

DOVER ZONING BOARD OF ADJUSTMENT
MINUTES OF MEETING
JUNE 20, 1996

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

STAFF PRESENT: Bruce Woodruff, City Planner

Dean Trefethen called the meeting to order.

ITEM #1: NEW BUSINESS

Approval of the May 16, 1996 minutes.

MOTION:

Rick Callaghan made the motion to accept the minutes of the May 16, 1996 meeting.

Dave Paolini 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 May 16, 1996 meeting.)

Atty. Hartnett - Representating Clark Fisher, stated that the applicant is now proposing to scale back the request from a three lot to a two lot subdivision. The back lot already has 50 feet of frontage on Keating Ave. A 30 foot utilities easement is proposed.

Dean Trefethen - Concerned with the fact that the new proposal is not a modification or new information to the original request. This appears to be a new proposal, requesting a variance for a 2 lot subdivision rather than a 3 lot, as originally requested.

ZBA

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Atty. Hartnett - In conferring with Thomas Clark, since the agenda and notices had already gone out, and in order to be heard on this agenda, Tom suggested that a letter be submitted to the Board stating the proposal.

Bill Colbath - He does not feel that this is for a rehearing and no new evidence has been presented. What has been presented is a new plan and should be heard as a new application.

Rick Callaghan - Feels that this is a new case and not new evidence for the original case.

The Board members discussed whether this should be addressed as a new application or act on the rehearing. The abutters were notified that this is a rehearing and not a new application.

MOTION:

Bill Colbath made the motion to deny the request for a rehearing. Dave Paolini seconded the motion.

U/A

ITEM #3:

Z 96-9 Addison Realty, L.L.C., Whittier St., a/k/a Assessor's Map E, Lots 74-A and 65-E, Zoned RM-8 requests a variance from the terms of Article IX, Section 170-33.A to erect a fence with a height of eight (8) feet where a maximum height of six (6) feet is allowed.

Malcolm McNeil - Representing the applicant stated that, although the property is in conformance, it does abut the Spaulding Turnpike and the noise would affect the quality of life for the occupants of the new project. The Planning Department is requesting that a fence be erected. A fence could be erected at the required 6 feet, however an eight foot fence would give

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better security and eliminate more noise coming from the Turnpike. The applicant reviewed the five criteria on his application.

Dean Trefethen - Asked if they would maintain the current hazard fence that is now in the wetland area.

Malcolm McNeil - Yes it would be maintained.

MOTION:

Dave Paolini made the motion to accept the case.
Rick Callaghan seconded the motion.
U/A

PUBLIC HEARING OPENED

Bruce Woodruff - The Planning Department is in favor of this request. It will enhance the quality of life for the occupants and offer them security from the Spaulding Turnpike.

PUBLIC HEARING CLOSED

FIVE CRITERIA:

1. It is the Board's conclusion that the applicant does face an unnecessary hardship. The property is unique in that it abuts the Spaulding Turnpike and is subjected to unusual high levels of noise. The proposal is a reasonable way to mitigate the problem.
2. It is the Board's conclusion that the variance will deliver substantial justice. The proposal will help protect residents from unnecessary noise and lead to a higher quality of life for all potential residents.

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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 proposal helps protect the health, safety and welfare of the potential residents.
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 proposed fence borders a turnpike.
5. It is the Board's conclusion that, if granted, the variance will be of benefit to the public interest. The proposal minimizes the effect of noise from the abutting highway.

MOTION:

Bill Colbath made the motion to grant the variance.

Dave Paolini seconded the motion.

U/A

ITEM #4:

Z 96-10 Marc and Susan Blumenthal, 63 Bay View Rd., a/k/a Assessor's Map J, Lot 22-C, Zoned R-40 requests a Variance from the terms of Article V, Section 170-16. to subdivide a parcel into two (2) lots, one having no frontage on a public right-of-way where one hundred fifty (150) feet is required.

Marc Blumenthal - There are two separate buildings on one lot making it a non-conforming lot. One building is a cottage. Would like to convey one lot to a family member.

Dean Trefethen - Asked for background of the cottage building.

Marc Blumenthal - The cottage was on the property when they bought it. It has been there since 1956-57. It has its own utilities.

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Dave Paolini - Questioned the 20 foot right-of-way at the front dwelling. Asked if it comes up to the house.

Marc Blumenthal - Yes, it is 20 feet more or less.

MOTION:

David Paolini made the motion to accept the case.

Bob Callan seconded the motion.

U/A

PUBLIC HEARING OPENED

Bruce Woodruff - Due to the odd shape of the lot and the lack of frontage, a variance is required so that each structure would be on its own lot. The Planning Dept. supports this request.

PUBLIC HEARING CLOSED

Rick Callaghan - Questions what the hardship would be.

Bob Callan - Feels that the hardship is that both buildings have existed on one lot for years, before the current zoning.

Bill Colbath - Concerned with the following:

1. The width of the right-of-way, 20 feet more or less. Feels that there should be certification of the set back and the right-of-way.
2. The utilities will be using the right-of-way.
3. Also concerned with the property next to the right-of-way.
4. Concerned with the width of the right-of-way and accessibility to the rear lot.

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Bob Callan - The only area that the right-of-way would be at a minimum would be the section next to the house, then after the house it can be widened to extend to the second house.

The Board discussed the right-of-way width (min. of 16 feet or 20 feet), and whether or not it is totally on the applicant's property.

Rick Callaghan - Suggests that the case be tabled and request a surveyed plot plan.

Bruce Woodruff - Suggested a conceptual sub-division plan be submitted instead of a certified plot plan. It will be less expensive and it will be a requirement of the Planning Board. It will show the location of the house to the lot lines.

MOTION:

Bill Colbath made the motion to table the case and have the applicant supply a plot plan showing the setback.

Dave Paolini seconded the motion.

U/A

MOTION:

Dave Paolini made the motion to adjourn.

Rick Callaghan 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