

**DOVER ZONING BOARD OF ADJUSTMENT  
MINUTES OF PUBLIC HEARING  
MARCH 15, 2001**

**MEMBERS PRESENT:** Dean Trefethen, Chairperson, William Colbath, Co-Chairperson, David Ruoff, Rick Callaghan, Doug Cummings, and Tom Dolbec

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

**ITEM #1: NEW BUSINESS:**

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

**MOTION:**

Rick Callaghan made the motion that Dean Trefethen continue as Chairperson and William Colbath as Co-Chairperson.

David Ruoff seconded the motion.

U/A

B. Approval of minutes for regular meeting of February 15, 2001.

Bill Colbath had one correction to the minutes. On page eight (8) second paragraph down, second line down should be changed from "that the overhand provides" to read "that the overhang provides."

**MOTION:**

Rick Callaghan made the motion to accept the minutes with the correction.

Bill Colbath seconded the motion.

U/A

Dean Trefethen stated that he, Tom Clark, Tom Dolbec, and Rick Callaghan went to the Forum Monday evening that was put on by the Strafford Regional Planning Commission concerning the Supreme Court decision that redefined hardship. The memo that was distributed this evening to the Board covers it, however he added that with this new definition there is still a requirement that there be something special concerning the property. It does broaden the relationship of hardship and our choices and latitude, but is not a complete new definition.

**ITEM # 2: OLD BUSINESS:**

None

ZBA  
3/15/01  
PG. 2

**ITEM # 3:**

**Z 01-2, Intellectual Holding Inc. (Applicant – Michael Leary, Sundance Sign & Design), 824 Central Ave., A/K/A Assessor's Map 37, Lot 35, Zoned Office, requests a variance from the terms of Article IX, Section 170-32.1(3)(b) to install a freestanding sign with an area of twelve (12) square feet where a maximum of four (4) square feet is allowed.**

Michael Leary, 89 Oak St., Dover, of Sundance Signs, stated that they would like to use some of the square footage at the front of the building. Right now four (4) feet is allowed and they feel that due to the heavy traffic they need a larger sign and there will be only one tenant in the building.

Rick Callaghan asked if the sign would be lit?

Michael Leary answered that it has not been determined yet but it will be externally illuminated. They will keep it in line with the other offices that are in that area.

**MOTION:**

Rick Callaghan made the motion to accept the case.

David Ruoff seconded the motion.

Bill Colbath asked if the signature was that of the owner?

Michael Leary said that the signature on the application is the owner to his knowledge. He is just putting up the sign.

U/A

David Ruoff asked what the size of the sign would be?

Michael Leary answered that it will be 24 X 72. (2' X 6')

Dean Trefethen asked for staff recommendations.

Steve Bird stated that the Planning Department is in favor of granting this variance. It is very similar to a variance that was granted about six months ago. The condition of this property is very similar. It is a high traffic area. The building is setback from the road so that a wall sign would be more difficult to see. With the one tenant in the building this is the better way to advertise the property and since a freestanding sign is permitted the Planning Department recommends a condition be placed that this would replace any wall sign that is permitted under the zoning.

**PUBLIC HEARING OPENED**

No response.

ZBA  
3/15/01  
PG. 3

## **PUBLIC HEARING CLOSED**

David Ruoff asked Tom Clark if there is a setback requirement for the sign?

Tom Clark answered that there is not.

### **FIVE CRITERIA:**

1. It is the Board's conclusion that the applicant does face an unnecessary hardship (William Colbath and Tom Dolbec voted does not). Due to the unique setting in the neighborhood, which has seen similar size signs granted and across the street larger size signs would be allowed, creates a hardship to enforce the ordinance.
2. It is the Board's conclusion that the variance will deliver substantial justice (William Colbath and Tom Dolbec voted will not). It allows this property the same rights to sign size as most properties in the neighborhood in the same zone.
3. It is the Board's conclusion that the variance will be in harmony with the spirit and intent of the zoning ordinance (Bill Colbath and Tom Dolbec voted will not). The spirit and intent is to control sign sizes while allowing proper visibility, which this proposal accomplishes.
4. It is the Board's conclusion that the variance will not result in a diminution in value of surrounding properties. The proposed sign is similar to others in the neighborhood.
5. It is the Board's conclusion that the variance will not be contrary to the public interest. The proposed sign will allow exceptional visibility in a high traffic count area without being intrusive.

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

### **MOTION:**

Rick Callaghan made the motion to add the condition that there will be no additional signage on the property that would be otherwise allowed.

Bill Colbath seconded the motion.

U/A

Bill Colbath stepped down from the next case due to a conflict of interest.

