

DOVER ZONING BOARD OF ADJUSTMENT  
MINUTES OF MEETING

Held: May 17, 1984  
City Council Chambers  
Municipal Building  
Dover, NH

Members Present: Chair Peter Greenwood, Vice-Chair Alden Joy,  
Dennis Ciotti, Geri Weiseman.

Alternate Members Present: Mardean Frazer, (Charles Zamzow, Jr.).

Other: Building Inspector Richard Selleck.

BUSINESS MEETING:

Called to order at 7:15 p.m.

- David Bertrand cannot be present at tonight's meeting;  
Mardean Frazer will serve in his place.
- Dennis Ciotti will be replaced by Charles Zamzow for  
public hearing H84-17 (Byrnes), because of a possible  
conflict of interest.
- Mardean Frazer will be replaced by Charles Zamzow for  
public hearing H84-21 (Torr).

1) Approval of Minutes

- Moved by Ciotti, seconded by Weiseman to accept the minutes  
of the regularly scheduled meeting held on April 19, 1984.

Discussion of cases followed.

PUBLIC HEARING:

Called to order at 7:32 p.m.

H84-17 Edward Byrnes, Stark Avenue, known as Assessor's Map K, Lot  
31, zoned as R-12, petitions for a variance from Article IV, 170-  
11; uses: in order to construct a showroom building in connection  
with their adjacent automobile dealership, on a lot zoned R-12  
having two family dwellings.

- Mr. Ciotti was replaced by Mr. Zamzow for this public hearing.
- Malcolm McNeil, an attorney representing Mr. Byrnes,  
627 Central Avenue, explained the petition.
- Mr. Byrnes reiterated the remarks made by Mr. McNeil  
and added that buffering would be installed between  
is lot and the abutting property.

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- Mr. McNeil summarized the request as presented to the Board in the original letter.
- Ms. Weiseman questioned Mr. McNeil regarding the current use of Lot 31.
- Gene Lieto, 11 Lisa Beth Circle, spoke in favor of the petition and noted that the expansion would provide for an increase in the availability of jobs.
- Brian Krisko, 13 Browning Drive, spoke in favor of the petition and reiterated that this proposal may provide for a possible expansion of jobs.
- Larry Blake, 5 Hillcrest Drive, spoke in favor of the petition and added that he believed that the proposed building would add to the modernization of Dover, as well as to attract a certain type of individual to the City.
- Robert Whiting, City Council Member representing Ward 4, spoke in opposition to the petition and reminded the Board that the intention of the Council was clear when the zoning regulation was readopted in 1979. He stated that the permitted development on the east side of the road was not relevant to the west side because the development was existing when the area was zoned. He presented the Board with three petitions containing a total of 42 names of residents who are opposed to the development.
- Peter Kretsepes, 15 Dover Point Road, spoke in strong opposition to the proposal and noted that the petition does not, in his opinion, meet the four requirements necessary to grant a variance.
- Leonard Small, 19 Dover Point Road, spoke in opposition to the proposal and noted that he believed the creeping commercialism on Dover Point Road could adversely affect area property values.
- John and Antoinette Viola, 13 Dover Point Road, spoke in opposition to the petition. Mr. Viola stated that he believed that congestion in the area was too great even at the present.
- Tony Kretsepes, 15 Dover Point Road, spoke in opposition to the proposal and noted that the action could adversely affect property in the area.
- John Lewis, 9 Dover Point Road, spoke in opposition to the petition.

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- Ronald Oaks, 10 Dover Point Road, spoke in opposition to the petition and noted that he believed there to be too much commercial growth in the area.
- Matt Williams, 28 Dover Point Road, spoke in opposition to the petition because of the commercial growth factor.
- Marilyn Follansbee, 25 Dover Point Road, spoke in opposition to the proposal because of the commercial growth factor.
- Mr. McNeil reiterated the belief that the proposal will enhance the property in the area.
- Mr. Byrnes responded to some of the concerns raised by the public including the fact that proper notice would be given to tenants forced to leave the residential units and the fact that traffic would not be increased in the area. He stated that the proposal would be of benefit to his customers and employees, as well as to Dover as a whole.
- Discussion among the Board members regarding the petition's compatibility with the requirements which must be met when granting a variance ensued. There was general agreement that the petitioner failed to show a hardship in the land and that the proposal would violate the spirit and intent of the zoning ordinance. Mr. Zamzow stated that he believed that this request was actually concerned with a rezoning matter. Ms. Frazer stated that she believed the action would adversely affect property values.
- Petition for variance denied: 5-0.
- Mr. Greenwood informed the applicant of the appeal process.

