

Dover Zoning Board of Adjustment
Thursday, May 15, 2003

MINUTES

Members Present: Dean Trefethen, Chair, Vice Chair, Rick Callaghan, David Ruoff,
Bill Colbath, Art Corte

Staff Present: Tom Clark, Building Inspector; Christopher Parker, City Planner and
Sharon Lucey, Recording Secretary

ITEM # 1: NEW BUSINESS

a. Approval of the minutes for the regular meeting of February 20, 2003

Motion: Richard Callaghan made the motion to accept the minutes. Bill Colbath
seconded the motion. **VOTE: U/A**

b. Approval of the minutes for the regular meeting of March 20, 2003

Richard Callaghan stated that on page 6, Case Z 03-3 Edward Heaphy, Leighton
Road lacked a second to the motion to approve and a vote summary.

Richard Callaghan made the motion to approve the minutes as amended. Bill
Colbath seconded the motion. **VOTE: U/A**

ITEM # 2: OLD BUSINESS

Tom Clark announced that the kennel case on Dover Point Road has to be continued since the
survey has not been completed.

ITEM # 3: NEW BUSINESS

**Z 03-6 Darlene Colwell-Ellis, 155 Silver Street, A/K/A Assessor's Map 11, Lot 7, zoned
RM10 requests a special exception as provided by the terms of Article VI, Section
170.25.1 and Article XII, Section 170-52.C (3) to establish a three family dwelling.**

Attorney, Allan Kranz, 29 Main Street, spoke on behalf of the applicant, and explained that
the applicant seeks to convert the existing carriage house, which is attached to an existing two
unit residence, to another unit. He said that the open space of the lot is equal to others in the
area and there is sufficient parking to provide 2 spaces per unit. He stated that the location of
the parking lot will exceed the number of spaces required and screening will be provided. He

also stated that all structures comply with the setback requirements. Mr. Kranz stated that the 3rd unit will not create undue traffic or congestion with only the extra 2 cars being added to the location. He stated that there may be issues regarding the size of the sewer service or sprinkler service. He stated that his clients would like to take care of those issues as well and asks to grant the petition for special exception.

Dean Trefethen had some concerns with the screening that was proposed. He stated that he was concerned with the amount of space and storage for snow removal.

Kranz answered that the snow could be pushed to the back of the lot.

Trefethen stated that he would require an area for snow removal pending approval.

Dave Ruoff made the motion to accept the application. R. Callaghan seconded.

VOTE U/A

The public hearing was opened.

Larry Tetreau, 2 Arch Street, was concerned with the size of the garage, sufficient parking for all units and with the area being more crowded.

Patricia Tetreau, 2 Arch Street, abutter is concerned with the number of occupants in a unit if not owner occupied and also expressed concern with the parking issue.

Clark stated that it is 200 square feet per person of living space in each unit itself per code, and the number of occupants is limited by square footage, so 800 sq ft could hold 2- 4 people.

The public hearing was closed.

Christopher Parker stated that the criteria has been met but advised the applicant of the following conditions:

1. Sprinkler the whole building
2. Bring the sewer service up to 6"
3. Before the CO is issued, the screening and the parking area must be approved by the Engineering Office.

Callaghan asked if engineering would take into account the turning radius for the cars to use. Parker answered that they would check it. Callaghan asked about TRC and Clark feels that it is unnecessary, he has already checked with the Public Works, Fire Dept and the Engineering Dept.

Callaghan made a motion to accept and approve the special exception with conditions which would be to meet all of the requirements of the Planning Department and the Building Inspector in addition to the snow placement storage area consideration.

Motion: To accept the Special Exception with the following

conditions: Meet all of the requirements of the Building Inspectors office, Planning Office and create an area of snow removal storage. Ruoff seconded the motion.

VOTE: U/A

Z03-7 Business Partners Inc. (applicant, Seacoast Geriatrics, Inc., John Hopkins), Garrison Road, A/K/A Assessor's Map J, Lots 2-1 & 2-2, zoned R-40 requests a special exception as provided by terms of Article VI, Section 170-25.4 and Article XII, Section 170-52.C (3) to establish a Congregate Care Facility.

