

**DOVER ZONING BOARD OF ADJUSTMENT
MINUTES OF MEETING
JUNE 15, 2000**

MEMBERS PRESENT: Dean Trefethen, Chairperson, Bill Colbath, Co-Chairperson, Rick Callaghan, John Murphy, Tom Dolbec, and Douglas Cummings

STAFF PRESENT: Thomas Clark, Building Official, and Bruce Woodruff, City Planner

NOTE:

Due to a faulty outlet in the Council Chambers, the tape recorder did not pick up the voices from the individual mikes, therefore, these minutes are a result of the secretary's notes and what could be understood from the mike on the tape recorder at the Secretary's desk.

Dean Trefethen advised the Board and the general public present that cases Z 00-12A and Z 00-12B, Diocese of Manchester; and case Z 00-14, Nancy Christie, will not be heard this evening because they have been withdrawn. So anyone of the general public who is attending for these cases may feel free to leave.

ITEM #1:

- A. Approval of minutes for regular meeting of May 18, 2000

MOTION:

Rick Callaghan made the motion to accept the minutes as presented.
Tom Dolbec seconded the motion.
U/A

ITEM #2:

Old Business

Tom Clark reminded the Board of a variance that was granted in January to Al Estes for two residential lots in an industrial zoning district. The variance was granted to create two lots and each lot having 100 feet of frontage. Subsequent to the variance, a survey was done and the wetlands mapped, but they found that the configuration of the lots changed; still two lots but the frontage was different. Now instead of 100 feet of frontage for each lot they came up with 99.09 feet of frontage for each lot. Tom asked if the Board would want to review the new plan under old business at the end of the meeting to see if it still complies with the intent of the variance? This was discussed in the Planning Office and they were uncomfortable with not bringing it back to the Zoning Board. There is also a little lot line adjustment that will be adding some land from one of the lots to a current non-conforming lot on Long Hill Rd. Ext. One of the conditions was that there be no further subdivisions and we felt that this did not violate that condition since it is adding to a non-conforming lot as opposed to creating a new lot. This also came subsequent to the variance.

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Dean Trefethen stated that it would be his preference, because of the opposition that was voiced by some of the abutters, that the whole thing come back before the Board for review.

Tom Clark asked if he would like to review the new plan before making a decision?

The Board agreed to review the new plan at the end of the meeting.

ITEM #5:

Z 00-13, Costas Phofolos, 136 Broadway, A/K/A Assessor's Map 27, Lot 276, zoned RM-10, requests a variance from the terms of Article V, Section 170-17 and Article X, Section 170-41.C to demolish an accessory structure (detached one-car garage) and rebuild in the same location with a one (1) foot side setback where a minimum of ten (10) feet is required.

Tom Clark informed the Board that when Mr. Phofolos dropped off his application and they discussed it, it was Tom's assumption that the garage was going to be torn down and rebuilt the same size and at the same location. However Mr. Phofolos informed Tom today that he wants to move the garage four feet away from the side line and instead of ten feet in the rear it will be six feet.

Dean Trefethen asked the applicant why he changed his mind?

Mrs. Phofolos explained that it was a misunderstanding. They would like to move the garage in and back.

Dean Trefethen explained that the plan that is presented before the board shows the garage in one place and now the applicant is requesting something else. He asked for the reason for the change.

Mrs. Phofolos explained that it is to redirect the drainage.

Dean Trefethen asked for the size of the garage.

Mrs. Phofolos answered that it would be 22 X 14

The Board discussed whether or not to accept the case. The concern is that the abutters were notified of one set of figures for the setback, and the applicant is requesting another.

MOTION:

Rick Callaghan made the motion to not accept the case based on the information provided.

Bill Colbath seconded the motion.

Four in favor and two opposed (John Murphy and Doug Cummings opposed)

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Dean Trefethen advised the applicant to submit a revised plot plan showing the setback that the applicant is looking for and be heard at the next meeting.

ITEM #6.

Z 00-15, Tri City Dodge, Inc. (Applicant: T.K. Properties, Inc.), 7-11 Weeks Ln., A/K/A Assessor's Map 38, Lots 34 and 35, zoned B-3 requests an Appeal From An Administrative Decision in connection with Article II, Section 170-6, interpretation of the Definitions For Auto Service and Personal Service Establishments.

and no
Kevin King represented T. K. Properties. The zoning codes do not specifically address this request. He explained the service that they perform. They would be doing a very simple oil change, car inspections, tire changes etc. They will not be doing auto repairs or selling gas. They will be putting in some additional trees for screening for the abutters. Kevin displayed photographs and drawings of the proposed building and site plan. He feels that this business comes under the definition of personal services establishment since it is a service rather than a sale of a product.

Dean Trefethen asked Tom Clark for his comments.

Tom Clark answered that it was a tough call. The applicant makes some good arguments for personal service. If there was no definition for auto service then we would be in a position to agree with him. There is a fine line in these definitions as to which one this business comes under however, in his judgement, this falls under auto repair.

The Board and Tom discussed the sale of products, the services, and the definitions.

