

DOVER ZONING BOARD OF ADJUSTMENT  
MINUTES OF MEETING

Held: September 15, 1983  
Council Chambers,  
Dover, NH

MEMBERS PRESENT

Robert Keefe, Chairman  
Helen Wersosky  
Francis Menez  
David Bertrand  
Peter Greenwood

Alternates Attending Orientation:

Dennis Ciotti  
Alden Joy  
Mardean Frazer  
Bill Bickford

Dick Selleck, Building Inspector

BUSINESS MEETING

Called to order 7:07 p.m.

Minutes of August 18:

Regarding H83-30, Frank Menez stated that no family member is in litigation with Mr. Ouellette's law firm.

Regarding the meeting of July 1, Helen Wersosky wishes to state for the record, that she was not in attendance at that meeting.

Regarding H83-32, Peter Greenwood requests a correction in the spelling of a speaker's name. Don Seachon should be corrected to Don CICHON.

New Business

Mr. Keefe advised the Board that the Strafford Regional Planning Commission will be holding a conference, and a lecture of particular interest to zoning members will be scheduled for October 5, 7:00 p.m., at the Exeter Town Hall. All members expressed a desire to attend except Mrs. Wersosky, who declined due to her term expiring at the end of this year.

Mr. Keefe opened nominations for a vice-chairman of the ZBA. Frank Menez was nominated. David Bertrand was nominated, but declined. Peter Greenwood moved that nominations close, Mr. Bertrand seconded. Mr. Menez was unanimously elected to be vice-chairman of the ZBA.

Menez moved, Bertrand seconded, to adjourn.

Business Meeting adjourned 7:20 p.m.

Mr. Stephen White, attorney, representing Mr. Joe Zammet, spoke in opposition:

- Property value would be diminished due to development adjacent to Mr. Zammet's lot, and the added traffic.
- Subdivision is not in the spirit and intent of the ordinance.
- There is nothing unique about this land, there is no hardship.
- This property was purchased by Mr. Hoginski with the knowledge that he would have to go before the ZBA for a variance to subdivide. He bought himself a headache.

Mrs. Wersosky: Which properties use this right-of-way?  
Mr. White indicated on the map.

Rebuttal

Ray Ouellette:

- City of Dover cannot guarantee privacy or keep a lot vacant for aesthetic purposes.
- The two lots proposed will be twice the size of Zammet's.
- There is no restriction to any neighbors using the footpath to the river.
- Quote from the Supreme Court's interpretation of hardship.
- Regarding the previous application for a variance:  
Mr. Ouellette inferred that because of the seemingly inconsistency of the Zoning Board of Adjustments' voting on the same subject, (i.e. 5-0 in favor; 0-5 denied on rehearing), that if similar inconsistency were to be evident in the vote from this hearing tonight, further investigation and possible litigation may be forthcoming.

Stephen White:

- There has been no demonstration of hardship
- Property value will be diminished.

Mrs. Wersosky to Mr. Keefe:

How can I require subdivision approval?

Mr. Keefe:

Include subdivision approval as a stipulation in your vote.

VARIANCE GRANTED SUBJECT TO SUBDIVISION APPROVAL: 4-1  
(Greenwood dissenting)

Concerning H83-32, Mr. Keefe inquired of Mr. Selleck, building inspector, whether a re-vote were possible since Mr. Menez had reconsidered and determined that it was not his intent to vote in favor of a rehearing.

Mr. Selleck stated that, in his opinion, it was not proper procedure to re-vote because persons in attendance for the rehearing vote had already left.

H83-35 AUSTIN M. HOPEY, III, 207 Riverview, 5 Green Street, Assessor's Map H-1, Lot 2, zoned R-40, petitions for a variance from Article V, 170-16, Table of Dimensional Uses, to subdivide a parcel of land into 2 lots, one having insufficient frontage.

Mr. Keefe advised that Mr. Menez would return as a voting member.

Mr. Hohey presented his case.

Bertrand: Is it the driveway that causes such a request?

Hohey: Yes

George Demosthenes spoke in favor.

No one spoke in opposition.

VARIANCE GRANTED SUBJECT TO SUBDIVISION APPROVAL: 4-1  
(Greenwood dissenting)

H83-36 DONALD C. AND LOIS A. DAY, 24 Maplewood Avenue, Assessor's Map E, Lot 22E, zoned R-40, petitions for a variance to subdivide a parcel of land, creating a lot having no frontage on a public right-of-way.

Donald C. Day presented his case, stating that there are two houses on this right-of-way, and he wished to add a third.

Menez: Please clarify the exact location of the right-of-way.

No one spoke in favor.

No one spoke in opposition.

VARIANCE GRANTED SUBJECT TO SUBDIVISION APPROVAL: 3-2  
(Greenwood & Bertrand dissenting)

H83-37 RICHARD F. HUGHES, 223 Locust Street, Assessor's Map 15, Lot 41, zoned industrial, petitions for a variance from Article X, 170-41A, to demolish and reconstruct an attached garage on a residential lot located in an industrial zone; also Article V, 170-14A(1), for relief from the requirement of a 10' side yard setback.

David Bertrand disqualified himself from hearing & voting on this case for personal reasons.

Mr. Joy designated as alternate.

