

DOVER ZONING BOARD OF ADJUSTMENT
MINUTES OF MEETING

Meeting Held: December 19, 1985, Municipal Building, Dover, New Hampshire.

Members Present: Alden Joy-Chairman, David Bertrand, Mardean Fraser.

Alternates: Ann Turner, John Torr

Also Present: Richard Selleck-Building Inspector/Zoning Officer, Berrie Donovan, Recording Secretary.

Business Meeting:

Mr. Joy called the business meeting to order at 7:05 P.M.

Mr. Bertrand motioned to accept the minutes of November 21, 1985. Mrs. Turner seconded.

Vote: U/A

Scott Woodman, City Attorney, explained the court case of Aranosian Oil Co. vs. City of Dover to Board Members.

The Board Members explained their decision to Scott Woodman, stating that the variance if granted would not have been in the best interests of the City, that traffic would be a definite problem, and a diminution of property values in the adjacent area probable.

Mr. Joy adjourned the business meeting at 7:30 P.M.

PUBLIC HEARINGS:

Mr. Joy called the meeting to order at 7:35 P.M. and explained the Board's procedure to the members of the public.

Mr. Joy left his position on the Board due to a conflict of interest. Mr. Hunt assumed the position of Chairman.

Rehearing on case number H85-32, Spinelli Corporation, Heritage Hill Apartments, portland Avenue, also known as Assessor's Map 25, lots 43B, 43B-1, 43B-2, 43C-1, 43C-2, zoned B-3, R-12, requests a special exception for the addition of 14 dwelling units and a separate management office.

Doug Gray, Attorney for Spinelli Corporation, stated his belief that previous denial did not meet one or several of the criteria, and was not specific enough.

Attorney Gray suggested the Board read a guide put out by the Office of State Planning in reference to the effect of noise and traffic on the proposal. He noted that the applicant wishes to add units by adding a floor to building two and by adding one building with eight units to the central complex, that the new structure will blend in and no increase in noise is expected. He noted that the surrounding neighborhood consists of a market, Guppy Park, the electric company and a single family home.

Attorney Gray noted that the spirit and intent of the ordinance will be met if the special exception is granted as there would be no negative impact on safety, and the public would not be inconvenienced. He noted that dwelling units for rent are in great demand.

Mike Spinelli spoke on the history of the complex, and that special exceptions have been granted in 1975 and 1977. He stated that in fourteen years he has received no complaints from abutters or police.

Attorney Gray presented letters from abutters stating no opposition.

Attorney Gray stated that a report on traffic from Civil Consultants determined that there would be short to average delays upon entering and exiting the complex. He noted that pedestrians crossing Portland Avenue would not be connected with the complex, and that the parking problem on Portland Avenue should be handled by the police and is not caused by residents of the complex.

Attorney Gray presented a letter from Civil Consultants stating that they have reviewed the site plan for noise and in their opinion noise generated would be from the traffic on Portland Avenue rather than from the complex itself. He noted that police records indicate no incidence of vehicular or pedestrian accidents in the area of the complex.

John Adams, 6 Elmwood Avenue, spoke against the proposal stating that the rear of his property in the R-12 district abutts the Spinelli property, and the noise from stereos, garbage collections at 6:00 A.M., etc. are obnoxious and offensive to the single family district. He presented new photos showing the crowding in the area.

Thomas Lauher, 8 Elmwood Avenue, noted that this was his fourth visit here, and asked the Chairman to have each member of the Board comment on the requirements for the special exception. He noted that the roadway has been widened to three lanes, an indication of danger, that the 35 mph speed limit is almost always exceeded, and that there was an accident in the area requiring an ambulance on July 4, 1985.

John Russell, 15 Elmwood Avenue, spoke against stating that the increase in traffic would be a safety factor with pedestrian traffic and the children in the area. He spoke of the infringement of the complex in the R-12 area.

Patrick Roache, 16 Elmwood Avenue, noted that speculation on diminution of value in the area and that should be a factor in denying the special exception. He noted that when he moved to the area, he was led to believe that only single family residences would be built in the R-12 area.

In response, Doug Gray stated that the garbage trucks are only in the area between 7:00 A.M. and 5:00 P.M., that no open fires are allowed to exist, that the pictures pertain to the stores in the area and not the complex and that all the buildings in the complex have been approved by the Board and that multifamily residential is allowed in a B-3 district with a special exception.

Thomas Lauher spoke again stating that noise in the R-12 district is an issue, that sewer lines are at or near capacity, that the special exceptions already granted represent saturation.

Public Hearing closed.

Attorney Gray stated he had checked with Jay Stephens regarding the sewer capacity.

Mardean Fraser noted that she votes against the special exception as it is not in the public interest.

