

Dover Zoning Board of Adjustment
Thursday, January 20, 2005

MINUTES

Members Present: Richard Callaghan, Bill Colbath, John Levasseur, Masi Denison, Frank Landford

Members Absent: Ruth Gorton

Staff Present: Thomas Clark; Building Official, Steve Bird; City Planner, Jean Glidden;
Recording Secretary

ITEM # 1: CALL TO ORDER

Richard Callaghan brought the meeting to order at 7:30 p.m. and explained to the general public how the cases should be represented to the Zoning Board of Adjustment.

ITEM # 2: APPROVAL OF MINUTES

A. Approval of the minutes for regular meeting of November 18, 2004.

Bill Colbath recommended a correction on page two. The statement that Attorney Bruton made regarding a project proposed prior to this project needs to be clarified. His statement implies that a project came before the Board and was denied for a variance, when in fact, an applicant may have thought about a project, but an application was never submitted.

Motion: Bill Colbath made the motion to approve the minutes with the correction to clarify the statement. Frank Landford seconded the motion. **VOTE: U/A**

The paragraph will be replaced with the following: The project that was proposed for this building prior to this project was a residential use and in his opinion, it could not get a variance from this Board and the project went away, (an application was never submitted).

ITEM # 3: OLD BUSINESS – NONE

Tom Clark announced that case Z 05-02 Bamford Investment Co., has been withdrawn. According to the site plan, there is frontage on Fourth Street, which would mean this lot is allowed to have a freestanding sign.

ITEM # 4: NEW BUSINESS

- A. Z 05-01 Randy & Teresa Palmer, 19 Union St., a/k/a Assessor's Map M-20, Lot 101, zoned RM-10, requests a variance from the terms of Article V, Section 170-16, to demolish a non-conforming accessory structure (detached garage) and to construct an attached garage within approximately two (2) feet from a property line, where a minimum of six (6) feet is required and within approximately four (4) feet from a rear property line, where a minimum of fifteen (15) feet is required.**

Attorney Schulte announced that he was representing the applicants. He submitted letters from abutters supporting this variance request. He stated that the lot is 66.67 feet wide along the street and 93.13 feet deep. An existing garage exists that is 4 feet from the back property line and 1.9 feet from the side property line. The proposal is to tear down the old dilapidated garage and replace it with a 700 square foot addition that will include a new garage. The existing nonconforming structure will be slightly expanded and will not be located any closer to the property lines. The purpose of the new construction is to add additional living space and workspace above the garage for Mrs. Palmer's business. Photographs were submitted showing the existing house and garage. A fence was shown which is located 4 to 5 feet away from the Palmer's house and is located on the Dover Housing Authority land. The Palmer's have spoken to representatives of the DHA, and if this variance request is approved, they have agreed to take the fence down. The applicants need a variance in order to do what they want to do given the special conditions of the property and the benefit sought cannot be achieved by some other method reasonably feasible to pursue. The house has been recently updated and the addition in the back would be a significant improvement to the property. Because of the lot configuration and the way the house sits in the center, they would have side setback issues on either side of the house. In the back, there is a retaining wall because this land is lower than the land that is up against Court Street. The new construction would be located closest to the DHA property and that is the property for which, there is the greatest physical separation between the buildings.

Bill Colbath confirmed with Attorney Schulte that a boundary line agreement will be made between Sean Dillon and the applicant and will be recorded. He asked why the applicant needs to place a jog in the addition and why they cannot construct it even with the side of the house and get closer with the allowed six-foot side setback.

Attorney Schulte stated that that jog is an addition to the kitchen and living area.

Bill Colbath stated that the addition could easily go to the rear and not impact the side property line.

Randy Palmer stated that coming off from the back of his property is very sloped and they built a retaining wall because water was pouring into their back yard and into the house.

Attorney Schulte stated that because of the topography of the land they would need to extend the retaining wall and it would be a lot more work and excavation to build into the hill.

Bill Colbath asked what the size of the retaining wall is.

Randy Palmer stated that he believes it is about eight feet high.

Discussion ensued regarding the retaining wall.

Steve Bird confirmed with the applicant that the height of the new garage would be the same as the existing garage.

Richard Callaghan asked the applicant to explain the reason for the jog shown on the plan and he suggested that the applicant make it more conforming on the side property line.

Randy Palmer stated that the reason for the size of the building is needed for the workspace that Mrs. Palmer needs in order to make curtains, and the table alone measures 6 feet by 12 feet.

Bill Colbath asked why the addition could not be configured to at least lessen the side setback. He stated that they do not have the total information of what is being planned for this addition and the applicant is stating that the only reason why they cannot move the building is because of a retaining wall located in the back.

Attorney Schulte stated that in order to do what they want to do they need a certain size work area and they cannot shift the building over because of the topography of the land.

Masi Denison asked if they could move the garage forward to accommodate the rear setback.

