

**DOVER ZONING BOARD OF ADJUSTMENT
MINUTES OF PUBLIC HEARING
AUGUST 16, 2001**

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

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

ITEM #1 NEW BUSINESS:

A. Approval of minutes for regular meeting of July 19, 2001

MOTION:

David Ruoff made the motion to accept the minutes with the following change: Page 4 first paragraph third line, change from "burglary, assault, violent of" to read "burglary, assault, violation of".

Douglas Cummings seconded the motion.

U/A

ITEM #2 OLD BUSINESS:

None

ITEM #3:

Z 01-16 Gordon and Michelle Roberts, 8 Meridian Dr. A/K/A Assessor's Map I, Lot 75-P, zoned R-12 requests a variance from the terms of Article V, Section 170-16 to construct/maintain an addition onto a single family dwelling within approximately ten (10) feet from a side property line where a minimum of fifteen (15) feet is required.

Steven Dunning, contractor, represented the applicants. He submitted letters from some of the abutters to the Board. Steven stated that the house was built in 1957 and the stairs are not safe. He stated that his sister, the applicant, called the Building Inspector for the amount of setback and that there was some miscommunication between his sister and himself (contractor) when she relayed this information.

Dean Trefethen asked Steven how long he has been a contractor and was he aware that a Building Permit was required?

Steven Dunning answered that he has been a contractor a long time and that he did know that a Building Permit was required.

MOTION:

Bill Colbath made the motion to accept the case.

David Ruoff seconded the motion.

U/A

ZBA
8/16/01
PG. 2

PUBLIC HEARING OPENED

Dean Trefethen read the two letters received from the abutters, that were presented by Steven.

1. David and Paula Pelletier, 11 Meridian Dr. stated that they were in favor of the addition.
2. Debbie Morrow, 51 Garrison Rd. stated that she is in favor of the addition.

PUBLIC HEARING CLOSED

Dean Trefethen asked for staff recommendations.

Steve Bird, City Planner, stated that since this is a conforming lot, they have a problem in finding a hardship. They question why an addition that conforms could not be built to achieve the same purpose. Due to that, the Planning Department could not speak in favor of this variance.

David Ruoff asked the applicant why the addition has to go where it is?

Steven Dunning answered that the door to the kitchen and access to the basement is in the same area and this would make it convenient.

Bill Colbath asked when the Building Permit was applied for?

Thomas Clark answered that it was July 2, 2001 and he called July 19th informing the applicant that the setback was inadequate.

Dean Trefethen stated that it appears to him that there are alternatives to achieve the goal without going into the setback. However, this is a structure that is substantially completed.

Bill Colbath asked where the plot plan originated from?

Steve Dunning answered that some of the information came from the deed and the site plan for Morningside Pk. from the Registry of Deeds.

Bill Colbath asked if the location of the house was noted on the deed?

Steve Dunning answered that it was not.

Bill Colbath asked who measured the setbacks?

Steve Dunning answered that he did.

Bill Colbath asked if he had any degree of accuracy to show where the lot lines were?

Steve Dunning answered that he measured from the fence line and there is an iron pin on the back of the property.

Bill Colbath asked when the construction began?

Steve Dunning answered that it was a week prior to the conversation with the Building Department and about 2 weeks before the application was submitted. He stopped construction when Mr. Clark notified he that there was a problem with the setback.

Douglas Cummings stated the he feels that there could have been other designs the applicant could have pursued. The purpose of this addition was supposed to be for the stairway, however there are other options for this.

David Ruoff advised the applicant that he has put the Board in an awkward position. Too many people have applied for permits after the work has begun and then come before the Board hoping they would fix the problem. He feels that this particular problem does not present a hardship. There is another way around this particular problem.

