

ZONING BOARD OF ADJUSTMENT  
DOVER, N. H.

Minutes of Meeting  
September 25, 1978

A quorum of the Board met at 7:00 p.m. in the office of the Building Inspector, Municipal Building. Present were Anthony S. Hartnett, Raymond Proulx, Helen Smith, Helen Wersosky and Deborah McLean. Anita Munroe, Acting Clerk was absent.

A regular business meeting was convened and the minutes of the previous meeting were unanimously approved. The Board acknowledged receipt of and approved a statement of account submitted by the Acting Clerk dated 9-25-78.

The public hearing was opened at 7:30 p.m. in the Dover District Courtroom with the above Board members present. Anthony Hartnett served as clerk in Mrs. Munroe's absence and the public hearing was chaired by Raymond Proulx.

The first hearing was H78-19, application of Paul Wills of 2 Cedarbrook Way, for a variance to permit him to retain an existing 18' Sears above-ground swimming pool in its present location which is 4' from the rear and side lot lines. Mr. Wills stated that he purchased the house in July, 1978, from Hager Realty. The pool was pointed out as a feature of the house but nothing was said as to whether the pool was in conformity with the Zoning Ordinance. Mr. Wills said that he was ignorant of any lack of compliance with the Zoning Ordinance when he bought the house and pool. He said that had he known about the non-compliance, it may have influenced his decision as to whether to purchase. He stated that the pool had been in its present location for about 2 years. He believes that the reason a neighbor, Mr. Phillips, objects is because of the noise from the pool's filter. He stated that it would not be possible for him to locate the pool elsewhere on the property and be in compliance with the Bulk Regulations. He stated that it would be feasible for him to relocate the pool filter inside the garage:

He is willing to put up some sort of barrier to screen the pool from the Phillips' property. There is presently a 4' high chain link fence along the rear lot line. Responding to various questions

from Hartnett, Wersosky and Proulx, Mr. Wills explained how long and during what hours he customarily operates the filter. He stated that a timer could be placed on the pool.

Paul Phillips of 11 Cedarbrook Drive spoke in opposition. He said the pool was put in in July, 1975, at which time he had no objection to it because he believed the only ones to use it would be small school age children. His objections started in 1976 and 1977 when the noise increased. He said the Wills' ran the filter late at night. His bedroom window is 8' from the chain link fence and the pool is 8' beyond that. He doesn't know if the owner before Wills had a variance for the pool. Attempts at amicably resolving the dispute apparently failed. He said the drawing submitted by Mr. Wills is out of scale and that he thought Mr. Wills could move the pool back 15' from the rear lot line. Mrs. Phillips also spoke.

In rebuttal, Mr. Wills said that the incident referred to by Mr. Phillips was once when the filter was left on by mistake three full days because a guest was staying at the house.

The second hearing was H78-20, application of St. Thomas Aquinas for a variance to permit a profit educational institution to lease classroom space for adult night classes. Rod Picard, of Newcastle, chairman of the Finance Committee of St. Thomas Aquinas spoke in favor. He said that Hesser College proposed to use some of the lower floor classrooms two evenings per week, that basically it is consistent with the educational purposes for which the building was built, that there is ample off-street parking, that it would be in the interest of the community to offer these programs. Mrs. Wersosky asked if there would be social or athletic activities. He said no. There would be 15 - 20 per class, with the hours of operation being from 5:30 p.m. to 10:30 p.m. Thomas Foulkes, Dean of Continuing Education at Hesser said if granted the variance, they would like to increase classes to 100 students total, classes would two (2) nights per week, Monday and Thursday evenings. Mr. Picard said that the building and parking lot is large enough to accomodate these students. He has checked with the IRS and the proposal will not jeopardize the tax exempt status of the school. There was no opposition.

The third hearing was H78-21, application of 256 Operating Associates to install a 5' x 30' sign 150 sq. ft. on the side of a

proposed building facing Central Avenue. The building is a Wendy's Hamburger establishment and will have a dimension of 34' facing Central Avenue. Under the ordinance, a sign of only 102 sq. ft. would be allowed on that side. The building will have an 80' dimension on English Village Road and could have a sign 240 sq. ft. on that side. Total square footage allowable is 342 sq. ft. He stated that the net effect of what was proposed was to redistribute the placement of the signs on the building, i.e. instead of placing the larger sign on facing English Village Road, it would face Central Avenue. He said that the hardship was to be found in the fact that the signs are manufactured in standard sizes of which the proposed 30' x 5' sign was a standard size and that access to the building was restricted in that no left hand turn would be permitted directly into Wendy's parking lot for southbound traffic on Central Avenue. The sign would help compensate for this and is consistent with the size of signs other businesses have been permitted to use in the area. There was no opposition.

The hearing was closed and the Board retired into executive session to consider the three cases, stating to the public in attendance that the Board would reconvene in public session later that night to announce its decision.

The Board reconvened in public session at 10:20 p.m. and rendered their decision in the three cases, see copy of notice of decision.

Anthony S. Hartnett, Chairman  
Zoning Board of Adjustment

ASH:am