

ZONING BOARD OF ADJUSTMENT
MINUTES OF MEETING

Held: June 21, 1984
Council Chambers
Municipal Building
Dover, NH

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

Alternate Members Present: Charles Zamzow, Mardean Frazer.

Other: Building Inspector Richard Selleck.

BUSINESS MEETING

Called to order at 7:09 p.m

- Moved by Ms. Frazer, seconded by Mr. Zamzow, to approve the minutes of the regularly scheduled meeting held May 17, 1984.
- U.A.
- The Board discussed various ways to facilitate the viewing of pending cases prior to the monthly business meeting. It was agreed that the applicants will be given a letter from the Chair when they receive the application, which will outline the guidelines to be followed when submitting a request. Copies of the letters received from the applicants, stating the request in detail, will be mailed to the members with the agenda package.

Meeting adjourned at 7:28 p.m.

REGULAR MEETING (WITH PUBLIC HEARINGS)

Chair Greenwood called the meeting to order at 7:34 p.m.

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

- Anthony S. Hartnett, attorney for the Saunders, summarized the petition for a rehearing and noted the new evidence submitted by the applicant.
- Mr. Joy raised a question regarding the zoning districts and was responded to by Mr. Hartnett and Mr. Selleck.
- Request for a Rehearing: Granted 4-0. (Members voting on the petition: Mr. Joy, Ms. Frazer, Mr. Greenwood and Ms. Weiseman.)

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

- Mr. Selleck reviewed the evidence presented to the Board for consideration.

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- Moved by Mr. Greenwood, seconded by Mr. Joy, to table further action on this item until the end of the meeting.

H84-27 Pacific Mills Trust, (applicant John and Cindy Webster), Main Street, known as Assessor's Map 3, Lot 63, zoned UMUD, petitions for a variance from Article II, 170-6B: lot coverage.

- John Webster, applicant, explained the petition.
- Mr. Selleck stated that the petition was requesting a waiver of the lot coverage requirements, as the building was in excess of 70% of the lot. He noted that the Planning Department is considering removing this restriction from the ordinance, relative to UMUD.
- Timothy Pearson, a partner in the Pacific Mills Trust, spoke in favor of the petition.
- Upon questioning by Mr. Joy, Mr. Pearson and Mr. Webster explained that portion of the land to be sold with the building and its location.

- Variance Granted: 5-0.

H84-28 Lloyd E. Allen, Applevale Drive, known as Assessor's Map K, Lot 15J, zoned R-12, petitions for a variance from Article V, 170-14, to construct a breezeway and a two-car garage in connection with the existing dwelling, on a non-conforming lot.

- Lloyd E. Allen, applicant, explained the petition.
- Mr. Selleck responded to questions from Mr. Joy and Mr. Greenwood regarding the current classification of the lot as non-conforming.
- Mr. Allen, in response to Mr. Joy, stated that he felt the breezeway was necessary, even though its inclusion resulted in the insufficient setbacks.
- No one spoke in favor or in opposition to the petition.
- Mr. Greenwood raised concerns regarding the necessity of the breezeway.
- Mr. Allen stated that he would prefer the 9 foot breezeway but that he would reduce its length if necessary.
- Variance Denied: 5-0.
- The Board cited the reasons for the denial to be: 1) They did not perceive a hardship in the land and 2) the request was not in keeping with the spirit and the intent of the ordinance.
- Mr. Greenwood explained the appeal process to the applicant.

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H84-29 Grover L. Tasker, 621 Central Avenue, known as Assessor's Map 27, Lot 147, zoned O, petitions for a variance from Article V, 170-16, and Article X, 170-40, to expand a now existing non-conforming structure encroaching upon an adjacent owned lot, and expanding another area of the structure on its own lot.

- In the absence of Mr. Tasker, Steven Mairs, the applicant's attorney, explained the petition.
- No one spoke in favor or in opposition to the proposal.
- In response to a question by Mr. Joy, Mr. Mairs stated that he was not sure of the number of vehicles that would be accommodated by the addition, however he stated that he believed it would be 2 or 3.
- Variance Granted: 5-0.

H84-30 Dominic Ridolfi, Pineview Drive, known as Assessor's Map L, Lot 48H, zoned R-20, petitions for a variance from Article V, 170-16, for relief from setback requirements.

