

**DOVER ZONING BOARD OF ADJUSTMENT
MINUTES OF MEETING
FEBRUARY 20, 1997**

MEMBERS PRESENT: Dean Trefethen, Chairman, Bill Colbath, Vice Chairman,
Robert Mullan, Rick Callaghan, John Murphy and Parks Christenbury

STAFF PRESENT: Thomas Clark, Building Official and Steve Stancel, Planning Director.

ITEM #1: NEW BUSINESS

Approval of the January 16, 1997 minutes.

MOTION:

Bill Colbath made the motion to accept the minutes of January 16, 1997.

John Murphy seconded the motion.

With the following changes:

- 1). Pg. 3, first line of first paragraph - change "Dean Trefethen - Feels that a rehearing is required in order to determine whether the Planning..." to read "Dean Trefethen - Feels that a rehearing is warranted if in the Board member's minds, the Planning..."
- 2) Pg. 5, fifth paragraph down, 2nd. line, change from, "a portion in the back will have 2 stores..." to read "a portion in the back will have 2 stories..."

U/A

Dean Trefethen - Met with the Mayor of Dover in regards to the appointment process. There is now a new process that the ZBA was not aware of. The City Council no longer automatically appoints current members to a vacant position. Now other applicants will also be considered for vacant positions through interviews. The City Clerk's office has the necessary form to be used in the future.

John Murphy - Feels that the Chairman of the Appointment Committee should be asked to appear before the Zoning Board of Adjustment next month to explain this change in procedure.

MOTION:

John Murphy made the motion to request a written explanation from the Chairman of the Appointment Committee and the City Clerk of the change in the appointment policy.

Rick Callaghan - seconded the motion.

Bill Colbath - Third the motion.

5 in favor and 1 opposed.

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ITEM #2: OLD BUSINESS

- A. Z 96-30 Strafford Guidance Center Inc., 130 Central Ave., a/k/a Assessor's Map 15, Lot 105, Zoned RM-10 requests a variance from the provisions of Article IV, Section 170-12, Table 1, Part E, to establish a hospital-type facility in a section of the building. (This item is the result of a Motion for Rehearing granted on January 16, 1997).

Dean Trefethen - Read Steve Stancel's memorandum to the ZBA Board requesting a postponement of the rehearing for the variance granted on January 16, 1997.

Malcolm McNeill - discussed his client's support of the postponement request.

Steve Stancel - The Planning Department discussed tabling the request for rehearing with Atty. McNeill and the City Council. The City of Dover and Strafford Guidance Ctr. have agreed to request a Declaratory Judgement from Superior Court in order to resolve a related legal issue. Both parties have asked for an expedited decision. The decision is expected to be rendered by the end of March. The request to table was agreed upon by all parties concerned.

Parks Christenbury stepped down because he was not in on the original case.

MOTION:

John Murphy made the motion to grant the request for postponement .

Rick Callaghan seconded the request.

U/A

Bob Mullan stepped down for the next case.

Parks Christenbury sat in on this case.

ITEM #3:

Z 97-2, Daniel & Patricia Estes, 120 Durham Rd., a/k/a Assessor's Map I, Lot 17, Zoned R-20 requests a variance from the provisions of Article II, Section 170-6, Definition of Customary Home Occupation, condition (6), to erect a sign displaying a business name.

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Dan Estes - The proposed sign was denied because of incorrect wordage. It had a business name on it and it was supposed to have only the owner's name and type of business. He showed pictures of existing signs in his area. These signs are all bigger than his sign. He feels that his sign is too small and that he should be able to have a business name on the sign.

MOTION:

Bill Colbath made the motion to accept the case.

John Murphy seconded the motion.

U/A

The Board discussed the Dover Veterinarian sign, which is not a Customary Home Occupation, and the beauty salon sign, which has been there prior to current zoning regulations..

PUBLIC HEARING OPENED

Steve Stancel - Planning Dept. cannot speak in favor of request. The Zoning Ordinance is clear.

PUBLIC HEARING CLOSED

Dean Trefethen - Asked if it was a new business.

Dan Estes - Yes

John Murphy - Does not see a hardship to enlarge sign. Should stand with the ordinance as written.

