

DOVER ZONING BOARD OF ADJUSTMENT
MINUTES OF MEETING
MAY 16, 1996

MEMBERS PRESENT: Dean Trefethen, Chairman, Bill Colbath,
Vice-Chairman, Richard Callaghan, Bob Callan,
and Bob Mullan

STAFF PRESENT: Thomas Clark, Building Inspector, and Bruce
Woodruff, City Planner

Dean Trefethen called the meeting to order.

ITEM #1: NEW BUSINESS

Approval of the April 18, 1996 minutes.

MOTION:

Rick Callaghan made the motion to accept the minutes.
Bob Callan seconded the motion.

U/A

ITEM #2: OLD BUSINESS

- A. Consideration of a Motion for Rehearing request by Clara Fisher, 89 Stark Ave., a/k/a Assessor's Map 17, Lot 28, Zoned R-12 concerning frontage requirements (ZBA Case #Z 95-14, tabled at the November 16, 1995 meeting.)

Atty. Hartnett - Requests continuation of extension of time for rehearing. They are discussing options with the Planning Dept. There is a possibility of using a right-of-way. There are also topographical and drainage issues to be addressed. May have a new proposal in thirty days.

MOTION:

Rick Callaghan made the motion to table the request.
Bob Callan seconded the motion.
Three were in favor and two opposed (Dean Trefethen and Bill Colbath).

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ITEM #3:

Z 96-7 Dana & Sharon Moore, 6 Watson Lane, a/k/a Assessor's Map 19, Lot 71, Zoned R-12, requests a variance from (1) the terms of Article V, Section 170-16 to construct a one-story side addition onto a single family dwelling within twenty-eight (28) feet of a front property line as it abuts a street where thirty (30) feet is required; and (2) the terms of Article X Section 170-41.A to increase a non-conforming structure.

Dana Moore - Reviewed his application responses.

MOTION:

Bob Mullan made the motion to accept the case.

Bill Colbath seconded the motion.

U/A

PUBLIC HEARING OPENED

Robert Kelley - Abutter - Asked for clarification of the side setback and was concerned about the trees that are along the property line. Some are dead and hanging over the abutters roof and chimney.

Tom Clark explained the proposed side setback and that it is conforming.

Dana Moore - Did not know who owned the trees but if they are on his property he agrees to take care of them.

Bruce Woodruff - The Planning Dept. does not oppose to granting the request for a variance. The lot was developed prior to the current zoning, which makes the structure non-conforming.

PUBLIC HEARING CLOSED

FIVE CRITERIA:

1. It is the Board's conclusion that the applicant does face an unnecessary hardship. The existing structure does not conform to current setbacks and the proposed addition will be further back from the street. This will allow a conforming use to be reasonably expanded.

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2. It is the Board's conclusion that the variance will deliver substantial justice. It allows expansion of an existing compatible structure in that zone.
3. It is the Board's conclusion that the variance will be in harmony with the spirit and intent of the zoning ordinance. Reasonable setback will be maintained that is compatible with neighborhood.
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.
5. It is the Board's conclusion that the variance will be of benefit to the public interest. It allows continued use and expansion of compatible use.

MOTION:

Bill Colbath made the motion to grant the variance.

Rick Callaghan seconded the motion.

U/A

ITEM #4:

Z 96-8 Paul & Deborah Sheahan, 18 Hubbard Rd., a/k/a Assessor's Map K, Lot 14-19, Zoned R-12 requests a variance from the terms of Article V, Section 170-17, to construct/install an accessory structure (24' diameter above ground swimming pool) within approximately one (1) foot of a rear property line where ten (10) feet is required.

Paul Sheahan - Attempted to purchase some additional land from the City to expand his property to meet the set back but was denied. Paul reviewed his application.

Rick Callaghan - Asked if the pool could be placed in another area.

Paul Sheahan - The only option is to place it right behind the driveway which would make it very inconvenient for family use and also place it near the neighbor's house.

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MOTION:

Rick Callaghan made the motion to accept the case.
Bill Colbath seconded the motion.
U/A

Dean Trefethen asked if the land behind the property slopes.

Paul Sheahan - It is level for 30 - 40' and then it slopes down.

PUBLIC HEARING OPENED

Bruce Woodruff - The Planning Dept. is not strongly in favor or in opposition to the request. The pool can be placed at the end of the driveway but would be close to the basketball hoop and the neighbor's house. The pool could be placed near the house but the stairs would have to be reconstructed. A 18' diameter pool would meet the setback.

Dean Trefethen - Asked which the Planning Dept. would be in favor of. One foot from the boundary line or one foot from the foundation, which could cause some structural damage to the foundation.

Bruce Woodruff - The Planning Dept. would be in favor of the pool being located away from the foundation.

PUBLIC HEARING CLOSED

Rick Callaghan - Feels that the hardship is the shape of the lot and the use of abutting property (Cemetery). Conditions could be attached to the variance. (1) The life of the pool and/or (2) If the use of the abutting property should change.

Bob Callan - Does not feel that it is in the realm of this Board to ask the applicant to decrease the size of the pool and it should not be placed next to the neighbor's house.

Bill Colbath - Has no problem with the requested location of the pool. Another problem with its being located at the end of the driveway would be snow plowing.

Rick Callaghan - Feels that the hardship is the letter from the City denying the request to purchase sufficient property to qualify for the setback requirements.

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Dean Trefethen - Feels that there would be needless and unnecessary restrictions.

Tom Clark and the Board members discussed the abutting property use and future development of the cemetery.

FIVE CRITERIA:

1. It is the Board's conclusion that the applicant does face an unnecessary hardship. The areas the pool can be placed and be in conformance are either hazardous to the house structure or the pool itself. Because of the abutting City property (cemetery), the proposal does not infringe on that property's use. Therefore, it would be a needless or unnecessary restriction to find otherwise.
2. It is the Board's conclusion that the variance will deliver substantial justice. It allows placement of the pool in an area that does not impact neighbors or the current structure (house).
3. It is the board's conclusion that the variance will be in harmony with the spirit and intent of the zoning ordinance. There is no negative impact on abutting property, because the likely use of the abutting property is for a cemetery.
4. It is the Board's conclusion that the variance will not result in a diminution in value of surrounding properties. Proposed location minimizes visual impact on neighbors and the rear abutter is a cemetery.
5. It is the Board's conclusion that the variance will be of benefit to the public interest. Increased property tax revenues for the City and the proposed location is mostly out of sight of the public.

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MOTION

Rick Callaghan made the motion to grant the variance with the following condition:

If the rear abutter's land changes use from the current use of buffer, and this abutter then objects to the location of the pool, the case would come back to the ZBA for consideration of revocation of variance.

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
David Paolini	10/23/94	12/31/97
John Murphy Jr.	12/31/95	12/31/98