- Dominic Ridolfi, applicant, noted the letter he submitted to the Board and explained the petition.
- No one spoke in favor or in opposition.
- Mr. Ridolfi, in response to Ms. Weiseman, noted that the current setback of the house was consistent with the other houses in the neighborhood.
- Variance Denied: 4-1. (Greenwood).
- The Board cited the following reasons for the denial of the petition:
 - 1) The Board did not find that a hardship existed in the land.
 - 2) The petition was not in keeping with the spirit and intent of the ordinance.
- Mr. Greenwood explained the appeal process to the applicant.

H84-31 Douglas E. George, Bellamy Road, known as Assessor's Map H, Lot 6K, zoned R-20, petitions for a variance from Article X, 170-39, to subdivide two contiguous lots into separate lots creating two non-conforming lots in an R-20 zone (frontage) and/or relief from an Administrative Decision, in relation to Article V, 170-14: non-conforming lots.

- Chris Weisner, attorney for the applicant, explained the petition.
- Mr. Greenwood and Ms. Weiseman suggested that Mr. Weisner's interpretation of 170-14B differed from their interpretation.
- Mr. Weisner restated his position.

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- Mr. Greenwood and Ms. Weiseman further discussed their interpretation with Mr. Weisner and noted their disagreement with his previous statements. Ms. Weiseman stated that she believed that the ordinance was drafted specifically for instances such as the one before the Board, and, therefore, no hardship existed in this case. Mr. Weisner stated that he did not agree based on the fact that the zoning district was designated after the subdivision occurred, and was therefore confiscatory.
- Mr. Selleck noted that a declaratory judgment by the court might be necessary to determine if in fact the zoning designation was confiscatory.
- Mr. Weisner stated that he hoped the issue could be resolved without a court action.
- The Board decided to act upon the request for relief from the Administrative Decision first, and then act upon the request for the variance if necessary.
- Paul Allen 48 Bellamy Road, stated his opposition to the petition and requested that Mr. Selleck restate the City's position on the matter.
- Mr. Selleck noted that he could not, as Building Inspector, interpret the zoning ordinance, however he did explain his Administrative Decision.
- Mr. Allen restated his opposition to the petition and presented the Board with a description of the neighborhood properties. He noted that his calculations revealed that the average frontage of properties along Bellamy Road was 185 feet. He further reiterated that he could see no hardship in this case. Finally, he submitted a petition from five abutters in opposition to the proposal to the Board. He also submitted a picture depicting the property descriptions he outlined in his original statement.
- Tom Wersosky, 44 Bellamy Road, spoke in opposition to the proposal and stated that he was in agreement with the points presented by Mr. Allen. He further stated that he believed that the application was contrary to the intent of the ordinance.
- Doug George, applicant, rebutted the statements made by Mr. Allen and Mr. Wersosky. He stated that it was not his intention to change the character of the neighborhood. He noted that he had spoken with a number of the abutters and that he generally found no objections to his proposal. (He noted that Irving and Janet Fowler and Laurette Lesieur were among those individuals he spoke with.) He stated that it was his intention to build homes to fit the lots and that because he was building them on speculation, they would be desirable and attractive.
- Mr. Weisner reiterated the fact that he believed there existed a hardship in the land.

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- Mr. Greenwood summarized the two points he believed were relative to the appeal of the Administrative Decision:
 - 1) The existence of two legal lots of record
 - 2) The application of 170-14B, as outlined by the applicant.He noted that these two issues were to be used as the basis for the Board's decision.
- Mr. Weisner suggested that the building permit should be granted as a matter of right, and requested that the Board vote on this issue first.
- Vote on request for relief from Administrative Decision:
Denied: 4-1 (Zamzow).
- Vote on request for a variance: Denied 4-1 (Zamzow).
- The Board cited the following reasons for the said denial:
 - 1) The petition would diminish the surrounding property values.
 - 2) The petition violated the spirit and the intent of the ordinance.
 - 3) No hardship in the land existed, especially at the time of purchase.
- Mr. Greenwood sought assurance from the applicant regarding his understanding of the appeal process. Mr. Weisner stated that he was aware of the procedure.

Mr. Greenwood called a five minute recess at 9:28 p.m.

Meeting was called back to order at 9:35 p.m.

H84-32 William St. Laurent, Atkinson Street and St. Thomas Street, known as Assessor's Map 9, Lot 17, zoned RM-10, petitions for a variance from Article IV, 170-12, to convert the existing four unit apartment building to a five-unit dwelling.

