

ZONING BOARD OF ADJUSTMENT  
MINUTES OF MEETING  
MARCH 19, 1992

MEMBERS PRESENT: Bob Callan, Joyce Bowden, Bill Colbath,  
Randy Turner, Dean Trefethen, Chris Jacobs

ALSO PRESENT: Tom Clark and Steve Stancel

Meeting brought to order at 7:06 PM.

Bob Callan did not sit on the Board this evening.

Item #1: New Business

Chris Jacobs made the motion to approve the minutes.  
Bill Colbath seconded.  
VOTE U/A

ITEM #2: Old Business

- a) H91-17 Mr. Pleasant Trust, Hanson Ave., a/k/a Assessor's Map 21, Lots 26-27, 26-29, 26-31, 26-32, 26-34, 26-35 & 27-37, zoned R-12, requests variances from the terms of Article V, Section 170-16, for relief from the front setback requirements as shown on the plans submitted.

(NOTE: This item is being heard as a result of a motion for rehearing being granted on February 20, 1992. At the applicants request, the number of setbacks have been reduced from seven (7) to three (3).)

Malcolm McNeill represented the case. He told how they first sought variances on 7 lots. On February 5, they filed a motion for a rehearing for 5 lots and as a result of further engineering they have brought it down to 3 lots. They have identified the truly unique lots as Lots 26-31, 26-32 and 26-34. He stated that because it is an established subdivision, there is no reason why someone can't come back for relief. He stated that cost is an issue here but it is not the primary issue. The primary consideration is that these lots are unique because of the slopes. He stated that the hardship is not the plight of the owner but the uniqueness that warranted the Board's consideration.

John Shagnon, an Engineer with Ambit Survey, demonstrated with a model, the slopes and the relationship of the houses and driveways to the slopes keeping the 30 foot setback and then at the 15 foot setback.

Malcolm McNeill stated that there is concern with using too much fill. By allowing the 15 foot front setback, it would reduce the amount of fill needed, make the houses more compatible to the street, place the house further from the

neighbors and increase the safety and stability of the site. He stated that the hardship is in the slope of the lots. Substantial justice would be served because of the safety factor of the access, and the possibility of future problems would be reduced. Placing the houses further from abutters is desirable. Public safety would be served by reducing the lot disturbance and increasing safety for police, fire and owners. The spirit and intent of the ordinance would be served because the property would be used in a reasonable way. Modification of rules is clearly in the spirit and intent of the ordinance. Atty. McNeill stated that these are starter houses for first time home buyers. There are no garages. He stated that a condition could be added that no additional fill be brought in beyond 60 additional yards. He said that there are protective covenants with this subdivision and this would be added to them. Also, a condition that no further subdivision of these lots be put into the covenants.

Discussion ensued regarding the amount of fill necessary for a 12 ft. setback, retaining walls and erosion controls.

Peter Whitman referred to a salt box which has been built. He stated that they will be doing similar site stabilization, using a retaining wall where required, rye grass, or rocks. With the houses set closer to the road, there will be more room to stabilize the site.

Dean Trefethen suggested putting the driveways across the front of the houses.

John Shagnon stated that the width of the lots does not allow that.

There was discussion on the fill that has to be put in initially just to get the foundation in. John Shagnon answered that the reason it didn't show on the plan was the drawing gets too jumbled if all the lines are shown.

Chris Jacobs stated that the type of information that was brought in tonight was what the Board needed in order to make their decision.

Steve Stancel stated that the Planning Department is in favor of the variance. He said that, unfortunately, the regulations require rigid setbacks. Ideally, they would be flexible depending on topography, wetlands, density, etc. He stated that this subdivision came before the Board before an ADS subdivision was allowed, consequently a conventional grid subdivision was approved. He said that he would make the following recommendations:

1. The restriction of any future fill, after the Certificate of Occupancy is issued, to a maximum of 60 yards.



VOTE U/A

5. The variance will be of benefit to the public interest as it reduces safety issues and minimizes lot disturbance.

VOTE 3 - 2

Against - Randy Turner  
Dean Trefethen

Dean Trefethen made the motion to grant the variance with the following three conditions but to grant the variance at 15 feet for all three lots:

1. Limit utilization of fill after Certificate of Occupancy issued to a maximum of 60 cubic yards.
2. No further subdivision of the lots in this subdivision.
3. Setback relief given to the front is added to the rear.
4. Lots 31, 32 and 34 to be given relief of 15 feet for each lot.

Chris Jacobs seconded.

VOTE 4 - 1

Against - Randy Turner

Bill Colbath made the motion to adjourn.

Chris Jacobs seconded.

VOTE U/A

Meeting adjourned at 8:55 PM.