

**DOVER ZONING BOARD OF ADJUSTMENT
MINUTES OF MEETING
SEPTEMBER 18, 1997**

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

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

Dean Trefethen, Chairman, called the meeting to order.

ITEM #1: NEW BUSINESS

Approval of minutes of August 21, 1997

MOTION:

John Murphy made the motion to accept the minutes of August 21, 1997 with the changes submitted by Rick Callaghan

Bob Mullan seconded the motion.

Changes:

1. Page 2, thirteenth line down, "because a similar building could not be built on his property without doing special things in order to meet other applicable codes."
2. Page 2, last three lines, change to read: Rick Callaghan - Agrees there is a problem (but) is not in (total) agreement with (Park's interpretation of) the law's intent, (it is not meant to give relief to the applicant in this type case). He questions the appraiser's document. (The appraiser was not definitive with dollar figures or comparisons, he only used the word "should" when referring that the abutter's property would not be depreciated by the garage). A structure built right on the property line (in this case) does have some impact on the dollar value."

U/A

ITEM #2: OLD BUSINESS

A. Discussion of possible revisions to the By-Laws.

Dean Trefethen - Advised the Board that along with the By-Laws, the format for the Equitable Waiver of Dimensional Requirements form needs to be revised, and also asked whether or not the City Attorney's view of the new law will be necessary. Dean suggested that a special meeting should be held for these items because the regular meetings do not seem to allow enough time for this.

The Board agreed that the By-Laws and the Equitable Waiver of Dimensional Requirements form needs to be reviewed but the City Attorney's interpretation of the law will not be necessary at this time. The Board agreed to meet on Monday, October 6, 1997 at 6:30 in the Council Conference Room.

ZBA
9/18/97
Pg. 2

MOTION

Parks Christenbury made the motion to have a workshop to discuss the By-Laws and the Equitable Waiver form.
John Murphy seconded the motion.

U/A

ITEM # 3

Z 97-22 Richard Kay, 25 Littleworth Rd., a/k/a Assessor's Map H, Lot 28, Zoned R-20 requests a variance from the provisions of Article X, Section 170-40 A&B to expand a non-conforming use (Auto Service).

Bruce Pohopek represented Richard Kay - The applicant is requesting a variance to build a 51 X 51 foot, two-bay garage addition to add to the existing two-bay garage on this property. In the 1960s this area was rezoned R-20. In 1964 Mr. Kay received a variance to add a two-bay service garage which was built and is presently used. There are two lots involved, a small lot and a larger lot. The applicant would like to expand the smaller lot by obtaining a lot line adjustment.

Dean Trefethen - Asked if the access to the addition would be over the septic area.

Bruce Pohopek - Access to the addition would be through the garage. The outside jacks would be moved and work will be done inside.

Dean Trefethen - Asked if there would be additional paving.

Bruce Pohopek - No additional paving.

Dean Trefethen - Asked to have the issue of unregistered vehicles addressed.

Richard Kay - 27 cars have already been removed. It is quite a process to have cars disposed of.

MOTION

Parks Christenbury made the motion to accept the case.

John Murphy seconded the motion.

U/A

John Murphy - Asked if the outside jacks would be removed when the addition is completed.

Richard Kay - The jacks will be going inside.

ZBA
9/18/97
Pg. 3

The Board discussed the difference between this application for variance and the previous one granted August 15, 1991 (Case #H91-11). It will be a larger building this time but less doors and the work will be done inside.

Bill Colbath - Asked how the vehicles would enter the addition.

Richard Kay - They will enter through the garage and there will be a door at the back

John Murphy - Asked what the rational is for the enlargement.

Bruce Pohopek - The increase in business and to work inside.

Rick Callaghan - Asked if the door at the rear of the addition would be for the vehicles to use to get back to the front. He asked if there would be a driveway.

Richard Kay - Vehicles would be coming out from the back to the front on the left side and there would be no new driveway.

Tom Clark - Asked for verification purposes, that the expansion was just for the auto service and not for the retail.

Richard Kay - The expansion is just for the auto service.

PUBLIC HEARING OPENED

Bruce Woodruff - The Planning Department supports granting the variance focussing on the unnecessary hardship and recommends that the Board consider four conditions.

1. If the larger lot is sold, screening will be provided between the two uses.
2. 28 parking spaces be maintained and unoperable motor vehicles will be removed.
3. Review of the Planning Board and approval for both a subdivision and site review.
4. The removal of outside service activities and related equipment.

PUBLIC HEARING CLOSED

John Murphy - Questioned the number of parking spaces.

The Board and Bruce Pohopek discussed the parking spaces.

The Board discussed (1) the terms "inoperable cars or abandoned cars," and (2) time allowance for disposing of inoperable cars.

ZBA
9/18/97
Pg. 4

abandoned

Tom Clark - The definition of ^{an} motor vehicle in the ordinance states an unregistered motor vehicle is one which is no longer operable or in condition for legal use on a public highway.

Dean Trefethen read a letter received from an abutter, Guilford Transportation Ind., in which they stated their only concerns were whether or not this petition crossed railroad property or development within 25' from the centerline of an existing railroad track.

CRITERIA

1. It is the Board's conclusion that the applicant does face an unnecessary hardship. Zoning changes over the years have made a once conforming business non-conforming and this lot has a unique configuration.
2. It is the Board's conclusion that the variance will deliver substantial justice. It allows a reasonable expansion of an existing business and allows the business to operate more safely and efficiently.
3. It is the Board's conclusion that the variance will be in harmony with the spirit and intent of the zoning ordinance. The applicant is not changing or greatly increasing the current use, only making the operation safer and more efficient.
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. Plus the proposal will move outside service to inside decreasing or eliminating a current eyesore.
5. It is the board's conclusion that the variance will be of benefit to the public interest. The proposal will improve safety to both employees and customers and eliminate a current eyesore. Also, allows expansion of needed service for the public.

MOTION:

Parks Christenbury made the motion to grant the variance with conditions.

John Murphy seconded the motion.

Conditions:

1. In the event the property (lot 28, Map H) is sold, suitable screening is provided.
2. The 28 parking spaces required are adhered to and the removal of unregistered motor vehicles which are no longer operable or in condition for legal use on a public highway.
3. Receipt of Planning Board approval for the lot line adjustment and site review.
4. Removal of outside service activities and related equipment and all service performed inside.

U/A

ZBA
9/18/97
Pg. 5

MOTION:

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

List of members and expiration dates:

	<u>Term Starts</u>	<u>Term Exp.</u>
William Colbath	10/23/94	10/23/97
Dean Trefethen	12/31/94	12/31/97
Robert Mullan (Alternate)	12/31/94	12/31/97
Parks Christenbury	02/20/97	12/31/97
John Murphy Jr.	12/31/95	12/31/98
Richard Callaghan	04/13/97	04/13/2000