Timothy Phoenix, 402 State St, Portsmouth stated that he was present to speak on behalf of the applicant. Also present were Dr. John Hopkins, Kevin McEneaney, and Mike Lassell.

Kevin McEneaney stated that Lot 11 will be conveyed as a conservation easement to conservation consideration and will remain open space as required. He indicated that there would be no capacity problem with the sewer and they would construct sewer main across the lot to the existing sewer. He stated that it is a 12" water line and there are no capacity or pressure problems. He stated that he met with Bruce Woodruff regarding the traffic generation for this project and it was determined that the traffic projection would be low and the impact minimal. David Ruoff asked if any additional units were planned. Kevin McEneaney stated that the capacity would be 31 and the design is for 30 units.

Mike Lassell presented the design and discussed the parking spaces, landscaping and the density of the site.

John Hopkins presented a letter from the Headmaster of the Portsmouth Christian Academy, Dennis Runey. John Hopkins stated that they want to serve the 70-85 age group. He stated that the 85 plus age group is the 2nd fastest growing segment of society. He will be submitting plans to the State of NH which would license the facility. He stated that an assisted living facility is staffed 24 hours a day to help these people in need. Mr. Hopkins said that the visitors are fewer with this age group and the traffic would be minimal.

Tim Phoenix stated the importance of a Congregate Care Facility which is defined as a residential facility for elderly persons containing efficiency units of 1 & 2 bedrooms and of units without kitchen facilities. He stated it does contain dining facilities. He stated that the requirement for special exception, which is 1 unit per 7500 sq ft of land, has been met. He said that it is a desirable request which would fill needs for elder care, provide jobs and provide tax revenues. Mr. Phoenix felt that there would not be strain on Fire & Rescue personnel and the traffic and pedestrian safety would be minimal.

David Ruoff asked how many bedrooms there would be per unit and number of residents. Phoenix stated that it was determined that there would be 44 residents and there would be single and some double suites available.

There was discussion regarding areas for the elderly to walk as the plans did not show sidewalks or footpaths.

Phoenix answered was that they will have lots of spaces which are not detailed in the design yet, as this presentation is conceptual. The goal is to head residents away from the road and towards the back of the property. Dean Trefethen asked about services and deliveries and how that would it be regulated.

Tim Phoenix believes the outside services themselves will avoid school traffic. Rick Callaghan questioned the water and sewer. Chris Parker stated the sewer was brand new and the water pipe was seven years old and there should be no issue. He stated that surrounding area is restricted regarding development. The original subdivision was designed for adequate flow. Kevin McEneaney stated that an 8" line will be put in feeding into 12" or 15" sewer and the water main is 12" with excellent pressure. Dean Trefethen asked if sidewalks are a consideration. Kevin McEneaney said that it is earmarked to put sidewalks in on Garrison and not onto Seaborne Drive. Chris Parker said a possible condition would be to require sidewalks be brought right into the entrance to the facility. He said that a Planning concern is the students moving around.

Dean Trefethen asked about money for the sidewalks.

Kevin McEneaney said the monies will be paid to the City prior to receipt of a building permit.

Motion: Callaghan made the motion to accept the application. David Ruoff seconded the motion. **VOTE U/A**

The public hearing was opened.

There were no comments.

The public hearing was closed.

Christopher Parker stated that the staff criteria have been met and the department supports the plan, with a few concerns, such as parking issues and the architectural design which will be looked at in site review and TRC. David Ruoff asked about a shuttle. Dr. Hopkins stated that he is not promoting bus travel and will be bringing in specialized services rather than bringing people out. He said that clients in this group tend to be much less mobile. Bill Colbath was concerned that the site distance at the entrance would present a hazard. Also he was felt concern for existing pedestrians. Chris Parker stated that their concerns include parking lot issues and the location of the driveway. Tim Phoenix stated that they will commit to bringing in sidewalks and adjusting the driveway location as necessary.

Arthur Corte brought up tractor trailer access. Mike Lassell stated that they will accommodate the requirements of the zoning. Dean Trefethen felt that this condition must be met regarding placement of the driveway and felt that it has to work and not be tweaked later. Lassell assured the Board that the design would work and stated that this was a conceptual plan. Richard

Callaghan moved to approve the special condition but it has to meet the TRC requirements. He states that it must be redrawn with sidewalk completion as a condition. Bill Colbath thinks more of the sidewalk should be finished to the end of the subdivision. Discussion continues with the Board and applicant on this issue.

