

**DOVER ZONING BOARD OF ADJUSTMENT
MINUTES OF MEETING
MARCH 21, 1997**

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

STAFF PRESENT: Thomas Clark, Building Official and Bruce Woodruff, Planning Dept.

Bill Colbath, Vice Chairman, called the meeting to order.

ITEM #1: NEW BUSINESS

Approval of the February 20, 1997 minutes.

MOTION:

John Murphy made the motion to accept the minutes with the following corrections:

- (1) Pg. 1, last paragraph should read: "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, and an explanation of what happened to Rick Callaghan's application to fill the position of regular member made vacant by David Paolini's resignation."
- (2) Page 4, #2 of the Five Criteria:, 2nd line, correct spelling of the name - Callaghan.

Parks Christenbury seconded the motion.

U/A

John Murphy - Recommends that the discussion of the voting issue and the by-laws be done at the end of the meeting.

Parks Christenbury - Noted an article in the newspaper about a discussion of the Zoning Board of Adjustment to be held by the City Council at their next meeting. He did not know what the discussion would be about. Recommends that the City Council be requested to send the Zoning Board of Adjustment notification of when one of their agenda's concerns the Zoning Board so that the Board may have some in-put.

Thomas Clark - Thinks that it has something to do with the appointment process, so that the terms continue to be staggered as they should be.

ITEM # 2: OLD BUSINESS:

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ITEM #3.

Z 97-4, Catholic Charities of New Hampshire, Inc. (Applicant: Coldstream Real Estate Advisors, Inc.), 195 Dover Point Rd., a/k/a Assessor's Map L, Lot 15-A, Zoned R-20 requests a variance from the provisions of Article V, Section 170-16, to construct a pitched roof addition onto a nursing home with a height of approximately forty-eight (48) feet where a maximum of thirty-five (35) feet is allowed.

Thomas Clark - To clarify the elevation and measurements, his measurements were scaled off on the plan that was provided which does not take into account the changed elevation from the front of the building to the back. So the rear of the building may be taller than 48 feet.

Bill Donovan - Council for Catholic Charities. Applicant is requesting a variance for a sloped roof.

Steve McKenzie - Presented pictures to the Board of elevations of the proposed building. One illustrating a flat roof and the other with the pitched roof. The pitched roof will be in harmony with the main structure and will be more practical and safe for the inhabitants.

David Choat - In regards to the property value, he believes that it will not diminish the value of the homes in the neighborhood.

Bill Donovan - The pitched roof will assist in the safety of the elderly patients and improve the aesthetics.

MOTION:

John Murphy made the motion to accept the case.

Rick Callaghan seconded the motion.

U/A

PUBLIC HEARING OPENED

Frank Gibson - An abutter - Is concerned with the tree line between his property and St. Ann's Home. These trees will be removed and he will have a clearer view of the home so is in favor of the pitched roof. He questioned whether or not there will be a hip roof, and he is also concerned as to whether or not there would be antennas on the roof.

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Steve McKenzie - There will be a hip roof on all sides and there may not be antennas on the roof.

Bruce Woodruff - The Planning Department agrees that the applicant meets 4 of the 5 criteria, however questions the hardship. The Planning Department is not opposed to the request but cannot support it. However sees this as placing a needless and unnecessary restriction upon the applicant. This will allow reasonable use of the land.

Bill Colbath - Asked if the height restriction was in place at the time the original building was built (1958).

Tom Clark - Not aware of the height restriction at that time.

PUBLIC HEARING CLOSED

John Murphy - He also has a difficult time with the hardship. However, the applicant's proposal is for a more costly project than might be. He also falls back on the needless and unnecessary restrictions.

Parks Christenbury - He also has no problem with 4 out of the 5 criteria. It is a good use and the pitched roof would be safer and in harmony with the rest of the building.

Rick Callaghan - He has a hard time with the hardship. He is leaning towards the safety issue as the hardship.

Bob Mullan - Favors needless and unnecessary restriction.

Parks Christenbury - To satisfy the neighbor's concerns, a condition should be placed that no antennas be allowed on the roof.

