

**DOVER ZONING BOARD OF ADJUSTMENT
MINUTES OF MEETING
APRIL 16, 1998**

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

STAFF PRESENT: Steve Bird, Planning Dept.

Dean Trefethen opened the meeting.

ITEM #1: NEW BUSINESS

- A. Approval of minutes for the regular meeting of March 19, 1998

MOTION:

John Murphy made the motion to accept the minutes of March 19, 1998 with the following corrections:

1. Pg. 2, ninth paragraph down, change "there will be only specified hours of the day." to read "there will be only specified hours of the day for pick-up and drop-off."
2. Pg. 4, sixth paragraph down, 3rd line down, change end of sentence from "at the rear of the house." to read "at the rear of the house lot."
3. Pg. 5, third paragraph down, correct spelling of "met" to "meet".

Bob Mullan seconded the motion.

U/A

ITEM #2 OLD BUSINESS:

Dean Trefethen – (1) Brought George Wattendorf's memo to the attention of the Board in regards to the Advanced Systems case which has been scheduled for Court on June 29th. The Board is asked to be available. Dean stated that he will be out of town on that date, and (2) reminder of the Office of State Planning conference which is scheduled for May 30 and they need to get their registration in to the Building Inspection office by May 22 if they plan to attend.

ITEM #3:

Z 98-5, Kenneth Lavalley, 89 Spruce Ln., a/k/a Assessor's Map I, Lot 81G Zoned R-40 requests a variance from the provisions of Article X, Section 170-41 A and B to reconstruct a single family dwelling destroyed by fire to a size larger than its former bulk (original building: ranch; proposed building: cape).

ZBA
4/17/98
PG. 2

Kenneth Lavalley – His house was destroyed by fire and he would like to rebuild but to replace the ranch house with a cape. Due to insufficient frontage, a variance is required. He will be using the same foundation.

Dean Trefethen – The issue here is frontage but only because he is proposing a different type of structure. Under the ordinance he would be able to reconstruct his house without the need of a variance. The increase of the structure is in the bulk because it will be a cape. He asked the applicant if he was planning any increase like a porch that would place the front of the house closer to the road than the original house.

Kenneth Lavalley – No. He will be using the exact foundation. There is going to be a porch in the front but not with a foundation.

Dean Trefethen – So it is 26 feet from the front property line to the foundation. He asked the applicant if he had a porch on the front of the house before the fire.

Kenneth Lavalley – No. He had a set of stairs.

Dean Trefethen – Asked if he was proposing stairs or a porch.

Kenneth Lavalley – Proposing a porch

Dean Trefethen – Asked how large the porch would be.

Kenneth Lavalley – 15 feet by 5 feet.

Dean Trefethen – So what he is really looking for is 21 feet.

The Board discussed the amount that is allowed for a structure to encroach into a setback, which is 3 feet.

Dean Trefethen – Advised the applicant that his plan and application do not show a porch. The Board viewed the property given the plot plan presented and nothing was mentioned of a porch. Also the public notice was presented without mentioning a porch and anyone who may be interested in commenting on this case and reviewed the property would be going under the assumption that there would not be a porch and that there would be a 26-foot setback.

Kenneth Lavalley – He is willing to take the porch out of his plans if it is going to hold things up.

MOTION:

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

Dean Trefethen – Asked what kind of a cape was he proposing.

Kenneth Lavalley – Two window dormers and a full dormer.

Rick Callaghan – Asked if he plans to build a deck at the back heading to the pool.

Kenneth Lavalley – No, there are concrete steps.

PUBLIC HEARING OPENED

Steve Bird – The foundation, as it is today fits in line with the other buildings on the street. The request is to build on the existing footprint so the Planning Dept. is in favor of granting the variance.

PUBLIC HEARING CLOSED

Dean Trefethen – The issue here is that the increase is in bulk. The other houses in this area are also non-conforming.

Steve Bird – The living area in the proposed structure is not substantially increased from the living area in the previous building. There was a finished basement and first floor and now it will be 1st floor and 2nd. Floor.

FIVE CRITERIA:

1. It is the Board's conclusion that the applicant does face an unnecessary hardship. There is no way to reconstruct the house and meet the front setbacks and still use the existing foundation. The applicant could reconstruct a ranch style house with no variance and the proposed increase in bulk is insignificant.
2. It is the Board's conclusion that the variance will deliver substantial justice. It allows reconstruction of a single family house.
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 provide reasonable setbacks and

those will be maintained.

4. It is the Board's conclusion that the variance will not result in a diminution in value of surrounding properties. A reconstructed single family house is better for the neighborhood than a burned out cellar hole.
5. It is the Board's conclusion that the variance will not be contrary to the public interest. The public's interest is served by allowing the reconstruction of a single family house.

Therefore, based on the foregoing, it is ordered that the application for the variance be granted.

MOTION:

Rick Callaghan made the motion to adjourn
John Murphy 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