

DOVER ZONING BOARD OF ADJUSTMENT
MINUTES OF MEETING

HELD: August 21, 1986

Members Present: Alden Joy-Chairman, William Hunt-ViceChairman, Dave Bertrand, Ann Turner, and Barry Hager.

Also Present: Bill Collins-Planning Board Director, Dick Selleck-Building Inspector, and Kathy Munson-Recording Secretary.

Mr. Joy called the Business Meeting to order at 7:05 P.M.

New Business: July 17, 1986 minutes were approved as amended.

Old Business: David Bertrand motioned to grant a re-hearing on the Dean Fournier, Case #H86-42 on the basis of a prejudicial statement mentioned in the first hearing. Ann Turner seconded the motion.

VOTE: 5-0. Re-hearing granted.

William Hunt mentioned that he wished to step down from the board on the Tuttle Case.

Mr. Joy called the meeting to order at 7:32 P.M.

H86-36 Roy and Blanche Tetreau, 141 Back River Road, also known as Assessor's Map I, Lot 40A, Zoned R-12, requests a variance from the terms of Article V, Section 170-16, to subdivide two lots having no frontage on a public right-of-way. (Re-hearing).

Chris Calivas represented the Tetreaus. He stated that he wished for the board members to review the application for 141 Back River Road, Lot A. He continued to state that the plot was approximately 2.44 acres in an R-12 zone and that his client proposed to subdivide and create three house lots - wishing to create two lots behind their home - all three being serviced by a right-of-way - all exceeding the minimum lot requirement of 12 feet - all meeting criteria.

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Chris Calivas continued to mention to board members that the applicant was asking to create three lots and that they did not have to come before the board asking for only two. He stated issues of hardship - this is a pork-chop lot - that 50,000 sq. feet is basically unusable - that it should create a residence - the only feasible means would be to use as a single-family dwelling. If there was to be a road installed it would be too expensive - the lot would require 500 feet of length up to city street standards - not possible - to get to a public right-of-way is through gravel.

(Gravel standards were passed to board members) Chris Calivas then pointed out that ordinances dictate what type of gravel is to be used for 2-4 lots.

On the basis on Spirit and Intent - Chris Calivas mentioned that by increasing the present lot and creating three lots would increase taxes. He stated that the Planning Board would make sure of the road requirements and that it was not the judgement of the Zoning Board.

Thirdly, Chris Calivas stated that the property value would not diminish.

Fourthly, if the variance was not granted 2½ acres would be unused.

Public Hearing Opened:

Tom Scharff spoke out against granting of the variance. He inquired as to the reason(s) of a rehearing and Mr. Joy read minutes from the month of July.

Tom Scharff continued speaking to the board stating that he saw no particular case of hardship involved and that the problem was with drainage - feeling that the ordinance does not allow three lots and the three lots should not be allowed. He felt that there was not enough new evidence presented and the hardship is being placed on the abutting property owners.

Mr. Callahan appeared before the board and stated that water draining from the Tetreau's land was a serious problem for him and presented the board members with pictures displaying that the Tetreau's land was striped of trees and gravel.

Shirley Renner spoke against granting of the variance on the basis of her concerns with sewage.

Chris Calivas spoke in rebuttal to the board stating that it was not the concern of the board members - drainage and sewage problems would be handled by the Planning Board. He also stated that he, himself has seen the applicant's property and that yes - because their land was sloped higher than the abutting property that there would be a run-off of water - but Mr. Tetreau has removed the sloped and if the water was running off - it is in the other direction.

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Tom Scharff again appeared before the board and asked for the members to look at the economic hardship from both points of view - good municipal planning is the Zoning Board's function.

Public Hearing closed.

VOTE: Variance granted based on the following Findings of Fact: Frontage necessary is not possible; therefore, applicant cannot enjoy the normal use of the land; the development of this property with affective review of sewage and drainage by applicable committee is appropriate; it is in agreement with lot development with exception being 50 feet frontage, property larger than many others.

