

Dover Zoning Board of Adjustment
Thursday, August 21, 2003

MINUTES

Members Present: Dean Trefethen, Chair, Bill Colbath, Vice Chair, David Ruoff
Richard Callaghan, Art Corte, Frank Landford

Members Absent: Tom Dolbec

Staff Present: Chris Parker, City Planner; Jean Glidden, Recording Secretary

Dean Trefethen announced to the public that case Z03-20, GC/AAA Associates, (Applicant: The Brikadia Group, LLC) will not be heard tonight because they have withdrawn from the meeting and will re-submit at another time.

ITEM # 1: NEW BUSINESS

A. 1) Approval of the minutes for the regular meeting of July 17, 2003.

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

2) Approval of the minutes for the regular meeting of July 31, 2003.

Motion: Bill Colbath made the motion to accept the minutes as amended. David Ruoff seconded the motion. **VOTE: U/A**

ITEM # 2: OLD BUSINESS

A. Consideration of motion for rehearing request from Bonnie Leavitt, 99 Columbus Ave., a/k/a Assessor's Map G, Lot 27, RE: ZBA case # Z03-16.

Attorney James Schulte, represented the applicant and informed the board that at the hearing the initial question raised was whether a variance was required. He stated that he did not have an opportunity to review it with the code enforcement officer in advance of the hearing and when he did have a discussion with him, he stated that he agreed that expanding the building would not constitute an expansion of the use, because the land where the building will be expanded to is already part of the use, although different types of physical functions inside and outside the building is all part of the same use, you are not moving the use from one part of the property to another and not expanding the use. He stated he did ask the board to consider a request for a variance, the board considered it, voted on it and the record stands that there is an implied

finding that a variance was needed to expand the use and this project did not qualify for the variance. He stated that he thinks several errors went in to that finding and the new information presented to the board tonight is to consider that the code enforcement officer agrees that a variance is not needed, if it was to proceed and the request was denied and if he had to appeal, one of the points that he would address in that appeal would be that under the criteria for hardship there are now three things that a applicant needs to demonstrate in order to justify a finding of hardship.

- 1) The zoning restriction applied to the property interferes with the applicant's reasonable use of the property considering the unique setting of the property in this environment.
- 2) No fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific restriction on the property.
- 3) The variance would not enter the public or private rights of others.

He stated by a vote four to one the board agreed that the applicant had satisfied the requirements for the variance and therefore this board made the finding that the variance would not injure the public or public rights of others, which is now in the hardship requirement, the only aspect of the five criteria that the board voted negatively on, by a two to three vote was the fifth one, therefore the board was internally inconsistent. He stated that he would suggest that since you found it was a hardship, he feels it was an internal inconsistency and that would justify the board granting the rehearing. He stated that if the board does grant the rehearing he would submit a form of withdrawal for request of variance.

Motion: David Ruoff made the motion to grant the rehearing request. Richard Callaghan seconded the motion. **VOTE:** U/A

B. Z 03-10 John Dobe, 12 Richardson Dr., a/k/a Assessor's Map F, Lot 34-Y, zoned R-40 requests a variance from the terms of Article X, Section 170.41.D, to construct a one-story rear addition within eight (8) feet of a side lot line where a minimum of ten (10) feet is required.

Dean Trefethen stated that this item is due to a motion for rehearing granted at the July 17, 2003 meeting.

Attorney James Schutle represented the applicant. He stated that the house was built fifty years ago and the setback requirements in that neighborhood are ten feet. The rear corner of their existing house is nine feet from the sideline and that same line has a large hedge, which runs all the way along it, which effectively screens the current house from the neighbor's house and would screen the addition. He stated that Mr. & Mrs. Dobe want to add six feet to the rear of the house, an extension that would be six feet deep and twenty-two feet wide and has submitted some plans that have been prepared by the contractor, one showing the existing lay out of the rear bedroom and the entry way from the hall. The second one shows what the property would look like in that part of the house where the addition would be built. On the plan, they have shown where the sewer line currently exits and on the other side is where the bulkhead is located. The back bedroom measures thirteen feet by nine feet as scaled on the plan. The extension would make that room thirteen feet wide and fifteen feet deep. He stated that because the house sits at an angle to the street and to the side line and as you go further back the corner of the house moves closer to the sideline. He stated that he marked up a plan to show what the layout would

