

PROPOSED MINUTES

ZONING BOARD OF ADJUSTMENT  
DOVER, N. H.

H78-6 - Jon Whitney  
H78-7 - Robert Mairs & Edmund O'Brien

DATE: June 1, 1978

TIME: 7:30 p.m.  
Dover District Courtroom

PRESENT: Anthony S. Hartnett, Chairman  
Helen Wersosky  
Helen Smith  
John Gintautas  
Raymond Proulx  
Anita Munroe, Clerk

Jon Whitney - Jon Whitney appeared on his own behalf. The affected property is located off Dover Point Road in an R-1 Low Density Residence District. It is a barn that was apparently once used in connection with a farm which consisted of the main house closest to Dover Point Road, the barn and a "caretaker's" cottage in back of the barn. The main house is presently owned by Constance Moxley. The petitioner is leasing the caretakers cottage and barn from C. Peter Rasmussen, M.D., Portsmouth, N.H. The barn had been used for storage when the petitioner entered into the occupancy under the lease arrangement on November 1, 1977. The petitioner indicated that he had spent time removing unwanted materials from the barn. The proposed use would involve the employment of 5 power tools, including saws and drill presses. They would be used by Whitney and his partner, Peter Bennett, for cabinet making and "interior woodworking" in connection with their house restoration business. The shop would be in use about 20% or 25% of the time and would involve the use of a 1/2 ton pickup truck. The shop would not be constantly in use since the petitioners' business requires him to work at job sites. The petitioner represented that the lot on which the barn and cottage were located was about 2 acres, that the barn was 27' x 40' and had two floors, that the proposed shop would utilize the lower floor with an entrance facing away from the road, that the shop would utilize less than 25% of the floor area of the barn and that no selling would take place from the shop. The petitioner candidly admitted that the barn might be adaptable for use as a

residence. Mr. Donald Moxley spoke in favor of the variance.

Speaking against the variance among others, were Max Sanders, President of the Dover Point Association; Arthur Grimes, Linda Copeland, Pauline Calderwood, Walter Calderwood, Arthur Maglaras, City Councilman, Richard Gerish, Richard Moll, Wilma Thorin, Arthur Copeland, Benjamin Wescott, Robert Gaffney. A variety of opinions were expressed including inter alia that the Dover Point Association had voted as a group to oppose the variance; that prior attempts at setting up light industry in the area had been denied; that there was some question as to the legality and status of a subdivision of the affected property; that no hardship had been proven by the petitioner and that there would be an adverse effect on one or more property values in the area.

The petitioner represented to the Board that he should be permitted to use the shop as a "Customary Home Occupation" under §21:15.2 (11) of the Zoning Ordinance, irrespective of the variance. However, the Board rules that since that issue had not been properly raised in the petition and that the petition was for a variance and not an appeal from the administrative decision of the Building Inspector denying certification as a Customary Home Occupation, that issue was not properly before the Board for decision.

The Board voted unanimously to deny the variance having resolved that there was an insufficient showing that a hardship existed with respect to the barn and property in question.

H78-7 - Robert S. Mairs and Edmund J. O'Brien, Jr. appeared on their own behalf. The affected property is a multi-family dwelling containing five (5) units and located in an I-2 Industrial Zone as a non-conforming use. The petitioners stated that the property is close to the Cocheco River and represented that the general area has been somewhat depressed. To their knowledge no new businesses complying with the I-2 use regulations have located in the general neighborhood in the recent past. They represented that they purchased the property approximately 1 year ago at which time it was in a run-down condition, with the objective of upgrading and fixing it up. They indicated that they have invested \$10,000 in it over the purchase price and it has become apparent to them that in order to continue to improve the property, two additional apartments would have to be installed in the bottom floor. The building would then have seven (7)

.dwelling units. They plan to block off one of the two driveways, landscape portions of the lot and paint the building. It appeared that there was more than enough room for parking in the rear of the building. They represented that compliance would be had with the applicable fire regulations.

Jean Angers spoke in favor of the petition, saying that its effect would tend to beautify and improve the area.

Robert DiBerto wished to go on record as opposing the variance. His opposition was stated to the Clerk prior to the hearing since he could not be present at the hearing.

The Board found that the property was apparently not presently suited to uses which conformed with I-2 uses, that the encouragement of residential improvement in this neighborhood is in conformity with the objectives of renewal in the Cochecho River and downtown Dover area and in conformity with the spirit and intent of the ordinance that in view of the nature of the affected property, unless the additional units are permitted, so as to contribute to the earning capacity of the building, there is a probability that the building would continue to deteriorate such as to create a hardship.

The Board voted 4 to 1 to grant the variance.

Meeting Adjourned At 10:28 p.m.

Minutes prepared by Anthony S. Hartnett

ASH:am