PUBLIC HEARING

Called to order 7:30 p.m.

Members of the Zoning Board were introduced and procedures for the meeting were explained.

Referring to case H83-32, Mr. Keefe stated that Mr. Jack Mettee has applied for a rehearing. The Chairman further asked the Board members if they had read the request for rehearing; they affirmed. Members who sat on that case voted, granting the request, 3-2, Keefe and Scrufutis (by proxy) dissenting.

H83-30 EDWARD AND FRANCES HOGINSKI, 230 Dover Point Road, Assessor's Map L, Lot 95Z, zoned R-20, petitions for a variance from Article V, 170-16, Table of Dimensional Uses, to subdivide a parcel of land into 2 lots, each having insufficient frontage.

Mr. Keefe recognized Mr. Frank Menez, who restated a request by Mr. Ray Ouellette, attorney for the Hoginskis, at the August meeting. ". . . for next month's hearing, Mr. Frank Menez should disqualify himself from hearing and voting on this case due to a Menez family member presently involved in litigation with his law firm." Mr. Menez denied that any member of his family is in litigation with Mr. Ouellette's firm and he felt that, from statements made by Mr. Ouellette, which were erroneous and without basis, he was due an apology and an explanation.

Mr. Ouellette stated that there had been an error in identity, and that he apologized for the inaccuracy of his former statements. He further remarked that where a misunderstanding had developed, it would be in the best interest in the hearing of the case if Mr. Menez would disqualify himself.

Mr. Menez accepted the apology and disqualified himself.

Mr. Keefe called upon the designated alternate to hear this case, Mr. Alden R. Joy.

Mr. Ouellette presented his case citing:

- Use of the property is consistent to the area
- Area of Dover Point is unique, referring to the fact that many other similar cases in this area were granted variances.

Mr. Keefe reminded Mr. Ouellette that hardship is an individual case matter; there are no precedents.

Mr. Ouellette maintained that the history of Dover Point is vital.

Mrs. Helen Wersosky: Exactly which lot is to be subdivided?

Mr. Hoginski pointed out the lot on the map.

No one spoke in favor.

Mr. Ouellette submitted a letter in favor from Ann and Rudolph Schultz.

Richard Hughes presented his case stating that the garage was deteriorated and an eyesore. There was hardship in paying taxes on a structure he was unable to use.

Greenwood: Your vehicle will not fit in the present garage?  
Hughes: No, I have a pickup with a cap and the garage is only 10' wide.

Keefe: What are the exact plans for a new garage if attached to your home?

Joy: Clarify the new garage as it is situated nearer your neighbor.

No one spoke in favor.

No one spoke in opposition.

VARIANCE GRANTED: 3-2 (Wersosky & Keefe dissenting)

H83-38 NEAL E. NICHOLSON, 13 Tanglewood Drive, Assessor's Map I, Lot 99B, zoned R-40, petitions for a variance from Article V, 170-17, to construct a garage with an 8' side yard setback.

Mr. Bertrand returned as a voting member.

Neal Nicholson presented his case as one of hardship.

No one spoke in favor.

No one spoke in opposition.

John Barnes, a neighbor, stated that he had no problem with the 8' setback, however, he had a couple of questions:

- What about the requirements for a firebreak between his garage and the proposed garage?
- Does setback measure from the foundation or the roofline?

Dick Selleck responded:

- The distance between the building and the lot line should at least equal the height of the rear wall of Barnes' garage.
- Based on a 1' overhang, measurement would be from the footing or foundation.

VARIANCE GRANTED: 5-0

H83-39 DOVER ADULT LEARNING CENTER, INC., 22 Atkinson Street, Assessor's Map 9, Lots 59 & 60, zoned RM-10, petitions for a variance from Article V, 170-14A, to divide a parcel of land known as Assessor's Map 9, Lots 59 & 60, having two principal buildings, and creating a substandard lot.

Mr. Menez disqualified himself from hearing this case since he is on the Board of Directors for the Adult Learning Center.

Mr. Joy designated as alternate.

Debbie Tasker, director of the Adult Learning Center, presented her case:

- We wish to subdivide and sell the lot since the Center has been unable to rehabilitate the property for additional income.
- Once sold, the property would represent tax revenue for the city.

No one spoke in favor.

No one spoke in opposition.

VARIANCE GRANTED: 5-0

H83-40 SEACOAST SAVINGS BANK, 537 Central Avenue, Assessor's Map 39, Lot 3A, zoned B-3, petitions for a variance from Article V, 170-16, to construct a building with insufficient side yard setback.

Mr. Keefe disqualified himself from hearing this case since he is on the Board of Directors for Seacoast Savings Bank.

Mr. Joy designated as alternate.

James Miller, vice-president of Seacoast Savings Bank, presented his case:

- The bank wishes to expand its services by installing a self-contained 24-hour teller.
- There is uniqueness in the traffic pattern on the Weeks Traffic Circle and that surrounding property is commercial.

No one spoke in favor.

No one spoke in opposition.

VARIANCE GRANTED: 5-0

Moved by Wersosky, seconded by Bertrand, to adjourn.

Public Hearing adjourned 9:15 p.m.

Respectfully submitted,

J. Gale Perreault, secretary