

ZONING BOARD OF ADJUSTMENTS  
MINUTES OF MEETING  
APRIL 21, 1988  
COUNCIL CHAMBERS

MEMBERS PRESENT: Bill Colbath, R. Turner, Vice Chairman,  
Mark Dellner, Chairman, Joyce Bowden, Dave Anderson

ALSO PRESENT: Steve Stancel and Dick Selleck

Meeting was called to order at 7:04 PM.

1st order of business to approve minutes of meetings from  
Sept. thru March.

Dellner - made motion to accept minutes.

Colbath - seconded

VOTE: U/A

Old business - motion for rehearing for Mr. & Mrs. Hennessey.

Additional evidence in the form of two letters was presented.  
Mr. Dellner felt there was enough evidence that was not  
available last month to rehear the case.

Mr. Dellner made a motion to grant a rehearing.

Mr. Anderson seconded

VOTE U/A TO GRANT A REHEARING at the next ZBA Meeting on May  
19, 1988.

Joyce Bowden stepped down, Mark Dellner took over meeting

H88-11 Michael & Cherylee Rosholt, Watson Road, A/K/A  
Assessor's Map C, Lot 50A, zoned R-40, requests a variance  
from the terms of Article V, Section 170-16, to subdivide an  
existing lot into three (3) lots, two (2) of which would have  
no frontage on a public right-of way.

Mr. Rosholt stated that he's in compliance with what he's  
asking. There is a hardship on the back 2 lots as there is  
no road frontage and needs an easement for either.

Vote U/A to hear case

Steve Stancel questioned if Mr. Rosholt had received a  
variance in Oct. 17, 1985. Mr. Rosholt said that he did but  
that was for a totally separate lot.

Mark Dellner temporarily closes the public meeting.

The board questioned how many lots there were on the private

drive. Rosholt states only 2 people will be using the road. The question came up on who owns the various lots and the deed to the 50' right-of-way. Dick Selleck said that the Board would have to find out who owns the right of way before there is a subdivision.

Meeting called back to order.

Mr. Rosholt was told a deed must be seen or proof of ownership. He must see the Building Inspector and it will come under old business at next month's meeting. Additionally, a determination will be made as to the 1985 variance and whether or not it involved this lot.

#### VOTE U/A TO TABLE

H88-19 Alfred Catalfo Jr., 10 Arch St., A/K/A Assessor's Map 11, Lot 11, zoned RM-10, requests a variance from the terms of Article v, Section 170-16 to subdivide an existing lot into two (2) lots, one (1) of which would have no frontage on a public right-of-way.

Mr. Rick Drew spoke for Mr. Catalfo. He stated that a hardship exists because of the unique shape of the lot.

#### VOTE U/A TO HEAR CASE

Rick Drew said they want to sell lot #2 with existing house and save portion in back to keep privacy in back of the house and doesn't want it subdivided again.

Mr. Goodwin, a neighbor spoke in favor of the variance.

Public Hearing closed

Board takes up discussion. Colbath would like to adjust a lot line rather than creating another lot. Mr. Drew states that Mr. Catalfo would like to possibly give it to son at some point.

Board's conclusion that the applicant does face an unnecessary hardship based on the following findings. If he complies with the exact terms of the ordinance it will create a needless restriction in the lawful enjoyment and use of his property.

Favor - Randy Turner  
Mark Dellner  
Dave Anderson

Against - Joyce Bowden  
Bill Colbath

The variance will deliver substantial justice because it will

allow reasonable use of property.

In Favor - R. Turner  
M. Dellner  
D. Anderson

Against - J. Bowden  
W. Colbath

Variance will be in harmony with the spirit and intent of the zoning ordinance. Conclusion based on the following findings of fact: Will promote the general welfare of the community and will protect the character of the neighborhood.

In favor - Anderson  
Turner  
Dellner

Against - J. Bowden  
W. Colbath

If granted the variance will not result in a diminution in value of surrounding properties based on the following finding that no evidence was presented.

In favor - U/A

If granted the variance will be of benefit to the public interest. With the stipulations attached it will result in lower density, less traffic.

In favor - U/A

The vote was taken to grant or deny the variance.

Yes - Turner  
Dellner  
Anderson

No - J. Bowden  
W. Colbath

**GRANTED WITH THE FOLLOWING CONDITIONS:**

1. No further subdivision on lot unless the 50' existing right-of-way is brought to a City road/street specification.
2. Only a single family dwelling may be built on lot.

**GRANTED 3 - 2**

H88-20 Marc Blumenthal and Susan Norman, Bayview Rd., A/A/A Assessor's Map J, Lot 22C, zoned R-40, requests a variance from the terms of Article X, Section 170-41.A to enlarge a non-conforming structure.

