

DOVER ZONING BOARD OF ADJUSTMENT
MINUTES OF MEETING

Held: Thursday, June 6, 1985
Council Chambers, Municipal Bldg., Dover, NH

Members Present: Vice Chairman Alden Joy

Alternates: Mardean Frazer; Bill Hunt

Other: Dick Selleck, Building Inspector

BUSINESS MEETING

Alden Joy called the meeting to order at 7:10 PM.

Discussion of cases followed.

REGULAR MEETING WITH PUBLIC HEARINGS

In the absence of Chairman Peter Greenwood, Vice Chairman Alden Joy chaired the meeting. Mr. Joy opened the meeting at 7:30 PM; he then introduced Board members, explained procedures of public hearing, and also explained that since there were only three Board members present a request could be granted only if there were a unanimous vote. He said that if anyone wanted to withdraw their case until a future meeting because of this they could do so.

H85-21 Prue Realty, Inc., North of Mast Road, known as Assessor's Map H, Lot 59 or 61, zoned R-40, petitions for a variance from Article IV, Section 170-12, to construct a "hot top plant" in an R-40 zone.

Attorney Bill Cullimore, 17 Farmington Rd., Rochester, NH, representing Prue Realty, Inc., explained the petition to the Board. He explained that Mr. Proulx has owned the sand and gravel operation on Mast Road for many years and during that period of time the gravel has depleted. There is a high percentage of sand in that area as opposed to the amount of gravel. Mr. Proulx has had the property on the market for quite some years and he feels that in order for that property to have any value the proprietors would have to operate a hot top plant along with the sand and gravel business. The operation of a hot top plant in connection with sand and gravel is a normal and incidental use. They go hand in hand. The hardship in this case is the very high percentage of sand in this property and the fact that the property has very little use to purchasers unless they can utilize the sand in operation of a hot top plant. Regarding environmental concerns, Mr. Cullimore stated that hot top plants are closely and highly regulated by the Federal government, and also could be regulated by local government. There would be no emissions in an operation of this type. We do not believe that the operation of a hot top plant would adversely affect any of the abutting properties. A hot top plant would be shielded from all residences in the area.

(over)

Arthur Thomits, Chairman of the Conservation Commission, spoke in opposition to the request. He reinforced Mr. Galt's statement that to put something of this magnitude in this area would create a bad situation.

Harold Preston stated that before the City Council right now is a Well Site Protection ordinance that would limit and monitor activities that take place in these areas. Mr. Preston presented a list of lots (including the ones in question) in Well Site Protection ordinance to Board.

Mr. Cullimore stated that Mr. Proulx understands the emotions involved with respect to installation of the hot top plant. Obviously, being where it is (1,000' away from wells) there would be extraordinary precautions that would have to be taken, and these precautions would be taken. There is always the possibility of some kind of contamination and the only way we can respond is to say that every step would be taken to prevent any kind of contamination or leakage if plant were put in here. It would be regulated by the Federal government, and state and city governments. Speculation that something might happen should not sway the decision of the Board. He stated that the request meets all the other requirements to grant a variance.

Harold Preston stated that Mr. Proulx would not be there and will have no control over what the people do. He stated he feels this request involves a financial hardship which does not qualify in granting a variance.

Paul Allen, 48 Bellamy Road, stated he is concerned about odor and carcinogenics flowing down as a result of a hot top plant.

Mr. Cullimore stated there would be no emissions at all, it would be completely self-contained.

Alden Joy closed the public hearing at this point and the Board discussed the request.

Mardean Frazer made a motion to deny the request on the grounds that it is not in the public interest, not in the spirit and intent of the ordinance, and there is no hardship.

Bill Hunt seconded the motion.

Variance denied - 3-0.

The following 3 cases were considered as one request:

H85-22 S & H Enterprises, Inc., North of Mast Rd., known as Assessor's Map H, Lot 60, zoned R-40, petitions for a variance from Article VIII, Section 170-30C, for relief from the requirement which prohibits excavation within 20' of any lot line.

ever since the pits have been used, this will not change. They simply want to level off barriers. He also stated there would be no increase in activity, and nothing would be any different than it is at the present time and has been for many years. He feels this is a unique situation where the zoning ordinance is imposing a hardship on this particular land.

Harold Preston stated he feels the hardship is financial.

John Torr stated he feels there would be a lot of increased activity.

Bill Hunt asked what is the current situation is as far as digging in terms of depth.

Mr. Griffin stated they cannot go over the top of the well casing.

Harold Preston stated there are several different levels there. S & H has gone deeper than Mr. Griffin, and Mr. Proulx's is even deeper.

Alden Joy closed the public hearing at this time. Board discussed case.

Mardean Frazer made a motion to permit the variance stating there is hardship involved and it would be an injustice not to grant. She feels it would be in the spirit and intent of the ordinance. Also stated this is a special situation.

Bill Hunt seconded the motion asking that stipulations be attached regarding bonding criteria and stated a letter regarding such should be submitted to Mr. Selleck is variance is granted.

Variance denied - 1-2 (Joy)

The meeting was adjourned at 9:00 PM.