Motion: Richard Callaghan made the motion to approve the Special Exception with the conditions that the sidewalk is extended along the entire frontage of the project and that the plan goes to TRC review for an acceptable driveway plan.

Z03-8 William & Barbara Hoginski, 31 Westwood Circle, A/K/A Assessor's Map F, Lot 18M, Zoned R-40 requests a variance from the provisions of Article V, Section 180-16 to subdivide a lot into two (2) parcels each with non-conforming frontage (one hundred fifteen (115) feet both where one hundred fifty (150) feet is required).

William Hoginski passed around a copy of the original subdivision of Westwood Circle to the members. He stated all lots had 100' frontage except Lot 23 & Lot 24 (The current zoning requires 150). He said that they had 115' frontage and the issue is the shortage of 35'. The applicant explained how he had it surveyed, and that the 8.5 acres will stay with Lot 23, stating the houses will be in line with the others. He stated that everything they have done has brought the lots into code except for the frontage issue. He had copies of NH soils opinion on the tests that were taken.

Discussion revised with the members of the board and the applicant.

Chris Parker questioned the two deeds. Mr. Hoginski explained that he bought them as separate lots. Discussion continued on the deed issue. Mr. Hoginski stated that one lot was put into trust. Dean Trefethen asked the applicant how many tax bills he receives. Mr. Hoginski stated it started as two and eventually ended up being one.

Dean Trefethen questioned the water and sewer. Mr. Hoginski answered that there is City water hooked up, but no City sewer. He stated that the curb is in and was set up for the development.

Discussion ensued with regard to the perpetual easement of water supply to the Army Corps of Engineers- Reservoir for Portsmouth. Arthur Corte summarized the situation briefly.

Motion: William Colbath motion to accept. David Ruoff seconded the motion. **VOTE U/A**

The public hearing was opened.
There were no comments.
The public hearing was closed.

Chris Parker stated that the staff recommends supporting the application based on the Simplex Case. The proposed frontage is similar to the rest of the street.

Variance Z03-8, applicant complies, vote is unanimous.

1. It is the Board's conclusion that if the applicant complies with the strict letter of the ordinance, he does face an unnecessary hardship because the proposal would recreate the original lot layout of the subdivision, otherwise there would be a hardship done through the uniqueness of the present lot in the neighborhood.
2. It is the Board's Conclusion that that the variance will deliver substantial justice because the proposal will allow full use of the property, as originally intended and as is similar to abutters.
3. It is the Board's conclusion that if granted the variance will be in harmony with the spirit and intent of the zoning ordinance because it will be consistent with all other lots in the neighborhood, but otherwise will be conforming to present zoning.
4. It is the Boar's conclusion that if granted the variance will not result in diminution in value of surrounding properties because the proposed use will be consistent with the neighborhood.
5. It is the Board's conclusion that, if granted, the variance will not be contrary to the public or private interests or rights because the proposal will have no effect on the public, but will protect any private rights or interest.

THEREFORE, based upon the forgoing, it is ordered that the application for the variance be granted with no conditions.

Z03-9 Robert & Lori Wheaton, 118 Back River Road, A/K/A Assessor's Map I, Lot 74-1, Zoned R-12, requests a variance from the terms of Article V, Section 170-16 to construct a breezeway and attached garage within ten (10) feet of a side lot line where a minimum of fifteen (15) feet is required.

Robert Wheaton stated that his hardship is a 15' utility easement on his lot. The house was constructed by the Vocational School trying to match the other houses in the neighborhood. Eliminating the breezeway means eliminating a window to the only window to a bedroom. He said that the lot is odd-shaped and contributes to the hardships. He stated that the utilities will not be subject to traffic.

Callaghan questioned the height of the garage. The applicant stated that it would be a pitched roof with the gambrel end facing out. Chris Parker asked if it was a one car with access door in the front. Ruoff asked how far the front of the garage was. The applicant answered that it was 13' or 14'. Colbath asked about the sidewalk issue? Mr. Wheaton stated that the sidewalk is in place.

