

DOVER ZONING BOARD OF ADJUSTMENT
MINUTES OF MEETING
APRIL 17, 1997

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

STAFF PRESENT: Thomas Clark, Building Official

Dean Trefethen, Chairman, called the meeting to order.

ITEM #1: NEW BUSINESS

Approval of the March 21, 1997 minutes.

John Murphy - Last month, the Board made the decision to have a letter sent to the City Council in regards to having this Board notified when the City Council will be discussing issues concerning the Zoning Board of Adjustments so that representatives from this Board may attend to address any concerns the Council may have. This should be added to the March 21st minutes.

John Murphy - Would like to have the speakers addressing the Board be more clearly identified in the minutes.

MOTION:

John Murphy made the motion to accept the minutes of March 21, 1997.
Bob Callan seconded the motion.
U/A

ITEM #2: OLD BUSINESS

ITEM #3:

Z 97-6, Joseph and Phyllis Dow, 8 Oxbow Ln., a/k/a Assessor's Map 39, Lot 70-F, zoned R-12, requests a variance from (1) the provisions of Article V, Section 170-17 to maintain an addition (4' X 10') on an accessory structure (storage shed) within approximately five and one-half (5-1/2) feet of a side property line and within approximately six and one-half (6-1/2) feet of a rear property line where a minimum of ten (10) feet is required in both locations; and (2) the provisions of Article X, Section 170-41.A to enlarge a non-conforming structure.

ZBA

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Joseph Dow, applicant - He built the shed some years ago on a slab. It had rotted and needed to be replaced. His application has all the information needed along with letters from three abutters giving their approval of the request. (Gerald Capozzoli, 9 Oxbow Ln., Norm Sihabouth, 4 Oxbow Ln., and Philena Skiles at 12 Oxbow Ln.)

MOTION:

Parks Christenbury made the motion to accept the case.

Bob Callan seconded the motion.

U/A

PUBLIC HEARING OPENED

Dean Trefethen - Summarized Bruce Woodruff's memo from the Planning Dept. (1) The Dept. finds that the shed will not encroach any further into the side setback than the existing shed. The original shed was in that location for twenty years. (2) The other structures in the area also appear to be encroaching on today's setback requirements. (3) The new shed would appear to enhance surrounding values.

PUBLIC HEARING CLOSED

FIVE CRITERIA:

1. It is the Board's conclusion that the applicant does face an unnecessary hardship. The proposed shed could not be placed anywhere else on the lot and it does not significantly encroach further than the original shed.
2. It is the Board's conclusion that the variance will deliver substantial justice. It allows replacement of original shed and is consistent with other accessory structures in 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 maintain reasonable setbacks and that is not violated.
4. It is the Board's conclusion that the variance will not result in a diminution in value of surrounding properties. There is no evidence to the contrary.

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5. It is the Board's conclusion that the variance will be of benefit to the public interest. It replaces a dilapidated structure with a more aesthetically pleasing one.

MOTION:

John Murphy made the motion to grant the variance.

Parks Christenbury seconded the motion.

U/A

ITEM #4:

Z 97-7 Jeffrey Corcoran, 12 Old Stage Rd., a/k/a Assessor's Map G, Lot 42, zoned R-40 requests a variance from (1) the provisions of Article V, Section 170-16 to construct a one-story side addition onto a single family dwelling within thirty-three (33) feet of a front property line as it abuts a street where a minimum of fifty (50) feet is required; and (2) the provisions of Article X, Section 170-41.A to enlarge a non-conforming structure.

Jeff Corcoran, Applicant - The house is small and he would like to have more living area. The addition will be approximately 33 feet from the road. It will be further back than the main structure.

The Board and Tom Clark discussed the front setback.

Dean Trefethen - Asked the applicant if he considered having the addition in another location.

Jeff Corcoran - Stated he would prefer keeping the rear yard as is and this location seems to be the best. It will also provide a hallway for the front door rather than stepping directly into the living room.

MOTION:

John Murphy made the motion to accept the case.

Bob Callan seconded the motion.

U/A

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PUBLIC HEARING OPENED

Dean Trefethen - Summarized the Planning Departments comments on their memo. The Planning Department supports granting the variance because the structure is already in a grandfathered nonconforming status with regards with the front setback, and it would not increase the non-conformity because the addition will be further back than the main structure. The Planning Dept. sees the hardship as being that the zoning ordinance has changed down through the years.

PUBLIC HEARING CLOSED

Dean Trefethen - Cannot see a hardship because he feels that the addition can be built in another area.

Bill Colbath - Feels that the hardship is in the age of the house and no matter where the addition is placed, it will still not meet the setback requirements.

The Board discussed the different possibilities for the location of the addition and the setbacks.

Jeff Corcoran - The septic system and leach field also limits the placement of the addition.

FIVE CRITERIA:

1. It is the Board's conclusion that the applicant does face an unnecessary hardship. (Dean Trefethen voted does not) The structure is grandfathered and because of current zoning requirements, no addition could be added in any direction without a variance. Also the septic system is located to the rear of the house precluding any significant addition in that direction.
2. It is the Board's conclusion that the variance will deliver substantial justice. It allows expansion of an existing dwelling in a manner consistent with 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. (Dean Trefethen voted will not) The proposal would be set further back than the current structure allowing a reasonable setback from the road.

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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. 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. It will allow improvement of the neighborhood by allowing expansion of a small structure.

MOTION:

Bill Colbath made the motion to grant the variance.
John Murphy seconded the motion.
4 in favor and 1 opposed (Dean Trefethen opposed).

Dean Trefethen - Read a letter from Board Member, Bob Callan, in which he expressed his thanks to the Board. After having been on the Board for six years, he will not be reapplying. Bob's term expired April 13, 1997.

Dean Trefethen - Read a letter from Board Member, Richard Callaghan, in which he expressed considering not reapplying for membership due to the following: (1) He feels that there seems to be a lack of a formal process in which an application for the Zoning Board of Adjustment is considered and acted upon. Appointments seem to be made arbitrarily. (2) The recent vacancy established by the resignation of David Paolini was filled by the City Council's Appointment Committee with a new person after a written recommendation was presented to the Appointment Committee by the Zoning Board of Adjustment requesting that Alternate, Richard Callaghan, be upgraded to a regular member. It was his understanding that alternates were upgraded to regular positions when they were made vacant and new members came in as alternates.

The Board discussed Rick's letter. They each encouraged him to reapply. They feel that he has been a valuable contributor to the Board's work and has only missed five meetings since he became part of the Board in 1994.

Dean Trefethen will address a letter to Mr. Howard Williams asking him to address the Board at a meeting in regards to the policy for appointments to vacant positions on the Zoning Board of Adjustment. He will also address a letter to Mayor Charles Reynolds in regards to notifying the Zoning Board whenever the City Council will be discussing items relevant to the Zoning Board so that a member or members of the Board may be present to answer questions or address issues.

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MOTION:

John Murphy made a motion to postpone discussion of the proposed By-Law Amendments until the next meeting.

Bill Colbath seconded the motion.

U/A

MOTION:

Parks Christenbury made the motion to adjourn.

John Murphy seconded the motion.

U/A

List of members and expiration dates:

	<u>Term Starts</u>	<u>Term Exp.</u>
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