

DOVER ZONING BOARD OF ADJUSTMENT
MINUTES OF MEETING

Held: Thursday, July 25, 1985

Place: Dover City Council Chambers, Municipal Building

Members Present: Alden Joy, Vice-Chairman; Dennis Ciotti; David Bertrand; Bill Hunt,

Alternates: Mardean Frazer; Anne Turner.

Other: Berrie Donovan, Planning Department.

BUSINESS MEETING

The meeting was called to order at 7:05 PM.

Alden Joy read a letter to the Board written by Attorney Anthony Hartnett, representing George Demosthenes, stating that they understand exactly what they were granted for variance, and would now work out plans for the development with the Planning Board.

Regarding H85-33 (Forbes & Parks), the Board voted unanimously that the City Attorney should write a letter to the Building Inspector stating that they do not need a variance.

Request for a rehearing for H85-22 (S & H Enterprises, Inc.), H85-23 (Prue Realty, Inc.) and H85-24 (James P. Griffin), for a variance from Article VIII, Section 170-30C, for relief from the requirement which prohibits excavation within 20 feet from any lot line, was discussed.

The Board decided to vote on a new Chairman and Vice-Chairman. David Bertrand made a motion to nominate Alden Joy as Chairman. Dennis Ciotti seconded the motion. Unanimously approved.

Dennis Ciotti made a motion to nominate Bill Hunt as Vice-Chairman. David Bertrand seconded the motion. Unanimously approved.

Discussion of cases followed.

REGULAR MEETING WITH PUBLIC HEARINGS

Alden Joy called the meeting to order at 7:35 PM. He introduced members of the Board and explained procedures of public hearing.

Regarding cases H85-22, H85-23, H85-24 (S & H Enterprises, Prue Realty, Inc., James P. Griffin), Mardean Frazer made a motion to grant a rehearing. David Bertrand seconded the motion. Request for rehearing granted, 5-0 because the original decision was illegal since no reason for denial given.

(over)

H85-36 Papa Gino's of America (Earl Peterson), 829 Central Ave., also known as Assessor's Map 37, Lot 24H-2, zoned B-3, requests a variance from Article IX, Section 170-32(21), for relief from signage measurement requirements on awnings.

Earl Peterson, Avon, MA, representing Papa Gino's of America, explained the request to the Board. He submitted drawing of building to Board members. He stated that Papa Gino's has a style of awning where they put their name and logo directly on the awning. They do not wish to have a wall sign, but prefer to go with awnings.

Alden Joy asked if they are requesting this variance simply because they wish to have their name and logo on awnings instead of wall sign.

Mr. Peterson answered in the affirmative.

No one spoke in favor of the request.

Thomas Massingham, 177 Locust Street, spoke in opposition to the request stating he sees no reason to vary from the sign ordinance which has been effect for about one year. It is his feeling that Papa Gino's is trying to "punch holes" in the sign ordinance.

Mr. Peterson rebutted that they are not trying to "punch holes" in the sign ordinance, that this is the way they identify themselves in all their restaurants.

In reply to a question from Bill Hunt, Mr. Peterson replied that the material the awnings are made out of is canvas.

Mr. Peterson stated that the largest one would be at the entrance and would be 10 square feet.

Alden Joy asked if Papa Gino's intends to put up any free standing signs.

Mr. Peterson stated he believes they intend to have one free standing sign.

Alden Joy closed the public hearing at this time.

David Bertrand made a motion to grant this variance with the stipulation that no other signs be placed on the outside of the building.

Dennis Ciotti seconded the motion.

Variance Granted, 3-2 (Hunt, Frazer)

Reason for granting: this is a format for an organization which is universal in the same manner as it was with Dunkin Donuts.

H85-37 Richard R. Scherf, Rte. 108, Durham Rd., also known as Assessor's Map I, Lot 17, zoned R-20, requests a variance from Article II, Section 170-6B, paragraphs 2 & 4, for relief from restriction of only one non-resident employee and from the square foot requirement of customary home occupation.

