

DOVER ZONING BOARD OF ADJUSTMENT  
NOTICE OF MEETING

Held: November 20, 1986  
Council Chambers

Members Present: Alden Joy-Chairman, Barry Hager, Mark Dellner, and Joyce Bowden.

Also Present: Steven Stancel-Assistant Planner, Dick Selleck-Building Inspector, and Kathy Munson-Recording Secretary.

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

Old Business: October 17, 1986 Minutes were approved.

Mr. Joy read Anne Turner's letter of resignation to the Board.

Dick Selleck explained that the Board members could amend the April 15, 1982 by-laws to legalize three members constituting a quorum.

Mr. Joy moved to amend the by-laws constituting a quorum to three members. Mark Dellner seconded the motion.

VOTE: 4-0.

New Business:

Steve Stancel displayed the new signs identifying property of zoning board applicants. The signs allotted space for entering the date of the upcoming hearings.

Steve Stancel also asked the Board members if they wished to have a representative from the Planning Board present at each meeting expressing prospective for each hearing.

Alden Joy proposed that the representative only speak out when the Zoning Board members ask for guidance.

Steve Stancel suggested that for those proposals seeking to create three or more lots - should require applicants to put up a street sign at their own expense. He stated that the Police and Fire Departments are having a difficult time.

Dick Selleck stated that eventhough this could be a suggestion - requiring street names, process would still have to go through to subdivision. He stated that it was his opinion that the Planning Board should request for streets to be named.

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

H86-62 Nickolas Skaltsis, 8 Third Street & 466 Central Avenue (Morrill Building), also known as Assessor's Map 6, Lots 35A, 36, and 36A, zoned B-2 requests an appeal from an Administrative Decision in that the Building Inspectors refused to issue a building permit for the construction of a third floor on the above building. Decision was based on the understanding that the construction was subject to a site-review.

Nickolas introduced himself to the Board as he passed out map displaying the lot of the plan. With him was his partner Richard Kranes.

Mr. Skaltsis explained that he belived the Zoning Board as his only avenue of appeal and that the Planning Department representative would set judgement if denial is correct.

Mr. Skaltsis continued tostate that the Morrill Building burnt to the ground in 1932. (Picture displayed) It was rebuilt only to one-half of its original size, only two floors. He stated that he wished to add an additional floor. He contined by saying that this could be done without minimum lot size - no frontage requirement. The expansion of the building would create 17 apartments - bricking on front would be done to stay within the mill motif. He felt that the additional flooring would not have an impact on neighbors or surroundings - most of the surrounding buildings are similar in height. He questioned that fact that because since he development will remain within original footprint - why would site-review even be necessary. He restated that a third floor would have no impact - and would meet with all zoning requirements.

Richard Kranes stated that the only way for the City to regulate the addition is by state statue. He stated that if it is not stated in the statues, ZBA could not expand its own powers. His feelings on the matter were that one area of body was trying to usurp more than legally allowed. He continued to state that under RSA 674-43 that Planning Board Members have the power to regulate tract. He then questioned the meaning of tract. He then referred to the town of Durham, specifically, the Franklin Theatre - the town defined the definition by stating a building is not a tract if expanded beyond foundation - if staying within footprint. He concluded by stating that he and his partner were not increasing the footprint - should not have to go to Site-Review.

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Barry Hager joined the panel after a short review given from Nick Skaltsis.

Public Hearing opened:

Dick Selleck expressed his reasoning for denying approval. He stated that under 170-47B, he as Building Inspector, would not approve a building permit for any purpose, except in compliance with the provisions of chapter. He continued to stated that in keeping the above statement in mind, Mr. Skaltsis wished to add a third floor and expand square footage of a two story building adding seventeen units. I, being aware of this, addressed the issue of multi-family units. Site-Review would be required before building of third floor. Mr. Skaltsis came back to the office later stating that he could not attain Site-Review approval or a waiver. I told him that I would have to deny the building of a third floor. A letter of denial was sent.

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Joyce Bowden moved to uphold the Administration's Decision. Mark Dellner seconded the motion.

VOTE: 4-0.

H86-63 Deborah and Stephen Richter, 14 Preble Street, also known as Assessor's Map 4, Lot 41, zoned RM-8, requests a variance from terms of Article II, Section 170-6, definition of lot, to have two principle buildings on one lot, and a variance from terms of Article V, Section 170-16, to have a residential building with a zero foot, rear setback, where 15 feet is required.

Stephen Richter spoke on his own behalf stating that to the rear of his property exists a barn. He stated that he owns 6,000 square feet of property and that he has enough square footage to have three apartments on his property. He continued by stating that he was appearing in front of the board to change the present use of the barn. He continued by saying he had a loan approved by the Strafford Bank.

Dick Selleck clarified Steve Richter's proposal. He stated that the applicant has two choices - either to attached the barn to the other existing structure or allow him to have two principal buildings on one lot.

Steve Richter informed the board membes that it would not be wise to connect the buildings - it would be self-defeating - this would be a waste of time and money - he will take care of the sprinkler issue - has smoke alarm - will put sprinklers in - if he went to the expense of joining the buildings, he would loose the breeze-way.

Public Hearing opened:

Paul Riley, an abuttor spoke against the granting of issuing a variance. He felt that adding an apartment within the barn would only add to the already conjested area.

Other abuttors spoke against the granting of a variance as well. They also confirmed that the area is too conjested - also adding that there would not be enough parking available to additional tenants.

Steve Richter spoke in rebuttal to the abuttors. He stated that parking in driveway is done diagonally and that cars can go outside the parking - its designed easier - he added that the barn is deteriorating and would do improvements if variance was given.

