

**DOVER ZONING BOARD OF ADJUSTMENT
MINUTES OF PUBLIC HEARING
SEPTEMBER 20, 2001**

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

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

NOTE: This meeting was held in the City hall auditorium therefore there were no mikes for recording. These minutes are based on the Secretary's notes.

ITEM #1 NEW BUSINESS:

A. Approval of minutes for regular meeting of August 16, 2001

MOTION:

Bill Colbath made the motion to accept the minutes as presented.
David Ruoff seconded the motion.

U/A

ITEM #2 OLD BUSINESS:

None

ITEM #3:

Z 01-18 Roger G. Booth (Property owner: Dover Brook LLC), 19 Constitution Way, A/K/A Assessor's Map K, Lot 21-53, zoned R-40 requests a variance from the terms of Chapter 126 (Mobile Home Park), Section 126-5-F to construct a side carport addition onto a mobile home within eight (8) feet of a side property line where a minimum of twelve (12) feet is required.

Roger Booth stated that he needs a carport because he is disabled and needs to use a wheelchair.

MOTION

Bill Colbath made the motion to accept the case.
David Ruoff seconded the motion.

U/A

Dean Trefethen stated that he is concerned with the carport being enclosed with plastic or its being converted into a garage.

Rick Callaghan asked the applicant what the carport would be made of?

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Richard Emond, contractor, stated that it will be of aluminum, and he gave a brief description of it.

Tom Dolbec stepped down from the case.

PUBLIC HEARING OPENED

None comments

PUBLIC HEARING CLOSED

Dean Trefethen asked for staff recommendations.

Steve Bird stated that the Planning Department supports this request for a variance. It leaves 48 feet between the abutting unit and this carport. The driveway to the abutting unit is on the opposite side of their unit, so a future carport will not interfere with their setback. Carports are common to this park.

FIVE CRITERIA:

1. It is the Board's conclusion that the applicant does face an unnecessary hardship (Dean Trefethen voted does not). The placement of the concrete pad in the center of the unit's lot does not leave proper space at the driveway end of the structure to allow a carport plus there is still adequate space left between the units, means there is a hardship.
2. It is the Board's conclusion that the variance will deliver substantial justice. The proposal will allow a carport similar to many of the units in this park.
3. It is the Board's conclusion that the variance will be in harmony with the spirit and intent of the zoning ordinance (Dean Trefethen voted will not). With approval of this proposal, there still will be adequate setbacks from other structures.
4. It is the Board's conclusion that the variance will not result in a diminution in value of surrounding properties. The proposal is similar to many other units in this park that already have carports or garages.
5. It is the Board's conclusion that the variance will not be contrary to the public or private interests or rights. The proposal is similar in nature to other units in this park and allows adequate use and safety for the unit owner.

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

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MOTION:

Doug Cummings made the motion that the three sides of the carport not against the unit must remain open and cannot be enclosed in any manner.

Bill Colbath seconded the motion.

4 voted in favor and 1 opposed (Dean Trefethen opposed)

ITEM #4:

Z 01-19 Douglas J and Lucia H. DeDe, 143 Locust St., A/K/A Assessor's Map 12, lot 37, zoned RM-10 requests a variance from the terms of 1) Article V, Section 170-16 to construct an attached garage onto a three family dwelling within three (3) feet from a side property line where a minimum of six (6) feet is required and within approximately four (4) feet from a rear property line where a minimum of fifteen (15) feet is required; and to construct a roofed front porch within approximately eight (8) feet from a front property line as it abuts a street where a minimum of twenty (20) feet is required; and 2) Article X, Section 170-41-A to increase a non-conforming structure.

Douglas DeDe stated that this was originally all rental property but they have since become one of the occupants. It is very difficult to plow in the wintertime because there is no place to put the snow. He has to use a snow blower. He would like a garage for the cars, snow blower and lawn mower. He stated that they would also like to place shutters and a porch that would soften the appearance of the house. He proposes to put a garage in the present parking area.

Bill Colbath asked where the tenant parking area is?

Douglas DeDe answered that they have parking on both sides of the driveway.

Dean Trefethen questioned where the lot lines were and Douglas DeDe described where they were.

Steve Bird asked the applicant if he had considered shifting the garage to the south to get the 6-foot setback to the side property line?

Douglas DeDe answered that it would make it difficult to access that part of the house because they were planning on also doing a mudroom and they also would like to expand the size of the kitchen. This would also cause a problem with parking the other cars on the side.