Attorney Schulte stated that the stairs to the second level would need a certain amount of depth and in order to accommodate the stairs, they cannot shorten the addition.

Motion: Frank Landford made the motion to accept. John Levasseur seconded the motion.
VOTE: 2 to 3 (Richard Callaghan, Bill Colbath, and Masi Denison opposed)

Richard Callaghan stated that in his opinion, more information is needed such as how high the retaining wall is, and where it is located. A plan showing the size and height of the proposed addition should be submitted along with plans showing the inside of the building and how the applicant plans to utilize all of the space, including the stairway.

Bill Colbath asked if there was some reason why this information is not already down on paper.

Attorney Schulte stated that it is not at that stage yet and the applicant did not want to make a major investment if they could not get the variance approved.

Bill Colbath stated that the argument being placed by the applicant is that they cannot do this any other way, and the question being asked by the Board is why you cannot do it any other way. This is a nonconformity in two directions and you want to increase the footprint without going any closer to the property line. If you want to build this addition in this format, why does it have to be built this way in order to do what you want to do?

Attorney Schulte stated that anything that you place back there would probably be nonconforming somewhere, either on the back, the side, or in this case, both. The main portion of the new structure is going to be a garage and a workspace over it, the size of the workspace is driving those dimensions. The front of the building is moving closer to the street to make sure the area is big enough and they need a certain dimension to do what they want to do inside of the addition. This is a reasonable request given the context of the property and its setting in the neighborhood.

Bill Colbath stated that he does not see the logic being placed here, why it has to be built this way.

Attorney Schulte asked if they could table this case to the next meeting in order to present new evidence.

Motion: Bill Colbath made the motion to accept and table the case to next months meeting. John Levasseur seconded the motion. **VOTE: U/A**

Richard Callaghan stated that in his opinion he would like to see less of a variance instead of having it right on top of the property line.

Public Hearing Open

Steve Bird stated that the Planning Department would like to reserve judgment until additional information is submitted for review.

Richard Callaghan read three letters submitted by the abutters stating that they are in favor of this variance request.

Public Hearing Recessed

Richard Callaghan stated that the Board would be looking for more information such as dimensions of the retaining wall and risers, the height, its location and the setback of the retaining wall between the Palmer property and the land located behind his property. The exterior dimensions of the addition and height of the addition. A floor plan showing where the interior stairway would be located and could it be accommodated if the building were of a different size. An idea of how big the work area needs to be or is going to be upstairs and how does that match up to what the applicant is asking for, and an alternative design to show a four-foot setback, instead of the two-foot setback.

Bill Colbath stated that he would like to see the size and height of the addition and a rough elevation, the reasons for the shape and size of the addition, stairways, and areas you need to use for Mrs. Palmers workspace and why this would affect the shape of the addition. He stated that he is looking to find out whether it is possible to create what you need within the setbacks and why it cannot be within the setback. Regardless of the fact that the garage sits at that location it does not mean that you get to rebuild it, so there has to be some kind of reason why it needs to be this way and why you cannot set it to the side or rework it to the rear of the house within the requirements.

John Levasseur confirmed with the applicant that the jog in the addition would be an entryway.

Motion: Bill Colbath made the motion to suspend the public hearing and table this case pending information to be provided at next months meeting. Frank Landford seconded the motion.
VOTE: U/A

- B. Z 05-02 Bamford Investment Co., (Applicant: Michael Leary, Sundance Sign Co.), 488 Central Ave., a/k/a Assessor's Map 6, Lot 46, zoned B-2, requests a variance from the terms of Article IX, Section 170-32, Table F, Sign Review and Regulation Table, to install a free standing sign on a lot with a building setback of zero feet, where a minimum of five (5) feet is required.**

Tom Clark announced earlier in the meeting that this case has been withdrawn, according to the site plan, there is frontage on Fourth Street, which would mean this lot is allowed to have a freestanding sign therefore does not require a variance.

ITEM # 5: OTHER BOARD BUSINESS

Richard Callaghan stated that he attended the Comcast Cable Renewal Meeting that was held this evening. Discussion ensued regarding ideas and or concerns that may affect the Zoning Board of Adjustment.

A. Annual Election of Chairperson and Vice Chairperson.

Motion: Masi Denison made the motion that Richard Callaghan continue to be the Chairperson and Bill Colbath the Vice Chairperson. John Levasseur seconded the motion. **VOTE: U/A**

ITEM # 6: ADJOURNMENT

MOTION TO ADJOURN

Bill Colbath made the motion to adjourn at 8:45 p.m. and was seconded by John Levasseur. **VOTE: U/A**

List of Members

Richard Callaghan-regular member
William Colbath-regular member
Frank Landford-regular member
Ruth Gorton-regular member
John Levasseur-regular member
Masi Denison-alternate member

Term Expires

04-13-06
10-23-06
04-10-05
11-12-06
11-12-06
09-08-07