

**DOVER ZONING BOARD OF ADJUSTMENT
MINUTES OF MEETING
FEBRUARY 18, 1999**

MEMBERS PRESENT: Dean Trefethen, Chairperson, Bill Colbath, Co-Chairperson, Richard Callaghan, and Douglas Cummings

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

Dean Trefethen called the meeting to order.

ITEM #1: NEW BUSINESS

Approval of minutes for the regular meeting of January 21, 1999

MOTION:

Rick Callaghan made the motion to accept the minutes of January 21, 1999

Bill Colbath seconded the motion.

U/A

ITEM #2: OLD BUSINESS

Consideration of a Motion for Rehearing request submitted by William Hale and Robert Day concerning Zoning Board of Adjustment Case #Z 99-1 at 56 Old Rochester Rd., A/K/A Assessor's Map 40, Lot 23, Zoned B-3

Atty. Douglas Gray represented the applicants. He asked the Board to consider rehearing this case. All the criteria were met with the exception of the Spirit and Intent. He would like the opportunity to expand on the information they presented. He feels that the issues of exactly where the residential homes are located and how far removed they are to the building, what kind of businesses there are around this area, how much noise will be generated, how many trucks will be used and the critical hours of operation were not fully addressed. Would like to show how this business will be similar to the businesses already in this area. The other issue is the question of conditions being placed on the variance if granted. Believes that this was not made clear at the hearing.

Rick Callaghan stated that he can see new evidence from both the written and verbal presentation made by the attorney and can see accepting the appeal.

Bill Colbath stated that the request for a rehearing is supposed to be brought forth with new evidence or a point that the Board erred in the decision. He does not have a problem with anyone coming back for a rehearing but he does not see any new evidence. He does not want to go over the same evidence that was presented the last time. He wants guarantees of what is going to be done in the building, toxic release, what will be done and willingness of acceptance of some kind of operational hours that will not be extended.

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Dean Trefethen agrees that he does not see any new information in the written presentation but he does in the verbal presentation. On the issue of whether or not the Board erred, he feels that the Board's going to the vote before discussing any conditions may be an area in which the Board erred. This was not an error in judgement but an error in procedure.

Richard Callaghan responded that he feels that the verbal presentation has new evidence but does not feel that the Board erred in the process. He feels that the Board did what they had to do. He felt that a tool should be in place to protect the residents in that area.

MOTION:

Rick Callaghan made the motion to accept the appeal for a rehearing.

Bill Colbath seconded the motion, and he wants to hear at the rehearing what is in the building, what is the process of production, and how the residents will be effected in case a sudden disaster occurred.

Dean Trefethen advised Atty. Gray that he should also be prepared to address the other items because in going to a complete rehearing there would be a new Board member that would be hearing the case for the first time. So he would have to be prepared to go over the 5 criteria if necessary.

U/A

Atty. Gray asked for a special meeting to finalize this matter.

Dean Trefethen stated that he would attempt to see the availability of the other members of the Board and schedule a special meeting.

ITEM #3

Z 99-3, Nancy and Gary Gagne, 86 Long Hill Rd., A/K/A Assessor's Map A, Lot 53-F, Zoned R-12 requests a variance from the provisions of Article V, Section 170-16 to construct an attached garage onto a single family dwelling within five (5) feet from a side property line where a minimum of fifteen (15) feet is required.

Gary Gagne would like to construct an attached garage with a family room on the top. Due to the size of the lot, the location of the well and septic system, this is the only logical location for the garage. He reviewed the five criteria. He attempted to get a lot line adjustment but was unable to determine who owns the lot.

Dean Trefethen asked if this will be a two-story structure.

Gary Gagne stated that due to the septic system, his basement is like a raised ranch so the garage will actually be in the basement and the structure would keep the house in the same site lines that it has now.

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MOTION:

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

PUBLIC HEARING OPENED

Bruce Woodruff stated that rezoning changed the setback requirements and therefore, the change in the ordinance itself creates the hardship. It would not be a good idea to put the garage on the left side. The abutter's house appears to conform with the old setbacks so that side of the lot would not be a good place to put it. The Planning Department agrees with the other four criteria. The septic system is a raised system and a garage could not be put there. In looking at the front yard, it is not possible to put even a single car garage there. On the left side of the lot the driveway would have to be relocated and he is not certain as to how this would affect the well. The Planning Department would not support granting a variance for five (5) feet but would support granting a variance for six (6) feet. This is the recommendation of the Planning Department.

PUBLIC HEARING CLOSED

The Board discussed sizes of garage doors and certified plot plan.

FIVE CRITERIA:

1. It is the Board's conclusion that the applicant does face an unnecessary hardship. Existing septic, well and present house foundation location prevents addition of a garage in any other area on the lot.
2. It is the Board's conclusion that the variance will deliver substantial justice. It allows a reasonable expansion of an existing single family structure.
3. It is the Board's conclusion that the variance will be in harmony with the spirit and intent of the zoning ordinance. The proposed structure would still allow access to the property by emergency and maintenance vehicles and would not cause any undue concentration of buildings or people.
4. It is the Board's conclusion that the variance will not result in a diminution in value of surrounding properties. The proposed structure would be similar to other in the neighborhood.
5. It is the Board's conclusion that the variance will not be contrary to the public interest. The proposal allows for an aesthetically pleasing upgrade of the property.

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

MOTION:

Bill Colbath made the motion to add the following conditions

1. Lot line next to the proposed garage to be surveyed prior to placement of foundation footings.
2. There will be no other encroachments into required setbacks in any other direction allowed in the future.

Rick Callaghan seconded the motion.

U/A

ITEM #4:

Z 99-4, Addison-Dover Ltd. Partnership, Addison Place, Whittier St., A/K/A Assessor's Map E, Lot 64-C, Zoned RM-8, requests a variance from the provisions of Article V, Section 170-15.B to maintain sixteen (16) accessory structures (storage sheds) located contiguous to or closer than seven (7) feet of a principal structure where a minimum of seven (7) feet is required.

Atty. Malcolm McNeill represented the owner and they ask to be heard by a full Board.

The Board granted the request to be heard by a full Board. The case will be heard in March 1999.

Doug Cummings informed the Board that he will not be available for the March 1999 meeting.

MOTION:

Bill Colbath made the motion to adjourn.

Rick Callaghan seconded the motion.

U/A

List of members and expiration dates:

	<u>Term Expires</u>
John Murphy – regular member	12/31/98
David Ruoff – alternate member	4/13/99
Robert Mullan – regular member	12/31/99
Richard Callaghan – regular member	4/13/2000
William Colbath – regular member	10/23/2000
Dean Trefethen – regular member	12/31/2000
Douglas Cummings II – alternate member	1/22/2002