

MINUTES FOR ZONING BOARD OF ADJUSTMENT
JANUARY 21, 1988
COUNCIL CHAMBERS

MEMBERS PRESENT: Bill Colbath, Joyce Bowden, David Anderson, and Randy Turner.

ALSO PRESENT: Steve Stancel - Planner, Tom Clark - Building Inspector's Office and Marjorie Sukeforth - Recording Secretary.

Ms. Bowden called the meeting to order at 7:15 P.M. at which time Mr. Anderson was appointed Acting Chairman. By unanimous vote Ms. Bowden was elected Chairman and Mark Dellner Vice Chairman for the current year.

Discussion regarding applicants' submission of requests to the ZBA resulted in the Board stating that at least nine copies of the request and accompanying plans must be submitted before presenting a case. The applicant must be notified beforehand that it will be presented in a clear, concise manner.

Mr. Anderson moved that the February meeting of the Board be changed from the 18th to the 25th. Mr. Turner seconded and it was so voted.

Mr. Stancel then noted that a Workshop has been scheduled for February 11 at 7:00 P.M. to discuss the progress of the Master Plan by the Planning Department and to go through the ZBA By-laws to see what changes the Board may request.

The regular meeting of the Zoning Board of Adjustment was opened to the public at 7:30 P.M.

CASES HEARD:

H87-70 - John and Alexandra Powers and Armand and Patricia Vallee - Item removed from Table of 12/17/87 meeting - Judy Hotham speaking for the applicants.

The above application was DENIED for the following reasons:

1. 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. This CONCLUSION is based on the following FINDINGS OF FACT: Constraints of the interim growth management place no unnecessary hardship that is not shared by all who are involved in major subdivision.

2. 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: Spirit and intent of the interim growth management is to allow the City time to develop the Master Plan to insure substantial justice which is not served by premature development.

3. 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: Spirit and intent of the interim growth management ordinance is to prohibit the premature development of major subdivisions until the Master Plan has been developed.

4. 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 submitted.

5. 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: The public interest is best served by the enforcement of the interim growth management to give the City time to develop the Master Plan.

Three members of the Board VOTED FOR DENIAL with one DISSENTING VOTE - Randy Turner.

H88-1 - Marc Blumenthal and Susan Norman - Marc Blumenthal speaking for the applicants.

Following much discussion regarding drawings presented and whether or not the buildings in question are, in fact, detached, the Board UNANIMOUSLY VOTED TO DENY ACCEPTANCE OF THIS REQUEST.

H88-2 - The Board had received a verbal request to remove this item from the previously-distributed agenda. This request is to be followed in writing. The Board, therefore, took no action on this matter.

H87-62 - George Demosthenes - Removed from the Table of the 11/17/87 meeting - Bill Fogarty speaking.

This item was tabled at the November meeting because the City of Portsmouth, as an abutter, had not been contacted regarding the request. The Board requested that an up-to-date, accurate, drawn-to-scale drawing be presented before further consideration be given to this request. The Board, therefore, UNANIMOUSLY AGREED TO NOT ACCEPT THIS REQUEST.

H88-3 - Clifford and Barbara Leighton - Bruce Bond speaking.

The Board UNANIMOUSLY AGREED TO ACCEPT THIS REQUEST - and UNANIMOUSLY VOTED TO APPROVE THE SPECIAL EXCEPTION, with the stipulation that if the new Ordinance now in draft form is accepted by the Planning Board, the Leightons must meet the requirements of the new Ordinance. Mr. Stancel noted that this parcel has been identified as part of the aquifer re-charge area and that this may affect their plans in the future.

H88-4 - RFT Development, Inc. - Dave Goodwin speaking

Randy Turner MOVED and David Anderson SECONDED and it was VOTED to accept the Application.

In discussing this site the Board agreed that the signs requested would be acceptable as contained in the drawings submitted and UNANIMOUSLY VOTED TO GRANT THIS EXCEPTIDN FOR THE FOLLOWING REASONS:

1. 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: To comply with the strict letter of the ordinance would result in a sign less attractive, less communicative, less aesthetic.
2. 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 him to advertise in a more effective, aesthetic and pleasing and way and more in keeping with the neighborhood.
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. This CONCLUSION is based on the following FINDINGS OF FACT: Spirit and intent is to promote an attractive sign in context with the neighborhood.
4. 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 shown.
5. 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: Allow more attractive use of the allowable signage.

THEREFORE, based on the foregoing, IT IS ORDERED that the application for the variance be GRANTED, subject to the following condition: that it shall be based on the plan submitted.

HBB-5 - Daniel and Elizabeth Binder - Both speaking.

Randy Turner MOVED, David Anderson SECONDED, and it was VOTED to accept the application.

The above application was DENIED for the following reasons:

1. 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. This CONCLUSION is based on the following FINDINGS OF FACT: Applicant faces no greater hardship than all other residents in the area - shed can be moved to an acceptable portion of the property to satisfy the setback requirements.
2. 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: Applicant has the ability to comply with the setback requirement.
3. 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.
This CONCLUSION is based on the following FINDINGS OF FACT: The ordinance requires a 50' setback.
4. 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 given.

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5. 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: The upholding of the setback requirements and the zoning requirements are always of benefit to the general public's interest; that is why they were developed.

Three members of the Board VOTED FOR DENIAL with one DISSENTING VOTE - Randy Turner.

There being no further business to come before the Board, the meeting was adjourned at 9:50 P.M.