be if the addition were constructed without the variance. The room would be nine feet by thirteen feet and then six feet by eleven feet in the back. It would affect the appearance of the house. He stated that they need the renovations for Mrs. Dobe, because she is unable to climb stairs and they would like to change the back bedroom into a master bedroom. The door would be expanded to accommodate for a wheelchair or stretcher in case she needs medical attention in the future. He stated that there would be no impact on access to the rear of the property because it is currently nine feet. He stated that extending the house one additional foot into the setback is a reasonable request, giving the circumstances of the applicant and asked the board to approve the variance so he can build the six foot by twenty-two foot extension.

Dean Trefethen stated that some of the arguments that he is using is temporary in nature. The hedge used for screening could come down tomorrow, and although there is empathy for the medical attention, at some point in time, that condition ceases to exist as well, but the building is there forever.

Jim Schulte stated the hardship is reasonable and the focus now is giving the context of the property in that neighborhood, he stated that it is a reasonable request for this property. He stated that they could have people living in the house with a jog in the back, but is it unreasonable to ask that they be allowed to build it straight back without the jog so they can get the 15'x 13' foot room. He stated that he feels it is a reasonable request and it meets the requirements of hardship.

Motion: Bill Colbath made the motion to accept. Frank Landford seconded the motion.

VOTE: U/A

Public Hearing Open

Raymond Leblanc, abutter at 10 Richardson Drive stated that he is the abutter with the hedges and has no problem with the proposed addition.

Don McGlone, abutter at 14 Richardson Drive stated that his property is behind John and has no problem with the addition and it would help his wife out with her medical problem.

John Leavitt, abutter at 16 Richardson Drive stated that he lives diagonally across from Mr. Dobe and stated that he has no problem with the addition and with the shrubbery around the home he can barely see the house and has no objection with the addition.

Public Hearing Closed

Chris Parker stated that the staff does not support this request for variance, position has not changed from the original recommendation, they feel that there is no hardship and has other options, as Mr. Schulte has shown on the diagram. They could go back further with the addition or redo the interior door. They have room on the other side of the house and they do not feel that they have exhausted all other options and the variance should be the final option.

Richard Callaghan stated that his concern that he still has, is how many other houses have a setback of only eight feet. He stated that he has heard the sentiments of all of the neighbors, but as indicated earlier, it is a temporary situation and the house is permanent. He stated that he has a problem accepting the overcrowding issue and the applicant applied for the appeal for non-compliance because of a question that was misunderstood, relative to the location of his current

septic system, which was in response to the Planning Departments suggestion of an alternative location and would like to hear where the septic line is and how it would affect the options on that property.

Dean Trefethen stated that according to the drawing the septic line would be one foot from the proposed addition.

David Ruoff confirmed with the board the septic being grounds to rehear the case.

Bill Colbath stated that where the tank and leachfield is located, is more important then where the septic line is located.

Chris Parker stated that he was not at the other meeting and asked if they considered a lot line adjustment in the back.

Dean Trefethen stated that it would make the other lots non-conforming and was concerned with dealing with septic systems that are fifty years old. He stated that the issue for the rehearing was the location of the septic line because of a misunderstanding in the original presentation.

Richard Callaghan stated that he is concerned with the space on the property and stated that this particular house with the shrubbery is one of the more congested properties in the neighborhood.

