

**DOVER ZONING BOARD OF ADJUSTMENT
MINUTES OF MEETING
AUGUST 26, 1996**

MEMBERS PRESENT: Bill Colbath, Vice Chairman, John Murphy,
Bob Callan, and Robert Mullan

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

Bill Colbath called the meeting to order.

The members of the Zoning board that were present, Thomas Clark and Bruce Woodruff made a site visit to 12 Portland St. at 6:30 at the invitation of the applicant, Dean and Ann Marie Fournier.

ITEM #1:

Z 96-14-A Amresco New Hampshire LP (Applicant: Dean and Ann Marie Fournier), 12 Portland St., a/k/a Assessor's Map 3, Lot 3, Zoned B-2 requests an appeal from an Administrative Decision in connection with the use classification of the building at the above address.

Atty Malcolm McNeill, representing the applicant, presented the Board with pictures of the kitchens, bedrooms and exterior of the structure at 12 Portland St. as evidence to establish its residential use and a copy of the tax card showing that it is classified as residential use. It was apparent by the kitchens and bedrooms that it was built as and used as a residential building even though it was used as commercial for a brief time. The structure was built in the 1850s and was used as commercial for 4 to 6 years. They have been unsuccessful for two years to sell the building as a commercial building. The neighborhood is primarily residential. The parking regulations will be met by a piece of property that is within 1,000 feet of 12 Portland St.

Thomas Clark - Agrees with the facts presented. The issue is what the building was most recently utilized for in determining its legal use. The former residential use was non-conforming. In June of 1987 a Building Permit was issued to convert the use to office use. In October of 1987 a Certificate of Occupancy was

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issued for office use. Office use is conforming for the zone. Article X, Section 170-40-C says if a non-conforming use is discontinued for any reason, any subsequent use shall conform to the current regulations. Requests that the appeal be denied.

PUBLIC HEARING OPENED

Bruce Woodruff - Agrees with the Building Inspector and also agrees with Atty. McNeill. The Planning Dept. would be in favor of granting a variance for change of use.

PUBLIC HEARING CLOSED

The Board discussed the residential and commercial use of the property and the neighborhood.

MOTION:

Bob Callan made the motion to uphold the Administrative Decision. Bob Mullan seconded the motion.

U/A

ITEM #2:

This item was not heard because Item #1 was denied.

ITEM #3:

Z 96-14-C Amresco New Hampshire LP (Applicant: Dean and Ann Marie Fournier), 12 Portland St., a/k/a Assessor's Map 3, Lot 3, Zoned B-2 requests a variance from the terms of Article IV, Section 170-12, Table 1, Part A to convert an office building into a three (3) unit apartment building.

Atty. Malcom McNeill - The request for a residential use is a reasonable request. The unnecessary hardship is to restrict the use of this building to comply with the current Zoning. The surrounding property is used for residential. Mr. McNeill reviewed the responses on the application.

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MOTION:

John Murphy made the motion to accept the case.

Bob Mullan seconded the motion

U/A

PUBLIC HEARING OPENED

Bruce Woodruff - The Planning Dept. strongly supports the request for a variance. The structure is not suitable for the business zone so the hardship is justified.

John Murphy - Concerned with the parking.

Malcolm McNeill - There are two spaces on site and there are other sources of parking. Property within 1,000 feet of 12 Portland St. can be used for parking.

PUBLIC HEARING CLOSED

FIVE CRITERIA

1. It is the Board's conclusion that the applicant does face an unnecessary hardship. The existing structure lends itself to residential rather than office use and it is an unnecessary hardship to require it be used as office or retail use.
2. It is the Board's conclusion that the variance will deliver substantial justice. It will allow reasonable use consistent with surrounding property.
3. It is the Board's conclusion that the variance will be in harmony with the spirit and intent of the zoning ordinance. Allowing this variance will allow this property to become similar to surrounding properties.

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4. It is the Board's conclusion that the variance will not result in a diminution in value of surrounding properties. Allowing this variance will keep this property consistent with surrounding properties and will further assure continued value.
5. It is the Board's conclusion that the variance will be of benefit to the public interest. No detriment to public interest and will allow use to remain consistent with surrounding properties.

MOTION:

John Murphy made the motion to grant the variance.

Bob Callan seconded the motion.

U/A

MOTION:

Bob Mullan made the motion to adjourn.

John Murphy 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