H84-20 Ann D. Brown, off of Evans Drive, known as Assessor's Map L, Lots 14-G and 83-F, zoned as R-20, petitions for a variance from Article V, 170-16, to subdivide a tract of land, creating two lots, both having insufficient frontage on a public right-of-way.

- Matt Brown, 22 Bernier Street, Somersworth, explained the petition.
- Mr. Greenwood noted that the usual frontage required for the R-20 zone is 120 feet.
- Mr. Brown was questioned by Ms. Weiseman regarding his plans for the back land. Mr. Brown noted that he was

not financially able at the present time to develop the property.

- Upon questioning by Mr. Greenwood, Mr. Brown clarified the lines on the plans presented to the Board.
- No one spoke in favor of the petition.
- Mrs. Pappas, Evans Drive, directed a question to the Board regarding the development of a road on the property. She then stated her opposition to the petition because of a fear that further development may occur.
- Mr. Brown noted that a road was not being developed, however he did clear a path to aid him in removing some of the brush on the property.
- Lorraine Thompson, Evans Drive, spoke in opposition to the proposal and noted that Paul and Martha Cox, 189 Dover Point Road, were also opposed.
- Mr. Brown, in response to Mr. Joy, said he would not be opposed to a condition of approval which would require a deed restriction prohibiting further development.
- Mr. Greenwood raised concerns regarding the possible placement of the houses on the proposed lots; he stated that he believed that if the houses were placed too close to Evans Drive, the spirit and intent of the ordinance may be violated.
- Mr. Brown stated that he would not control the placement of the houses and that that would be a decision made by the purchaser(s) of the property. He noted that his proposal was in keeping with the character of the existing lots.
- Mr. Brown once again stated that he would not be opposed to a deed restriction prohibiting further subdivision.
- Mr. Joy stated that he supported the idea that any further subdivision should not have access to Evans Drive.
- Ms. Weiseman stated that she would like to prohibit all further subdivision.
- Mr. Joy noted that the proposed subdivision would provide for 5 acrealots.
- Mr. Greenwood, Mr. Selleck and Mr. Joy discussed whether or not the applicant would be required to seek a variance for development of a road on the property.

- Discussion among the Board, regarding the four requirements which must be met when granting a variance and the petition's compatibility with them, ensued.
- Petition for a variance granted, contingent upon the following condition:
  - 1) No further subdivision with access to Evans Drive shall be permitted.Vote: 4-1 (Greenwood).

H84-21 Franklin and Ann Torr, off of Dover Point Road, known as Assessor's Map K, Lot 21, zoned as R-40, petitions for a special exception from Article VI, 170-20, for permission to construct a mobile home park in an R-40 zone.

- Raymond Ouellette, an attorney representing the Torrs, Glenwood and Central Avenues, gave a brief introduction to the request for the special exception.
- Mr. Torr, 1 Old Littleworth Road, explained the specifics of the proposal. The following letters were submitted to the file:
  - 1) FROM: Jay Stevens, City Engineer  
RE: Approval by the Public Works Review Team  
DATE: April 5, 1984
  - 2) FROM: Timothy C. Sheldon, Planning Director  
RE: Preliminary Approval by the Planning Board  
DATE: April 19, 1984
  - 3) FROM: Charles D. Reynolds, Chief of Police  
RE: Proposal does not constitute a Traffic Hazard  
DATE: February 10, 1984
  - 4) FROM: State of New Hampshire Department of Public Works and Highways, H.R. McCrone, Jr., P.E.  
RE: Approval for access to Route 16  
DATE: February 10, 1984
- Mr. Ouelette reviewed the credentials of Thomas E. Nutt-Powell and submitted a copy of Mr. Nutt-Powell's resume to the file.
- Thomas E. Nutt-Powell, an expert on manufactured housing, reviewed the affects of mobile homes on the surrounding property values. He stated that the impact of said homes is a function of the appearance of the homes, the maintenance of the property and the intrinsic characteristics of the site. It was his belief that the proposal by Mr. Torr has many positive attributes and will generally be quite appealing. He submitted a brochure from Burlington Homes indicating the style of construction proposed by the applicant. Finally, he provided data which predicted the positive impact of the park on adjacent properties; the statistics were based on the values of existing parcels of land in the City which abut existing mobile home parks.