FIVE CRITERIA:

1. It is the Board's conclusion that if the applicant complies with the strict letter of the ordinance he does not (Frank Landford voted does) face an unnecessary hardship. This conclusion is based on the following findings of fact: There are alternatives to building an addition that would not require relief, therefore there is no hardship.
2. It is the Board's conclusion that, if granted, the variance will not (Frank Landford voted will) deliver substantial justice. This conclusion is based on the following findings of fact: The proposed would further increase an already dense situation.
3. It is the Board's conclusion that, if granted, the variance will not (Frank Landford voted will) be in harmony with the spirit and intent of the zoning ordinance. This conclusion is based on the following findings of fact: The ordinance already allows a setback of ten feet at this property instead of the required twenty-five feet and alternatives exist that require no relief.
4. It is the Board's conclusion that, if granted, the variance will not (Richard Callaghan voted will) result in a diminution in value of surrounding properties. This conclusion is based on the following findings of fact: The proposal does not create a situation that does not already exist in the neighborhood, therefore, no impact on property values.
5. It is the Board's conclusion that, if granted, the variance will (Frank Landford voted will not) be contrary to the public or private interests or rights. This conclusion is based on the following findings of fact: The proposal will further congest an already congested neighborhood, possibly create a safety hazard to the neighbors.

Therefore, based upon the foregoing, it is ordered that the application for the variance be denied.

**C. Z 03-02 Janice Gardner, 165 Dover Point Rd., a/k/a Assessor's Map L, Lot 87,
zoned R-20 requests a variance from the terms of Article IV, Section 170.12,
Table I, Part B, to establish and operate a kennel.**

Dean Trefethen stated that this item was tabled to approve the conditions that were discussed at the meeting of July 17, 2003. He stated that a memo from Mr. Wattendorf was submitted and the applicant is present.

Janice Gardner asked the board if they have received all of the information that was needed for approval, including the drawing from the architect. She stated that they have moved the runs from the south side of the building to the north side.

Bill Colbath asked the applicant the purpose of the safety fence and asked about the containments conforming to being one-hundred feet from the property line.

Janice Gardner stated that it was to contain the animals because of the doors coming out to that area. She stated that the run areas on the north side of the building are the same and there will be no runs on the south side of the building.

Richard Callaghan stated that item sixteen is not specifically, what he requested at the July meeting. He stated that he did not leave a window for a resident manager and has a problem with it because he would like the person who carries the responsibility to be on site.

Bill Colbath agreed that the person that owns the property shall reside and shall operate the kennel. The intention would be that the kennel could only be run by the owner of the property.

Dean Trefethen stated that it should be written as follows: As a condition to operate the kennel on the subject premises, the principal owner must be the principal operator of the kennel and shall reside in the attached house. Dean Trefethen stated that before she files this, she would need to have the lawyer correct the item.

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

Dean Trefethen confirmed with Richard Callagan that item sixteen will read as follows:
As a condition to operate the kennel on the subject premises, the principal property owner must be the principal operator of the kennel and shall reside in the attached house.

Janice Gardner stated to the board, that she would also like to point out that the animal pick-ups and drop-offs will be 9:00 a.m. to 6:00 p.m.

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

Dean Trefethen stated that after the two adjustments have been made, she would need to file it with the County Clerk and send the revised copy to the Building Inspector's office.

Z 03-18 Temple Israel of Dover Inc., (Applicant: Bell Center for Music and Arts, Inc.), 47 ½ Fourth St., a/k/a Assessor's map 31, Lot 37 & 38, zoned RM-8, requests a variance from the terms of: 1) Article IV, Section 170-12, to establish a post secondary educational institution and 2) Article XI, Section 170-45 to provide no on-site parking.