FIVE CRITERIA:

1. It is the Board's conclusion that the applicant does not (David Ruoff voted does) face an unnecessary hardship. There is space on the property and options to achieve their goal of stair safety without the need of relief from side setback requirements.
2. It is the Board's conclusion that the variance will not (David Ruoff voted will) deliver substantial justice. Granting of the variance would result in the property obtaining greater rights than abutters.
3. It is the Board's conclusion that the variance will not (David Ruoff voted will) be in harmony with the spirit and intent of the zoning ordinance. Spirit and intent is to have a fifteen (15) foot setback and there is adequate room on the property to achieve the applicant's stated goal.
4. It is the Board's conclusion that the variance will not (Bill Colbath and Tom Dolbec voted will) result in a diminution in value of surrounding properties. The addition could enhance the property's value thereby potentially having a positive effect for abutters as well.
5. It is the Board's conclusion that the variance will (David Ruoff voted will not) be contrary to the public or private interests or rights. It is not in the public's interest to have unnecessary density and potential restriction to safety access due to reduced side setback.

Therefore, based upon the foregoing, it is ordered that the application for the variance be denied. The applicant was advised that she has twenty days to appeal.

ZBA
8/16/01
PG. 4

ITEM #4

Z 01-17 Gaye Dean, 16 Pearl St. A/K/A Assessor's Map 27, Lot 189 zoned R-12 requests a variance from the terms of (1) Article V, Section 170-16 to subdivide a parcel creating a lot with 10,393 square feet in area where a minimum of 12,000 square feet is required; and (2) Article V, Section 170-17 to extend a rear lot line within approximately five (5) feet from an accessory structure (barn) where a minimum of ten (10) feet is required.

Kevin McEneaney, Land Surveyor, represented Gaye Dean. Kevin explained the lot layout and the lot line adjustment that created the present lot configuration. The original subdivision was in 1987. There is a mixture of uses; single family and multi-family dwellings. Kevin reviewed the criteria on the application.

Dean Trefethen asked if the barn is functional.

Kevin McEneaney answered yes, that it is being used as storage.

The Board discussed their concerns of the distance between the new structure and the barn.

MOTION:

David Ruoff made the motion to accept the case.

Doug Cummings seconded the motion.

U/A

PUBLIC HEARING OPENED

No comments

PUBLIC HEARING CLOSED

Dean Trefethen asked for staff recommendations.

Steve Bird, City Planner stated the Planning Department looked at a couple of factors that causes them to not oppose the variance, one of which is the average lot size in the neighborhood and this proposed lot fits in with the neighborhood. Also the Board recently approved a variance for the Newell property across the street for similar size lots. This lot also has conforming frontage and adequate building envelope. All these lead the Planning Department to not oppose this request.

FIVE CRITERIA

1. It is the Board's conclusion that the applicant does face an unnecessary hardship. The lot proposed is similar in size to many lots in the neighborhood and nothing would be gained to deny the application.

ZBA
8/16/01
PG. 5

2. It is the Board's conclusion that the variance will (Bill Colbath voted will not) deliver substantial justice. The proposal would allow creation of a lot similar to others in the neighborhood.
3. It is the Board's conclusion that the variance will (Bill Colbath voted will not) be in harmony with the spirit and intent of the zoning ordinance. The intent is to control density and the proposal will create a lot and setbacks similar to existing lots in the neighborhood.
4. It is the Board's conclusion that the variance will not result in a diminution in value of surrounding properties. The proposal will allow use consistent with the neighborhood.
5. It is the Board's conclusion that the variance will not be contrary to the public or private interests or rights. Improvement to the lot would be beneficial to the neighborhood and would not injure any public or private rights.

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

MOTION:

Bill Colbath made the motion to place the condition that the rear setback of the new lot (Florence Street frontage) for the principle structure must be a minimum of thirty (30) feet from the barn on the Pearl Street lot.

Doug Cummings seconded the motion.

U/A

MOTION:

Bill Colbath made the motion to adjourn.

Doug Cummings seconded the motion.

U/A

List of members:

Term Expires

Thomas Dolbec – alternate member	12/15/2001
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