

ZONING BOARD OF ADJUSTMENT
MINUTES OF MEETING
JANUARY 19, 1994

MEMBERS PRESENT: Dean Trefethen, Bill Colbath, Rick Callaghan, John Murphy Jr., David Paolini, Robert Callan and Robert Mullan

ALSO PRESENT: Thomas Clark and Steve Stancel

Dean Trefethen, Chairman, called meeting to order.

ITEM #1: New Business

Bill Colbath made the motion to accept the minutes of the December 15, 1994 meeting.

John Murphy seconded the motion.

U/A

ITEM #2: No Old Business

Dean Trefethen made the motion that the election of officers for the Zoning Board be held at the end of the meeting.

John Murphy seconded the motion.

U/A

ITEM #3. Z 95-1, Alden & Rita Joy, (Applicants: David Jennison and Merle Wentworth), 33 Sixth St., a/k/a Assessor's Map 30, Lot 89, Zoned RM-10, requests a variance from: (1) the terms of Article IV, Section 170-12, Table I, Part C-2 and Article X, Section 170-40.C to operate a Personal Service Establishment in an RM-10 Zoning District; and (2) the terms of Article XI, Section 170-44.C to allow required parking spaces to be located off-site (across the street).

David Jennison - Requests a Change of Use to allow lock smith business and taxi cab business at this property. The off-street parking is across the street which he has been leasing since 1992.

Dean Trefethen - Asked what the applicant feels is the hardship of this property.

ZBA 1/19/95

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David Jennison - Current use is retail and would like to put personal service business there which is not allowed at this time.

Bill Colbath made the motion to accept the case.

David Paolini seconded the motion.

U/A

Tom Clark - Asked Mr. Jennison if he brought a formal agreement from the owner in regards to the parking.

Mr. Jennison - He did bring a letter from Purdy Storage stating that he has been parking there but it was not a formal agreement allowing the parking. It was a gentleman's agreement.

Tom Clark - The concern was that if the agreement was discontinued what would be provided for parking. Looking for a formal agreement or a lease for the parking.

Dean Trefethen - Read the letter from Purdy Storage to the Board, which was unsigned.

Steve Stancel - Asked where the current office was for the cab business.

Mr. Jennison - At 12 Portland Ave. The office hours are from 6:00 a.m. to 10:00 p.m.

Steve Stancel - Asked if the lock smith business was also located there.

Mr. Jennison - Mr. Wentworth operates that business and he operates mainly from his vehicle. Jennison dispatches for Mr. Wentworth.

John Murphy - Asked how many cabs Mr. Jennison has.

Mr. Jennison - 7 in Dover and 4 in Rochester.

Dean Trefethen - Asked if this was done by radio dispatch and where the antenna was located.

Mr. Jennison - Done by radio dispatch and the antenna is located in Farmington which will not change.

Steve Stancel - Asked where the drivers parked.

Mr. Jennison - Across the street.

Dean Trefethen - Asked, since there is very little walk-in traffic for both businesses, why was this particular location chosen instead of an area that was already zoned for office.

Mr. Jennison - Looking to buy property and this building has been for sale for some time. Also his parking is across the street from this property. Only concern he has received from the abutters was concern with the parking.

PUBLIC HEARING OPENED

Alden Joy - The hardship is that this has been a store for many years. Several agencies have been trying to sell this property but has been unsuccessful. This has been commercial and intentions are to continue commercial use. Hardship is not to the property but to the use. The retail businesses do not seem to be able to make a go of it at this location.

Dean Trefethen - Asked how long the building has been vacant.

Alden Joy - The building has not been vacant. Was used as a arts & crafts shop.

Steve Stancel - George Gauthier, an abutter, expressed concerns for the parking of the cabs around the area. The Planning Office recommends that, if the variance were granted, a condition be placed for a long term lease with Purdy Storage for the parking. There are no other objections.

PUBLIC HEARING CLOSED

John Murphy - Asked where the lock smith van would be parked.

Mr. Wentworth - Van will be parked at home nights. Only need a drop off point for keys.

John Murphy - Asked about allowable signage.

Thomas Clark - There is a provision in the ordinance that allows signs for lawfully maintained non-conforming uses in a residential district.

Dean Trefethen - Due to the lock smith business where there will be some purchase of goods, where does the change from retail to personal service come in.

Thomas Clark - If Mr. Wentworth's revenue were 50% or more from sales than it would not change from retail but since it is predominantly service oriented it is established as a personal service.

Thomas Clark - Suggests that a condition be added that the retail use no longer be in effect to avoid an increase of non-conforming uses.

The Board members discussed the parking concerns:

- 1) Off-street parking
- 2) Over-night parking
- 3) Long-term parking
- 4) Employee parking

5 CRITERIA:

1. The applicant does face (Dean Trefethen voted does not) an unnecessary hardship. Current structure's size and configuration is not conducive to its current use and the change to a perceived lesser use (personal service) would be. Parking will be provided off-street at an adjacent lot.
2. The variance will (Dean Trefethen voted will not) deliver substantial justice. It will allow continued use of a structure that is not suitable for residential use.
3. The variance will (Dean Trefethen voted will not) be in harmony with the spirit and intent of the zoning ordinance. It will allow continued use of a grandfathered property but at a perceived lesser impact on neighborhood.
4. The variance will not result in a diminution in value of surrounding properties. It will allow continued use of the structure, assisting to assure proper maintenance of the property and not becoming an eyesore. Thereby impacting neighboring values.

- 5. The variance will (Dean Trefethen voted will not) be of benefit to the public interest. The new use would be of a perceived lesser use and off-street parking for the use will be provided.

John Murphy made the motion to grant the variance with the following conditions:

- 1) A minimum of 4 off-street parking spaces will always be provided for the business vehicles and employee's parking.
- 2) This parking shall be either on-site or by lease at a nearby property.
- 3) The current retail use will be null and void.

Bob Callan seconded the motion.

Four voted to grant the variance and 1 voted against (Dean Trefethen).

ITEM # 4. Election of Officers

John Murphy made the motion to re-elect Dean Trefethen, Chairman, and Bill Colbath, Vice-Chairman, for the year 1995.

Bob Mullan seconded the motion.

U/A

Tom Clark - The Building Code Board of Appeals - Need to establish who will be regulars and who will be alternates. The only requirement is basic familiarity with construction. Made a list to forward to the City Clerk - Dean, Bill, Dave, Rick, and John be regular members and Bob Callan and Bob Mullan alternates if this is agreeable.

John Murphy made the motion to adjourn.

Bill Colbath seconded the motion.

U/A

List of members with expiration dates

	<u>Term Starts</u>	<u>Term Exp.</u>
John Murphy Jr.	12/31/92	12/31/95
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
David Paolini	10/23/94	12/31/97