

**DOVER ZONING BOARD OF ADJUSTMENT
MINUTES OF PUBLIC HEARING
JANUARY 17, 2002**

MEMBERS PRESENT: Dean Trefethen, Chairperson, Bill Colbath, Co-Chairperson, Douglas Cummings, and Tom Dolbec.

STAFF PRESENT: Thomas Clark, Building Official, and Steve Bird, City Planner

Dean Trefethen announced to the general public that the second case, Z 02-2, Roger and Dawna Belanger will not be heard tonight because they have withdrawn their request for a variance.

Dean also informed the applicants present at the meeting that there are only four members of the Board present and the applicants have the option to be heard tonight or wait until the next meeting when there may be a full Board.

ITEM #1 NEW BUSINESS:

A. The annual nominations for and elections of Zoning Board Officers will be held.

MOTION:

Dean Trefethen made the motion to postpone the annual nominations and elections until the end of the meeting.

Doug Cummings seconded the motion.

U/A

B. Approval of minutes for regular meeting of December 20, 2001

Doug Cummings stated that there were three corrections. Page 2, page five and page eight.

MOTION:

Bill Colbath made the motion to accept the minutes with the corrections.

Tom Dolbec seconded the motion.

U/A

ITEM #3:

Z 02-1 Cochecho Country Club, 145 Gulf Rd., A/K/A Assessor's Map N, Lot 15, Zoned RM-12, requests a variance from the terms of Article X, Section 170-40.B to move a non-conforming use to a portion of the lot not currently occupied by such use.

Paul Connolly, Consulting Engineer, represented Cochecho Country Club. He gave a brief history of the development of the Country Club property. He presented a large drawing of the property with the placement of the buildings to the Board. The new building will be a cart barn

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for storage of golf carts. They will be going from 162 gas system carts to 70 battery-operated carts. The carts will be recharged in the cart building overnight or as needed during the day. He reviewed the five criteria in the application. He also presented to the Board pictures of the current cart barn and fenced in area and a picture of the proposed building. For the hardship he presented a copy of a list of some of the N. H. Supreme Court citations (see file for list). The Country Club has been in operation at its present location since 1923. In 1972 it acquired a parcel of land from Roger Gardner and it has been used for storage of golf carts since. Although the proposed barn is smaller than the present storage area, it does not conform whereas the proposed building extends slightly beyond the limits of the existing buildings, and the fenced in area on the easterly and westerly sides. The ordinance is the hardship in that it does not allow a building space that most effectively and efficiently accommodate the club's needs. He read a few of the cases in the list of citations. The new building will be making the extent of the nonconformity less than they are now and the size of the space that they will occupy will diminish by about 40%.

Dean Trefethen asked if all of the carts that were stored on the other side of the road would be stored all on one side in the new building rather than going back and forth across the street?

Paul Connolly answered that all of the carts will be stored in the new building and they would like to use the old building on the other side of the street as a maintenance equipment building. The golf carts will be crossing the street only during play from one hole to another and then back across at the finish.

The Board and Paul Connolly discussed the type of the proposed metal building, its construction, and height.

MOTION:

Bill Colbath made the motion to accept the case.

Tom Dolbec seconded the motion.

U/A

PUBLIC HEARING OPENED:

Realtor Dan Gabriel stated that he was asked by the Country Club to speak on whether or not the value of the surrounding properties would diminish in regards to the proposed building. He reviewed the site and the plan. The current buildings are in bad shape and the fenced in area is makeshift at best. What is of concern right now is the gravel parking lot that has no curb cuts at all which is a very dangerous situation. The proposed plan is to have a curb cut area to define the entrance and there will be a buffer of landscaping around the edges of the property that will be more pleasing than the gravel that is there now. The parking lot will be paved and lined. As far as the use of the building, he asked if there would be more or less noise and he was informed that the gas carts are noisier than the electric carts which will be less offensive to the surrounding properties and also the smell. The aesthetics of the new building

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will be a great improvement from what is there. He feels that there will be no negative affect on the surrounding properties.

Bob Demers, an abutter and member of the Country Club said that the article stated on the agenda does not address the issue requested for. The applicant should not be asking to move a nonconforming use to another portion of the lot but rather should be asking for an increase of nonconformity. The proposed new building, although it will be aesthetically better, will actually be larger than the two existing buildings. He reviewed the plot plan and the abutter's locations. The new building will not be aesthetically fitting with the surrounding properties and feels that it will diminish the value of his property. He feels that the battery recharging at night will be a disturbing noise to the neighborhood and he is concerned with the venting of the building and health hazard and the odor. He feels that it could be placed somewhere else on the property. He also was concerned with the driveway, parking and transporting carts up and down the driveway. Also, not on the plan, is a State approved cart crossing to go back and forth across the road. The Country Club will have to go to the State to get a driveway approval.

Steve White, President of the Country Club, stated that 70 golf carts will reduce the fleet of carts. He explained the storage of the gas carts. They did look at a couple of other sites but they would require moving the putting green and parking. The recharging of all the carts will not be all night but will be as needed. He explained the parking, picking up golf carts and use. If this were zoned differently then an RM-12 they would not have a problem with the building.

Bob Demers stated that he feels that it will diminish the value of the properties and he cited the values of the surrounding properties.