H86-46 Dover Assembly of God, 32-34 Pearl Street, Also known as Assessor's May 27, Lots 153 & 154, Zoned R-12, requests a variance from terms of Article IV, Section 170-12 Table 1, Principle Uses, Part A, to have a multi-family dwelling unit (12 units) in an R-12 Zone.

Reverend Snyder of the Assembly of God ask board to grant a variance in the use of its land located on the southwesterly side of Pearl Street to change its present use from a Church to a proposed use of a multi-family housing - hoping to obtain a variance for density and use to permit ten (10) units of one (1) or two (2) bedroom apartments in the Church structure and to treat the Parsonage as a duplex. The membership has grown by 250% - church activities have grown - the board was presented photos of parking on a typical Sunday morning. At the present time members are confined to banquets - sometimes they have to do without because there is just not enough space - planning on opening a food bank - this will add more traffic - granting of a residential variance would be better than leaving present lot vacant.

Realtor and member of the church, Marcel Bartley present letters from Caldwell Bankers, Kendall and Webb Agency - stating that churches are rarely sold to other churches - market is very low in this respect - better used for apartments or condos - multi-family dwellings.

Marcel Bartley further stated to the board members that by converting to multi-family dwelling - this would only involve 27 parking spaces. He continued to add by reading a present marketing analysis results that stated - in Map 27 prices in an RM-8 just as significant as in an RM-12 Zone. Also handed to the board members was a list of abutters involved showing where 73% reside in or directly abutt 2 unit buildings. He also stated that other churches in the area (Dover Adult Learning, Elderly Housing/Greek Orthodox, Cooperdome, etc.) have converted - that those churches also had similar problems - all going to residential use.

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The issue of converting to condos was brought up by Marcel Bartley. He stated that condos have a good maintenance plan - owners would have to pay a certain maintenance fee(dues). He stated figures from current tax data - 12 units would pay a tax of \$15,376 for new apartments - for condos, would be as high as \$75,000.

Marcel Bartley concluded his presentation by stating that developers interested in the Pearl Street property have lots of great ideas and are very interested in developing this particular property.

Robert Tanguay restated to the board members the fact that present parking capacity is a problem - it is also difficult to hold a wedding in the church - there is no recreation area space available for the child members - concluding to say that the present area is just too congested - if changed to a multi-family dwelling - does not break up the integrity of the neighborhood - many multi-family dwellings in the area.

Mark Dillner spoke in opposition of granting the variance and echoed the statements of many others in the neighborhood. Presented to the board members was a petition with a 130 signatures - all against granting of the variance. He stated that he was confused with the wording of previous statements made by the Assembly of God's members - worried of the condo aspect. He stated that he was not fighting the type of persons that would be buying condos, but worried of the influx of people into the neighborhood. He mentioned that he realized that, yes, church members have a problem with parking on Sunday nights, but that this problem is theirs alone and would be the neighborhoods problem if changed to condos or apartments. This would affect the neighborhood every single day - there would be a problem with 27 tenants coming and going - the neighborhood alone would have to live with this hardship after the church has moved on. He referred back to the listing of churches that have changed to residential - stating that those areas were zoned for that purpose - this particular neighborhood that the board is reviewing is not - the whole character of the neighborhood as it presently is would change - because the area abutts a residential area does not mean present area has to change - zoning was not set-up for that. He concluded by stating that he and the neighborhood dispute the granting of a variance to the Assembly of God in its entirety he referred to the State Manual - granting of variance should not be given just to sell and develop and make a great profit - tax issue should not enter into this particular issue - if granted on the basis of justice, a greater injustice would be made on behalf of the neighborhood - it is just not consistent with the present neighborhood - present property value will diminish with this "Monster" in everyone's back yard - Sufficing to say that he believes this to be a case of spot zoning, as well as questioning where ^{will} the children of these so called condo owners attend school - what about sewage? fire? police? - all city services -

Lewis George again stated to the board members the fact that the property value of his home (and others) will diminish if condos are developed.