Attorney Bill Tanguay, represented the applicant. He stated that present tonight is Kathy Fink, who is the executive director of the Bell Center, Phil Ginsberg and Stuart Sharf, who are members of the board of Temple Israel. This request for variance is important for the religious and education life of the community. He stated that these are both two non-profit institutions that are involved in this process and are growing. The Bell Center is a nonprofit school for music, drama and the arts. They have been in Dover for a number of years, and have out grown the space and Temple Israel is on the corner of Fourth Street and Grove and also need more space and are planning to build a new facility to accommodate the growth in the community. He stated that the existing property is uniquely situated and is a small lot, 100' x 110' and the building takes up the whole space and he submitted a site plan for the board. He stated it consumes the entire space and they only have parking for one or two vehicles behind the building. The potential uses of this property are limited and the potential number of occupants are limited and no matter what use you make of it, you still do not have on-site parking. He stated that they will not have any new construction, rather a new owner using an existing space. The existing classrooms will be used for lessons and the religious assembly area would be used as an auditorium or facility for recitals, plays, or other theatrical performances. Pictures of the existing building and the layout on the interior of the building were handed out to the board. He stated that the Temple currently uses it for Hebrew school during the week and have 53 children enrolled in the program, on the weekends they have religious services and would have some where between 144 to 192 people who are currently attending the religious facilities and also have a preschool during the day, and the Bell Center proposes a similar kind of use for the property. The Bell Center would also have children attending during the day taking lessons and people in the evening and on weekends. He stated that two variances are needed, the first one is a use variance, an educational facility is allowed in that zone, but a school for adults and children who are not yet school age are not allowed. He stated that the use is allowed and the age of the occupants are not allowed. The second request for variance is parking and stated he feels it is a non-issue, there is no parking now and what is proposed would not change anything. He stated it should be seen as an existing non-conforming use and they are not asking for a change in the use. He stated that Temple Israel is moving to a larger facility and the Bell Center has been operating its current programs for nine years on Chestnut Street and it would allow the Bell Center to continue and expand its current programs and provide arts education to all ages. He asked that the variances be granted.

Chris Parked confirmed with Kathy Fink the amount of people and cars on Fridays and on the weekends and asked if, the activities are currently held at the Bell Center or held at another facility.

Kathy Fink stated that when they have a recital they could only seat fifty to sixty people in the facility. She stated that they will often rent churches and rented Dover High School, with a great expense to rent larger facilities for the larger activities. She stated that the space of the Temple

would be much more reasonable space for them to hold the performances and would make the space available to other community members.

David Rouff confirmed with Bill Tanguay that an educational institute is permitted and read the definition of the educational institution post secondary. He asked if he is asking for a variance from the definition.

Bill Tanguay stated that the use is permitted, they are not asking for a variance to the post secondary, they are asking for a variance to the educational institution, because K through 12 is permitted and would like to go beyond to children younger than K and older than grade 12.

Richard Callaghan asked where the property line from the apartment house was located and asked if they were two separately deeded lots.

Bill Tanguay stated that the site plan submitted was prepared a number of years ago and stated that the Temple is located on two lots, which together is one hundred and ten feet on Fourth Street and one-hundred feet on Grove Street.

Motion: Frank Landford made the motion to accept. Bill Colbath seconded the motion.

Vote: U/A

Public Hearing open

Kathy Fink, executive director of the Bell Center stated that she is obviously in favor of this proposal and stated that this is an exciting opportunity for them, they have 450 people enrolled in the programs and they are never there at the same time. She stated one-hundred and thirty of them are preschoolers and stated that the parking is not a new issue, they have to feed meters all day and the parking closer to the Temple has fewer meters and has free parking. She stated that this would be a unique opportunity for the two organizations.

Stuart Sharf, board member for Temple Israel of Dover and member of the community since 1937, stated that they have found in their gatherings the parking has been available and that there is a public lot down the street and has maintained good relations with the neighbors. He stated that he is in support of the application.

Public Hearing closed

Chris Parker stated that the staff supports the variance for the use, on the parking issue the only consideration is that they would ask the board to consider making conditions of approval that they utilize the Fourth Street and the Third Street lots, or look into a sharing plan with the Chestnut Street lot, he would like to see that they mandate that the users park in those spots and do not try to fit one-hundred and fifty cars on Fourth Street. He stated that the lot at Third and Grove might be interested in leasing spaces at night. He stated that the final request would be as condition of approval would be to merge the two taxable lots into one lot.

Dean Trefethen confirmed with Chris Parker the options for parking.

Chris Parker stated that they encourage the applicant to investigate the options of leasing parking spaces in the area.

Bill Tanguay stated that they can not guarantee that they can, since they do not have ownership of the lots at this time, and stated that the conditions that they may put on the granting of the variance for the Bell Center, should have no affect on the current use made by the Temple.

Chris Parker stated that the recommendations would take place when the property changes hands.

