

DOVER ZONING BOARD OF ADJUSTMENT

MINUTES OF MEETING

Held: July 19, 1984
Council Chambers
Municipal Building
Dover, NH

Members Present: Chair Peter Greenwood, Vice-Chair Alden Joy, David Bertrand, Dennis Ciotti.

Alternate Member Present: Charles Zamzow.

Other: Building Inspector Richard Selleck.

BUSINESS MEETING

- Moved by Mr. Joy, seconded by Mr. Zamzow to accept the minutes of the regularly scheduled meeting held on June 21, 1984.
- U.A.
- Discussion of pending cases followed.

PUBLIC HEARINGS

- Mr. Greenwood called the meeting to order at 7:35 p.m.

H94-37 Hannaford Brothers. (applicant Barlo Signs). Central Avenue and Merry Street, Assessor's Map 27, Lot 24, zoned B-3, petitions for a variance from Article IX, 170-32G, for relief from the dimensional requirements of the new sign ordinance.

- Owen Tiegen, representative from Hannaford Bros. and Barlo Signs, explained the petition.
- Upon questioning by Mr. Joy and Mr. Greenwood, Mr. Selleck clarified the reason for the request and explained the intent of the new ordinance.
- No one spoke in favor or in opposition to the petition.
- Variance granted: 4-1 (Greenwood).

H84-38 Helen Rowland. 89 Park Street, Assessor's Map 27, Lots 237 and 237A, zoned R-12, petitions for a variance from Article V, 170-16, for relief from dimensional requirements: frontage.

- Daniel Daigle, 87 Park Street, explained the petition.
- Discussion among the Board followed.
- Variance granted: 5-0.

H84-39 Leonard H. Jr. and Virginia D. Silver, 26-32 Maple Street, Assessor's Map 30, Lot 15, zoned RM-10, petitions for a variance from Article IV, 170-12: uses; to permit a commercial use in an RM-10 zone.

- Mr. Joy abstained from the Public Hearing. Mr. Greenwood explained to the applicant that, because an Alternate Member of the Board was not available, only four voting members would be hearing the petition. Mr. Silver stated that he wished the Public Hearing to continue as scheduled.
- Leonard Silver explained the petition.
- In response to a question by Mr. Bertrand, Mr. Kenny Meadows further explained the petition relative to the types of vehicles involved in the proposed delivery service.
- Mike Greenwood, 38 Maple Street, presented a petition to the Board which included the names of 19 residents opposed to the proposal. He raised concerns which included the blockage of the fire lane/right-of-way (known formerly as Wiggins Street), possible parking problems, increased traffic in the area, trash dumped on the site and increased noise in the area. He noted a letter from Prosper Shevenell and Son, Inc., in opposition to the petition, that the Board had previously placed on file. Mr. Greenwood then placed numerous photographs of the site on file.
- Mary Catsoulis, 34 Maple Street, spoke in opposition to the proposal and reiterated many of the points made by Mr. Greenwood.
- Phil Morrissette, 410 Sixth Street, stated that he was a former owner of 38 Maple Street and then noted his opposition to the petition. He explained the history of the uses on the property as he remembered them and cited current parking problems in the area.
- J. Andy Galt, 754 Central Avenue, spoke as the Council Member representing the residents of Maple Street. He noted correspondence from City Manager, Robert Steele and Building Inspector, Dick Selleck, dated May 1984, which indicated that an illegal operation of a commercial activity in an RM-10 zone was occurring. Mr. Galt noted that he believed that no commercial use should be permitted if the site must be accessed strictly through a residential area. Mr. Galt concluded by saying that he did not feel that the petition was compatible with the four criteria necessary to grant a variance.
- Mr. Silver responded to the concerns of the residents, including the history of uses in the building, trash on the site, traffic, blockage of the fire lane and the hardship in the land. He stated that he did not believe the hardship to be economic.
- Mr. Meadows stated that he believed that the nature of his business did not belong on the site in question, however he did state that perhaps the Board should allow some sort of commercial use. He noted that the use should be compatible with the neighborhood.
- Georgia Racia, 34 Maple Street, spoke in opposition to the petition.
- Mr. Galt further explained the history of the uses on the site and then reiterated his concerns regarding the traffic problem. He stressed that the neighborhood is residential.
- The Board discussed the petition's compatibility with the four criteria

which must be met when granting a variance.

- Variance denied: 4-0. The Board cited the lack of hardship in the land and the violation of the spirit and intent of the ordinance as the basis for the denial.