Dean Trefethen advised that Doug Cummings would sit on this case and Tom Dolbec would step down.

MOTION:

Bill Colbath made the motion to accept this case.
Rick Callaghan seconded the motion.
U/A

Dean Trefethen asked for Planning staff recommendations.

Bruce Woodruff stated that the Planning Department recommends that the administrative decision be upheld. They feel that the auto service definition is pretty clear and that this is an auto service and not personal service. They recommend that the applicant come before the Board for a variance.

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PUBLIC HEARING OPENED:

No comments

PUBLIC HEARING CLOSED

MOTION:

John Murphy made the motion to uphold the Administrative Decision
Bill Colbath seconded the motion
U/A

Dean Trefethen stated that Tom Dolbec will sit in on the next case and Doug Cummings will step down.

ITEM # 8:

Z 00-16, Tucker Land Corp (Applicant: Michael Leary, Sundance Sign & Design), 826 Central Ave., A/K/A Assessor's Map 37, Lot 36, zoned Office requests a variance from the terms of Article IX, Section 170-32.1(3)(6) to install a free-standing sign with an area of twelve (12) square feet where a maximum of four (4) square feet is allowed.

Michael Leary from Sundance Sign stated that the building does not have enough space to handle the sign. Also the location and visibility of the business requires a larger sign. They would like to have a sign similar to those in this neighborhood.

Dean Trefethen asked if this is to be an internally lit sign or externally lit?

Michael Leary answered that it has not yet been determined.

Tom Dolbec asked what the distance would be for the sign.

Michael Leary answered that it would be roughly about ten (10) feet from the edge of pavement.

MOTION:

John Murphy made the motion to accept the case.
Tom Dolbec seconded the motion.
U/A

Dean Trefethen asked for Planning staff recommendations.

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Bruce Woodruff stated that the surrounding area has similar signs in place. Planning recommends granting the variance with the condition that the sign be constructed ten (10) feet back from the back edge of the sidewalk.

PUBLIC HEARING OPENED

No comments

PUBLIC HEARING CLOSED

John Murphy asked if the applicant agrees to the condition recommendation from the Planning staff, and he also added that no signage be allowed on the building.

Dean Trefethen also stated that the proposed sign shows one tenant and if for some reason there should be 2 tenants then they would be sharing the twelve (12) square footage sign and with no additional footage. He also asked the applicant if the ten (10) foot setback is ok with him?

Michael Leary stated that it should not be a problem because there will not be another tenant. And he agrees to the ten (10) foot setback.

Rick Callaghan reminded the Board that when a variance was granted to REMAX, they had to allow a larger sign because they had more than one tenant and he thought that was the consideration they made for the size of that sign. Also, it should be determined what hours the sign will be lit and that the base should be solid.

Bill Colbath feels that the maximum size of the sign should be limited to 12 square feet.

FIVE CRITERIA:

1. It is the Board's conclusion that the applicant does face an unnecessary hardship (Bill Colbath voted does not). The applicant is allowed a 12 square foot wall sign but the building does not have a surface that would accommodate a sign that size, therefore this constitutes a hardship. Also the proposal is similar, and therefore equitable, with abutting property.
2. It is the Board's conclusion that the variance will deliver substantial justice (Bill Colbath voted will not). The proposal allows a reasonable size sign that is similar to others in the neighborhood.
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 voted will not). The ordinance allows a 12 square foot sign but the building does not accommodate a sign that size, therefore this is a reasonable compromise.

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4. It is the Board's conclusion that the variance will not result in a diminution in value of surrounding properties. Since this is an office district and the size proposed is similar to existing signs on abutting property, no valuation effect is evident.
5. It is the Board's conclusion that the variance will not be contrary to the public interest (Bill Colbath voted will). A reasonably sized, but visible sign on a busy thoroughfare is in the public's interest, especially to enhance safety.

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

MOTION:

John Murphy made the motion for the following conditions:

1. The sign is to be a minimum of ten (10) feet from the inside edge of the sidewalk.
2. No additional signs to be permitted on this property

Rick Callaghan seconded the motion.

4 in favor and 1 opposed (Bill Colbath opposed)

OLD BUSINESS:

Dean Trefethen asked Tom for the site plan changes for Al Estes.

The Board reviewed the plan and discussed where the right-of-way is and the frontage.

The Staff will contact the surveyor and discuss either a new survey or get an exact determination on where the City right-of-way for frontage ends.

MOTION:

Dean Trefethen made the motion that if there is 198 feet of frontage then the amendment will be heard by the ZBA in the month of July. If there is 200 or more feet of frontage, based on the issue of the right-of-way, then the case will go before the Planning Board.

Rick Callaghan seconded the motion.

U/A

MOTION:

Bill Colbath made the motion to adjourn.

John Murphy seconded the motion.

U/A

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List of members:

Term Expires

William Colbath – regular member	10/23/2000
Robert Mullan – regular member	12/31/2000
Dean Trefethen – regular member	12/31/2000
Thomas Dolbec – alternate member	12/15/2001
John Murphy – 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