Dean Trefethen asked what the timetable is for the purchase of the Temple.

Kathy Fink stated that they have a purchase in sale agreement, but the estimated closing date is June 15, 2004, to give the Temple of Israel a chance to finalize their plans and do construction in the spring.

Discussion ensued regarding parking issues and the definition of post secondary educational institution.

Frank Landford stated that they should have signs available inside stating where to park in the area.

Dean Trefethen stated that they should call it an educational center for Music and the Arts. The public notice was worded as a post secondary educational institution.

David Ruoff stated that they are granting a variance for something that is less of an impact on the community then the post secondary educational institution definition.

Dean Trefethen stated that they should make it as a condition that the use is for an educational center for music and the arts.

FIVE CRITERIA:

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. This conclusion is based on the following findings of fact: The unique configuration of the building and the limited lot size constitutes a hardship because of the other uses would be near impossible. The lack of on-site parking would also constitute a hardship since the correct use is similar enough in intensity and hours of operation and there currently is no on-site parking.
2. It is the Board's conclusion that, if granted, the variance will deliver substantial justice. This conclusion is based on the following findings of fact: Allows for a reasonable use of the property in a similar use that exists now.
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. This conclusion is based on the following findings of fact: The spirit and intent of the ordinance allows some educational uses in this zone. There currently is some educational use on the property through religious education.
4. It is the Board's conclusion that, if granted, the variance will not result in diminution in value of surrounding properties. This conclusion is based on the following findings of fact: The proposed use is similar to the current use and no outside structural changes are planned.
5. It is the Board's conclusion that, if granted, the variance will not be contrary to the public or private interests or rights. This conclusion is based on the following findings of fact:

The proposed use is not a substantial change from the current use, therefore no impact is expected.

Therefore, based upon the foregoing, it is ordered that the application for the variance be granted with conditions, upon transfer of the property.

- 1) Staff members to park on this lot, or in leased off-street parking, or in a municipal lot and its customers to be encouraged to use off-street parking by posting suggested areas to park;
- 2) Lots 37 & 38 to be combined into one lot;
- 3) The use of this facility is to be limited to an educational center for music & the arts.

Motion: Bill Colbath made the motion to accept. Frank Landford seconded the motion.

Vote: U/A

Dean Trefethen stated that Art Corte left for the evening.

ITEM # 4:

Z03-19 Mark Perkins, 106 Mt. Vernon St., a/k/a Assessor's Map 29, Lot 92, zoned R-12, requests a variance from the terms of Article V, Section 170-17 and Article X, Section 170-41.C to remove and replace/reconstruct an accessory structure (detached garage) within approximately three (3) feet from a side property line where a minimum of ten (10) feet is required.

Mark Perkins, 106 Mt. Vernon Street stated that his plan is to replace his ninety-year-old garage with a new garage, maintaining the same size, shape, height and style of the original garage, but bringing it up to the building code, with the exception of the complete setback requirement. He stated that his plan is to change the footprint of the garage to a reasonable location, further away from the property line and further away from any existing structures. He stated that moving the garage over two feet would allow access around the building. He stated that he has a garage and wants to maintain his right to have a garage. He stated that he has tenants and the garage would house and protect. He stated that his insurance company stated that he needs to repair his garage and since it is in tough shape he would like to replace it with a new garage and asked that the variance be granted.

Chris Parker confirmed with the applicant his plans in keeping the garage similar to the existing garage.

Mark stated that he would have a pre-fabricated garage and would have it look exactly the same.

Motion: Richard Callaghan made the motion to accept. David Ruoff seconded the motion.

Vote: U/A

Dean Trefethen asked the applicant how many feet is he away from the property line.

Mark Perkins stated that he is at an angle, the front of the garage is currently at one foot and the rear is at three feet. He stated that he would bring it over and back two feet.

Public Hearing open

Joel Runnals represented his parents who live at 94 Mt. Vernon Street and stated that his father is with him tonight and stated that the garage needs to be done and should have been done twenty-five years ago; however, his parents concern is the time frame that the garage will be completed. He stated that he spoke with the applicant and is concerned with three feet being enough room to dig a hole and the overhang on the building is two feet at this time. He stated that he also was the surveyor for the plan submitted and would like the applicant to verify the finish product.