Blumenthal states the building in progress stopped when he found he needed a building permit. Dick Selleck gave permission to tighten up the building, installing the windows so the building would not be ruined. On his property he has

an in-law apt., a cottage and a barn which is his office. He did not realize the in-law apartment had to be registered with the town Tax Assessor and made apologies.

He said the problem about the apartment being detached came in when they took down the connector and did not rebuild it at the time because of lack of funds.

Motion made to hear case - VOTE U/A

Blumenthal states that his hardship is not being able to add onto house and to reconnect the house. He is not increasing bedrooms and has no intention to add units or more people. The building will be enhanced because of the new construction. It will have no impact on the public and does not adversely effect any abutters. No bathrooms, bedrooms will be added just sq. footage but no more usage. He read a letter of support from Bruce Ballenger and one from Gene Brown.

Bob Callan of 20 Bayview Road spoke against. He claims that Mr. Blumenthal's buildings are being assessed as sheds and have been taxed as so.

Mr. Blumenthal said he bought the property 4 1/2 yrs. ago in 1983. When purchased he bought as is. He claims no responsibility for who preceded him. There were no animals in the building, it was referred to as a studio.

Public hearing closed.

Discussion - With all the confusion it seemed best to have Dick Selleck's office check into the matter before making their own recommendation. Steve Stancel suggested a site visit. Dick Selleck agrees a site visit and a survey should be made.

VOTE TO TABLE U/A

Board will contact Mr. Blumenthal as to the date for site review

H88-21 Wayne & Dierdre Estes, Durham Road, A/K/A Assessor's Map H, Lot 6-2 zoned R-20 requests a variance from the terms of Article V, Section 170-16 to subdivide an existing lot into three (3) lots, one (1) lot maintaining insufficient frontage on a public right-of way and two (2) lots having no frontage on a public right-of-way.

Mr. Estes - Wants to put in a private drive and turn it into a City street in July. He feel it would be an injustice not

to grant this variance.

#### Opposed

Councilman William McQuade, an abutter, brought in photos that were taken on 4/20/88 showing the property in question as being extremely wet. He felt that there should be no further development until it was determined if the area in question should be a Conservation District.

Debby Miller an abutter to the west stated that they have frontage on Durham Road but have no driveway on Durham Road. In their deed they have an easement for a driveway but the builder put it half on their property and half on Mr. Estes'. She would like something in writing that they have the right to use that road throughout construction. She is not willing to share a road with 4 other families. Does not want to be tied into a private road that she has to plow.

Danny Miller - Understood that Estes said only 1 house would be built in the area and is now talking about 3.

#### Closed public hearing

Discussion ensued regarding the penciled in plot plan, the wetland situation, the driveway problem and the problem in how the case was presented.

#### DENIED U/A for the following reasons:

1. Currently has reasonable use of the land in question.
2. The issues of drainage and access raised this evening.
3. This variance will not benefit the neighborhood as currently presented.
4. There has been no evidence presented
5. The questions of drainage, aquifer protection and other issues raised this evening need to be address as presented. They're not of benefit to public intent.

H88-22 Paul and Katherine Martel, Upper Factory, A/K/A assessor's Map E, Lot 57, zoned R-20, requests a Special Exception as provided in the terms of Article VII, Section 170-27.C(1) and Article XII, Section 170-52.C(3) to construct an accessway across a Conservation District.

Peter Martel represented Paul Martel said that they have received all state and local permits.

#### Close Public Hearing

Board discussion - every thing seems to be in order.

Motion made to accept Anderson  
Seconded Colbath  
Vote U/A

H88-23 Sandie and Terry York, 26 Highland Street, A/K/A Assessor's map 10, Lot 16, zoned R-12, requests a variance from terms of Article V, Section 170-16, to subdivide an existing lot into two lots, one of which would have insufficient frontage on a public right-of-way (fifteen feet +/- where one hundred (100) feet is required.

Mr. Harry York said it would be an injustice not to grant a variance since he will not be able to use his land to its fullest potential. It would turn a useless piece of land into something useful. It would also increase the value of the property in the neighborhood and being on a dead end street it would not bother anyone.

Steve Stancel stated they would have to bring water and sewer to the manhole. Mr. York agreed.

**GRANTED** for the following reasons.

1. 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: There is a uniqueness in the size and character of the land that creates an unnecessary hardship.
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: Allow him reasonable use of his property.
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. The conclusion is based on the following findings of fact: The new lot will be conforming with all the other requirements of the ordinance.
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 presented.
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: there has been no evidence to an adverse effect.

GRANTED U/A

Meeting closed at 10:45 PM.