Bill Colbath - A variance was granted previously to maintain a duplex and that any Customary Home Occupation must be limited to the current Zoning Ordinances.

Parks Christenbury - Can agree with the business name but not for a larger sign.

Rick Callaghan - Feels that the Board should not be considering the size of the sign because it was not requested on the application. None of the abutters were notified of this request. He sees no hardship for the business name and should keep to the criteria of the original variance.

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The Board and Tom Clark discussed the purpose of the Customary Home Occupation sign size and its wording.

Dean Trefethen - Feels the applicant should keep the required size of sign but has no problem with using the business name. Hardship is that it is on Rt. 108 which is a thoroughfare.

FIVE CRITERIA:

1. It is the Board's conclusion that the applicant does face an unnecessary hardship. (Bill Colbath and Rick Callaghan voted does not). Rt. 108 is a main thoroughfare rather than a traditional residential side road, so to adhere is a needless or unnecessary restriction.
2. It is the Board's conclusion that the variance will deliver substantial justice. (Bill Colbath and Rick Calaghan voted will not). It allows establishment of a customary home occupation which is allowed in this zone.
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 and Rick Callaghan voted will not.) The proposed sign will conform in size and the fact that the name will not be the property owner's is a needless restriction in this neighborhood.
4. It is the Board's conclusion that the variance will not result in a diminution in value of surrounding properties. There was no evidence to the contrary.
5. It is the Board's conclusion that the variance will be of benefit to the public interest. (Rick Callaghan voted will not.) The proposed sign will readily identify a Customary Home Occupation.

MOTION:

John Murphy made the motion to grant the variance.
Parks Christenbury seconded the motion.
Vote 3 to 2 (Rick Callaghan and Bill Colbath opposed).

Bill Colbath stepped down from the next case
Bob Mullan sat on the next case.

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ITEM #4

Z 97-3, Nicholas Skaltsis, 384-386 Central Ave., a/k/a Assessor's Map 2, Lot 78, Zoned B-2 requests a variance from the provisions of Article IV, Section 170-12, Table 1, Part A, to add a dwelling unit within a building containing seven (7) dwelling units with a lot size of 3,200 square feet where a minimum of 4,800 square feet is required.

Nicholas Skaltsis - Would like to convert a beauty salon into an apartment. There is not as much call for commercial property as there is for residential use. This would not be taking a store front away from downtown.

MOTION:

John Murphy made the motion to accept the case.

Parks Christenbury seconded the motion.

U/A

PUBLIC HEARING OPENED

Steve Stancel - The Planning Dept. is in favor of the request. The hardship would be the location of the apartment, which is in the back and not conducive to commercial use.

PUBLIC HEARING CLOSED

FIVE CRITERIA

1. It is the Board's conclusion that the applicant does face an unnecessary hardship. The space is not conducive to retail operation but is for residential.
2. It is the Board's conclusion that the variance will deliver substantial justice. It provides the owner with reasonable use of the land without impacting abutters.
3. It is the Board's conclusion that the variance will be in harmony with the spirit and intent of the zoning ordinance. The City is encouraging residential use in the B-2 zone and this would be in accordance with that goal.

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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. No evidence to the contrary. Use is similar to abutters.
5. It is the Board's conclusion that the variance will be of benefit to the public interest. The proposal will likely reduce traffic in the area and will eliminate two signs.

MOTION:

Robert Mullan made the motion to grant the variance.
Rick Callaghan seconded the motion.
U/A

Dean Trefethen - In regards to the By-laws, each member of the Board was given a copy to review. The By-laws need to be brought up-to-date, particularly the voting procedure. Suggestions are to be brought to the next meeting.

MOTION:

John Murphy made the motion to adjourn.
Bill Colbath seconded the motion.
U/A

List of members and expiration dates:

	<u>Term Starts</u>	<u>Term Exp.</u>
Robert Callan	4/13/94	4/13/97
Richard Callaghan	4/13/94	4/13/97
William Colbath	10/23/94	10/23/97
Dean Trefethen	12/31/94	12/31/97
Robert Mullan	12/31/94	12/31/97
Parks Christenbury	02/20/97	12/31/97
John Murphy Jr.	12/31/95	12/31/98