

**DOVER ZONING BOARD OF ADJUSTMENT
MINUTES OF PUBLIC HEARING
OCTOBER 18, 2001**

MEMBERS PRESENT: Dean Trefethen, Chairperson, William Colbath, Co-Chairperson, and Tom Dolbec

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

Dean Trefethen advised the applicants that, since there were only 3 Board members present they have the option to be heard tonight or wait for the next month's meeting for more Board members to be present.

ITEM #1 NEW BUSINESS:

A. Approval of minutes for regular meeting of September 20, 2001

MOTION:

Bill Colbath made the motion to accept the minutes of September 20, 2001
Tom Dolbec seconded the motion.

U/A

ITEM #2 OLD BUSINESS:

None

ITEM #3:

Z 01-21 Ralph & Doris Grant, 54 French Cross Rd. A/K/A Assessor's Map F, Lot 13, zoned R-40 requests a variance from the terms of (1) Article V, Section 170-16 to construct an attached garage within sixteen (16) feet from a side property line where a minimum of twenty-five (25) feet is required; and (2) Article X, Section 170-41.A to enlarge a non-conforming structure.

Ralph Grant stated that they are in great need of removing the existing structure because it is falling down. It houses the furnace, washer and dryer. Water has been coming in and rotted the wood. Regardless of what happens this evening, the addition will have to be replaced. He is asking for a variance to extend the width of the garage an additional five feet so that they can get a car in it as well. He was not aware that there was a twenty-five foot boundary limit. At the present he has twenty-one feet. He is asking for a variance for an additional five feet to erect the structure.

Tom Dolbec asked the applicant if he had considered placing the structure to the right of the building?

Ralph Grant answered that the leach field and septic system is there.

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PG. 2

Bill Colbath asked how far the leach field is from the house?

Ralph Grant answered that the structure is about ten to twelve feet from the tanks and the leach field goes almost thirty feet from the property line.

Dean Trefethen asked Tom Clark if the structure could be replaced without a variance?

Tom Clark answered yes.

Tom Dolbec asked the applicant if he were to rebuild and not expand width wise to the sideline but rather rearwards would it house the washer, dryer and vehicle?

Ralph Grant answered that he would not be able to get a car in because the previous owners had a small car and built a small garage. He also needs it for storage.

MOTION:

Bill Colbath made the motion to accept the case.

Tom Dolbec seconded the motion.

U/A

Steve Bird asked the applicant if there is a stake that accurately marks the side lot line?

Ralph Grant answered that the property is staked.

PUBLIC HEARING OPENED

No comments

PUBLIC HEARING CLOSED:

Dean Trefethen asked for Staff recommendations

Steve Bird stated that a one-car garage is fairly common to the neighborhood, and this is the largest lot in the neighborhood. Unfortunately, the placement of the house and the driveway were such that the garage placement is limited by the layout of the house and the septic system. The question is whether the applicant is seeking the minimum relief necessary to achieve his goal of having a one-car garage? That is what the Board has to question, whether a lesser relief is applicable in this case. The fact that there was no abutter opposition present, the Planning Department would be in favor of this variance request.

Bill Colbath had a problem with the width of the garage.

FIVE CRITERIA:

1. It is the Board's conclusion that the applicant does not face an unnecessary hardship. The present structure can be replaced without relief and there is ample room on the property for a garage.
2. It is the Board's conclusion that the variance will not deliver substantial justice. There are other alternatives that would not require granting more rights to this property than abutter's.
3. It is the Board's conclusion that the variance will not be in harmony with the spirit and intent of the zoning ordinance. The intent is to maintain adequate setbacks and those can be maintained without relief and still achieve improvements to the property.
4. It is the Board's conclusion that the variance will not result in a diminution in value of surrounding properties. There is no evidence the proposal would have an adverse effect on adjacent property values.
5. It is the Board's conclusion that the variance will not (Dean Trefethen voted will) be contrary to the public or private interests or rights. There does not seem to be any affect by the proposal on public or private rights.

Therefore, based upon the foregoing, it is ordered that the application for the variance be denied. The applicant was notified of a twenty-day appeal process.

ITEM #4:

Z 01-22 Todd Lafond, 57 Long Hill Rd. A/K/A Assessor's Map A, lot 16-A zoned R-12 requests a variance from the terms of (1) Article V, Section 170-15 B to construct an accessory structure (detached garage) within five (5) feet from a principle structure (single family dwelling) where a minimum of thirteen (13) feet is required; and (2) Article V, Section 170-17 to construct an accessory structure (detached garage) within five (5) feet from a side property line where a minimum of ten (10) feet is required.

Todd Lafond stated that before he bought the house it had a garage but it was incorporated into an expansion of the house. He has scaled down the height and width of the garage to meet the City's mandated setback. He would like to store his vehicles, including his camper, in the garage. He presented a letter signed by his six abutters approving of the variance to the Board.

Dean Trefethen asked the applicant if he converted the garage into the expansion of the house?

Todd Lafond answered that it was done ten years before he bought it.