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- Mr. Ouellette addressed his summary comments to the Board. He included a brief history of the Torr's proposal in his remarks and concluded by noting that the petition does meet the criteria set forth in the mobile home ordinance.
- Mr. Ouellette made further submissions to the file:
  - 1) FROM: Jay Stevens, City Engineer  
RE: Availability of Water and Sewage Facilities  
DATE: February 3, 1984
  - 2) FROM: David F. Bibber, Dover Fire Chief  
RE: Adequate Water Supply for Development  
DATE: April 6, 1984
  - 3) FROM: WSPCC, Daniel Collins, Deputy Executive Director  
RE: RSA 149-8-a Permit #WPT 1138  
DATE: March 30, 1984
  - 4) FROM: The State of New Hampshire Wetlands Board  
RE: Permit  
DATE: December 6, 1983
- Rudy Shankel, Seacoast Mobile Home Brokers, stated that he believed there was a need for alternative housing for both the elderly and the young.
- Rob Gaffney, 54 Dover Point Road, spoke in opposition to the proposal because he perceived there would be an adverse affect on the traffic. He also stated that he did not believe that, given the cost of mobile homes, the needs of the low income group would be fulfilled.
- Mrs. Gaffney, 54 Dover Point Road, spoke in opposition to the proposal.
- Sandra Hogan, Toftree Lane, directed questions regarding the possibility of a road being developed off of Toftree Lane and a future change in use of the mobile home park, to the Board.
- Mr. Torr responded to the concern about the possibility of road development off of Toftree Lane by noting that he did possess a right-of-way in the stated location. He did state that he would remove the right-of-way from the deeds only if the mobile home park receives final approval from the Planning Board.
- Ms. Hogan suggested that a traffic problem currently exists on Dover Point Road because of the location of the passing zone.
- Mr. Torr and Mr. Ciotti discussed the location of the passing zone.
- Mr. Torr, in response to Mr. Greenwood, stated that he did not foresee a change in use for the mobile home

park because he believed there was a strong need for elderly housing.

- Mr. Torr reminded the Board and the public that there had been review by the Chief of Police, the State Highway Department and the Planning Board, and that there was no indication of a traffic problem.
- Mr. Gaffney reiterated his concern regarding the traffic situation.
- George Maglaras, Coheco Street, stated that he was present at this meeting as the Chair of the Planning Board, at the request of the applicant, and would be willing to answer any questions.
- Mr. Maglaras, in response to Mr. Ciotti, noted that the location of the passing zone was a matter for the State and that the Planning Board was not in a position to make any changes.
- Mr. Torr restated that the site line had been determined to be adequate.
- Mrs. Gaffney directed a question to the Board regarding the traffic on Dover Point Road.
- Ms. Weiseman suggested that Mrs. Gaffney speak with Jay Stevens regarding her concerns. Ms. Weiseman then inquired if the Planning Board would be requesting a more extensive traffic study of the site.
- In response to Ms. Weiseman and Mr. Joy, Mr. Maglaras stated that the Planning Board has no control over the access to a State road. He reminded the Board that the applicant had received the approval of the State Highway Department.
- Mr. Torr noted that the tax revenue from the parcel would increase if it were to be developed.
- Mr. Torr responded to a series of questions by Mr. Joy:
  - 1) What percentage of the vegetation will be removed?
    - The applicant is not sure, however he wishes to maintain as much as possible.
  - 2) What are the requirements for screening?
    - Vegetation must be three feet across and 6 feet tall, and can be composed of 50% deciduous trees and 50% evergreens. Although slat fencing is an alternative, the applicant chooses not to pursue this option.

