

**DOVER ZONING BOARD OF ADJUSTMENT
MINUTES OF MEETING
MARCH 19, 1998**

MEMBERS PRESENT: Dean Trefethen, Chairperson, Bill Colbath, Vice-Chairperson, John Murphy, and Robert Mullan

STAFF PRESENT: Thomas Clark, Building Official, and Steve Bird, Planning Dept.

Dean Trefethen – Advised the applicants that there are only 4 Board members present and they have the option to be heard this night or to wait until the next meeting for a full Board. Also that one Board member will have to step down on the second item due to a conflict of interest so there will be only 3 Board members for that case.

ITEM #1: NEW BUSINESS

A. Approval of minutes for the Executive Session of February 19, 1998.

MOTION:

John Murphy made the motion to accept the minutes of the Executive Session.
Bill Colbath seconded the motion.

U/A

B. Approval of minutes for the regular meeting of February 19, 1998.

MOTION:

John Murphy made the motion to accept the minutes of the regular meeting.
Bill Colbath seconded the motion.

U/A

Dean Trefethen acknowledged the receipt of a response from the City Attorney, Mr. Wattendorf, to the Advanced System's suit.

ITEM #2

Old Business – None

ITEM #3:

Z 98-3, Janice Gardner, 165 Dover Pt. Rd., a/k/a Assessor's Map L, Lot 87 zoned R-20, requests a variance from the provisions of Article II, Section 170-6B. definition of Customary Home Occupation, sub-section (9) to allow a boarding facility for cats to be operated as a Customary Home Occupation.

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Janice Gardner – She has contacted the abutters and there were no questions or problems. There doesn't appear to be any objection. The service will be unobtrusive and on a very small scale.

Bill Colbath – Asked where the cats would be boarded?

Jan Gardner – In an unused room within the house.

Dean Trefethen – Asked if some of the trees will have to be removed to provide the paved driveway.

Jan Gardner – The existing driveway easily accomodates 5 to 6 cars and will not require removing trees.

Dean Trefethen – Asked if she is now boarding dogs.

Jan Gardner – Answered no. She has dogs of her own.

Dean Trefethen – If she were to have the maximum number of cats, what would she anticipate to be the drop-off and pick-up schedule

Jan Gardner – In viewing similar operations, the normal length of stay for cats to be boarded is about 9 days. Her intention is to have the cats come only by reservation and there will be only specified hours of the day. The plan is 2 hours in the morning and 2 hours in the afternoon.

MOTION:

John Murphy made the motion to accept the case.

Bob Mullan seconded the motion.

U/A

Bob Mullan – Asked what type of enclosures would be used.

Jan Gardner – There will be enclosures built, 7' high by 4 by 3, and they will also be out a certain time of the day for exercise time.

John Murphy – Asked Tom when the zoning change took place.

Tom Clark – He believes the agricultural zone was prior to 1964, then 1964 to 1979 it changed to an R-1 zone at this particular location. It was still residential but not the R-20 zoning.

John Murphy – Asked Applicant how many cats does she plan to board at one time.

Jan Gardner – She eventually plans to have 8 to 10 cats.

Discussion was held on the definition of agricultural use and Customary Home Occupation.

PUBLIC HEARING OPENED

Steve Bird – Because this property is isolated, the Planning Dept. recommends approval of the variance with the condition that 4 paved parking spaces with a turn around area be provided.

PUBLIC HEARING CLOSED

The Board discussed the number of cats allowed per day and the number of enclosures.

FIVE CRITERIA:

1. It is the Board's conclusion that the applicant does face an unnecessary hardship (Dean Trefethen voted does not). The area is rural in nature, the lot is large, which lends itself to this type of unobtrusive use. Also, it would be a needless or unnecessary restriction not to allow the proposed use.
2. It is the Board's conclusion that the variance will deliver substantial justice. It allows an unusual but needed service to exist that is unobtrusive and not visible.
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). The intent is to reduce noise, odor, and density, and this proposal is not contrary to that goal.
4. It is the Board's conclusion that the variance will not result in a diminution in value of surrounding properties. The proposed use is not visible to abutters.
5. It is the Board's conclusion that the variance will not be contrary to the public interest. The applicant's information indicates that the service is desired and needed by the public.

