

DOVER ZONING BOARD OF ADJUSTMENT  
MINUTES OF MEETING

Held: October 20, 1983  
Council Chambers,  
Dover, NH

MEMBERS PRESENT

Robert Keefe, Chairman  
Helen Wersosky  
Francis Menez  
  
Dick Selleck, Building Inspector

ALTERNATES PRESENT

Dennis Ciotti  
Mardean Frazer  
Alden Joy  
Bill Bickford

BUSINESS MEETING

Called to order 7:22 p.m.

Minutes of September 15:

Regarding H83-40, Mr. Keefe requests a correction. Should read: "Mr. Keefe disqualified himself from hearing this case since his brother (not he) is on the Board of Directors of Seacoast Savings Bank."

Menez moved, Joy seconded, to approve minutes of September 15.

Menez moved, Wersosky seconded, to adjourn.

Business Meeting adjourned 7:25 p.m.

PUBLIC HEARING

Called to order 7:35 p.m.

Mr. Keefe explained procedures for the meeting.

Referring to case H83-30, Mr. Keefe stated that a petition for rehearing had been received. Board members who heard that case were Helen Wersosky, Alden Joy, and Bob Keefe. The Chairman asked those Board members if they had read the request for rehearing; they affirmed. Members voted 3-0 to deny the request for rehearing.

H83-31 Henrietta J. Waldron, Cote Drive, known as Assessor's Map L, Lot 58H, zoned R-20, petitions for a variance from Article X, 170-40A & B, to be able to replace her existing mobile home, situated on an individual lot with a new mobile home; and Article V, 170-16, for relief from front & rear setback requirements.

Members hearing this case were introduced: Ciotti, Wersosky, Frazer, Menez, and Keefe.

Mr. Ray Ouellette, representing the Waldrons, presented his case citing:

- No lot on Cote Drive conforms with R-20 requirements
- Original mobile home measures 8'x45', is 27 years old, and delapidated
- New mobile home, 14'x70' would improve area aesthetically
- There is hardship with building on a lot 75'x100'
- Submitted letter from Edythe Weymouth, in favor

Those who spoke in favor: Charles Bittner  
Sam Bittner  
Yvonne West  
Irving Cradol

Mr. Selleck, building inspector, stated that no need for relief from side yard setback in this case because of lot size.

Mr. Chris Kalivas, attorney, representing abutters Theodore Mantos, Peter Bisson, James Grillo, and Robert Ross, spoke in opposition:

- Violates spirit and intent of the law through expansion with a larger mobile home, which perpetuates the non-conforming use.
- Property values would be diminished:
  - 1-A mobile home is a "sore thumb" in a neighborhood of conventional homes.
  - 2-Prospective purchasers in the neighborhood may assume that the existence of the mobile home is self-amortizing.
  - 3-City Council has expressed concern over "sandwich effect" of mobile homes in neighborhoods.
- There has been no testimony that the public benefits. There are, instead detriments:  
Snapshots taken by an abutor were presented.
  - 1-The mobile home is located very close to the thoroughfare; not enough front yard
  - 2-Safety hazard for snow removal and lack of accessibility for fire trucks.
- There has been no testimony to support hardship to the land
- It is true that a mobile home is less expensive, however, a conventional structure would be conforming and meet all requirements of the ordinance, therefore, no hardship exists.
- Justice would be served only on denial. Consider greater good of the public and property owners on Cote Drive.

Mr. Selleck clarified that this is not a matter of non-conforming use as mentioned by Mr. Kalivas, rather a matter of non-conforming structure.

Chairman Keefe: These pictures do not seem to show that the structure extends out to the roadway.

James Grillo and Ted Mantos spoke in opposition.

#### REBUTTAL

Ouellette:

- 1-Spirit and intent of the ordinance, justice, and benefit to the public is the same as "what is fair."
- 2-No diminution of property value. They have the right to maintain a non-conforming structure. They choose to improve it instead. There is

no guarantee that non-conforming property will be self-amortizing.

Mr. Ouellette viewed the submitted snapshots.

3-These pictures are not accurate. The new mobile home moved in was dropped in its present location upon notice of the rehearing. It is planned to be 18' further back.

4-Never sought hardship due to financial reasons.

Charles Bittner: On Cote Drive we are people as well as property.

Sam Bittner: No safety hazard. Improved appearance is more important. A mobile home is financially better for owners.

Kalivas: We have laws. It is unfortunate that senior citizens are on limited incomes. The law is what is fair; apply the law to the facts.