Richard Scherf showed slides of the building and stated he has a dentist practice in the building.

Attorney Douglas Gray, representing Mr. & Mrs. Scherf, described the property and stated there are no homes in close proximity to that particular building. He explained that they wish to increase the size of the lobby and hallways to make the building more accessible to handicapped patients. He stated that safety is not an issue since the sight lines in both directions are more than adequate. This is not a high density neighborhood, mainly residential. There would be no increase in traffic. Speed limit in this area is 35 MPH. Many variances of this type have been granted in this area. He stated the building has been designed from the outside as an office/home. Granting this variance would not adversely effect property values in the area.

Attorney Gray submitted a letter written by Gregory Koutrelakos stating he reviewed the proposal and it is his opinion that the request will not effect adversely any of the surrounding property values. It would not be detrimental to the public interest.

Attorney Gray stated it is in the spirit and intent of the ordinance, safety is not an issue, the residential quality of the area would be maintained and it would be a substantial injustice not to grant this variance.

David Bertrand asked if additional employees would be assistants or another doctor.

Mr. Scherf replied there would be no other doctor.

Elizabeth Dolan, Hemlock Forest, spoke in favor of the request. She stated that Dr. Scherf had met with the Board of Directors of Hemlock Forest and explained everything he is planning to do and there were no objections to his expansion. His office presently looks like a house, which would not change, and there would be no increase in traffic.

David Rosina, 69 Silver St., spoke in favor of the request stating he has had the opportunity to get to know all dentists in the sea-coast area, and that Dr. Scherf is among the most competent of dentists in the area. He stated it would be in the best interest of the City to make him more available to its residents. He has the best interest of the City in mind.

Alden Joy read a letter from Robert E. Marmen in favor of the request.

No one spoke in opposition to the request.

Mardean Frazer asked what is on the second floor.

Dr. Scherf replied the second floor is private and is connected to the house.

Mr. Joy asked how many employees there are at present.

Attorney Gray replied that there are 3 at present - a Dental Hygienist, Dental Assistant, Secretary.

Bill Hunt asked if the second floor of the office complex is connected.

Attorney Gray replied that it is.

Bill Hunt asked what the parking requirements are.

Attorney Gray replied that there are no parking requirements. The driveway for the practice is on the south side of property and will be increased and parking places will still exist on north side.

Alden Joy closed the public hearing at this time.

David Bertrand made a motion to grant the variance with a stipulation that Dr. Scherf could not have a partnership.

Alden Joy stated he did not know if it would be legal to do this.

David Bertrand made a motion to grant the variance with the stipulation that there be a limit of one resident and no more than 3 non-residents on the premises.

Dennis Ciotti seconded the motion.

Variance granted, 5-0.

H85-38 Paul E. & Lillian Fisher, off Garrison Rd., (Applicant: Hampton Management Corp.), also known as Assessor's Map I, Lot 2A, zoned RM-12, requests a variance from Article V, Section 170-16, for relief from frontage requirements.

Alden Joy stated that in his opinion this case would have to be re-advertised since the applicant name and lot number on the original application are incorrect.

After Board discussion of the matter, Alden Joy made a motion that this case be set aside. Bill Hunt seconded the motion.

The Board voted 5-0 to table this case until correct information is published.

H85-39 Desire Baron, 31 Dover Point Road (Applicant: Hampton Management Corp.), also known as Assessor's Map K, Lot 36, zoned R-12, requests a variance from Article IV, Section 170-12, for relief from use requirement to construct an office building in an R-12 zone.

Dennis Ciotti did not sit on this case.

