



CITY OF DOVER

DOVER ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820
Meeting Date: **Thursday, October 19, 2006**
Meeting Time: **7:00pm**

1. ATTENDANCE

- Members Present: Richard Callaghan, Bill Colbath, Ruth Gorton, Frank Landford, Sam Reid, John Levasseur
- Members Absent: Masi Denison, Otis Perry
- Staff Present: Tom Clark; Building Official, Chris Parker; City Planner, Jean Glidden; Recording Secretary

2. APPROVAL OF PRIOR MINUTES

Motion: Bill Colbath made the motion to accept the minutes of September 21, 2006. Richard Callaghan stated that he has some comments and he suggested a few changes to the minutes regarding case Z 05-35. Paragraph 1 should include that "Richard Callaghan and Attorney Schulte had a lengthy discussion in order to clarify and avoid further concern on the issues of impartial voting members and the de novo hearing." Callaghan and Reid suggested changes to paragraph 5 and paragraph 7. (Copy enclosed in file) Frank Landford seconded the motion with the amendments. Vote U/A

3. OLD BUSINESS

- A. Z 05-35 Neal A. Hubbard, Earle St., a/k/a Tax Map 40, Lot 12, zoned Office & R-12, requests a variance from the terms of Article V, Section 170-16, to subdivide a parcel into 2 lots, one with a frontage of seventy-five (75) feet along a public right of way, where a minimum of one-hundred (100) feet is required.

Note: The applicant has requested this item remain tabled until the November meeting.

Motion: Frank Landford made the motion to table this item to next month. Ruth Gorton seconded the motion. Vote 4 to 1 (Bill Colbath opposed)

Richard Callaghan announced that case Z 06-26 has requested that the hearing be postponed to the November meeting. He explained to the general public how the cases should be presented to the Zoning Board of Adjustment.

Callaghan, Colbath, Landford, Reid, and Levasseur will be voting.

4. NEW BUSINESS

- A. * Z 06-25 Michele Boulanger, 1 Gilman St., a/k/a Tax Map 37, Lot 6, zoned Office, requests a Variance from the terms of Article V, Section 170-16, to construct a side carport addition onto a single-family dwelling within six (6) feet from a side property line, where a minimum of ten (10) feet is required.

Michele Boulanger explained to the Board why she was asking for a variance for a carport as submitted for the file. She stated that some of the abutters have submitted letters in favor of this request. (Copy enclosed in file).

Discussion ensued regarding the dimensions and the structure of the carport.

Motion: Bill Colbath made the motion to accept. Sam Reid seconded the motion. Vote U/A



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Public Hearing Open - Nobody Spoke - Public Hearing Closed

Chris Parker stated that the Planning Department does not oppose this variance request. It is one of the smaller lots in the neighborhood and would be in the context with the neighborhood to approve this variance request.

FIVE CRITERIA FOR AREA VARIANCE:

1. The applicant was to provide proof that special conditions exist and that literal enforcement of the ordinance would result in an unnecessary hardship. a) AREA: i. Did the Applicant demonstrate that the area variance is needed to enable the proposed use of the property given the special conditions of the property? Yes, Vote U/A. This conclusion is based on the following findings of fact: Unique size of the property. ii. Did the Applicant demonstrate that the benefit sought cannot be achieved by some other method reasonable feasible to pursue without the area variance? Yes, Vote U/A. This conclusion is based on the following findings of fact: Lot size restriction will not allow it.
2. Did the Applicant provide proof that demonstrates how granting the variance will result in substantial justice? Yes, Vote U/A. This conclusion is based on the following findings of fact: Allows safer travel between house and car in inclement weather.
3. Did the Applicant provide proof that demonstrates how a variance would be consistent with the spirit and intent of the ordinance? Yes, Vote U/A. This conclusion is based on the following findings of fact: Similar to neighboring lots and distance from property lines.
4. Did the Applicant provide proof that demonstrates the variance will not result in a diminution in value of surrounding properties? Yes, Vote U/A. This conclusion is based on the following findings of fact: Letter from abutters in support and the carport will enhance appearance.
5. Did the Applicant provide proof that demonstrates the variance would not be contrary to the public interest? Yes, Vote U/A. This conclusion is based on the following findings of fact: Letter from abutters in support, and consistent with the neighborhood.

Therefore, based upon the foregoing, it is ordered that the applicant for the variance be granted.

Ruth Gorton requested to leave the meeting at 7:30 p.m. Callaghan announced that Gorton submitted a letter stating that due to personal reasons she regrets that she will no longer be a member of the Board. He thanked her for doing a wonderful job as a member of the Board.

- B. * Z 06-26 John Mitchell, 5 Lowell Ave., a/k/a Tax Map 37, Lot 49, zoned R-12, requests a Variance from the terms of Article V, Section 170-16, to construct a rear addition onto a single-family dwelling within ten (10) feet of a side property line, where a minimum of fifteen (15) feet is required.

This case has been postponed to the November meeting.

Callaghan, Colbath, Landford, Reid, and Levasseur will be voting.

- C. * Z 06-27 Devin Moisan & Kristen Keach (Applicant: Changing Places, LLC), 19 Lucy Ct., a/k/a Tax Map G, Lot 26-5, zoned R-20 requests an Equitable Waiver of



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Dimensional Requirements from the terms of Article V, Section 170-16 and Article II, Section 170-6, definition of building, to maintain a set of uncovered front steps within approximately twenty-nine (29) feet from a front property line as it abuts a street, where a minimum of thirty-two (32) feet is required.

Mike Brigham stated that he is a managing member of Changing Places, LLC. He submitted a larger scaled drawing of the lot. He proceeded to explain why the request is needed as submitted in the application for the file.

Discussion ensued regarding the location of the stairs and the shape of the lot.

FOUR CRITERIA:

1. It is the Board's conclusion that the request (does) involve a dimensional requirement. Vote U/A
2. It is the Board's conclusion that the violation (has not) existed for 10 years or more with no enforcement action: including written notice, being commenced by the City, or the nonconformity (was) discovered after the structure was substantially complete or after a vacant lot in violation had been transferred to a bona fide purchaser, and the violation (was) an outcome of violation of ignorance of the law of bad faith, but resulted from a legitimate mistake. Vote U/A
3. It is the Board's conclusion that the nonconformity (does not) constitute a nuisance nor diminish the value or interfere with future uses of other property in the area. Vote U/A
4. It is the Board's conclusion that the cost of correction (does) outweigh any public benefit to be gained. Vote U/A

Therefore, based upon the foregoing, it is ordered that the application for Equitable Waiver of Dimensional Requirements be granted.

5. OTHER BOARD BUSINESS

Discussion ensued regarding Ruth Gorton's letter in which she encouraged the Board to appoint Masi Denison a regular member. It was agreed upon by the members of the Board that Denison will be asked and a memo will be presented to the appointments committee. Richard Callaghan stated that Denison has mentioned some recommendation for changes on the forms. He stated that Attorney Krans thought that the changes would need to be public notice. Tom Clark stated that it is an administrative change and did not think that would be necessary but will discuss it with Attorney Krans.

6. ADJOURN

Motion: Reid made the motion to adjourn at 7:58 p.m. Landford seconded the motion. Vote: U/A

<u>List of Members</u>	<u>Term Expires</u>
Richard Callaghan-regular member	04-13-09
William Colbath-regular member	10-23-06
Frank Landford-regular member	04-10-08
Ruth Gorton-regular member	11-12-06
John Levasseur-regular member	11-12-06
Masi Denison-alternate member	09-08-07
Sam Reid-alternate member	04-03-08
Otis Perry-alternate member	02-08-09