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- 3) Who will supply the homes and what will their value be?
    - Mr. Torr will provide the homes which will have an average cost of \$30,000 each.
  - 4) Is the lot proposed to be developed on the right-of-way permitted?
    - Yes, as long as a home can be placed somewhere on the lot (without infringing upon the right-of way).
- Mr. Torr, in response to Mr. Ciotti, stated that there would be a street light every 150 feet and that the mailboxes would be located on the individual lots.
- Petition for a special exception granted; contingent upon the following condition:
  - 1) No entrance from Toftree Lane will be developed. (Mr. Torr will comply with this condition only if final approval of the proposal is granted by the Planning Board.)Vote: 5-0.

H84-22 Strafford National Bank, 353 Central Avenue, known as Assessor's Map 2, Lot 35, zoned as B-2, petitions for a variance from Article IX, 170-32F-2, to replace their existing time and temperature display with a new display which exceeds the 25 foot maximum height limitation, as well as the allowable square footage, and also petitions for a variance to alter other building signs.

- John Earl, Vice President of Strafford National Bank, explained the request for a variance.
- Ms. Frazer questioned Mr. Earl regarding the fact that the signs were non-conforming uses.
- Mr. Joy explained the requirements set forth in the present sign ordinance and noted that the signs on the Bank were non-conforming.
- Mr. Selleck elaborated on the explanation given by Mr. Joy regarding the expansion of a non-conforming sign.
- Mr. Earl, upon questioning by Mr. Greenwood, noted that the trees would indeed grow and in time once again cover the sign. He stated that this would be a problem to be dealt with in the future and that hopefully pruning could be a useful method of maintaining visibility once the trees reach maturity.
- No one spoke in favor or in opposition to the petition.

- Discussion among the Board regarding the petition's compatibility with the four requirements necessary for a variance ensued.
- Mr. Selleck clarified the necessity of the variance.
- Petition for variance granted: 4-1 (Joy).

H84-23 M. Saunders, Inc., East Street, known as Assessor's Map 27, Lots 61 and 65, zoned as B-3, petitions for a variance from Article X, 170-40, to expand a non-conforming use in an RR-8 zone, creating a non-conforming use in a B-3 zone, with insufficient setbacks.

- William Tanguay, an attorney representing the applicant, 1 Glenwood Avenue, explained the petition for a variance.
- Mr. Tanguay, in response to a question by Mr. Joy, noted that the proposal would include the use of two lots.
- Mr. Tanguay stated that he would have no objection to the shifting of the lot lines, so as to provide for a single lot for both the existing structure and the proposed expansion.
- Mr. Tanguay, upon questioning by Ms. Weiseman, noted that the insufficient setback was the result of the necessity of the two buildings being attached.
- Mr. Selleck stated that the proposed addition would extend onto a lot with an existing building and therefore, the applicant would be required to seek a variance for this as well as the expansion of the non-conforming use.
- Mr. Tanguay noted that while the use was a non-conforming use, it was consistent with other structures in the area.
- Mr. Greenwood inquired about the location of the insufficient setbacks and was informed by Mr. Tanguay that the side setbacks were the item in question.
- In response to Mr. Greenwood, Mr. Tanguay stated that the lot in question had a history of having two buildings on the parcel. He reiterated his willingness to adjust the boundary lines to provide for a single lot.
- Jim Fernald, 44 New York Street, spoke in favor of the petition and stated that he believed the proposal would serve to upgrade the area.
- Mr. Ciotti questioned Mr. Tanguay regarding the access from the New York Street side of the property. Mr. Tanguay

noted that there was no access of of Broadway.

- No one spoke in opposition to the proposal.
- Ms. Weiseman and Mr. Ciotti suggested that the hardship in this case was of an economic or business nature and therefore, self-inflicted.
- Mr. Greenwood stated that the configuration of the lot could be construed as a hardship in the land.
- Discussion among the Board regarding the petition's compatibility with the four criteria for granting a variance followed.
- Mr. Greenwood suggested that the Board grant approval of the petition, contingent upon the condition that the Planning Board approves a subdivision application which depicts the buildings as contained on one lot.
- Mr. Tanguay stated that he did not wish the application process to be delayed and that he had no objection to Mr. Greenwood's suggestion as long as the Board was willing to approve the petition for the variances in setback and the expansion of a non-conforming use.
- Discussion among the Board continued regarding the options before them.
- Harold Preston, Middle Road, a Planning Board Member, suggested that it may be possible for the Planning Director to approve a simple subdivision, without a public hearing being required.
- Mr. Selleck noted that it was possible for the Board to make this a condition of the approval.
- The Board discussed this possibility.
- Petition for a variance denied: 3-2 (Frazer, Greenwood).
- Mr. Joy stated that he did not believe that the petition was consistent with the spirit and intent of the ordinance.
- Mr. Greenwood informed the applicant of the appeal process.

