

DOVER ZONING BOARD OF ADJUSTMENT
MINUTES OF MEETING

Held: September 18, 1986
Council Chambers

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

Also Present: Bill Collins-Planning Board Director, Steven Stancel-Assistant Planner, Tom Clark-Assistant Building Inspector, and Kathy Munson-Recording Secretary.

Mr. Joy called the Business Meeting to order at 7:00 P.M.

New Business: August 21, 1986 Minutes were approved as amended.

The Board Members discussed the possibility of not meeting until November to impress upon the public the necessity of having additional members serving on the Board.

Councilman Tom Duffy mentioned to the Board members that he would bring this issue up to Bill McQuade of the Zoning Board Appointment Committee.

Tom Duffy also reminded the Board members of the Council Meeting being held on September 24th regarding the RM-12 Zoning Change.

Bill Collins also suggested to the Board that signs should be placed on the lots of the applicant's who are applying for variance. He stated that his office would have signs listing the date, time and date of the upcoming public hearings.

Old Business: Alden Joy read the appeal from Case #H86-46, Dover Assembly of God, 32-34 Pearl Street, Assessor's Map 27, Lots 154 & 153.

Dave Bertrand motioned not to grant a re-hearing. William Hunt seconded the motion. The decision was based on the fact that no new evidence was submitted.

Mr. Joy called the meeting to order at 7:30 P.M.

H86-51 Curtis and Constance Newhouse, 1 Wentworth Terrace, also known as Assessor's Map 8, Lot 31, zoned R-20 requests a variance from terms of Article V, Section 170-16, to create lots having no frontage on a public right-of-way.

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Curtis Newhouse expressed to the Board Members that he wished to create two lots having a private drive in between.

Public Hearing opened: no comment
Public Hearing closed:

William Hunt inquired if the maps presented were current.

Curtis Newhouse replied that the maps were current.

Alden Joy clarified that the current right-of-way would not be changed and that apparently the State left only 25 feet.

VOTE: 4-0. Variance granted based on the following Findings of Fact: State agreed that 25 feet was enough - hardship was generated by this decision; this will not be detrimental - better use of the land.

H86-52 Gene Cohen (Applicant: James Miglionico), Route 16 (Dover/Somersworth line) also known as Assessor's Map 40, Lot 18-A, Zoned B-3 requests a variance from terms of Article VI, Section 170-23-B to operate an auto service business on a lot with less than the required 60,000 square feet.

Alan Cranes represented James Miglionico. He stated that Mr. Miglionico wished to operate a collision auto repair and wished to seek a variance from the required 60,000 square feet. The key factor being involved for this case is the fact that the land is situated in Somersworth and in Dover. Three-quarters of the property is in Somersworth and the remaining is in Dover. He stated that his client wished to create a new facility using "State of the Arts" material - all would be brand new. His client feels that the people in Dover and in the Seacoast need this - the traffic flow would not increase - entrance would be the existing entrance - volume of cars would be anywhere from 5-15 cars daily.

Alan Cranes stated different issues that should and have already been considered. The first issue was the issue of water - he stated the Dover Fire Department conducted a water flow test for a sprinkler system - test resulted in that there is enough water in the area.

The next issue was the design of the new building - plans for the new building were shown to the board along with a catalogue.

Another issue brought up was the sewage issue. Mr. Cranes stated that plans have been drawn and submitted to the State for approval.

Approval has been given by the City of Somersworth subject to the approval from the Dover Zoning Board of Adjustment.

Fencing will be in the back so that cars will not be out front in the parking lot waiting to be repaired.

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Public Hearing opened: no comment
Public Hearing closed:

Alden Joy noted that the variance was for reducing the square footage of land to 44,000 square feet from the required 60,000 square feet. Inquiry was made on the septic system as well.

Alan Cranes informed the board that the septic system would be in the front.

Alden Joy asked if it was a dry-well?

Alan Cranes replied that the dry well would be in the front and the septic system would be placed in the southern portion of the front.

Alden Joy questioned the parking in front.

Mr. Cranes mentioned that his client wished to operate an auto leasing service as well and that the business presently operates with three cars and would like to increase this to ten cars (regular rental cars).

Alden Joy brought up the issue of a wrecking service.

Alan Cranes stated that yes the business would also offer a wrecking service.

William Hunt asked if the lot for the cars being brought in to the business would be paved.

Alan Cranes stated that the lot would not be paved and that it would consist of gravel.

Ann Turner asked what type of sub-soil would be present.

Alan Cranes and the site developer confirmed that the soil would be made of gravel.

Ann Turner questioned if the soil would be easily permeated by liquids.

Alden Joy clarified the fact that the a major concern involved the City's reserved water supply - Willand Pond.

Mr. Cranes informed the Board Members that his client has applied to EPA-and that any repair service deals with waste. He further stated that the waste would be collected in five gallon drums within the repair service facilities and carried to the rear of the property to a cement pad. The waste would be picked-up every six months and that this process would all be certified by the EPA. Also, that the paint room would be fire-proofed - a self-contained unit in which the car can be placed. While the paint is being conducted, air currents will filter down the paint and 95% of the paint dust is removed. The cost for this will be approximately \$40,000.

