

DOVER ZONING BOARD OF ADJUSTMENT  
MINUTES OF MEETING  
JULY 18, 1996

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

Dean Trefethen called the meeting to order.

**ITEM #1: NEW BUSINESS**

Approval of the June 20, 1996 minutes.

**MOTION:**

John Murphy made the motion to accept the minutes of June 20,  
1996 meeting.

Bill Colbath seconded the motion.

U/A

**ITEM #2: OLD BUSINESS**

- A. 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 (250) feet is required. (This case was tabled at  
the June 20, 1996 meeting.)

Marc Blumenthal - The Board requested a site plan giving accurate  
setback for the right-of-way at the house, and the applicant did  
present a site plan showing 19 feet. Applicant asked for any  
questions from the Board.

The Board agreed that the hardship is that there are two  
buildings on one lot and they pre-exist zoning.

The Board discussed the requirement of a 25 foot to 30 foot width  
for the right-of-way up to the house and after the house.

ZBA

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Dean Trefethen read the comments from the Planning Dept. who supports the variance due to the fact that the two buildings on the lot have existed since the mid-fifties. Also, the 19.03 feet side setback is sufficient width for the right-of-way, which would allow emergency vehicles access to the rear dwelling.

#### **FIVE CRITERIA**

1. It is the Board's conclusion that the applicant does face an unnecessary hardship. (Bill Colbath voted does not). Two separate residences have been maintained on this lot for many years, in fact pre-dating zoning. This will allow a legal separation to recognize what has been in practice. This will allow two residences to be maintained, which otherwise might not be possible.
2. It is the Board's conclusion that the variance will deliver substantial justice. It allows two residences to be maintained separately recognizing what has been in effect for many years.
3. It is the Board's conclusion that the variance will be in harmony with the spirit and intent of the zoning ordinance. The spirit and intent is to allow one structure per lot and this proposal satisfies that requirement.
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. It is the Board's opinion that having two separate lots will either maintain or increase property values.
5. It is the Board's conclusion that the variance will be of benefit to the public interest. Legally establishes two lots with adequate right-of-way for egress.

ZBA

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**MOTION**

John Murphy made the motion to grant the variance.

Bob Callan seconded the motion.

**CONDITION:**

There is to be a 25 foot right-of-way from the front property line until the front of the house, 19 feet right-of-way for the entire length of the side of the present house, and then 25 feet right-of-way until the proposed rear property line.

3 in favor and 2 opposed (Bill Colbath & Rick Callaghan opposed).

**ITEM #3:**

Z 96-11 Doretta Crateau, (applicants: John and Claire Robidas-Adams), 21 Cote Dr., a/k/a Assessor's Map L, Lot 58-L, zoned R-20, requests a variance from: (1) the terms of Article V, Section 170-16 to construct a second story addition onto a single family dwelling within twenty-eight (28) feet of a front property line as it abuts a street where thirty-five (35) feet is required; and (2) the terms of Article X, Section 170-41.A to increase a non-conforming structure.

John Adams - The house is a ranch style house and they wish to add a second floor. It will be similar to the other homes in the area.

**MOTION:**

Bill Colbath made the motion to accept the case.

John Murphy seconded the motion.

U/A

**PUBLIC HEARING OPENED**

ZBA

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Dean Trefethen read the comments from the Planning Dept. who feels that this addition will be unobtrusive and will not obstruct views in any greater degree now enjoyed by the abutters, and therefore recommends approval of the variance.

**PUBLIC HEARING CLOSED**

**FIVE CRITERIA:**

1. It is the Board's conclusion that the applicant does face an unnecessary hardship. They can't increase their structure because of the change of zoning requirements. The proposal would not encroach any further into the existing setback.
2. It is the Board's conclusion that the variance will deliver substantial justice. It allows reasonable expansion of an existing structure without encroaching any further into existing setbacks.
3. It is the Board's conclusion that the variance will be in harmony with the spirit and intent of the zoning ordinance. The spirit and intent here is to regulate setbacks and density and this proposal does not change the existing setback or density of the lot.
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. The Board's opinion is that the proposal would likely increase values.
5. It is the Board's conclusion that the variance will be of benefit to the public interest. It allows enhancement of an existing structure.

ZBA

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**MOTION:**

Rick Callaghan made the motion to grant the variance.

John Murphy seconded the motion.

U/A

**ITEM #4:**

Z 96-12 Clara Fisher, 89 Stark Ave., a/k/a Assessor's Map 17, Lot 38, zoned R-12, requests a variance from the terms of Article V, Section 170-16, to subdivide a parcel into two (2) lots, one of which having fifty (50) feet of frontage along a public right-of-way where one hundred (100) feet is required.

Atty Hartnett - The property is long and narrow and the subdivision would not allow the second lot the required amount of frontage. The hardship is that zoning restricts the use of the land. Atty. Hartnett reviewed his responses on the application.

**MOTION:**

Bill Colbath made the motion to accept the case.

John Murphy seconded the motion.

U/A

**PUBLIC HEARING OPENED**

Ray Guilemette - An abutter - Opposes the variance. It would be a hardship to the abutters to have this land developed due to the loss of the buffer zone.

Katherine McManus - An abutter - Opposes the request for a variance due to her concern with the drainage onto her property.

ZBA

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Martin Smith - Opposes the variance. He feels that there is no hardship. He is also concerned with the amount of fill required for this lot and the drainage.

Dan Hurley - Keating Ave. Concerned with the type of house that will be built and the diminution of property value.

Dean Trefethen read the comments from the Planning Dept. and they support the request for an additional lot on condition that the applicant grant the City a 30 foot wide utility easement through to the abutting undeveloped property to the south. The lot is also very large, long and narrow. The hardship lies with the location of the parcel with respect to the layout of the Spaulding Turnpike.

Dennis Cofey - feels the same as Mr. Smith.

**PUBLIC HEARING CLOSED**

The Board discussed the following:

- 1) The proposed right-of-way
- 2) Possibilities of extending Keating Ave. to the rear of the property and the possibility of more development. There could not be more development because of the required frontage.
- 3) The type of house to be built and its affect on the abutters.
- 4) The location of the driveway and the buffer area.
- 5) The amount of fill needed and the drainage.

**FIVE CRITERIA:**

1. It is the Board's conclusion that the applicant does face an unnecessary hardship because of the unique shape and size of the lot and the fact it has frontage on two City right-of-ways constitutes a hardship.