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Russell Newell stated that he would like to see an amicable decision made - stating that the church would not be in this predicament today if they foresaw this problem - he said that he would like to see a decision made to benefit all parties concerned.

Kathy Burrows also spoke in rebutal. She stated that the city should not take on the burden - board must address the parking issue - as well as the fact that children play in the street directly in front of the church - also referred back to the multi-family dwellings in the neighborhood stating that area was zoned for those a long time ago and that they are far enough away from the church itself.

Councilman Tom Duffy also spoke in rebutal. He stated that the churches' burden should have no barren on changing the zoning. Granting of a variance would not be within the Spirit and Intent - its spot zoning. He stated that the property value of homes would diminish in the area - if the church is looking for a fast buck - variance cannot be granted - this would be granting of a commercial variance. With regards to the parking lot being up to standard, he requests site-review of the property.

Councilman Tom Scharff, speaking in rebutal, stated that what he felt about this case was not inconsistent with the way in which he felt about the Tetræaucase. He reminded the board members to realize this fact.

Robert Tanguay again appeared before the board members stating that this was not a case of playing with guidelines - this was dealing with Pearl Street only - he stated that he was not here to sneak through by asking for a variance for condos - surveys have stated that multi-family dwelling does not diminish the property value - that the church is not talking about money - furthering mentioning the fact that church is not trying to break the integrity of the present neighborhood - the church meets four different evenings, not just on Sundays - the issue of sewage has plague the City of Dover for a long time.

David Goodwin appeared before the board speaking in favor of granting the variance - saying that the church members have a vision - members are here to serve the Dover area - property would be improved by a developer.

Mrs. Raymond Buzzell mentioned to the board members that the multi-family dwellings are not new - and referred to the Harris Corporation in the area.

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Mr. Joy inquired if there was a potential buyer.

Church members replied there is a present buyer that is interested in developing condos.

Barry Hager questioned if any other churches were interested in purchasing the church.

Church members replied that at the present time other church memberships were not interested.

William Hunt asked when the church was built.

Reverend Snyder responded that the church was built in 1965-66.

Marcel Bartley stated that the church's selling has been listed in all the books - and at the present time, only one developer intersted.

Public Hearing closed.

VOTE: 5-0. Variance denied, motioned by Barry Hager and seconded by David Bertrand. The variance was not granted based on the following Findings of Fact: It is only a financial hardship, a ten apartment building in a single-family dwelling zone is an injustice on the abutters, an R-12 zone does not support a multi-family structure - and this is based on the charts submitted to the board, there is already significant housing in Dover of this type.

H86-47 Raymond & Irene LeBlanc - withdrawn before public hearing.

H86-48 Tuttle Market Gardens, Inc., 151 Dover Point Road, also known as Assessor's Map M, Lot 52B, Zoned R-20, requests a variance from terms of Article X, Section 170-40-Z, to increase a non-conforming use (retail store) in an R-20 Zone.

William Hunt stepped down form board for this particular case.

Hugh Tuttle informed board members that in 1970-71 comprehensive re-zoning change his area to an R-20 Zone. He mentioned that at present his retail operation facilities was not condusive to the type of cost-efficient business he would like to offer the public. He stated that his present displays were too small in comparison to the volume of sold - his customers needs are not being met to their fullest.

Public Hearing opened: No comment.

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David Bertrand mentioned that he had concerns with the fact that this market was still considered a road-side farm-yard and did not wish to grant variance that would change it to another form.

Hugh Tuttle replied that he presently has been operating like this for 25 years and that presently they do purchase products that are not grown on the farm to retail - purpose being to serve the clientele better, not expand.

Ann Turner questioned if there could be restrictions made on what retailing more than currently raising - and restricting what was being retailed.