Bonnye McGeary explained the request to the Board. She stated that this property is less than 100' (across the street) from B-3 zone. She said the office building would be a 9 to 5 venture. There is already a buffer there and they would add to the buffer. She stated her opinion that this area has become a business area with car dealerships, etc. She stated their building would be very attractive and well landscaped, and would be back as far as possible from the road. They plan to use the existing house as a temporary

office, and when new building is done it will be removed. Ms. McGeary stated they are open to any suggestions from either the Zoning Board or Planning Board. She stated her feeling that the majority of the abutters are in favor of their plans. Parking would be in the back of the building.

Armand Vallee, 35 Dover Point Rd., spoke in favor of the request. He stated his feeling that we have to progress with the times and this seems like a good project.

Ida Purpura, 20 Dover Point Rd., also spoke in favor of the request. She stated they would be making an eyesore into a beautiful place and she is very much in favor of it.

Matt Williams, 28 Dover Point Rd., spoke in favor of the request stating that he has conceded in the last couple of years that this area will have to go commercial. Something low key like this is much more favorable than something like a car dealership. This would not create traffic problems.

Marilyn Follansbee, 25 Dover Point Rd., spoke in opposition to the request stating that perhaps this does have to come sooner or later, she would prefer later. She feels they do beautiful work, however it would intrude on her privacy. She stated her opinion that every-time a variance is granted it brings their area a little closer to becoming a Miracle Mile.

Leonard Small, 19 Dover Point Rd., also spoke in opposition stating that the argument that it is going to come sooner or later is not one that should be considered in granting a variance. He feels the area should stay residential and does not think any hardship has been shown. He strongly urged the Board to deny the request.

Tony Savramis, 15 Dover Point Rd., stated his opposition. He was in agreement with Dr. Small. He stated traffic on this road is heavy now and could only get worse. Also, sewerage problems in the area.

Linda Scherf, Rte. 108 stated her opposition. She stated she has gardened at 25 Dover Point Rd. for the past few years and she does not feel that the residents wish to have businesses moving in and the area becoming another Miracle Mile.

Dennis Ciotti of Dover stated his opposition. He feels the applicants intent and application are very misleading. Going out of that yard has always been a problem trafficwise. There are cars going 40 to 50 MPH in either direction. He does not feel it would enhance the area and there is no hardship in this land. He feels they are asking for rezoning, and the Board does not have the authority to do this.

Ms. McGeary stated they do have hookup for sewerage and they do not intend making a Miracle Mile by any means; they are asking for an office building, not a supermarket. Traffic that is there on that highway is there because people use it to avoid the toll. She stated the hardship is that the people selling the house are both in rest homes and if is sold residential they will get next to nothing for it.

Dennis Ciotti apologized stating he is not blaming her for the traffic, it has been bad for years. He stated that any increase in traffic would be a detriment to the City of Dover. He also stated that the area will go commercial only if you let it and that would be spot rezoning.

Anne Turner asked what the frontage of the property is and how many offices are intended.

Ms. McGeary replied that the frontage is 166' x 400' deep. She stated she would look to the Board for recommendations as to how many offices and that she would consider turning the house into office building if Board would approve.

Anne Turner asked if it would be a hardship to this property not to have office.

Ms. McGeary replied that it is a large piece of property and has the characteristics to hardship. Property values would be enhanced by office building.

Bill Hunt asked how many additional vehicles would be anticipated going in and out of location in a day based on maximum occupancy.

Ms. McGeary stated she feels there would be an increase of about 100 cars per day.

Alden Joy closed public hearing at this time.

David Bertrand made a motion to deny the request because it would not be in the spirit and intent of the ordinance and there does not appear to be any hardship in the property.

Mardean Frazer seconded the motion.

Variance denied, 5-0.

Craig Williams, Dover Point Road, approached the Board to request a rehearing on case H85-31 (Tapscott). Mr. Williams read a letter to the Board stating his reasons. Letter was presented to Board and placed in Tapscott folder. After discussion of Mr. Williams' reasons for request of rehearing, the Board voted 5-0 to deny request for rehearing since Mr. Williams presented no new information relative to the case.

Meeting adjourned at 9:30 PM.