FIVE CRITERIA:

1. It is the Board's conclusion that the applicant does face an unnecessary hardship. Stricter enforcement of the ordinance will place a needless and unnecessary hardship on the applicant.
2. It is the Board's conclusion that the variance will deliver substantial justice. The appearance of the building will be more aesthetically pleasing for all neighboring properties.

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3. It is the Board's conclusion that the variance will be in harmony with the spirit and intent of the zoning ordinance. The affect of the roof on abutters view and sunlight is negligible and this is the intent of height restrictions.
4. It is the Board's conclusion that the variance will not result in a diminution in value of surrounding properties. Addition of roof will make the property more similar to the surrounding architecture and therefore will likely increase value.
5. It is the Board's conclusion that the variance will be of benefit to the public interest. Public interest will benefit by the increased safety of the elderly housing.

MOTION:

Bob Mullan made the motion to grant the variance.

Parks Cristenbury seconded the motion.

Condition: No objects not related to the roof structure will be allowed.

U/A

ITEM #4:

Z 97-5 Seacoast Veterinary Assoc., 96 Durham Rd., a/k/a Assessor's Map I, Lot 14-A, zoned R-20 requests a Variance from the provisions of Article X, Section 170-40A.&B. to increase a non-conforming use (Veterinary Office/Animal Hospital) in an R-20 Zoning District.

Peter Wadsworth, owner - Because medicine, equipment, and service is always changing, a small addition is required to provide the needed space. It will also increase the sound proofing in the animal recovery room which will benefit the neighbors. It will not change the residential appearance of the building.

Parks Christenbury - Asked if their certification will be impacted.

Peter Wadsworth - Yes.

A letter from abutter Thomas Viccaro, who supports the request, was read as well as a letter from Penny Seaver, who has no objections to the request.

John Murphy - Questioned the side setback. Is a certified plan needed?

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Tom Clark - He is in favor of requesting a certified site plan.

Richard Johnson - Presented a copy of a certified plot plan to the Board.

Rick Callaghan - Asked if the American Animal Hospital Association is like an accreditation process.

Peter Wadsworth - They inspect to see that the hospital meets standards.

The Board and applicant discussed the hospital's certification, licensing and standards qualifications. They also discussed the need for additional space to meet the various services and protection to the patients.

Rick Callaghan - Has a hard time with the hardship.

MOTION:

John Murphy made the motion to accept the case.

Bob Mullan seconded the motion.

U/A

PUBLIC HEARING OPENED

David Sobel -Believes that the hardship is in not being able to adequately supply a need.

Bruce Woodruff - This has been a veterinary hospital since it was constructed - 1961. Zoning has changed twice since then.

Bill Colbath - Asked about the zoning and whether or not a variance was required for this use when it was constructed.

Tom Clark - Could find no record of a variance, and could not find any indication in the ordinance of 1961 that listed a veterinary clinic as a permitted use.

Bruce Woodruff - Although the zoning has changed twice the use of the hospital has remained the same. The Planning Dept. supports the request.

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PUBLIC HEARING CLOSED

FIVE CRITERIA

1. It is the Board's conclusion that the applicant does face an unnecessary hardship. In order to meet ADA standards and to regain AAHA certification, additional floor space is needed. And in addition, the hardship of the City's ordinance changes should be cited in the hardship findings.
2. It is the Board's conclusion that the variance will deliver substantial justice. It allows adequate expansion required to maintain current standards for operation of a veterinary facility.
3. It is the Board's conclusion that the variance will be in harmony with the spirit and intent of the zoning ordinance. The spirit and intent was to protect surrounding properties and this variance does not show any effect.
4. It is the Board's conclusion that the variance will not result in a diminution in value of surrounding properties. Modifications will lessen the animal sounds to neighbors thus decreasing change of negative value impact.
5. It is the Board's conclusion that the variance will be of benefit to the public interest. It will allow easier access for handicapped patrons. Allows applicant opportunity to regain certification as a veterinary hospital.

MOTION:

Parks Christenbury made the motion to grant the variance.
Rick Callaghan seconded the motion.
U/A

The Board discussed having the By-Laws reviewed at the next meeting and advising Dean Trefethen and Bob Callan in regards to this.

MOTION:

John Murphy made the motion to adjourn.
Parks Christenbury seconded the motion.
U/A

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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