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Dean Trefethen asked the applicant why he chose to have a detached garage instead of an attached garage or putting it behind the house?

Todd Lafond answered that he looked at putting it behind the house but there is a patio of about ten feet and a walkway that goes around the pool. So a garage in the back yard would come up against the pool. He also considered to have it attached but was informed by the Building Inspector that he would have to have a four-foot frost wall and the side setback would be further than if it would be detached.

Dean Trefethen asked Tom if the proposal had the proper setback?

Tom Clark answered yes. If it is attached than it is considered part of the principle structure and needs thirty feet because he has a conforming lot. He would be requesting a variance from that.

Tom Clark asked for verification that the 37-foot proposed front setback is to the lot line and not from the pavement?

Todd Lafond answered that it is from the front property line. There are square stones that mark the property line.

The Board and Todd Lafond discussed the possibilities of other locations for the garage and the construction of a smaller garage.

MOTION:

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

PUBLIC HEARING OPENED

No comment

PUBLIC HEARING CLOSED

Dean Trefethen asked for staff recommendations.

Steve Bird stated that the Planning Department has the same concerns as the Board. The majority of the houses in the neighborhood have either a one-car garage or no garage at all. The lot is a conforming lot and there should be a place to put a garage that would be conforming to the setbacks. The setback between the house and the garage is a safety issue. Based on these factors, the Planning Department is not in favor of the variance.

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PG. 5

Tom Dolbec feels that the garage could be moved to a different location that would be within the limits of the ordinance.

FIVE CRITERIA:

1. It is the Board's conclusion that the applicant does not face an unnecessary hardship. There are alternatives that would allow the proposed structure without needing relief from the ordinance.
2. It is the Board's conclusion that the variance will not deliver substantial justice. The proposal will compromise fire safety codes and leave an undesirable setback of only five feet.
3. It is the Board's conclusion that the variance will not be in harmony with the spirit and intent of the zoning ordinance. The intent is to allow adequate separation between structures for fire safety and adequate setbacks from public right-of-way.
4. It is the Board's conclusion that the variance will not (Dean Trefethen voted will) result in a diminution in value of surrounding properties. Since it is a street that would be directly next to the proposed structure, it is not likely to cause any diminution of value to anyone.
5. It is the Board's conclusion that the variance will be contrary to the public or private interests or rights. The proposed setback of five feet from a right-of-way is not adequate to safeguard the interest of the public and the proposal could cause unnecessary congestion on the lot.

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

ITEM #5:

Z 01-23 Pillar Investment Corp. 451-457 Central Ave., A/K/A Assessor's Map 3 lot 64, zoned B-2/UMUD requests a variance from the terms of Article IV, Section 170-12 Table I, Part A to establish two dwelling units.

Chad Kageleiry, owner, stated that there is a portion of the second floor that has never been finished off and he would like to construct 2 residential units there.

Dean Trefethen asked Tom Clark if this meets all the necessary means of egress?

Tom Clark answered that it has not been addressed yet; that will occur during the permit process if the variance is granted. However the building does have a sprinkler system.

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PG. 6

Dean Trefethen stated that the Board has the applicant's letter pertaining to the parking on the corner of Chestnut and First Streets. He asked Tom Clark what the parking requirements are for this building?

Tom Clark answered that in a B-2 zone parking is allowed within a 1,000-foot radius.

The Board and the applicant discussed the square footage of the second floor and the commercial and residential uses.

MOTION:

Bill Colbath made the motion to accept the case.

Tom Dolbec seconded the motion.

U/A

PUBLIC HEARING OPENED

No comments

PUBLIC HEARING CLOSED

Dean Trefethen asked for staff recommendation.

Steve Bird stated that the Planning Department is in favor of granting this request for a variance. The reason being that the Master Plan that the City has adopted does encourage residential development in the downtown area. They have had a couple of proposals in the last few years that have added additional residential units in the downtown area and there is certainly a demand for residential units. This Board has previously approved a similar request for second floor residential units above businesses. The Planning Department is in favor of this variance.

The Board and staff discussed the parking requirements.

FIVE CRITERIA:

1. It is the Board's conclusion that the applicant does face an unnecessary hardship. The ordinance would allow conversion of this type of space if five or more units were to be constructed, but it did not consider a smaller scaled proposal, which creates a hardship.
2. It is the Board's conclusion that the variance will deliver substantial justice. Residential use is allowed in this zone but on a larger scale. It would be justice to allow this proposal for lesser units.

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3. It is the Board's conclusion that the variance will be in harmony with the spirit and intent of the zoning ordinance. The ordinance already allows residential use and the master plan encourages more residential use which makes this proposal in harmony with the ordinance.
4. It is the Board's conclusion that the variance will not result in a diminution in value of surrounding properties. The proposal will likely improve the value of surrounding properties.
5. It is the Board's conclusion that the variance will not be contrary to the public or private interests or rights. The proposal tends to enhance the public interest by contributing to a vital downtown district.

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

MOTION:

Tom Dolbec made the motion that the applicant must provide parking according to the current ordinance.

Bill Colbath 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

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