Paul Connolly added that in discussing the need with the City Officials, this was the ordinance that they needed a variance for. If they positioned the building on another section they would still need a variance. He stated that they have been in contact with the Department of Transportation in regards to a driveway permit and have submitted their application to them.

Bob Demers Sr., abutter, read the section 170-41.B nonconforming structures ordinance to the Board. He feels that these buildings cannot be restored unless they are kept in the position that they are now.

Thomas Clark stated it is his opinion the variance request is from the current section. The Demers are referring to nonconforming structures, which will be removed. The proposed structures will be conforming; therefore, the sections to which the Demers are referring don't apply. It's the use that will be moving and is the issue here.

PUBLIC HEARING CLOSED

Dean Trefethen asked for staff recommendations.

Steve Bird stated that the Planning Department has reviewed the plan that is before the Board and that it has gone before the Technical Review Committee. They have reviewed the site and the zoning history. The issues that stand out to them are that the building being proposed

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will eliminate the setback nonconformity that exists today, and the overall area occupied by the cart storage will be reduced so it will be reducing that nonconforming use. The use is compatible with the surrounding area. The building across the street that is used by the Country Club is the same type of building and for those reasons the Planning Department supports the variance request.

Dean Trefethen asked Steve and Tom if they were aware of any restrictions on the cart crossing?

Steve Bird answered that during the Technical Review Committee meeting, the applicant indicated that they are working with the Department of Transportation on getting a permit because of the pavement that they are doing. It is a State road and it lies with the State jurisdiction and as long as they get the State's permit the Planning Department will be satisfied.

Dean Trefethen said that this is the driveway permit but are they aware of any issues with the cart crossing?

Steve Bird answered that he was not aware of any.

The Board discussed the cross walk that the carts use to cross and the pedestrian signs.

Dean Trefethen asked if the issues of parking, paving and screening have been before the Technical Review Committee and will they be going before the Planning Board?

Steve Bird answered that they were discussed at the Technical Review Committee. Some revisions were made to the plan and it will go before the Planning Board.

Bill Colbath asked Tom Clark if the release of hydrogen from the charging batteries is controlled by the Building Permit process? He is concerned with the ventilation.

Tom Clark answered yes. The City has adopted the building code and mechanical code. If there are ventilation issues then they would have to come up with a ventilation plan.

The Board discussed the ventilation issue. Bill feels that the noise is a valid concern in regards to the diminution of value for the surrounding properties.

Tom Clark added that this will have to go before the Planning Board and they will address the issues of noise and ventilation and, if necessary, the applicant will have to provide a plan for each of these.

The Board and Paul Connolly discussed the option of measuring the noise increase by comparing the noise now and after the building is in place.

FIVE CRITERIA:

1. It is the Board's conclusion that the applicant does face an unnecessary hardship. The Country Club existed before zoning and when zoning was implemented, this zone makes the use nonconforming creating a hardship because no improvements can be made to the operation. Also, the area of nonconformity will be reduced.
2. It is the Board's conclusion that the variance will deliver substantial justice. The proposal allows continued use of an existing golf course and allows for the course to keep current with technology.
3. It is the Board's conclusion that the variance will (Tom Dolbec voted will not) be in harmony with the spirit and intent of the zoning ordinance. Nonconforming uses can continue under the ordinance and this proposal calls for the same use in a slightly different location of the current situation.
4. It is the Board's conclusion that the variance will not result in a diminution in value of surrounding properties. The proposal is an improvement over the existing structures and storage area and noise will be controlled under the proposal.
5. It is the Board's conclusion that the variance will not be contrary to the public or private interests or rights. The nonconformity of the property will be reduced and driveway access will be better restricted for improved safety on the road.

Therefore based upon the foregoing it is ordered that the application for the variance be granted with condition.

MOTION:

Bill Colbath made the motion to add the condition that the sound levels from the new structure will not exceed their current level at the adjacent property line with particular attention to night time hours.

Doug Cummings seconded the motion.

U/A

Dean Trefethen advised the abutters that there is a 20-day appeal period.

ITEM #5:

Z 02-3 Raymond Martineau, Littleworth Rd. A/K/A Assessor's Map H, Lot 32-A-2 Zoned B-4 requests a variance from the terms of Article V, Section 170-16, Footnote 23 to construct a building within seventy-five (75) feet from a residential structure where a minimum of one hundred fifty (150) feet is required.

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Atty. James Schulte, representing Raymond Martineau requested that their case be postponed until the regular February 2002 meeting for a full Board.

MOTION:

Dean Trefethen made the motion to postpone case #Z 02-3, until the February 2002 meeting.
Bill Colbath seconded the motion.
U/A

ITEM #1

A. The annual nominations for and elections of Zoning Board Officers will be held.

MOTION:

Doug Cummings made the motion that Dean Trefethen continue to be the Chairperson and Bill Colbath the Co-Chairperson.
Tom Dolbec seconded the motion.
U/A

MOTION:

Bill Colbath made the motion to adjourn.
Tom Dolbec seconded the motion.
U/A

List of members:

Term Expires

Richard Callaghan – regular member	4/13/2003
Douglas Cummings II – regular member	7/18/2003
William Colbath – regular member	10/23/2003
Dean Trefethen – regular member	10/23/2003
David Ruoff – regular member	7/18/2004
Thomas Dolbec – alternate member	12/15/04