

*city file*

Zoning Board of Adjustment

Dover, N. H.

Minutes of Meeting

November 15, 1978

The Board met in the Building Inspector's office at 7 p.m. Present were: Anthony Hartnett, Chairman; Raymond Proulx; Deborah McLean; Helen Wersosky; Alicia McVane; Elaine Vachon, acting clerk.

A regular business meeting was convened at which Deborah McLean gave Chairman Hartnett a letter of termination as she will be accepting the position of Secretary to the City Attorney as of November 27, 1978 and her position on the Board will be a conflicting one. The Chair, on behalf of the Board thanked Deborah McLean for serving as an alternate on the Board during the past year. Mr. Hartnett said he would make mention to the City Manager that several new board members be appointed.

Mr. Hartnett motioned to approve the minutes of the previous meeting (October 19, 1978). Deborah McLean seconded the motion, and it was unanimously passed by the Board.

Mr. Hartnett motioned that the Board confirm Elaine Vachon as Clerk of the Zoning Board of Adjustment. Helen Wersosky seconded the motion and it was unanimously passed by the Board.

The Public Hearing was called to order by the Chairman at the Dover District Court at 7:30 p.m. He welcomed those present and introduced the board members. He then explained the procedure of the hearing.

The Chair stated that there was pending before the board a request by Attorney McManus to postpone or continue the hearing in H78-24-Seaboard Investments in order to have more time in which to prepare and present his client's case. The Chair

explained the procedure by which Mr. McManus had inquired about obtaining the postponement or continuance and sent letters to certain abutters informing them of the requested action. During the next hour-and-twenty-minutes a general discussion was conducted as to the entitlement of an applicant to request and be granted a postponement or continuance after notice of the public hearing had been published in Foster's Democrat and posted in two public places. Among those voicing opinions were Mr Menounos, Mr. & Mrs. Gargan, Mr. Peters, Mr. Norberg, Mr. McCarthy, Mr. Wentworth, Mrs. Hendel and Mr. Munday. Messrs. Hartnett and Proulx explained that in the event that such a postponement or continuance were granted, the applicant would be required to comply with all notice requirements including publication and certified letters all over again. A Mr. Corain requested an explanation of the guidelines for deciding whether a variance will be granted or denied, which was briefly answered by the Chair.

A suggestion was made by members of the public that the Board should adopt guidelines or bylaws which specify when, if at all, postponements or continuances would be granted in the future: On motion duly made and seconded, the Board unanimously voted to amend the By-Laws of the Zoning Board of Adjustment by adding paragraph 6 on page 4 thereof, to wit:

No applicant shall be permitted to withdraw or postpone a hearing after notice of hearing has been published in the local newspaper and posted in two public places. This amendment will be incorporated in the bylaws upon being read at two successive meetings of the Board.

The Chair called for a vote of the Board on the applicant's request to postpone or continue the hearing. Members voted thus: Wersosky to deny request; McVane to deny; McLean to deny; Proulx to grant; and Hartnett to grant. The request was therefore denied. Proulx then motioned to recess. Board was in favor, none opposed at approximately 9 p.m.

The Chair reconvened the hearing at 9:10 p.m. with a motion to suspend H-78-24 hearing in order to hear the case of Denis Cartier, stating this case was shorter and the H-78-24 Seaboard Investment hearing would be continued shortly. Deborah McLean seconded. None opposed.

H78-25 - Denis G. Cartier, owner of property at 54 Horne St. as shown on Assessor's Map 35, Lot 28, and located in an R-1 District, petitions for a variance from the terms of Section 4.1 (Bulk Regulations) of the Dover Zoning Ordinance. The petitioner desires to construct an addition on the rear of the house and to enlarge the bathroom.

Case #H-78-25 - Denis G. Cartier. The Chair read the public notice. Mr. Cartier had filed application on 10/25/78. The list of abutters was read; it was announced that notice was published in the local newspaper and duly posted. Mr. Cartier mentioned his address to be 54 Horne St. rather than 59 as typed on the notice. Mr. Cartier was invited to discuss his request for variance. He showed a map (from his file) and discussed the footage of his proposed addition (a bath and family room) to his home and that he has obtained a permit to move his driveway from Horne St. to Redden St. His lot is 40x100' and the home on it was built before the new zoning ordinance was put into effect. Cartier mentioned a hardship in the size of the lot. With the addition (proposed) this left 11 feet of lawn between his house and the 11 feet of city-owned lawn on the Redden St. side of his lot. Some discussion between Cartier and the Chair and Proulx occurred in clarifying the footage available for this addition.

The Chair asked if there was any opposition to the Cartier variance. None was made. Hartnett declared this hearing closed and stated that following the closing of the hearing in H78-24, the Board would retire into executive session to consider the case and that later the Board would reconvene in public to render its decision (approximately 9:30 p.m.).