Dick Selleck again clarified to the Board that the applicant was changing the accessory use of building into an apartment unit - changing a non-conforming use - increasing the use - requesting to have to principle units on one lot.

Paul Riley pointed out that the building he wished to coform into an apartment was just a barn without a foundation.

Public Hearing closed.

Dick Selleck informed the Board that Steve Richter would have to meet parking requirements involved with a Site-Review.

Mark Dellner stated that substantial justice would not be given to the neighborhood. Abutters stated that the area was too congested - and hardship cannot be based just on the fact that he wished to convert barn into apartment.

Joyce Bowden confirmed Mark Dellner's statement by adding that a variance cannot be granted solely based on economic hardship.

Mark Dellner motioned to deny the request for variance. Joyce Bowden seconded the denial.

VOTE: 3-1. Barry Hager in favor.

H86-64 Deborah and Stephen Richter, 14 Preble Street, also known as Assessor's Map 4, Lot 41, zoned RM-8, requests a variance from terms of Article V, Section 170-16, to have a residential building with a zero foot, rear setback, where 15 feet is required.

Steve Richter again expressed his desire to convert an existing barn into an apartment and stood with the issues stated for case H86-63.

Mark Dellner stated that the hardship seemed to be based with the location of the barn on the land.

VOTE: 4-0. Variance granted based on the following Findings of Fact: Hardship in the land; justice will be granted under these circumstances; will not diminish property value - better use of deteriorating barn.

H86-65 Allan and Karen Arkwell, Sixth Street, also known as Assessor's Map D, Lot 17-B, zoned R-40, requests a variance from terms of Article V, Section 170-16, to create three lots, two of which have insufficient frontage on a public right-of-way.

Allan Arkwell appeared before the board requesting that his variance be granted based on the fact of the hardship being in the shape of the land. He stated that he owns 6 1/2 acres and wished to create two lots on a private right-of-way. Normally up to six lots could be created, but his intentions are only to have two.

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Jay Stevens, engineer of Arkwell's project, pointed out that the project would be in character of surrounding neighborhood and that he wished members would keep in fact that this was a project of the smallest size private road.

Public Hearing opened: no comment  
Public Hearing closed:

Joyce Bowden inquired the size of the private drive.

Alan Arkwell state that the drive would be 25 feet wide. He added that the drive would be paved by spring time.

Mark Dellner motioned to grant variance. Barry Hager seconded.

VOTE: 4-0. Variance granted. Based on the following Findings of Fact: Hardship involves the need to develop the property - justice will be given.

H86-66 Gordon Tibbets (owner: Herbert and Ruth Richmond, Sixth Street) also known as Assessor's Map E, Lot 72F, zoned R-12, requests a variance from terms of Article V, Section 170-16, to create three lots, two of which have insufficient frontage on a public right-of-way.

Gordon Tibbets explained his wishes to break-off two lots with insufficient frontage and create three.

Jay Stevens, project engineer, stated that he wished the board members would note that the house that already exists does not have frontage - and that the abbuttors in the Whittier Street area will still only have one with the proposed plan.

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Public Hearing opened:

Abuttor, Jack Burrington spoke in favor of only have three neighbors.

VOTE: 4-0. Variance granted.

H86-67 Bruce Pike (owner: B & P Realty Trust) 900 Central Avenue, also known as Assessor's Map 38, Lot 22, zoned B-3, requests a Special Exception as provided in Article XII, Section 170-52C(3) to convert an existing single-family dwelling into a two-family dwelling.

Bruce Pike expressed his interest in converting a single-family dwelling into a three unit. He stated that this would not have any adverse affect on the neighborhood. Pictures of the property were shown to board.

Mr. Joy read code 170-19. Board members confirmed; specific site is an appropriate location for the use of the structure; use would not be detrimental, injurious, noxious or offensive to the neighborhood; use will not create an undue hazard or nuisance to vehicular or pedestrian traffic; adequate facilities shall be provided to ensure the proper operation of the proposed use; and the proposed use shall be consistent with the spirit and intent.

VOTE: 4-0. Variance granted.

H86-68 Evelyn Sanborn, 316A Dover Point Road, also known as Assessor's Map L, Lot 113B, zoned R-20, requests a Special Exception as provided in Article VII, Section 170C(2) to increase the size of an existing porch three feet further into the Conservation District.

Evelyn Brown stated that she was appearing in front of the board because she did not realize that the property was not a grandfathered lot. She purchased the property three years ago and ask if special exception was needed. She stated that she was told it was grandfathered - she thought that adding a porch was lawful. She further stated that she has done a great deal of cleaning within the area -that there is not any added conjestion - Summarizing by stating that she is appearing before the board because her porch encroaches three feet into the Conservation District.

Rublic Hearing opened:

Attorney Scott, representing Brown's direct abuttur, expalined that his client's view is blocked entirely. He presented pictures displaying this. He stated that is diminuation of property - Under condo law, area is a common area -

Alden Joy stated that the "Common Law" issue was not to be presented in front of the Zoning Board.

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Dick Selleck confirmed Alden Joy's statement and added that this was an issue just dealing with the three foot encroachment. A building permit has already been issued - this needs to be waived - what has already been done.

Evelyn Sanborn stated that when she purchased the property building a porch was agreed upon by both partners.

Public Hearing closed.

Barry Hager moved to grant the special exception. Mark Dellner seconded the motion.

VOTE: 3-1. Special Exception granted. Decision was based solely on the Conservation District Issue. Steve Stancel added that a "wet'land" permit would need to be issued.

Mark Dellner motion to adjourn the meeting. Joyce Bowden seconded.

Meeting Adjourned at 10:55 P.M.