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In regards to the sanding procedure performed in the new facilities, Mr. Cranes stated that as the dust comes off the cars the new vacuuming system will eliminate the excess by 95%.

William Hunt stated that he did not believe that any hardship existed.

Alan Cranes stated that the hardship is based on the fact that the land is cut diagonally.

Ann Turner inquired if James Miglionico could purchase additional footage.

Alan Cranes responded that in order to purchase additional frontage, Portland Glass would reduce their footage to 30,000 square feet.

Ann Turner questioned if land could be purchased from behind the lot line.

James Miglionico stated that the present owner would not sell as well as that the owner did not object to having his proposed facility. He also stated that his present lot on 6th Street was very large, but goes back to the river and cannot use the land because it is too wet.

Alden Joy mentioned that the remaining 30% of the land from the lot in Dover should be reviewed by the Technical Review Committee.

James Miglionico advised him that the Technical Review Board has reviewed the land in question and that is why the flow test, etc. was done.

Bill Collins informed the members that the land in question has been brought up for technical review and that it is up to the client's engineer to design a sprinkler system, as well as notations added to site plan and storage of waste will need EPA number that will cover storage and collection. He also mentioned that he has discussed this issue with the Planning Director for the City of Somersworth. Also, keeping in mind the issue of 45,000 square feet - must meet the setback requirements not presuming the decision of the Board.

William Hunt stated that it appears that James Miglionico was buying into a hardship and that the land could be used for something else.

James Miglionico sited that he has resided in Dover for a long time and that he has seek other locations, none of them being zoned B-3. and that he desired to continue operating in Dover.

VOTE: 3-1.

David Bertrand motioned to grant variance. Ann Turner seconded. William Hunt denied.

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VOTE: 3-1. Variance granted based on the following Findings of Fact: Expansion requires this land use due to lack of other appropriate; best place for business (apparently); no evidence of diminution of value of surrounding properties. Will move present business to a more of a business area and it is a needed service for this area.

H86-53 Gene Cohen (Applicant: James Miglionario) Route 16 (Dover/Somersworth line) also known as Assessor's Map 40, Lot 18-A, zoned B-3, requests a special exception as provided by Article VI, Section 170-23, to operate an auto service business.

Alan Cranes again represented James Miglionario and stated that he would stand on the statements cited for Case #H86-52.

Public Hearing opened: no comment.

Public Hearing closed:

Alden Joy reiterated that this case involved granting of a special exception, not a variance, and that this case must meet all of the requirements of a special exception.

First issued addressed by the board was #170-23.

Alan Cranes informed the board members that the adjacent land property values would not be compromised - a stockade fence would be on the apartment complex side, and a security fence would be erected to prevent theft.

William Hunt inquired if the fumes would be self-contained.

Alan Cranes referred back to the paint booth - stating that the fumes would be self-contained in booth.

Alden Joy inquired if the welding and cutting fumes would also be contained in the area.

Alan Cranes again confirmed that the welding and cutting fumes would be contained and also stated that a vacuum would be attached to sander.

Alden Joy inquired if at any point in time did Mr. Cranes client intend to store gasoline.

Alan Cranes informed that his client would not at anytime store gasoline.

Ann Turner questioned if the issue of leakage from cars was reviewed.

Bill Collins stated that this issue was addressed and did not find any evidence of this being a problem.

Bill Collins suggested that if the board felt strongly about the concern of leakage - have stipulations added that a paved area is required for these cars.

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Alden Joy moved to grant the special exception with the stipulation that a 16 x 16 flat, paved area, slopped toward a drainage area which can be pumped be intact.

VOTE: 4-0. Special exception granted. Seconded by David Bertrand.

H86-54 Christopher & Karen Williams, 8 Westwood Circle, also known as Assessor's Map F, Lot 1, zoned R-40, requests a variance from the terms of Article V, Section 170-16 to create two lots having no frontage on a public right-of-way.

Simone D. Massez, represented the Williams. She informed the Board that her clients wished to create two lots having insufficient frontage on a public right-of-way - based on the issue of hardship, she mentioned that the present land is vacant and is restricted to that and that by not granting the variance, the Williams would be restricted/deprived of normal use of the land. The area in which the land is located is highly residential and that the 'spirit and intent' is not to restrict them of using the property for residential purpose.

Public Hearing opened: no comment

Public Hearing closed:

Alden Joy stated that it is clearly evident that someone will ask for more access because of what will be left on McCarthy Road.

Simone Massez that her clients did not intent to subdivide at this particular point in time - at least not for five years.

David Bertrand stated that there is access from Columbus Avenue.

William Hunt inquired to what the hardship of the land is.

The hardship mentioned by Simone Masse was and is the fact that the land is restricted to use that it presently has - not being vacant.

VOTE: 4-0. Variance granted. Motioned by Ann Turner and seconded by David Bertrand. Decision based on the following Findings of Fact: Residential use in accordance with the spirit and intent of the ordinance, there is no opposition, no adverse facts, appropriate use of the land, with stipulation that the two lots be separated by 50 feet.

