Corp of Engineers has no record of the Dube's application.

Public Hearing closed.

The Board agreed that the conditions have all been met.

VOTE U/A

Joyce Bowden said that we are going by the Map L and Lot 96L address.

Joyce made the motion to grant the special exception.

Vote U/A

GRANTED

Discussion ensued on the various cases that were heard during the evening.

Randy Turner made the motion to adjourn.
Joyce Bowden seconded.

VOTE U/A

Meeting adjourned at 10:25.