

ZONING BOARD OF ADJUSTMENT
MINUTES OF MEETING

Held: Thursday, April 25, 1985
Municipal Building
Auditorium

BUSINESS MEETING

MEMBERS PRESENT: Chairman Peter Greenwood; Vice Chairman
Alden Joy; Dennis Ciotti; David Bertrand

ALTERNATES PRESENT: Mardean Frazer; Ann Turner; Bill Hunt

OTHER: Dick Selleck, Building Inspector

Mr. Joy called the meeting to order at 7:05 PM. Meeting consisted of discussion of cases.

REGULAR MEETING WITH PUBLIC HEARINGS

H85-11 Philip and Mary Crosier, 68 & 70 Fourth Street, known as Assessor's Map 32, Lot 35, zoned R-12, petition for a variance from Article IV, Section 170-12, to convert an existing two-unit dwelling into a four-unit dwelling in an R-12 zone.

Mr. Wilbur Boudreau of Crosier Management Co. explained the request to the Board. He explained that they wish to rehabilitate the buildings in question. They have deteriorated over the years and the apartments are very large and uneconomical.

Mr. Joy asked Mr. Boudreau if there are already two apartments in buildings in question in an R-12. Mr. Boudreau's reply was yes.

No one spoke in favor of the request.

George Law, 72 Fourth Street, spoke in opposition to the request stating that when he bought his property he knew the area was zoned residential and assumed it would stay that way. Also stated the area is very congested and not conducive to that type of development. He also stated that if this variance is granted, it may set a precedent in the neighborhood.

Glenna Law, 72 Fourth Street, also spoke in opposition stating that the owners of property should have investigated the zoning laws before they purchased the buildings, also stating that granting this variance could set a precedent.

Dorothy Perkins, 7 Snow's Court, spoke in opposition, stating she does not want to see a 4-unit apartment house there because it is a congested area and the land is not large enough for it.

(over)

Ms. Turner asked if the new steel door on one of the apartments was installed with the intention of having more apartments in the building or for security purposes.

Mr. Boudreau replied that he did not know.

Mr. Ciotti asked what the foundation size of the building is.

Mr. Boudreau replied that he did not know.

Mr. Greenwood closed public hearing at this time, and Board discussion of the case followed.

Dennis Ciotti made a motion to deny the request since it is against the spirit and intent of the ordinance, building is being used to its highest use. No hardship involved.

Ann Turner seconded the motion.

Variance Denied - 5-0.

H85-15 Frank DiCicco, Tolend Road (Applicant: Rickey Allen DiCicco), known as Assessor's Map F, Lot 10, zoned R-40, petitions for a variance from Article V, Section 170-16, for relief from frontage requirements.

Rickey Allen DiCicco wished to withdraw request at the time. He stated he wishes to revise his plans and present them to the Board at the May, 1985 meeting.

H85-16 Paul J. Martel, Sr., Tolend Road (Applicants: Peter & Leslie Martel), known as Assessor's Map E, Lot 57, zoned R-20, petition for a variance from Article V, Section 170-16, for relief from frontage requirements.

Peter Martel explained the request to the Board, reviewing plans and explaining where house would be built.

Mr. Greenwood asked if there are any restrictions on use of the right of way to which Mr. Martel answered no.

No one spoke in favor or in opposition to the request.

Ms. Turner asked how long the right of way has been in existence to which Mr. Martel replied that it is in the deed to the property.

Mr. Joy made a motion to grant the variance.

Mr. Bertrand seconded the motion.

Variance Granted - 5-0.

H85-17 McManus & Johnson, 52 Old Rochester Road (Applicant: James S. Lyndes), known as Assessor's Map 40, Lot 25, zoned B-3, petitions for a variance from Article I, Section 170-6, for relief from the definition of a lot, and a special exception from Article VI, Section 170-19, to construct 14 to 16 condominium units in a B-3 zone.

Mr. Greenwood stated that Dennis Ciotti had requested to step down and not hear this case, and that Mardean Frazer would serve and hear this case in his place.

Attorney Malcolm McNeil, representing Mr. Lyndes, explained the request to the Board. He passed out copies of site to Board members and explained that all measurements were approximate and not exact. He explained that the request was for 14 to 16 condominium units, and that the present office would be used for condominium management office. Mr. McNeil asked that the Board vote separately on the special exception and the variance.

Special Exception: Mr. McNeil stated that under Section 170-19 (multi-family in business district), B-3, is permitted in this area. He also explained that there are many types of uses that could be allowed in this area (e.g. hotel/motel, car sales) that would create much customer usage. He stated that the area has business uses, multi-family uses, and single family residences and that given this fact, the site is appropriate and consistent with other uses that surround the property.

He also stated that this is the least dense of all the proposals that have come before the Board for usage of this property. He stated that the proposed use would not be noxious, injurious or detrimental or offensive to the neighborhood. Regarding traffic, Mr. McNeil stated that in terms of other businesses that could locate on this property, traffic would not be a problem.

Regarding spirit and intent of the ordinance, Mr. McNeil stated that the fact that the Zoning Board provides for this type of use suggests that this is an allowed use for this zone.

Regarding past concern expressed about city sewerage and water, Mr. McNeil stated that his client is willing to take any measures necessary to improve these areas.

Uniqueness: Mr. McNeil stated there is not enough frontage to carve off the piece where the office is. If the office had to be moved or destroyed, this would create an unnecessary hardship.

Property values: Mr. McNeil stated that this type of use would not adversely affect property values in the area.

Mr. Bertrand asked if they are proposing to change the driveway to the other side of the office building, to which Mr. McNeil replied that they would if it was requested, adjusting the traffic away from the intersection.

Ms. Turner requested the proposed width of the driveway. Mr. McNeil replied 22'.

Mr. Turner asked what is the number of feet between the back of this proposed building and the rear lot line.

Anthony McManus replied that is well within the required dimensions.

Anthony McManus, Back Road, spoke in favor of the request, stating they had reviewed the plans with the Department of Public Works and had been assured there would be no impact on sewerage in the area. He also stated their interest in selling the lot or having it developed is to have it done in a residential setting. Regarding traffic, Mr. McManus stated that some of the permitted uses would generate much more serious traffic problems than what would be generated by this proposal. He also stated that this request is more reasonable than previous proposals in terms of number of units.

Aldo Fantini, Strafford Road, spoke in opposition to the request. He stated the request does not meet density requirements and there is no hardship. Also, it is not in keeping with the neighborhood. Other reasons stated were traffic, sewerage, low water pressure in the area.

June Richardson, 22 Wellington Ave., spoke in opposition, stating that many of the people who have lived in this neighborhood for many years know the severity of the traffic and water problems in the area.

Mr. Fantini added that he does not feel it is realistic to think of this proposal as the least of 2 evils, that there could also be something like a hairdresser or dress shop in the office building.

Terry Dunn, 54 Old Rochester Road, spoke in opposition for the same reasons as other abutters.

Mr. Greenwood read a petition that had been submitted by the neighbors, consisting of 109 names.

Mr. McNeil emphasized at this time that this is a business zone.

Charles Watkins, 5 Strafford Rd., spoke in opposition to the request, mostly because of the traffic hazard in the area.

Mr. Greenwood closed the public hearing at this time.

David Bertrand made a motion to deny the request because it does not meet the spirit and intent of the ordinance, undue traffic hazard, would overload sewer system, offensive to neighborhood.

Mardean Frazer seconded the motion.

Special exception denied - 4-1 (Frazer, Bertrand, Joy, Turner)

Since special exception was denied, variance was not considered.

Meeting adjourned at 9:45