VARIANCE GRANTED: 4-1 (Frazer dissenting)

H83-41

Dover Post #8 American Legion, 634-636 Central Avenue, known as Assessor's Map 30, Lot 131, zoned O, petitions for a variance from Article IV, 170-12, to use a section of a now existing apartment building for a hairstyling salon.

Allen Krans, attorney, representing John Thyng, presented his case:

- The proposed hairstyling salon will employ 5 persons, no more than 3 will be on premises at any one time.
- Hours of operation are 8-8 Monday-Friday, 8-5 Saturday, closed Sunday.
- Amount of parking significantly large. Fifteen to twenty spaces are available for three residential units and commercial use.
- Mr. Thyng will live in the rear of the building he will rent.
- This property is surrounded by similar businesses.
- A hairstyling salon is a personal service establishment, but not unlike office business in steady flow of clientele.
- Would not effect the area.
- To deny would be an injustice considering other similar businesses up and down the Avenue.

Dr. Kenneth O'Neil spoke in favor.  
No one spoke in opposition.

VARIANCE GRANTED: 5-0

H83-42

Costas Janakopoulos, 29-31 Nelson Street, known as Assessor's Map 9, Lot 70, zoned RM-10, petitions for a variance from Article IV, 170-12, to convert the existing building to a four-family dwelling.

Costas Janakopoulos presented his case.

- The proposed 4 one-bedroom efficiencies will limit the number of occupants.
- Would be short on setbacks and required 6 parking spaces.

No one spoke in favor.  
No one spoke in opposition.

VARIANCE DENIED: 3-2 Members dissenting:

- Keefe - No hardship, violates spirit & intent, no justice served.
- Wersosky - No hardship, violates spirit & intent, no justice served.
- Frazer - No hardship, violates spirit & intent, no justice served, and detrimental to the area to blacktop for parking.

H83-43

Kenneth S. O'Neil, 642 Central Avenue, known as Assessor's Map 30, Lot 133, Zoned O, petitions for a variance from Article X, 170-41A, to construct an addition expanding the size of an already existing non-conforming structure.

Dr. Kenneth S. O'Neil presented his case:

- Proposed changes would expand waiting area and examination rooms.
- Would be in the best interest of the citizens of Dover to maintain present practice as only plastic surgeon in the area.
- Addition will improve property and increase parking.
- In no way detrimental to the public.
- With addition to the existing building, there will be opportunity to provide wheelchair access.

Kenneth O'Neil (trustee of the American Legion) spoke in favor.  
No one spoke in opposition.

VARIANCE GRANTED: 4-1 (Frazer dissenting)

H83-44

Dover Diversified Services, Inc., 63 Dover Point Road, known as Assessor's Map M, Lot 24A, zoned R-12, petitions for a variance from Article IV, 170-12, to occupy the existing structure for retail sales, assembly, and warehousing of building materials and supplies.

Chris Wyskiel, attorney, representing Robert & James Mairs of Dover Diversified Services, Inc., presented his case.

Johathan Cherry, owner of Jonathan's Millwork, wishes to relocate his business to Dover Point at the location of the car wash now owned by the Mairs.

Unsure whether this case needs to be before the ZBA, however, given the possibility that the business done by Jonathan's Millwork may be interpreted to be manufacturing rather than retail sales, they wished to clarify the business as strictly retail sales, assembly, and warehousing of building materials and supplies.

These building supplies are purchased pre-manufactured and are only modified to meet specifications. Assembly and warehousing are accessory needs to principle use as retail store.

Should variance be needed, this is a case of hardship.

Improvement will be made on the lot. This is a good service to offer and it is an opportunity to expand.

Frazer: What about the noise?

Wyskiel: Noise only from intermittent use of air compressor and skill saw which will be contained within the building.

Robert Mairs and James Mairs spoke in favor.

Mr. Wyskiel submitted a letter in favor from Dan Dugal.

Marie Comiski spoke in opposition, asking what about the gas tanks?

Wyskiel: The gas pumps will remain as part of the business.

Comiski: Then we are talking about two businesses. Traffic has increased ten fold on Dover Point. It is hard to get out of you own driveway. The entrance and exit to the filling station will be difficult. I believe this business will diminish the value of my property.

#### Rebuttal

Wyskiel: The area will still be quieter compared to when the car wash was in use.

VARIANCE GRANTED: 5-0

Moved by Wersosky, seconded by Menez, to adjourn.

Public Hearing adjourned 19:22 p.m.

Respectfully submitted,

*J. Gale Perreault*

J. Gale Perreault  
ZBA Secretary