David Runnals, abutter at 94 Mt. Vernon Street stated that his concern is that he wants to move it over and the edge of the building is one foot from his property line in the front and two feet in the rear. He stated that he does not think he will have enough room at three feet for the footings. He would like him to move it over to four feet, because of the overhang of the garage and on his property.

Public Hearing closed

Chris Parker stated that they thought of a one-car garage, but the two-car garage is in context with the neighborhood. He stated that if he is willing to comply with an architecture that is compatible with the house, have a certified plot plan with the foundation completed for the new garage, they are in favor of the variance.

Bill Colbath asked the applicant the distance of the garage to the property line.

Chris Parker stated that according to the scale, the front is one foot and the back is three feet using the only available survey.

Dean Trefethen stated that before the applicant pours concrete for a foundation he should have the property line surveyed and that the garage is at least three feet away from the property line.

FIVE CRITERIA:

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. This conclusion is based on the following findings of fact: The slope of the land does not allow much flexibility in location, and combined with the location of the house and driveway creates a hardship.
2. It is the Board's conclusion that, if granted, the variance will deliver substantial justice. This conclusion is based on the following findings of fact: The proposed allows for replacement of a dilapidated structure while increasing the amount setback.
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. This conclusion is based on the following findings of fact: The proposal will put the new structure further from the property line than the present structure.
4. It is the Board's conclusion that, if granted, the variance will not result in diminution in value of surrounding properties. This conclusion is based on the following findings of fact: The proposal should be a substantial improvement to the property thereby benefiting the neighborhood as well.
5. It is the Board's conclusion that, if granted, the variance will not be contrary to the public or private interests or rights. This conclusion is based on the following findings of fact: By

lessening the nonconformity, public rights are enhanced, and by replacing the structure, private rights are preserved.

Therefore, based upon the foregoing, it is ordered that the application for the variance be granted with the following conditions:

1. Must have a certified foundation plot plan;
2. The new structure must be architectural compatible with the house and neighborhood.

Motion: Bill Colbath made the motion to accept. Richard Callaghan seconded the motion.

Vote: U/A

ITEM # 5:

Z 03-20 GC/AAA Associates, (Applicant: The Brikadia Group, LLC), 10 Grove St., a/k/a Assessor's map 31, Lot 15, zoned RM-8, requests a variance from the terms of 1) Article IV, Section 170-12, Table I, Part A, Footnote 22 to establish an eight (8) unit condo building on a lot with 5,000 square feet where a minimum of 32,000 square feet is required and 2) Article XI, Section 170-44.C to provide required parking off site.

Withdrawal of this application was submitted on August 15, 2003. The owner of the parking lot across the street from 10 Grove Street has decided not to provide parking for the project. They will re-submit the application when they have secured parking.

ITEM # 6:

Z 03-21 Paula & Samuel Reid, 22 Lexington St., a/k/a Assessor's Map 10, Lot 109, zoned RM-10, requests a variance from the terms of Article V, Section 170-16, to construct an attached garage within approximately eight (8) feet of a rear property line where a minimum of fifteen (15) feet is required.

Applicant Samuel Reid, stated that he is seeking a variance to construct a garage to the rear of the property, he stated that he lives in a Victorian and the existing garage encroaches on the side and rear setbacks. The proposal is to demolish the existing garage and construct a two-car garage attached to the back of the home and will be architecturally consistent with the house. He stated that he has a buffer of trees that separates his home and the condominium association. He stated that one of the owners of the condominium unit constructed a garage and acts as an additional buffer. He stated that he knows that this is a historical neighborhood and many houses still have barns, two-car garages and carriage houses. He stated that they have asked architecture Phil Kendrick to design the addition that is consistent with the home. The current setback of the garage would be lessened to the rear and mitigated entirely on the side setback. He stated that his home is three stories high and would look out of character with the home to construct a one-car garage. He stated that the two-car garage would be consistent in the zone and he stated that his neighbor, Dana Lynch at 24 Lexington Street, did the survey for him and the applicant stated he could represent him and that he is in favor of the variance. He also submitted a letter in favor of the variance application from Cindy & Chris Wyskiel at 15 Lexington street. He stated that he has

spoken to the president of the condominium association, Denise Jorgensen and he showed her the plan and has indicated that she does not have any objections to the plan.