Motion: Colbath motion to accept. Callaghan seconded the motion. **VOTE U/A**

The public hearing was open.
There were no comments.
The public hearing was closed.

Chris Parker stated that the Planning Department does not support the application. He suggested 13 feet pulling it forward 6' would lessen the variance request and he also suggested other options. Arthur Corte stated some of the garages are right against the lot lines in older homes. Callaghan asked about the plans for the upstairs. Mr. Wheaton stated that he does not need the extra room. Tom Clark explained that a plan was provided with the foundation certification so the measurements are correct. Discussion ensued with regard to the 10' issue. It was determined that there was a 4' frost fall with slab.

Variance Z03-9, applicant complies, vote is unanimous.

1. It was the Board's conclusion that the applicant does face an unnecessary hardship because the combination of the utility easement on one side and an angled lot line on the other constitutes a hardship on this lot and eliminates other alternative.
2. It was the board's conclusion that if granted the variance will deliver substantial justice because the proposal will allow reasonable expansion of the property making it similar to most other lots in the area.
3. It was the Board's conclusion that if granted, the variance will be in harmony with the spirit and intent of the zoning ordinance because the proposal meets the intent of having a reasonable setback. The 10 fee is only at one corner of the garage.
4. It is the Board's conclusion that the variance will not result in a diminution in value of the surrounding properties because the proposal will probably increase values of the neighborhood or have a neutral effect.
5. It is the Board's conclusion that the variance will not be contrary to the public or private interest or rights because the proposal is a reasonable expansion not effecting the public right or infringing on any private rights.

THEREFORE, based upon the forgoing it is ordered that the application for the variance is granted unanimously with no conditions.

R Callaghan asked how they can get people to put up the zoning notices. Tom Clark said it was a lack of secretary that has created a hardship and stated that a new secretary was starting on Friday.

R Callaghan stated that if the zoning signs are not posted that the applicants not be heard until the next month's agenda. Tom Clark stated that the use of the sign is not in the ordinance. R Callaghan asked if the Zoning Board plays a part in the changing of the ordinances? Tom Clark said that they do play a part in changing the ordinance. R Callaghan was concerned with the ones that they approved tonight.

MOTION TO ADJOURN

Bill Colbath made the motion to adjourn at 9:50 and was seconded by Art Corte. VOTE U/A

Due to staffing difficulties, the notes were transcribed by someone other than the recording secretary.

Dean Trefethen stated that they have 30 days to file an appeal form.

Z 03-13 Deborah Coppins, 40 Piscataqua Rd., a/k/a Assessor's map J, Lot 13-K, zoned R-40, requests an equitable waiver of dimensional requirements from the terms of Article V, Section 170-16, to maintain a front porch addition within approximately forty-five (45) feet from a front property line as it abuts a street where a minimum of fifty (50) feet is required.

Dean asked if someone was here to represent the applicant and no one was present.

Tom Clark stated that during the site inspection they observed that the requested front porch addition is not indicated on the submitted plot plan. He stated that the porch projects six feet towards the street from the house, making the front setback request thirty-nine feet, not forty-five feet as shown on the plan and specified on the agenda.

Tom Clark stated that her information is not accurate and that he left her a message stating that the board would have a problem with her information that was submitted. He suggests to the board to not accept the case because of inaccurate information.

Frank Landford confirms with Tom Clark that the applicant be notified of the decision and re-apply.

Motion: Richard Callaghan motion to not accept. David Ruoff seconded the motion.
VOTE U/A

Dean Trefethen stated that he would not be able to attend the next meeting scheduled for July.

MOTION TO ADJOURN

Bill Colbath made the motion to adjourn at 9:30 and was seconded by David Ruoff.
VOTE U/A

<u>List of Members</u>	<u>Term Expires</u>
Dean Trefethen-regular member	10-23-03
Richard Callaghan-regular member	04-13-06
Thomas Dolbec-regular member	12-15-04
David Ruoff-regular member	07-18-04
William Colbath-regular member	10-23-03
Douglas Cummings-alternate member	07-18-03
Arthur Corte-alternate member	02-13-05
Frank Landford-alternate member	04-10-05