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 include the following conditions:

1. There will be a maximum of 10 enclosures and a maximum of 20 cats at one time.
2. There will be a minimum of 4 paved parking spaces with a paved turn around in the driveway.

John Murphy seconded the motion.

3 voted in favor and 1 opposed (Dean Trefethen opposed).

ITEM #4

Z 98-4, Thom & Paula Forbes, 254 Tolend Rd., a/k/a Assessor's Map F, Lot 5, Zoned R-40 requests a variance from the provisions of Article V, Section 170-16 to construct a two-story side addition with an attached garage onto a single family dwelling within ten (10) feet of a side property line where a minimum of twenty-five (25) feet is required.

Dean Trefethen advised the applicant that there would only be three Board members because Bob Mullan will have to step down due to conflict of interest.

Kerry Forbes, Thom Forbes' brother, represented the applicant. – This house was built about 20 years ago and the reason why it is located where it is, is because of swampy area. The only place that a septic approval could be given was at the rear of the house. The land drops off on the right of the house and there is also a pond there. They would now like to build an attached garage and the only place that this can be done would not give them the required setback. *Lot.*

Dean Trefethen – Asked what the area over the garage would be used for.

Kerry Forbes – A play area.

Dean Trefethen – Asked if the garage could be pushed back a little.

Kerry Forbes – The problem comes in making the cut to get into the garage. The land drops down and a lot of fill would have to be brought in to accommodate this.

MOTION:

John Murphy made the motion to accept the case.

Bill Colbath seconded the motion.

U/A

PUBLIC HEARING OPENED

Earle Sparkman, abutter – He has been working with the applicant to do this garage. He has no objection with what the applicant wants to do. He cannot sell some of his land to help him because he is at the minimum amount for the current use of his land. There is a lot of low land there and it makes it very difficult to develop.

Kerry Forbes – Thom did go to the abutters first to try and obtain a portion of land in order to met the setbacks but this was not possible.

→ *meet*
Steve Bird – The Planning Department is concerned that there are possible alternatives to the variance. 1) land swap; 2) a detached garage could be placed elsewhere; 3) the extent of the variance – is ten feet the minimum that they could get away with. The Planning Department is struggling with the hardship because of the alternatives.

Kerry Forbes – 1) an attempt has been made to get a land swap but it could not be done; 2) a detached garage would be placed 150 feet away from the house which is not practical; and 3) the hardship is the topography of the land; pond, wetland, and ledge.

The Board, Mr. Sparkman, and Kerry discussed making lot line adjustments and having the lots cut up which would make awkward lot line adjustments. This would also present frontage problems.

PUBLIC HEARING CLOSED

The Board discussed the alternatives and what would be gained with keeping to the strict letter of the law.

FIVE CRITERIA:

1. It is the Board's conclusion that the applicant does face an unnecessary hardship. The current house and septic system were placed where they are because of wetland and other topographical restraints. The proposed location is the only place an attached garage could be placed on the lot.
2. It is the Board's conclusion that the variance will deliver substantial justice. It allows a reasonable expansion of a residential structure without impacting the immediate abutter or 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. The intent is to control density and maintain reasonable setbacks and that goal will be maintained.

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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. The abutter does not object and the area adjacent to the proposed addition is of questionable ability to be developed.
5. It is the Board's conclusion that the variance will not be contrary to the public interest. The proposal is unobtrusive to the neighborhood.

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 to add these conditions: 1) The lot line in question will be surveyed, 2) the location of the garage will be a minimum of 10 feet from the line, and 3) this distance will be certified by survey prior to the pouring of concrete. Bill Colbath seconded the motion.
U/A

MOTION:

John Murphy made the motion to adjourn. Bill Colbath 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