Mrs. Fraser motioned to deny, as it is not in the public interest. Mrs. Turner seconded.

Mr. Bertrand stated that the traffic study clears the traffic problem, and that there would be no diminution of value.

Mr. Torr stated that 14 additional units would not create a problem, that the City needs housing to attract industry.

Mrs. Turner noted that all criteria must be met in granting a special exception.

Vote on motion: 2-3 (Bertrand, Torr, Hunt)

Mr. Bertrand motioned to grant the special exception. Mr. Torr seconded.

Vote: 3-2 (Turner, Fraser)

Mr. Joy assumed his position as Chairman on the Board; Ann Turner left her position on the Board as Alternate.

H85-70 Peter and Wilma Low, 89 Locust Street, also known as Assessor's Map 9, lot 56, zoned O, seek a variance from Article II, 170-6B, definition of lot, to renovate an existing carriage house into two studio apartments and two, one-bedroom apartments, and also from Article V, 170-16, Table of Dimensional Regulations, for insufficient rear setback.

Peter Low read a letter explaining that there are two principle buildings on the same lot.

Public Comments: none

Public Hearing closed.

Mr. Joy read a letter from the Episcopal Church stating no objection to granting the variance.

Mr. Low indicated he had met with the Building Inspector and the parking is sufficient.

Mrs. Fraser motioned to grant the variance as it is in the spirit and intent of the ordinance, it would be an injustice not to grant it, and it is in the public interest and good of the community. Mr. Bertrand seconded.

Vote: U/A

H85-71 Ethan Pearson, Dover Point Road, also known as Assessor's Map L, lot 112, zoned R-20, petitions for a variance from Article V, 170-16, Table of Dimensional Regulations, to subdivide a lot having no frontage on a public right of way.

Mr. Pearson explained that he would like access to a back lot in a proposed subdivision.

Pubic comment: none
Public hearing closed.

Mardean Fraser motioned to grant because of the natural hardship in the land, that it would not be detrimental to others, and that it would be an injustice not to grant. Mr. Bertrand seconded.

Mr. Hunt stated that the lot could be subdivided so that the back lot would not be landlocked.

Vote: 3-2 (Hunt, Joy)

H85-72 Gateway Associates, Hanson Street, also known as Assessor's Map 20, lot 48, petitions for a variance from Article IV, 170-12, Applicability of Table of Use Regulations, to construct a building consisting of four townhouse apartments in a B-2 zone.

Kerry Forbes explained the intent to build four townhouses.

Public comment: none
Public hearing closed.

Mardean Fraser motioned to grant; John Torr seconded.

Vote: U/A

H85-73 Nicholas Skaltsis, 384 Central Avenue, (Christine's Building), also known as Assessor's Map 2, lot 78, zoned B-2, petitions for a variance from Article IV, 170-12, Table of Use Regulations, to provide seven apartment units on the upper floors on a lot having insufficient square footage in a B-2 zone.

Mr. Joy read the letter Mr. Skaltsis had submitted with his application explaining his intent.

Public Comment:

John Earle, Glenwood Avenue, spoke for granting the variance.

Public hearing closed.

Mrs. Fraser questioned the parking requirement.

Mr. Selleck noted that in a B-2 district, parking is non-binding.

Mr. Skaltsis indicated that a sticker arrangement would be set up for residents of the downtown area.

Mr. Bertrand motioned to grant the variance as it would be an injustice not to. Mr. Torr seconded.

Vote: U/A

H85-74 Elmer and evelyn Forbes, Tolend Road, also known as Assessor's Map E, lot 64, petitions for a variance from Article X, 170-40 and 170-41 to construct an addition expanding a non-conforming structure and use in an R-20 zone.

John Torr sat out due to a conflict of interest. Ann Turner assumed a seat on the Board.

Anthony Hartnett, Attorney representing Mr. Forbes, stated that this is the second request on Mr. Forbes' part, but this request represents a smaller change. There would be no expansion of the business, just a reappointment of the bricks and mortar to allow Mr. Forbes to work on his cars under cover rather than out in the open. He noted that Mr. George and Mr. Forbes have reached an agreement on the driveway problem.

Mr. Hartnett presented a petition circulated by the Forbes Family stating that abutters have no objection to granting the variance.

Mrs. Dennis, Tolend Road, spoke in favor.

Jay Beckingham, Tolend Road, spoke in favor as an abutter.

Jay Calfoni, abutter, spoke in favor.

Mrs. Cloutier, Tolend Road, spoke in favor.

Public Hearing closed.

Mr. Joy stated that this is a grandfathered use that cannot be used, an injustice.

Mr. Bertrand motioned to approve; Mr. Joy seconded.

Vote: U/A

Mr. Joy adjourned the meeting at 9:55 P.M.