H84-40 Burton H. and Eileen Kimball, (applicant Joseph and Sonya Shield), 10 Milk Street, Assessor's Map 30, Lot 108, zoned RM-10, petitions for a variance from Article IV, 170-12; Uses, to remove the legal non-conforming automotive repair garage and replace it with a non-conforming use in the form of a wholesale distribution center, in an RM-10 zone.

- James Ritzo, an attorney for the applicant, explained the petition.
- In response to Mr. Bertrand, Mr. Ritzo noted that there would be no expansion of the building.
- In response to Mr. Joy, Mr. Ritzo stated that the Mt. Vernon access would be used.
- Mr. Greenwood raised concerns regarding the use of tractor-trailers in the area.
- Mr. Ritzo explained that the operation will remain the same as it is on Locust Street.
- Burton Kimball, Milk Street, spoke in favor of the petition.
- No one spoke in opposition to the petition.
- Discussion among the Board members followed.
- In response to Mr. Bertrand, Mr. Kimball explained the proposal for parking.
- Variance granted: 4-1 (Greenwood).

H84-41 Viola Mackey, 339 Dover Point Road, Assessor's Map L, Lot 60, zoned R-20, petitions for a variance from Article IV, 170-12: uses; to convert the existing two-family structure into a 3-unit dwelling, in an R-20 zone.

- Sidney Mackey, 337 Dover Point Road, explained the petition.
- Mr. Selleck explained the request further.
- Upon questioning by Mr. Greenwood, Mr. Selleck noted that the applicant did not need to apply for a site review.
- Harrison Mackey spoke in favor of the petition.
- Charles Mackey spoke in favor of the petition.

DOVER ZONING BOARD OF ADJUSTMENT

July 19, 1984

Page 4...

- In response to Mr. Zamzow, Mr. Selleck clarified the uses permitted in an R-20 zone.
- In response to Mr. Greenwood, Sidney Mackey explained the history of uses in the building.
- No one spoke in opposition to the petition.
- Lloyd George, 34 Cote Drive, directed a question to the Board regarding the impact of the petition on the R-20 zone as a whole. Mr. Joy responded.
- Maryann Charos spoke in favor of the petition.
- Variance granted: 4-1 (Ciotti).

H84-42 Patrick J. and Joan D. Miller, (applicant Patrick J. Miller), 132 Fourth Street and Lot #1 Kennedy Circle, Assessor's Map 32, Lots 14 and 82, zoned R-12, petitions for a variance from Article V, 170-14B, for relief from the dimensional requirements specific to non-conforming, contiguous/adjacent lots.

- Pat Miller, applicant, explained the petition.
- In response to Mr. Joy, Mr. Selleck clarified the request.
- Discussion among the Board followed.
- No one spoke in favor or in opposition.
- Leo Proulx, 8 Kennedy Circle, questioned the Board regarding the use that would be permitted by the variance.
- Mr. Greenwood explained that anything which is permitted legally in an R-12 zone could be built on the lot.
- J. Stimson, 4 Kennedy Circle, directed a question to the Board regarding the square footage of the lot at #1 Kennedy Circle. Mr. Miller noted that the Assessor's records show the lot to be 10,741 sq. ft.
- Variance granted: 5-0.

H84-43 Roger O. Boisse, 869 Central Avenue, Assessor's Map 38, Lot 7, zoned B-3, petitions for a variance from Article IX, 170-32-G3A, to move the existing free-standing sign on a lot having insufficient setbacks, and enlarge the existing sign.

- Roger Boisse explained the petition.
- In response to Mr. Ciotti and Mr. Greenwood, Mr. Boisse stated that the size of the proposed addition to the existing sign would be four feet wide and 3 feet long.

DOVER ZONING BOARD OF ADJUSTMENT

July 19, 1984

Page 5...