ZBA  
3/15/01  
PG. 4

ITEM #4

**Z 01-3, Ronald & Russell Newell, 2 Pearl Street, A/K/A Assessor's Map 27, Lot 291, Zoned R-12 requests a variance from the terms of Article V, Section 170-16 to subdivide a parcel into two lots, each having ten thousand (10,000) square feet in area where the minimum lot size is twelve thousand (12,000) square feet.**

Ronald Newell stated that he would like to create two lots, 100 X 100. The current zoning requires 100 X 120. The abutting properties across the street average 55 X 100 and to the east it abuts a commercial zone. The applicant reviewed the criteria on his application. Originally in 1958 this was two lots and is recorded as such and it was owned by Frank Grimes who sold it to the applicant's father. The applicant presented a deed to the Board that showed that it was two lots and at some point they were made into one lot.

Dean Trefethen asked the applicant about the iron pipe that is approximately one half way on the property? He asked if the applicant was using this pipe as the division of the two lots and is he going to maintain the pipe?

Ronald Newell answered that he was going to maintain the pipe.

Tom Clark asked the applicant if he was going to make both lots 100 feet?

Ronald Newell answered that he was.

Tom Clark pointed out that the pipe appears to be at 99.87 feet.

The applicant stated that he plans to divide the lot equally.

**MOTION:**

David Ruoff made the motion to accept the case.

Doug Cummings seconded the motion.

Tom Dolbec asked if there was information on the comparable lots on the street?

Steve Bird answered that, in preparing for this case, he did look at the tax map for this neighborhood and found that the lots across the street are comparable in size to the lots that are being proposed. There are a couple of lots in the neighborhood that are larger than these lots but the majority of the lots are in the 10,000 square foot range.

U/A

Dean Trefethen asked for staff recommendations.

Steve Bird stated that the Planning Department speaks in favor of this variance. This is a case where the ordinance sets forth the minimum frontage and minimum lot size to control density in a residential neighborhood. In this case the frontage is met according to the ordinance and the

lot size is about 85% of what is required for a lot size under the ordinance. With the nature of the development in the neighborhood, this lot is suited for residential even though there are some commercial uses nearby. So residential makes sense here and it is surprising that this lot has remained undeveloped for so many years. It is one of the largest lots in the neighborhood. Given the lot sizes in the neighborhood this fits in, and in a lot of cases will probably result in homes of higher value than some of the existing homes in the neighborhood. This is a case where the strict interpretation of the zoning really serves no purpose and the 10,250 per lot is substantially in compliance with the ordinance. Therefore, a variance is a relief that is appropriate in this case.

### **PUBLIC HEARING OPENED**

Russell Newell, one of the owners, is in favor of the variance. He stated that it is a special and unique lot and he gave a history of the lot.

### **PUBLIC HEARING CLOSED**

#### **FIVE CRITERIA:**

1. It is the Board's conclusion that the applicant does face an unnecessary hardship. Other lots in the neighborhood are of similar size and to hold the applicant to a higher standard would be a needless and unnecessary restriction.
2. It is the Board's conclusion that the variance will deliver substantial justice. The proposed lots are of similar size to abutting properties.
3. It is the Board's conclusion that the variance will be in harmony with the spirit and intent of the zoning ordinance. The intent is to control density and the proposed lots are of similar size to existing lots.
4. It is the Board's conclusion that the variance will not result in a diminution in value of surrounding properties. The proposed lots are consistent with the neighborhood.
5. It is the Board's conclusion that the variance will not be contrary to the public interest. It allows a reasonable use of a vacant residential lot.

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

ZBA  
3/15/01  
PG. 6

**MOTION:**

Rick Callaghan made the motion to place the following conditions: (1) the property is to be divided equally into two lots, both in frontage and total square footage, as close as reasonably possible. (2) The existing pipe halfway down the frontage must be moved to reflect the new front corner.

David Ruoff seconded the motion.  
U/A

Rick Callaghan made the suggestion that it is time to setup a workshop for the Board to review the documents that they use and bring them up-to-date with the changes.

Dean Trefethen agreed and would present some dates for the Board to choose from. The Rules of Procedure, that was previously called By Laws, will also be reviewed. There will need to be public notification for two successive meetings before voting on the changes for the Rules of Procedure.

**MOTION:**

Rick Callaghan made the motion to adjourn.  
Tom Dolbec seconded the motion.  
U/A

**List of members:**

**Term Expires**

Thomas Dolbec – alternate member	12/15/2001
John Murphy – regular member	12/31/2001
Robert Mullan – regular member	12/31/2001
Douglas Cummings II – alternate member	1/22/2002
David Ruoff – alternate member	4/13/2002
Richard Callaghan – regular member	4/13/2003
William Colbath – regular member	10/23/2003
Dean Trefethen – regular member	10/23/2003