MOTION:

David Ruoff made the motion to accept the case.

Doug Cummings seconded the motion.

4 in favor and 1 opposed (Bill Colbath opposed)

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The Board and the applicant discussed the various entryways.

Bill Colbath asked Tom Clark about the open space and parking requirements?

Tom Clark answered that the open space requirements as per the Special Exception do not apply in this case since the three units predate the adoption of that particular regulation.

There are 2 parking spaces per unit required and the pavement already goes to the property line.

PUBLIC HEARING OPENED

Mrs. Pritchett, an abutter across the street asked if this would set a precedent if it is approved?

Dean Trefethen answered that it does not. Each case is considered on its own merit.

Dean Trefethen read a letter submitted from an abutter, Mr. & Mrs. Robert Smith, stating that they approve of the plans presented by the applicant.

PUBLIC HEARING CLOSED

Dean Trefethen asked for staff recommendations.

Steve Bird stated that the Planning Department has mixed feelings. They approve of the design improvements but are concerned with the overall extent of the variance that is being requested. The addition on the front would be in keeping with the neighborhood. They recognize the need for a garage, that is why he was asking about the possibility of shifting the garage so that there would be less encroachment. They have no strong recommendation one way or the other.

Dean Trefethen stated that he was sympathetic with the applicant but is concerned with the scope of work.

The five regular members sat on this case.

David Ruoff stated that he had difficulty with the hardship. There are different options available to the applicant.

Doug Cummings stated that he has a problem with the garage but not with the deck and porch.

Four members of the Board had no problem with the porch or closing in the deck.

The Board discussed at length its concerns with the use of the space on the second floor, the open space, rear setback for the garage, and the need of a surveyed plot plan.

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MOTION:

Dean Trefethen made the motion to table the case to allow the applicant to obtain a surveyed plan with all dimensions showing parking and lot coverage recalculated with six feet from the rear property line.

Doug Cummings seconded the motion.

Four agreed that the hardship would be the needless and unnecessary restriction.

Four voted in favor and 1 opposed (Rick Callaghan opposed to tabling the case).

ITEM #5

Z 01-20 Carl and Karen Aimesbury, 401 Sixth Street, A/K/A Assessor's Map D, lot 16-E, zoned B-4 requests a variance from the terms of Article IV, Section 170-12, Table 1, part A to establish a two-family dwelling.

Carl Aimesbury stated that he would like to have a separate living space above the garage for his mother. Instead of a mother-in-law apartment he would like to supply her with her own living facility.

Bill Colbath asked the applicant if he would have a problem with the stipulation of limiting to mother only?

Applicant answered that he would not.

MOTION:

David Ruoff made the motion to accept the case.

Rick Callaghan seconded the motion.

U/A

PUBLIC HEARING OPENED

No comments

PUBLIC HEARING OPENED

Dean Trefethen asked for Staff recommendations.

Steve Bird stated that the Planning Department is against this because it would add more dwelling units in a business zone. This zone will be converted from residential to commercial over time. The Planning Department cannot support this variance recommendation.

David Ruoff stepped down from this case.

FIVE CRITERIA:

1. It is the Board's conclusion that the applicant does face an unnecessary hardship. The current ordinance does not allow for the caring of family members in accommodations that would allow reasonable independence, hence the ordinance creates the hardship.
2. It is the Board's conclusion that the variance will deliver substantial justice. It allows for relief to unforeseen circumstances in the ordinance.
3. It is the Board's conclusion that the variance will be in harmony with the spirit and intent of the zoning ordinance. Because there still would be only one family living in the structure, with no outside changes to the building.
4. It is the Board's conclusion that the variance will not result in a diminution in value of surrounding properties. The proposal is still for only one family and no outside structural changes.
5. It is the Board's conclusion that the variance will not be contrary to the public or private interests or rights. There still will only be one family living in the structure without any additional strain put on the resources of the City.

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

MOTION:

Dean Trefethen made the motion to add the following condition: Create a restrictive covenant that limits occupancy to one immediate family member only and removal of the second kitchen upon transfer of the property or upon the vacancy of this space, whichever is first. This covenant will be reviewed and signed by the City Attorney and then come before this Board. Upon approval of this Board, the covenant will be recorded with the deed.

Bill Colbath seconded the motion.

U/A

MOTION:

Bill Colbath made the motion to adjourn.

Doug Cummings seconded the motion.

U/A

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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