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Alden Joy called the meeting to order at 9:40 P.M. after five minute recess.

H86-55 John & Margaret McDaniel, 141 Spur Road, also known as Assessor's Map L, Lot 37, Zoned R-20, requests a variance from terms of Article V, Section 170-16 to construct an addition closer than the required 35 feet from a front property line.

X John McDaniel expressed his wishes to fix up his small home by adding on an enclosed porch 16 feet long and 8 feet wide. He based the hardship on the fact that the addition was needed in order to heat his home - present entrance into the home was through the living room. The addition to the home would be in line with the 'spirit and intent' of the variance by adding to the property value of his home as well as in the neighborhood. The porch would also balance off the home - make it better looking.

Public Hearing opened: no comment.
Public Hearing closed:

Alden Joy questioned if the City found this right-of-way as not being useful for them.

John McDaniel responded yes.

Ann Turner inquired that since the city granted septic system under city's own land, did the city relinquish rights also.

VOTE: 4-0. Variance granted. Motioned by William Hunt and seconded by Ann Turner. Decision was based on the following Findings of Fact: Hardship was based on the fact due to the conflicting boundary lines and will deliver substantial justice and will not be detrimental to property value, will make better use of the property and will not result in a diminution in value of the surrounding properties.

H86-56 Strafford Guidance Center, 130 Central Avenue, also known as Assessor's Map 15, Lot 105, zoned RM-10, requests an appeal from an administrative decision concerning Article II, Section 170-6, definition of Accessory Use.

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Thomas Maynard, Executive Director, explained the proposed use of one room within the facility - theme is treatment - when client can join in the work this is good treatment - wish to operate a thrift shop within the building that would be open to the public - allow training - clothes would be available for the clients at minimal cost - do not intent to go retail - helping to operate a thrift shop would be clinical in nature.

Larry Marshall, Manager, told Board members that the intent was to maximize benefits of clients - one way to do this is operation of a thrift shop - have ability- can train them to help - this will teach our clients skills in communication - at a later date they could work within the community - and emphasize the intent is not to have a Retail - proceeds will be put back into the program - no profit/money-making intentions - this will enable our clients to develop skills - this will instill a great change in clients.

Public Hearing opened: no comment
Public Hearing closed:

Alden Joy questioned the term "accessory use" - feeling that accessory use is bigger than the general use - that variance was granted for office use - retail was not addressed in this area - afraid of what may come down the line.

Thomas Maynard expressed the intent on providing a service - a service necessary - a part of treatment - including group therapy - the context would be more meaningful - work with vocational areas to get that other type of service.

He also noted the fact that seeking blanket permission to run a retail business was against the spirit and intent - this is no different than churches holding Christmas Fairs.

Ann Turner questioned if the Strafford Guidance was a non-profit organization.

Mr. Thomas informed her that it was.

Ann Turner stated that in a RM-10 Zone, education is permitted.

Alden Joy questioned the limitation on rehabilitation.

David Bertrand stated that if granted than this would be grandfathered.

Ann Turner questioned if granted, would this only apply to the Strafford Guidance Center.

Tom Clark suggested that the Board may think in terms of placing stipulations with granting of a variance.

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Larry Marshall stated that it was not their intent to have a second-hand shop. Intent is to learn vocational skills, not to make money - have the clients be more integrated and independent.

Will Hunt asked how the shop would be procured.

Larry Marshall replied by donations.

Alden Joy stated that he did not see this as a single road to rehabilitation - if only rehabilitation is to sell used clothing- limitation cannot

Larry Marshall informed Alden Joy that a thrift shop was just a small part of rehabilitation- rehabilitation is a part of their every day life - not all of the center's rehabilitation involves the public.

Bill Hunt stated that it may be possible to limit the thrift shop to one specific area.

David Bertrant motioned that if feasible, table this case and talk with the City Attorney - to see if stipulations may be placed - as not to enlarge the area, as well as be moved to larger quarters.

Ann Turner seconded the motion.

VOTE: 3-1. Alden Joy disagreed. Board voted to table the case, until the City Attorney, advises his opinion on the following:

Can the Board grant an accessory use and limit that to the current applicant - being non-transferrable to any other?

Can the Board limit the extend of the accessory use?

H86-57 Ruth C. Rigby, 113 Dover Neck Road, also known as Assessor's Map M, Lot 74, zoned R-40, requests a variance from terms of Article V, Section 170-16 to create a lot having insufficient frontage on a public right-of-way.

Don Purdy spoke to the Board in place of Ruth C. Rigby. He stated that he was the proposed owner of the 20 acre parcel of land owned by Ruth Rigby which requires a variance because although the lot in question would abutt for about 500 feet on a private 30 foot macadamized road, it would have no frontage on the city road access to which is by the private road.

Public Hearing opened:

Public Hearing closed:

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Martin Reedy was in favor of what Don Purdy wished to do.

VOTE: 4-0. Variance granted. Motioned by David Bertrand and seconded by Ann Turner. Decision based on the following Findings of Fact. The hardship being the length of the driveway - the piece of land by the water is very desirable, and should be developed; there is no evidence of diminution of property value.

Meeting adjourned: 10:45 P.M.