The Chair reconvened the hearing on #H-78-24, Seaboard Investment, at approximately 9:30 p.m. The Chair read the notice published and stated this notice appeared in the Foster's Daily Democrat and was duly posted in two public places in the City.

H78-24 - Seaboard Investments of P.O. Box 537, Derry, N. H. 03038, owner of property between Central Avenue and Mt. Vernon St., being Lots numbers 17 and 18 as designated on Assessor's Map 29 and located in an O and R-1 District, petitions for a variance from the terms of Section 3.1 (Use Regulations) of the Dover Zoning Ordinance and appeals from an administrative decision. The petitioner desires to use the back portion of the subject lot(s) for parking.

The Chair then asked the Attorney for the applicant, Anthony McManus if he would care to make a statement. McManus explained that he originally inquired about a postponement of the hearing on 11/9/78 and that by 11/10/78 he had obtained a list of abutters from the Clerk of the Board and mailed letters stating his request for postponement of the hearing on Monday 11/13. McManus stated the applicant did not have the project available to show this night and needed more time. McManus apologized for the confusion this caused and stressed the applicant's need to inform the abutters of the situation and would do so at a later date.

McManus then stated his intention to withdraw the application at this time. The Chair asked if anyone present would speak on behalf of the Seaboard. None spoke.

The Chair mentioned a similarity in the Strangas Case #H78-18 of August 29, 1978 where the petitioners withdrew their application for variance at that time, without prejudice as to any subsequent application they might file. The Chair further stated that the customary notice requirements would have to be followed all over again prior to any future petition and the applicant would bear the expense of such notice.

Ethel Hendel of Abbott St. questioned the procedures and wanted the opposition to be heard. Mr. Peters mentioned that he understood the property in question was owned under a different name. He also stated he saw no mention of a building permit in the notice of the public hearing he received and that it is his understanding the request for variance is being made because of the parking situation, because of parking restrictions. McManus was asked to state the name of the applicant. He (McManus) said the applicant is Martin Needham of Andover, Mass., a developer of other apartment complexes in Salem and Londonderry. McManus stated Needham is anxious to meet with as many people as possible in the near future. Mr. Corain of 102 Mt. Vernon asked if Martin Needham was to be an absentee landlord, McManus replied yes. A request was made by Mr. Wentworth to hold the hearing after January 1, 1979 because the coming month is in preparation for the holidays and was a bad time for most abutters. Proulx made a motion that the rehearing not be held until January 1 or later. The Board granted this motion unanimously. The Chair framed a motion that the applicant's withdrawal of its application for variance and appeal from an administrative decision be accepted, acknowledged and approved without prejudice to reapply for such relief as may be sought in the future. Alicia McVane seconded. It was unanimously passed by the Board. More discussion followed to the effect of the withdrawal of the request for variance. Mr. Menounos reminded the court the Seaboard Investment filed its application on 9/21/78. The date of the application, said the Chair was on 10/24/78 and a 30-day interval for scheduling a public hearing was granted.

McManus said he was withdrawing the application.

The Chair declared the hearing closed and the Board recessed in Executive Session to discuss the Cartier case. (Approximately 10:05 p.m.)

The Chair reconvened in public session approximately 10:35 p.m. after an Executive Session. On the #H78-25 variance hearing, Map 35,

Lot 28, at 54 Horne and Redden Sts., Cartier case, the Zoning Board of Adjustment was polled. The Board voted unanimously to grant the variance. Applicant will be notified in writing and could apply for permit. (Applicant and wife were present before the Board.)

McLane motioned to adjourn the meeting at 10:48 p.m., Proulx seconded, adjourned accordingly.

Respectfully submitted,  
Elaine J. Vachon  
Clerk of the Zoning Board of Adjustment  
11/17/78

11/15/78 minutes to case: H78-24 - Seaboard Investment  
REFERENCE TO NAMES MENTIONED IN MINUTES

Michael Norberg, 169 Mt. Vernon St., Dover, NH 03820

Peter Menounos, 720 Central Ave., Dover, NH 03820

Joe Corain, 102 Mt. Vernon St., Dover, NH

Paul Garis, Abbott St., Dover, NH

John McCarthy, 757 Central Ave., Dover, NH

Arnold Peters, (WARD I) 55 New Rochester Rd., Dover, NH (councilman) "Bucky"

Gargan: Marian & Helen of 167 Mt. Vernon St., Dover, NH

Jim Wentworth, Ascension Ave., Dover, NH

Ethel Hendel of Abbott St., Dover, NH

Fred Munday, 110 Mt. Vernon St., Dover, NH

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