Hugh Tuttle stated that he could not guarantee what would happen 50 years down the road, but at the present time-wants to supplement their own products and that all the land is gone except for cemetery and that help from the board by granting the variance would entitle him to keep growing.

Mr. Joy inquired if application to increase the size on line change and if so, would it be going to Planning Board.

Mr. Irons stated that the lot line submitted to Planning Board before - and Planning Department suggested that variance should be granted first.

Mr. Joy concurred that there is not change of zone with the lot line.

Mr. Irons confirmed his statement.

Public Hearing closed.

Barry Hager stated for the purpose of having the fact that the land is grandfathered for the records.

VOTE: 4-0. Variance granted, motioned by David Bertrand and seconded by Ann Turner on the following Findings of Fact: Restricted use of a grandfathered operation is unnecessary hardship if that operation is not detrimental to the neighborhood - substantial justice is the opportunity to realize the fruits of their labor, no diminution of property value involved. and that this will enable Tutttles to continue their ability to survive economically and keep open space.

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H86-49 Robert E. Stackpole, Durham Road, Also known as Assessor's Map H, Lot 2, Zoned R-40, requests a variance from Article IV, Section 170-12, Table 1, Principle Uses, Part C, to construct warehousing (mini-storage units) in an R-40 Zone.

Jay Stevens of Civil Consultants spoke for Mr. Stackpole. He stated that the land is in an R-40 Zone and that the applicant wished to have mini-storage warehousing units - all being 250 feet of the road and will not affect the neighborhood from a visual standpoint. He further stated that there are enough fire hydrants - would not require additional services by the Fire Department of Police Departments. There is a great deal of potential use for a mini-storage area - mobile homes will be going in, etc.

Public Hearing Opened.

Bill McQuade spoke in opposition of granting the variance. He stated that by allowing these units there would a principle use change with the zoning. He stated that the area is not zone for warehousing of storage-units and that after the Master Plan has been down on zoning - the best decision will be made for this particular area - this is a residential area and warehousing is not one of its characteristics.

Steve Johnson also spoke in opposition feeling that warehousing units would diminish the property value of his home and foresaw the possibility of having a drainage problem with this area - afraid that this may affect his property.

Chris Jensen, Jr. appeared before the board and question the point as to whether or not the mobile homes units are part of residential neighborhood.

Steve Johnson again stated his feelings on a possible drainage problem and referred to the Tetreau case.

Robert Stackpole questioned whether or not he could divert the water to uphill.

Public Hearing closed.

Barry Hager stated that the warehousing purpose appeared to be a good use - but, it is a question of spot zoning.

David Bertrand questioned if the land on the back line of property was residential.

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VOTE: 5-0. Variance denied - motioned by William Hunt and based on the following Findings of Fact: The land could be used for what is permitted, and that there is not hardship involved; the requested use is not consistent with zone; and that it is the boards opinion that there would be a diminuation of property value.

H86-50 Wilbur & Shirley Drew (Applicant: Denise Couturier) Tolend Road, also known as Assessor's Map F, Lot 8, Zoned R-40, requests a variance from Article V, Section 170-16, to create a lot having insufficient frontage on a public right-of-way.

Wilbur Drew re-stated the above as well as mentioning that the abutters will not sell land. The total footage of land is 115 feet.

Applicant Denise Couturier informed the board members that the land had been surveyed.

VOTE: 4-1. Variance granted - motioned by David Bertrand, seconded by Ann Turner and denied by William Hunt and based on the following Findings of Fact: Restricting would be unnecessary hardship because no additional frontage is available; this will enable utilization of the property without being detrimental; and that the size would be consistent with other lots in the area having similar or less frontage.

Public Hearing closed.

Board members voted all in favor to require a plan stamped by a New Hampshire licensed land surveyor for variance applications, and a plan stamped by a licensed engineer for special exception applications.

Meeting adjourned at 12:15 A.M.