H84-24 Mr. and Mrs. Ralph Chamberlain, (applicant Charles B. Mutrie), Back Road, known as Assessor's Map M, Lot 93, zoned as R-40, petitions for a variance from Article V, 170-16, for relief from public road frontage requirements.

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- Charles Mutrie, Brown Road, Hampton Falls, explained the petition for the variance.
- Mr. Joy questioned Mr. Mutrie regarding further subdivision on the parcel.
- The Board raised questions regarding the clarification of the request, as there was some concern that the previous variance granted to Mr. Mutrie was done so with the intention that there would be no further access off of the private right-of-way.
- No one spoke in favor or in opposition to the petition.
- Mr. Mutrie explained that at the time of the original petition (H84-8, Assessor's Map M, Lot 92), Lot 93 was not available to him. Mr. Chamberlain has recently given him the option to purchase this parcel as a means to compliment the original plan.
- Mr. Selleck noted that he had a copy of the minutes of the March 15, 1984 meeting of the ZBA, should anyone desire to review the discussion of the Board concerning H84-8.
- Petition for a variance denied: 3-2 (Joy, Frazer).
- Mr. Joy and Ms. Frazer suggest that the Board approve the petition contingent upon the condition that there would be no further access permitted off of the private right-of-way.
- Mr. Greenwood, Ms. Weiseman, and Mr. Ciotti stated that they believed that the application violated the spirit and intent of the ordinance, as well as the spirit and intent of their previous decision.

H84-25 Thomas L. and Evelyn K. Backowies, Longhill Road, known as Assessor's Map A, Lot 39B, zoned as R-40, petitions for a variance from Article X, 170-40 and 170-41, to move the existing mobile home trailer to the rear of the property and connect it to the existing larger garage-type building.

- Tom Backowies, 13 Cherokee Street, explained the petition for a variance.
- Mr. Backowies, in response to a question by Mr. Joy, stated that he would be hiring someone to help him move the structure, however he would be building the foundation himself.
- Mr. Selleck, in response to Mr. Ciotti, stated that the applicant would be subject to all building codes.

- Petition for a variance granted: 5-0.

H84-26 Charles S. and Phyllis Arvenitis, 648 Central Avenue, known as Assessor's Map 30, Lot 134, zoned as O and RM-10, petitions for a variance from Article IV, 170-11; uses: to establish a commercial parking lot in an RM-10 zone, in connection with the main building located in an O zone.

- Malcolm McNeil, an attorney representing the applicants, 627 Central Avenue, explained the petition for the variance.
- Rosie Walker, a representative of Kendall Real Estate, 550 Central Avenue, spoke regarding the impact of the proposal on abutting properties. She noted that the parking lot would be shielded from the neighboring properties with shrubbery and that the property would be of no negative impact providing that it is well-maintained.
- Mr. McNeil stated that the drainage concerns will be dealt with by the Site Review Screening Committee, should the variance be approved.
- Ray Eaton 63 Mt. Vernon Street, spoke in strong opposition to the proposal and noted his concerns regarding drainage. He stated that he was also speaking for Malcolm Clay, 51 Mt. Vernon Street.
- Edith Mitchell, 68 Mt. Vernon Street, spoke in opposition to the petition and reiterated the concerns regarding drainage.
- Mr. McNeil restated that the drainage was a matter for the Site Review Screening Committee.
- Ms. Weiseman stated that she hoped that the Planning Board would also consider the lighting planned for the lot.
- Discussion among the Board regarding the petition's compatibility with the four requirements which must be met when granting a variance followed.
- Mr. Eaton and Mrs. Mitchell asked for a clarification concerning a hardship in the land. The Board explained the unusual zoning of the parcel.
- Petition for a variance granted: 4-1 (Frazer). Approval is contingent upon the condition that the parking lot dimensions are developed as proposed on the original plan.

Meeting adjourned at 12:02 a.m.