

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

MEMBERS PRESENT: Dean Trefethen, Chairperson, Bob Mullan, Richard Callaghan and John Murphy

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

Dean Trefethen called the meeting to order.

ITEM #1: NEW BUSINESS

- A. Approval of minutes for the regular meeting of October 15, 1998.
- B. Approval of minutes for the special meeting of November 5, 1998.

MOTION:

John Murphy made the motion to accept the minutes of October 15, 1998.
Rick Callaghan seconded the motion.
U/A

MOTION:

John Murphy made the motion to accept the minutes of the special meeting of November 5, 1998.
Bob Mullan seconded the motion.
U/A

ITEM #2: OLD BUSINESS

None

ITEM #3

Z 98-25, Michael Adams, 14 Young St., A/K/A Assessor's Map 23, Lot 9, Zoned C.W.D. requests a variance from the provisions of Article V, Section 170-16, to construct an attached garage onto a duplex within six (6) feet of a side property line where a minimum of ten (10) feet is required.

Dean Trefethen announced that this case has been withdrawn.

ITEM #4

Z 98-26, Michael and Gayle O'Connor, 250 Sixth St., A/K/A Assessor's Map E, Lot 70-B, Zoned ETP requests a variance from the provisions of Article V, Section 170-17, to construct an accessory structure (2-car detached garage) within twenty-two (22) feet of a front property line as it abuts the street where a minimum of fifty (50) feet is required.

ZBA
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Michael O'Connor presented some site pictures to the Board. He would like to construct a 2-car garage within twenty-two feet from his front property line. The reasons why the garage cannot go anywhere else are as follows:

- (1) There is a well on one side between the house and the road.
- (2) His septic system and leach field is behind the house
- (3) There is a wet area and slope in the front of the house.

If the garage were built in the front it would be in a very wet area. Usually in the spring and most of the summer there is standing water in that area. Also with the work that will be done on the Sixth St. road, the line of trees at the front of the property will be removed.

Dean Trefethen asked Mr. O'Connor if the wet area referred to at the front of his house drains towards the road or away from the road.

Mike O'Connor responded towards the road.

MOTION:

John Murphy made the motion to accept the case.

Rick Callaghan seconded the motion.

U/A

Dean Trefethen asked Steve Bird if he was aware of what is going to be done in regards to the drainage control on Sixth St.

Steve Bird advised the Board that he does not know of the specific plans but he did look at the plans for the Sixth Street project and there is an area directly in front of this property that shows the slope that comes into this property so there will definitely be a disturbance of trees in that area.

Dean Trefethen asked Steve if there would be curbing to direct the drainage.

Steve Bird responded that he does not know of the plans but that when a road is being upgraded they try to improve existing drainage problems that they have identified.

PUBLIC HEARING OPENED

George Niles, an abutter, was surprised that there is only a ten-foot side setback requirement in an ETP Zone.

Tom Clark stated that it is ten feet for a residential use of accessory structure. If it were a principle building then it would be a fifty-foot setback requirement.

Steve Bird stated that in viewing the site, they had a couple of concerns. If someone had built a garage at the time the house was built when it was in the R-20 district then they would have had to comply with the thirty-five foot setback.

Twenty-two feet is considerably closer than a garage could be placed on the opposite side of the street, which is R-12. He asked the applicant if there is a reason why it has to be twenty-two feet from the road, and if the applicant had considered an attached garage?

Mike O'Connor stated that the front is a very wet area and if they attached the garage to the house they would have the same problem and will also have to move his well.

Steve Bird stated that they look at whether or not there is a size, shape or circumstance that makes this lot unique from other lots. The Planning Dept. hesitates to say that they support this variance. They feel that the applicant has not met the burden of proof of hardship. They recommend that there be a compromise.

PUBLIC HEARING CLOSED

Bob Mullan stated that he would not have a problem with setting the garage back in the thirty-foot range as the other houses in that area are.

The Board and applicant discussed other locations for the garage and the difficulties, and placing it within thirty feet from the front property line.

FIVE CRITERIA:

1. It is the Board's conclusion that the applicant does face an unnecessary hardship. Wet areas and slopes on the property reduces available area on the lot limiting options for placement of a garage constituting a hardship.
2. It is the Board's conclusion that the variance will deliver substantial justice. It allows improvement of a single family home in an equitable manner.
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 for reasonable setbacks and the proposal would be consistent with other properties that are adjacent to this one.
4. It is the Board's conclusion that the variance will not result in a diminution in value of surrounding properties. A garage is a normal accessory to a single family house and poses no detriments to adjacent properties.
5. It is the Board's conclusion that the variance will not be contrary to the public interest. The proposed structure will be a reasonable setback from the street and consistent with the neighborhood.

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

ZBA

11/19/98

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MOTION:

John Murphy made the motion to have the setback thirty feet from the front property line.

Rick Callaghan seconded the motion.

U/A

MOTION:

John Murphy 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