- In response to a question from Mr. Joy. Mr. Boisse stated that the sign would be 6½ feet from the ground and would not interfere with traffic visibility on Central Avenue.
- In response to Mr. Greenwood, Mr. Sellek noted that the sign could be set on the property line, as he was not aware of any restrictions in the ordinance.
- Mr. Boisse, in response to Mr. Ciotti, once again stated that he did not feel that the sign would obstruct the view of the traffic along Central Avenue.
- David Boutin, representative of Shaw's Realty, Inc., raised concerns regarding traffic visibility.
- Mr. Sellek noted that the applicant would not receive a permit should the sign obstruct visibility. He reiterated that the permit would be granted only in accordance with the sign ordinance.
- Mr. Boutin reiterated his concerns regarding the height of the proposed sign. Mr. Greenwood and Mr. Sellek responded to the concerns.
- Mr. Boutin requested that the Board include the condition that the abutters be given written notice of the height of the sign as soon as possible in its approval.
- The Board discussed including this as a condition and generally decided that it should be a request and not a contingency.
- Mr. Boutin noted that he was not opposed to the petition, rather he was simply seeking information. He raised concerns regarding the requirements relative to side setbacks.
- Mr. Sellek noted that because the sign would be within the paved lot, the ordinance required four foot clearance on all sides.
- Mr. Boisse raised objections to the condition suggested by Mr. Boutin.
- Mr. Greenwood and Mr. Sellek responded to Mr. Boisse's concerns.
- The Board discussed the waiver of the four foot setback requirement.
- Mr. Ciotti questioned Mr. Boisse regarding the parking proposal.
- Variance granted: 5-0 Proposal granted as submitted, thus including the waiver of the side setback requirement.

H84-44 Mr. and Mrs. Ralph Chamberlain, (applicant Charles B. Mutrie). Back Road, Assessor's Map M, Lot 93, zoned R-40, petitions for a variance from Article V, 170-16, for relief from public road frontage requirements.

DOVER ZONING BOARD OF ADJUSTMENT

July 19, 1984

Page 6...

- Charles Mutrie explained the petition.
- Mr. Greenwood noted that the proposal would be governed by one owners' association.
- Mr. Mutrie responded to Mr. Bertrand regarding the original variance granted by the Board. He stated that he believed that the intent of the Board was to restrict further subdivision on the original parcel. He noted that the Planning Board was more than satisfied with the construction specs proposed for the private right-of-way.
- In response to Mr. Joy, Mr. Mutrie further clarified the request.
- Mr. Mutrie noted that he had wished to present both parcels to the Board at the same time but that from a procedural standpoint that was not possible.
- Harold Preston, Middle Road, spoke in favor of the petition and noted that he considered it good land-use planning.
- Mr. Joy read the minutes of a previous meeting and stated that he wished to impose the condition which would limit access to the private right-of-way to only the nine lots in the approval.
- Variance granted: 4-1 (Greenwood). This approval is contingent upon the following condition:
 - 1) The private roadway system access is limited to nine lots and further expansion is prohibited.

H84-45 Joseph and Norma Gurinkas, (applicant Kenneth and Deanna Gallant), 53 Boston Harbor Road, Assessor's Map 7, Lot 19, zoned R-20, petitions for a variance from Article V, 170-14A, to expand and then demolish the existing non-conforming structure.

- Kenneth Gallant explained the petition.
- Mr. Selleck, in response to Mr. Greenwood, noted that if the lot were vacant, the structure could be built.
- Mr. Gallant, in response to Mr. Greenwood, stated that Boston Harbor Road was a private road.
- Ann Bartley, a realtor for the Gurinkas, spoke in favor of the petition and stated that she believed the proposal would enhance property values in the area.
- Variance granted: 5-0.

H84-46 M. Saunders, Inc., East Street, Assessor's Map 27, Lots 61 and 65, zoned B-3, petitions for a variance from Article IV, 170-11 and Article X, 170-40 and 41, to expand a non-conforming use in an RM-8 zone, creating a non-conforming use in a B-3 zone, with insufficient setbacks and creating two principle buildings on one lot.

DOVER ZONING BOARD OF ADJUSTMENT

July 19, 1984

Page 7...

- Anthony Hartnett, attorney for the applicant, explained the petition.
- In response to Mr. Joy, Mr. Hartnett noted that the Fernald and Moreau properties are in a B-3 zone.
- Mr. Harnett noted that the applicant was at this time petitioning for a variance to permit more than one principle building on a lot.
- Mrs. Saunders stated that lot 61 was zoned B-3, per Timothy Sheldon, Planning Director.
- Mr. Greenwood suggested that the subdivision item be dealt with.
- Pat Murray, 29 Hillcrest Drive, spoke in favor of the petition and stated that he believed that it was in line with the process of upgrading the area.
- Gregory Koutrelakos, a real estate appraiser, spoke in favor of the petition.
- Mr. Saunders spoke in favor of the petition.
- Mr. Fernald, 44 New York Street, spoke in favor of the petition.
- Mrs. Saunders and Mr. Hartnett noted that a petition from residents in support of the proposal had been submitted to the Board.
- No one spoke in opposition.
- Discussion among the Board members followed.
- Mr. Hartnett noted that a portion of the business is the retail component, a permitted use in a B-3 zone.
- Variance granted: 4-1 (Greenwood).

Meeting adjourned at 11:05 p.m.