David Ruoff asked the applicant if the two-car garage would be a two-story garage.

Samuel Reid stated that to be in consistent with his home, he stated that his land slopes down and the plan would be to take the grade down and in order to do this he would need to have the building be two to two and a half stories high.

Bill Colbath asked the applicant if he had any plans for living space above the garage.

Samuel Reid stated that it would be vacant space for now and the plans are for an unfinished room at this point.

Bill Colbath stated that this would be an advertisement issue, because it would not just be a garage anymore.

Chris Parker asked if the vacant space would have access through the house or the garage.

Samuel Reid stated that they would come through the first level mudroom, which is elevated because of the slope in the back. He stated that you have to go upstairs to the mudroom and at this point, the space will be unfinished space.

David Ruoff asked the applicant where the gable end would be on the garage. He stated that if the garage were 2 stories and another eight feet to the peak of the garage, you would have to go on your neighbor's property to maintain the garage.

Dean Trefethen stated that there would be room for staging.

Bill Colbath stated that the applicant asked for a variance to construct a garage and not a variance to construct an addition to the home. If the garage has a second floor, it would be considered an attached garage with living space above, which makes it an addition to the home, not an attached garage.

Chris Parker asked if the vacant space would be 24' x 23'.

Samuel Reid stated that because of the depth and the width of the building it would have to be that size and would have to come up a couple of stories to keep it in character with the house and keep it in a similar roof line with what they have on the home. He stated that he did mean to mislead anyone about the living space.

Bill Colbath stated that they have two different issues, one is an accessory structure being a garage and the other one is an addition to the home.

Chris Parker stated that if he is willing to table and re-advertise, they could figure out what the correct variance should be and re-advertise with the correct wording for the variance.

Dean Trefethen asked the applicant if the condominium association and the abutters understood that he was building a two ½-story structure.

Samuel Reid stated that they are aware of it and he was not able to speak with Mr. Gillis, who lives next to him at 20 Lexington. He stated that he left messages for him.

Dean Trefethen stated that they should accept, table, come up with new wording, and re-advertise. It should be properly advertised. He stated that Tom would come up with the correct wording for the structure.

Frank Landford asked the applicant about a site elevation.

Samuel Reid stated that he would have Mr. Kendrick come to the next meeting or prepare a plan to submit to the board.

Bill Colbath stated that they are looking for relief from the rear property and the garage side. He would like to see a conceptual drawing.

Samuel Reid stated that the neighbor's new garage is approximately fifteen feet from his line.

Dean Trefethen stated that they would be looking for conceptual drawings that will show some elevation and some roof pitches and slopes so they can see where the water will drain. He stated that if the gables were going to be towards the driveway the accessibility to the rear would be much more less of a concern.

Motion: David Ruoff made the motion to accept. Frank Landford seconded the motion.

Vote: Four (4) voted in favor and one (1) opposed - Bill Colbath.

Dean Trefethen stated that the abutters will need to be notified again and will need to re-advertise.

Motion: Frank Landford made the motion to table the item. David Ruoff seconded the motion.

Vote: Four (4) voted in favor and one (1) opposed - Bill Colbath.

Dean Trefethen stated that an existing problem that was brought to their attention with the variance application form needs to be reviewed.

Chris Parker stated that he would meet with Tom regarding the issue.

Motion: David Ruoff made the motion to adjourn. Richard Callaghan seconded the motion.

Vote: U/A

List of Members

Term Expires

Dean Trefethen-regular member	10-23-03
Richard Callaghan-regular member	04-13-06
David Ruoff-regular member	07-18-04
William Colbath-regular member	10-23-03
Arthur Corte-alternate member	02-13-05
Frank Landford-alternate member	04-10-05