- Bill St. Laurent explained the petition.
- Mr. Greenwood asked for a clarification of the zoning designation.
- No one spoke in favor or in opposition to the petition.
- Mr. St. Laurent noted the letter on file from Mr. Arndt stating his support for the proposal.
- In response to a question by Mr. Joy, Mr. St Laurent stated that his proposal is not prohibited by the square foot requirement, but rather by the ordinance which permits only 2-4 units per building in the RM-10 zone.
- In response to Ms. Frazer, Mr. St. Laurent explained that he would be creating two 1-bedroom units out of an existing four-bedroom unit.

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- Upon questioning by Mr. Joy, Mr. St. Laurent stated that without the variance he could still upgrade the building, however he did not believe he could do as good a job.
- Variance Granted: 4-1 (Weiseman).

Paul D. Dubay, Tolend Road, known as Assessor's Map F, Lot 3A, zoned R-40, petitions for a variance from Article V, 170-16, and Article X, 170-40B, for relief from dimensional requirements and to remove a non-conforming use from the lot and construct a single-family residence.

- Paul Dubay, applicant, explained the petition.
- In response to Mr. Greenwood, Mr. Dubay stated that the zoning ordinance requires 150 feet of frontage and that his property has 100 feet of frontage.
- Upon further explanation by Mr. Selleck, the Board decided that the variance being requested for the removal of the non-conforming use was a technicality.
- Variance Granted: 5-0.

H84-34 H. Clark Sutton and William E. Eastler, (applicant H. Clark Sutton), Broadway, known as Assessor's Map 27, Lot 70, zoned B-3, petitions for a special exception from Article IV, 170-12, to convert the existing two-unit apartment building to a four-unit dwelling in a B-3 zone.

- H. Clark Sutton explained the petition.
- Ray Desjardins, Freeman Court, spoke in favor of the petition.
- Mr. Greenwood noted the letter on file from Timothy Pearson, also in support of the proposal.
- Gregorios Koutreloukous, representing the Janetos Estate, stated that he was not opposed to the proposal, however he wished to make it clear that there was to be no egress onto this property.
- Ray Desjardins assured the Board that he would grant a right-of-way to Mr. Sutton across his property, so as to facilitate parking in the area.
- Ms. Weiseman noted the requirements which must be met when granting a special exception.
- Special Exception Granted: 5-0.

H84-35 Dean A. Fournier, 709 Central Avenue, known as Assessor's Map 28, Lot 18, zoned RM-20, petitions for a variance from Article IV, 170-12: uses, to

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construct a four-unit dwelling and four two-car garages, in connection with the adjacent building, in an RM-20 zone.

- Malcolm McNeil, attorney for Mr. Fournier, explained the petition.
- Mr. Greenwood stated that the request appeared to be for the expansion of a non-conforming use, as well as the items outlined in the agenda. Mr. Selleck stated that this indeed was the case. He further explained that the construction of more than one building on one lot was not included on the agenda, but that these two issues were covered in the plans submitted to the Board.
- Bill McQuade, of McQuade Realty, stated that he was not opposed to the granting of the variance, however he did raise concerns regarding water and sewer problems.
- Mr. Selleck reminded the Board that the water and sewer issues would be dealt with at a site review, should the variance be granted.
- In response to Mr. Greenwood, Mr. McNeil explained his understanding of the spirit and intent of the ordinance.
- Variance Granted: 3-2. (Joy and Weiseman).

H84-36 Stram and Blasik, 824 Central Avenue, known as Assessor's Map 37, Lot 35, zoned O, petitions for a variance from definition of a lot, Article II, 170-6, to move the existing building and garage to the rear of the lot and construct a new office building at the front of the lot.

- John Stram, applicant, explained the petition.
- Lawrence Blasik spoke in favor of the proposal.
- Mr. Joy asked for a clarification of the necessity of placing two buildings on one lot.
- Mr. Selleck and Dr. Stram explained the history of the parcel.
- Mr. Greenwood raised concerns over the future subdivision or transfer of any lot which contains two principle buildings.
- Ms. Weiseman questioned the applicant regarding alternatives to the proposal.
- Dr. Stram reiterated the hardship relative to the new construction along Central Avenue.
- Variance Granted: 3-2 (Greenwood, Weiseman).

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H84-24 Removed from the table for consideration.

- Mr. Greenwood read the letter submitted by the applicant.
- Because Mr. Mutrie, the applicant, was not present, Harold Preston, Middle Road, gave a brief summary of the history of the application.
- Discussion among the Board members followed.
- Request for a Rehearing Granted: 3-0 (Weiseman, Greenwood and Joy voting).

Meeting adjourned at 10:55 p.m.